LEGISLATIVE COUNCIL

Wednesday 28 February 1990

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

SALISBURY TO ST KILDA WATER SUPPLY

The PRESIDENT laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

ELO76 Water Supply Distribution System, Salisbury to St Kilda.

MINISTERIAL STATEMENT: MARINELAND

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement on behalf of the Minister of Industry, Trade and Technology.

Leave granted.

The Hon. BARBARA WIESE: In a ministerial statement to the Council last week on behalf of my colleague, I indicated that a request was made to the Minister of Local Government asking the West Beach Trust to provide documents relevant to the Marineland redevelopment and the terms of reference of a select committee proposed for another place.

On reading these files (which my colleague will be tabling in a moment) the Government has identified that three letters in the West Beach Trust files were also in files of the Department of State Development and Technology but were not included in the documents released last week. This prompted a re-check of the department's files. That re-check of what are a large number of files against the documents I released last week has brought to light a number of additional documents which I am now pleased to table for members.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: For the benefit of members I am also tabling the original development proposal put up by Tribond which can be cross-referenced against the updated proposal included in the documents tabled last week.

As I am sure members would understand, Marineland has involved substantial paperwork around many themes and involving many different groups and people and, therefore, has generated many different files. It has therefore been a massive commitment and undertaking by the Government to make these files available in a comprehensive, chronological form.

At all stages my colleague's office and his department have endeavoured to be as thorough as possible in gathering the documents. The previous oversight of these documents, which I will table today, occurred solely through 'happenstance' which we are now correcting.

Members interjecting:

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

The Hon. BARBARA WIESE: I can inform the Council that since his appointment the new Director of Industry, Trade and Technology has initiated a review of the department's filing system which he anticipates will simplify any future similar task. I seek leave to table the papers.

Leave granted.

The Hon. ANNE LEVY (Minister of Local Government): I seek leave to make a statement.

Leave granted.

Members interjecting:

The Hon. ANNE LEVY: They obviously do not want the ministerial statement, Mr President.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. ANNE LEVY: Thank you, Mr President. Even if members opposite do not wish to hear it, I indicate that I have here the documents provided by the West Beach Trust relating to the trust's involvement in the Tribond and Zhen Yun proposals for the redevelopment of Marineland. I seek leave to table those documents.

Leave granted.

Members interjecting:

The Hon. ANNE LEVY: Last week I informed the Council that I had requested these documents from the West Beach Trust. The Hon. Mr Davis asked me when they would be available, and I informed him that I would table them as soon as I received them. As I received them yesterday, I am tabling them today.

The PRESIDENT: Leave has been granted to table them.

The Hon. ANNE LEVY: I would also wish—

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation.

The Hon. ANNE LEVY: I also advise the Council that I have sought the cooperation of the Chair of the trust in providing an opportunity to fully brief members of both Houses on the trust's involvement in these matters. I understand that the Whips of the two Parties have already received a response from the Chair of the trust following up this proposal.

QUESTIONS

STIRLING COUNCIL

The Hon. R.I. LUCAS: Will the Minister of Local Government confirm that the Local Government Financing Authority has refused an application from the Stirling council for loan funds due to the continuing uncertainty of the council's financial position and that the council advised the Government over a month ago that it was 'approaching a position of cash crisis' because of this uncertainty? Why is the Government refusing to make a decision on how much of a $14.3 million loan to cover the cost of the 1980 bushfire it will require the council to pay, and when will that decision now be made?

The Hon. ANNE LEVY: I can certainly confirm that the Stirling council has been refused a loan by the Local Government Financing Authority, but not for the reasons suggested in the Leader of the Opposition's question. As I understand, the reasons given by the Local Government Financing Authority related to the fact that Stirling council has reduced its rate effort in the current financial year, that it is collecting less in rates in real terms than it did the previous year, and that it required the loan for recurrent expenditure, not for capital expenditure. Loans from the LGFA are usually sought for capital purposes, not for recurrent general expenditure. I understand that that was the reason why the LGFA did not accede to the Stirling council's request for a loan. Furthermore, it could have had nothing to do with the repayments due regarding the loan which the Government has made to Stirling council so that it can pay the bushfire victims what it owed them, as any

repayments on that would not have any impact on the Stirling council's budget until next financial year.

Regarding the second question asked by the Leader of the Opposition, I point out that I still have not received the report from the group looking at the capacity of Stirling council to repay part of the loan that the Government has made to it. It has been accepted by everyone, and I reiterate it here, that it would not be reasonable to expect Stirling council to fund from its own resources the total sum of $14.5 million.

I do not yet have a report indicating what would be a reasonable sum to expect Stirling council to meet of that debt, which it quite legitimately has to the Government. I hope to have that report within a few days, but it is not yet in my possession.

MARINELAND

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Tourism a question about Marineland.

Leave granted.

The Hon. K.T. GRIFFIN: The then Department of Tourism was consulted, according to the Auditor-General's Report and other information tabled by the Government, on the proposal to redevelop the Marineland complex, particularly in relation to projected patronage. One would have expected that to be so in view of the significance of Marineland as a tourist attraction—I think, the second best attended tourist attraction. However, with the Government's decision not to proceed with the redevelopment and only to proceed with a hotel development leaves a significant hole in our tourist attractions. My questions to the Minister are:

1. Was the Minister of Tourism or her department consulted about the decision not to proceed with the redevelopment of Marineland? If yes, when and by whom was she consulted and did she express concern about that course of action? If no, when did she learn of the decision to scrap the Marineland redevelopment?

2. Was the Minister or her department consulted about the present proposed development and, if so, when?

The Hon. BARBARA WIESE: Some of the information sought by the honourable member I may have to take on notice, particularly in relation to when Tourism South Australia may have been consulted about the proposed developments at the West Beach Trust site. From memory, I understand that the then Department of Tourism was approached in the early days of discussion with Tribond about its proposals for development at West Beach. I would have to take advice on the content of those discussions and on what information was sought.

On occasions, Tourism South Australia has been involved in discussions since that time concerning the Zhen Yun proposal. I believe that those discussions took place in the very early days, and one of the key points made by officers of Tourism South Australia at that time was that before any proposal proceeded the proponents should undertake a reasonable study of circumstances.

I understand that it was on that suggestion that the Zhen Yun company sought advice from a well-known national tourism consultancy company to assist in the preparation of its proposal. I will seek a report on the specific occasions and topics of discussion that took place between officers during the various stages of this development and bring back that information as soon as I can.

YOUTH OFFENDER

The Hon. DIANA LAIDLAW: My question is to the Attorney-General. Why is the Government not taking action to again bring a 17-year-old youth before the court to ensure that he is not prematurely released, this youth having absconded some three weeks ago from the Magill Training Centre and being considered by police to be dangerous?

The Hon. C.J. SUMNER: I am not sure what the honourable member means by 'the Government', because the Government does not have any role in this area.

The Hon. K.T. Griffin: Does the Attorney-General have a role?

The Hon. C.J. SUMNER: The Attorney-General has a role acting in the capacity of Attorney-General and he cannot be instructed by the Government in relation to matters involving the criminal justice system. That is the fact of the matter and I am surprised that, despite what has been said in this Council by me on previous occasions, the Hon. Ms Laidlaw would ask a question in this form.

As has been pointed out by the Chief Justice in a recent judgment, this question indicates a fundamental misconception about the role of the Government and of the Attorney-General in such matters. Whether the Attorney-General appeals against a particular sentence, whether a case is proceeded with, whether a *nolle prosequi* is entered or whether a lesser charge in the superior court is accepted are matters for the Attorney-General acting in his capacity as Attorney-General and in that case, by convention, he is not subject to directions from the Government.

A similar situation exists with respect to section 47 applications—to which I understand the honourable member is referring—and that fact has been made clear by me in the Council. It has also been made clear by the Chief Justice in a recent judgment and it is, of course, clear to anyone—including, I suspect, the shadow Attorney-General—who has studied any of the conventions that operate in these matters.

Having cleared up that situation once again, I turn to the question asked by the honourable member, which is whether I as Attorney-General have taken steps under section 47 of the Children's Protection and Young Offenders Act to deal with a certain offender whom, of course, she is not in a position to name. However, I will seek a report—it would assist me if the honourable member could provide me privately with the name of the individual—and I will examine what action has been taken within the Attorney-General's Department on this matter.

I should say that, in exercising his responsibilities, although section 47 applications are not delegated but are, in fact, taken by the Attorney-General, the great bulk of work in the criminal prosecution area is, of course, carried out by professional prosecutors employed by the Crown. Such prosecutors act under instructions of the Crown Prosecutor, the ultimate authority residing with the Attorney-General. If the honourable member provides me with the name of this offender, I will seek information and bring back a reply.

The Hon. DIANA LAIDLAW: I ask a supplementary question and I advise that I will provide the Attorney-General with the name of this offender. In relation to this 17-year-old youth, and also in relation to general cases of youths absconding from a secure training centre, can the Attorney advise whether it is an offence to abscond and is, therefore, subject to a charge? It appears from this morning's *Advertiser* and from concerned people who have telephoned my office that there may be a licence to abscond if absconding is not deemed to be an offence.

The Hon. ANNE LEVY: On a point of order, Mr President, a supplementary question cannot contain an explanation.

The PRESIDENT: That is true, but the deed has been done.

The Hon. C.J. SUMNER: In response to the honourable member's question, I will have to get the name of the individual to whom she is referring and get the facts checked and bring back a reply, which I will do. I assume, contrary to what has been said, that an offence of absconding from a training centre does exist. Certainly, it should exist but, without ascertaining the facts of the case, I am not in a position to respond definitively to the honourable member. If she gives me the name, I will respond. Of course, there are circumstances where youths who are committed to training institutions are permitted to leave in certain circumstances but, whether that is what occurred in this case, I am not in a position to say until I have followed the matter through.

TRAIN FUMES

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation prior to directing to the Minister of Tourism, representing the Minister of Housing and Construction in another place, a question about an article that appeared in the *Sunday Mail* entitled 'Train fumes make us sick.'

Leave granted.

The Hon. M.S. FELEPPA: It was reported in the *Sunday Mail* of 25 February 1990 that toxic fumes from Adelaide Railway Station are drifting in to the Riverside Complex, which is part of the ASER redevelopment. The situation is worsened by certain mild weather conditions. The main tenant, the South Australian Housing Trust, has called in the Health Commission to investigate the matter. Secrecy surrounds the complaint and it has been alleged that employees are not to speak about it at all, even though there are notices around the building confirming that there is a problem. The article goes on to state:

> Adelaide University toxicology specialist, Dr Dino Pisaniello, said the problem stemmed from poor design. 'It is a pretty undesirable situation to be in,' said Dr Pisaniello.
>
> 'Long-term, there is a suggestion that chronic respiratory problems could arise by inhaling diesel fumes. However, it depends on the individual; some people are more susceptible than others.'

The toxic fumes enter through the air-conditioning system of the building. As this matter will ultimately come down to who is responsible for damage to the health of persons working in the Riverside Complex, immediate and close attention should be given to what seems to be a grave danger to health. My questions are as follows:

1. Who is responsible for the problem: designer, builder, tenant, ASER or the STA?

2. Will the report by the Health Commission be called for as a matter of urgency?

3. Will the question of responsibility for the problem be urgently established, as the health of the employees in the Riverside Complex is endangered?

4. What claim for compensation will those who suffer ill-effects have against the one or several bodies responsible?

The Hon. BARBARA WIESE: From what I have been told, the report that appeared in the newspaper recently tended very much to overstate the issue (if there is an issue) to be addressed at Riverside. I am aware that my colleague the Minister for Housing and Construction has already initiated an investigation of the allegations made about fumes in the Riverside building. As soon as that report is completed, I am sure the minister will take action, if indeed some action is required, to ensure the safety of people working in the Riverside building. At that time I will be able to bring back a report.

PRAWN FISHERY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Fisheries, a question relating to the Gulf St Vincent prawn fishery.

Leave granted.

The Hon. M.J. ELLIOTT: Back in March 1987 we debated a Bill in this place to restructure the Gulf St Vincent prawn fishery. At that time, some fishermen came to me suggesting that Professor Copes had been given inadequate information, which in fact could have been rebutted by some of the more experienced fishermen in the area. They claimed that the Bill would not work and that the fishery would not recover in the way suggested by the Government. Of course, having no expertise in relation to fisheries, I simply took note of that information. Some amendments to the Bill were made as a consequence of those representations such that the buy-back scheme had some flexibility so that, if the fishery did not recover, the buy-back would be extended over a long period of time. It was also anticipated that, if the catches were particularly bad, there would be no payback.

At the time we debated that Bill, the catch in Gulf St Vincent was 262 tonnes. The recovery was supposed to happen in three to seven years. I am told that the most recent catch was 250 tonnes, rather than the worst case scenario, which suggested it would be about 330 tonnes. Last year's figures were the same. The figures indicate that at this stage, even though the prawns being caught are bigger—and that is a good thing—the size of the catch in terms of tonnage has not picked up as predicted. Consequently, the buy-back scheme is in difficulty. So far, fees have been waived, but the fishermen are nervous about whether the Government will continue to waive them. With the bad catches they cannot afford to pay them. This collapse in catch is probably costing South Australia about $6 million a year in lost earnings.

My questions to the Minister are: first, can the Minister explain why the recovery predicted by the Government has not occurred (in fact, the situation is no better than it was when we started)? Secondly, what will the Government do this current year? Does it intend to waive the fee? Will it further examine the fund set up for the buy-back, as it is quite clear that it is probably running further into the red at this stage and not working in the way it was supposed to work?

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

STIRLING COUNCIL

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

Leave granted.

The Hon. J.C. IRWIN: Both the Minister of Local Government and the Minister of Tourism are well aware of the public and departmental debate which has surrounded the Stirling council and the liability arising from the 1980 Ash Wednesday bushfires—highlighted again by the first ques-

tion today. We are at the point now where liability is estimated to be $14.9 million. The claim process has been financed by way of a debenture loan (starting at about $12.5 million and now $14.3 million) with the treasury of South Australia. It is proposed to seek further loans of approximately $400 000 to bring the loan figure to $14.9 million. My research shows that originally, some years ago, the estimate was $6 million to $8 million. So, the amount has increased dramatically since that time.

The Local Government Association has made available funds of up to $1.5 million to meet interest repayments on the loan. It is envisaged that these funds will cover interest payments only to the end of March 1990. After that time interest will be paid directly out of the Stirling council's funds. This will amount to $200 000 per month.

The debenture document between the Treasurer and the council set up a committee to assess the financial capacity of the council to meet repayments of the loan and make a report. This committee, made up of representatives from Treasury, local government departments, the Local Government Association and Stirling council, has met on some occasions. It is the opinion of the Stirling council that this committee has irrevocably broken down. The Government officers maintain council's financial capacity to repay the loan at somewhere near $5 million, including the $1.5 million sale of land assets.

The council considers its capacity at $1 million and strongly contends that the sale of land reserves would impact on the future of the area. As late as yesterday, on radio, the Minister of Local Government said she was still waiting for a report to be forwarded, and that was reiterated again here today. I remind the Minister that the rate effort, which is part of her answer to a question today, by Stirling council has averaged nearly a 13 per cent increase over the past two years. So, it is hardly a lack of rate effort by Stirling council.

One senior member of the committee that was set up under the debenture has commented that the committee's deliberations were a waste of time. In November 1989 the Stirling council wrote to the Minister and enclosed a minority report on financing the loan. The Minister has failed to respond to the detailed minority report given to her nearly three months ago. Time is running out for Stirling council, the end of March being only five weeks away.

Further, the Stirling council cannot get loans of $320 000 from the Local Government Finance Authority, as was highlighted today. I ask the Minister whether the committee has broken down? When did the committee last meet? What are the names of the committee members as of today? Has the Minister seen a draft of the report from this committee? Has the Minister taken any action on the Stirling council's minority report given to her last November?

The Hon. ANNE LEVY: I am afraid I have not written all five questions down so I may need some prompting. The committee and its deliberations were certainly not helped by the fact that Stirling council representatives on that committee refused to cooperate and ceased coming to meetings or playing any part in the work of that committee last November. That has certainly made the work of the committee considerably more difficult. While I expect to get a copy of the report soon, I fully understand the difficulties of the remaining members of the committee when they have been completely boycotted by Stirling council representatives.

The honourable member stated that the loan to Stirling council started off at $12.5 million. Actually, I think it started off at about $9 million and has grown to $14.5 million currently. I should perhaps point out that about $5 million of that amount was paid to lawyers, in legal fees, and did not go to the victims of the bushfire.

The Stirling council has stated that it had a 13 per cent increase in rates over the last two years. As I understand it, that figure is disputed. There is no doubt that in this current financial year Stirling's rate effort decreased. In real terms, the council charged less rates than it had the previous year. It has decreased its rate effort, and that cannot be denied. One of the representatives from the Stirling council called the committee a waste of time, and at the time the Stirling council members withdrew from the committee and refused to cooperate with it. It was not a comment made by the members of the committee who are trying to prepare a report on what is a reasonable amount for Stirling to pay to the Government as part payment of the loan that the Government made to Stirling.

The Hon. J.C. Irwin: That comment was made by a senior public servant, not by a Stirling councillor.

The Hon. ANNE LEVY: I would be very surpised if any senior public servant made that comment. I would appreciate the reference and a name.

Members interjecting:

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

The Hon. ANNE LEVY: I do not know when the committee last met, but I know that it is meeting quite frequently. I last spoke to a member of the committee this morning. On remembering our conversation, I cannot tell members when the committee last met. I understand that the present members of the committee are as follows: from the Department of Local Government, R. Roodenrys and S. Ward; from Treasury, P. Emery; and, from the Local Government Association, C. Russell. Initially, Stirling council had two representatives on the committee, namely, R. Dobrzynski and M. O'Callaghan. M. Pierce, on his return from overseas, I think replaced M. O'Callaghan and not R. Dobrzynski, but I need to check that. Obviously, it was a matter for the Stirling council to determine who represented it at committee meetings.

I did receive the so-called minority report back in November, but it seemed to me rather pointless to look at it until I had the official report. One document referring to something I do not as yet have is not comprehensible and, obviously, I must wait until I receive the report of the committee before I can look at the so-called minority report that Stirling council submitted.

The Hon. J.C. IRWIN: On a supplementary question, if the committee does not report this month, how does the Minister expect the interest payments to be met by Stirling council after 30 March?

The Hon. ANNE LEVY: I could be flippant and say that that is Stirling council's problem, not mine; but I point out that I hope to receive the report very soon and, as soon as I do, I will start having discussions with Stirling council. The honourable member can rest assured of that. I also point out that the debenture which the Stirling council signed with the Government enables repayment to be postponed, at the request of the council, for 12 months. I am sure that the council is as familiar with the terms of the debenture as are the officers of Treasury who drew it up and signed it on behalf of the Government in the first place.

INDUSTRIAL DISPUTES

The Hon. T. CROTHERS: I seek leave to make a brief statement before asking the Attorney-General, representing the Minister of Labour, a question about industrial disputes.

Leave granted.

The Hon. T. CROTHERS: It has recently come to my attention, by way of the latest Australian Bureau of Statistics figures issued in respect of industrial disputes in Australia, that as usual South Australia maintained its good record. In fact, the South Australian figures were superior to those of New South Wales by a factor in excess of six. Can members imagine that—our industrial record in relation to industrial disputes being six times superior to that of the State calling itself the Premier Australian State. In fact, the South Australian record was so good that it drew the following comment from Mr Richard Huxter, the Industrial Relations Manager of the South Australian Chamber of Commerce and Industry. He said:

The trend in South Australia was not surprising given the sound relationship between employer associations and unions.

My questions are:

1. Does the Attorney-General agree with Mr Huxter about the soundness of relations between employer organisations and unions in South Australia?

2. What role have successive Labor Governments played in fostering the understanding that exists between South Australian unions and employers?

3. In the Minister's view, does this particular understanding assist the present South Australian Government in its endeavour to attract new industries to this State, thus broadening the State's industrial base?

The Hon. C.J. SUMNER: I will refer those questions to my colleague and bring back a reply.

SHOP TRADING HOURS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Small Business a question about shop trading hours.

Leave granted.

The Hon. I. GILFILLAN: The whole question of deregulating shop trading hours in South Australia is acknowledged in the retailing industry as being a battle for market share with the giants of the retailing sector lined up against the small family business. For example, the Coles-Myer company admitted at a Victorian Arbitration Commission hearing in 1988 that it expected to gain a 3 per cent growth in market share as a direct result of extended shop trading. Members should bear in mind that this company already accounts for 20 per cent of the total retail dollars spent in this country, and also that its expected 3 per cent growth will come directly from small retailers.

In November 1987 the Director of the South Australian Mixed Business Association (Mr Sheehan) estimated that South Australia would lose up to 20 per cent of its small convenience stores after the introduction of extended trading. My questions are:

1. What effect does the Minister believe the extension of shop trading hours will have on the thousands of South Australian small business retailers that she represents in her portfolio?

2. Has the Minister consulted with small business retailer representatives, for example, the South Australian Mixed Business Association, the Amalgamated Shopkeepers or others? If so, with whom? If not, why not?

3. Has the Minister put to her colleague, the Minister of Labour (Hon. R.J. Gregory), who is promoting the extension of shop trading hours, the enormous cost this will be for small business retailers if introduced in South Australia?

The Hon. BARBARA WIESE: The question of the extension of shop trading hours, as all honourable members would be aware, has been the topic of discussion in South Australia now for quite some time. While there is quite a divergence of opinion on this issue both within the business community and amongst consumers, not to mention political Parties, I think there is a general feeling within the State that more flexible trading hours in South Australia are almost inevitable.

Even among traders who do not favour an extension of trading hours in South Australia there is resignation that they will find it very difficult to hold out on this issue when all other States of Australia have introduced extended trading hours, particularly on Saturday afternoon. The issue is pretty rapidly coming to the point of discussion on what the terms of extended trading hours might be.

The Minister of Labour, who is responsible for shop trading hours, has made clear that he intends to pursue the implementation of the Government's position on this matter. That position was made very clear on two previous occasions when Bills to provide for Saturday afternoon trading were presented to Parliament. He would like to reintroduce that legislation. Parliament should be reminded that, since those two Bills were presented, an election has been held in South Australia and this Government, which presented that legislation, has been returned. It plans to pursue that policy.

Members interjecting:

The PRESIDENT: Order! There is too much conversation in the Chamber.

The Hon. BARBARA WIESE: Members would be well aware that, in my capacity as Minister of Tourism, I have made statements on the desirability of more flexible trading hours in the interests of the tourism industry. Many people within that industry support that policy and some places in South Australia use flexible trading hours. Small traders are very happy with the arrangement; indeed, they are profiting from it when they are able to open their doors on weekends to tourists who may be passing through their town or region. Greater flexibility in trading hours is highly desirable for the tourism industry.

As to the more general picture, I certainly believe that some small businesses in some sectors of industry would be disadvantaged by the extension of trading hours. Ultimately, the community must make a judgment based on the balance between the interests of some people in business and the interests of the general community. That will be the basis of the debate and the negotiations that will occur. We are rapidly coming to the point at which most people agree that more flexible trading hours should be introduced. It is just a matter of when.

The Hon. I. GILFILLAN: I have a supplementary question. The Minister apparently forgot that I asked whether she consulted with representatives of small business retailers, in particular, the South Australian Mixed Businesses Association. If not, will she undertake to do so and report the results of that consultation to her colleague, the Minister of Labour?

The Hon. BARBARA WIESE: I have already indicated that the Minister of Labour is responsible for shop trading hours. He has already indicated that he intends to initiate extensive consultation with interested parties. I expect that that consultation will include people from small business organisations. I am certain that my colleague is capable of listening to those people and taking account of their point of view. If he wishes me to be involved or if small business organisations wish me, as Minister of Small Business, to be involved in that process, I shall be very happy to do so. Until the Minister of Labour decides on a program of consultation and on a timetable for the preparatory work

that must be done before legislation is reintroduced to Parliament, I will wait and make a judgment at an appropriate time as to my degree of involvement.

PUBLIC SERVICE SUPERANNUATION FUND

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question about the Public Service Superannuation Fund.

Leave granted.

The Hon. J.C. BURDETT: On 6 November 1986, at page 1897 of *Hansard*, I pointed out that State public servants receive no notice or statements about their contributions to the superannuation fund or about the management of that fund. At that time I suggested that it was important because, for many public servants, their superannuation would be the principal contribution towards their long-term retirement benefits and, surely, that is what superannuation is supposed to be.

On 16 January 1987, I received a reply from the Premier agreeing that members of the State superannuation scheme should receive annual notices setting out their entitlements and that they should also receive information about the management of the superannuation fund. I had pointed out that members of the Parliamentary Superannuation Fund and the Commonwealth Public Service scheme received extensive information about their entitlement.

On 4 August 1987, at page 242 of *Hansard*, I asked again when it was to happen. On 29 March 1988, when speaking to the Superannuation Act Amendment Bill, at page 3610, I raised the question again and the Attorney-General responded:

> I agree with the sentiments expressed by the honourable member. As I understand it, it was certainly the intention of the Superannuation Board to issue such statements. I will ascertain the present position and bring back a reply.

I again raised the matter on 17 October 1989. At page 1155 I said:

> For many years State public servants did not receive any information at all and, as I have said before for many of them it was their main provision for retirement, and they were entitled to some knowledge. After a long period of asking questions, at last a statement was received. It did give some information about entitlement, not much about investment, but that was better than nothing. The first such statement was received shortly after the end of the financial year in 1988.

As I recall, the information related to the 1987 financial year. I continued:

> I am informed, Mr President, that there has been no follow up from that—that it was a oncer. We are well into October now, and nothing has been received after 30 June 1989.

No further statement has been received. Both the Premier and the Attorney-General agree that such statements should be sent annually but that has not happened, despite four questions and a speech. Members of the fund have told me that they are totally disillusioned with the Government on this matter. My questions are:

1. How many more questions do I have to ask and how many assurances do I have to receive before the provision of an annual statement is actually implemented?
2. Do the Premier's assurances not mean anything?
3. When will members of the fund get their information?

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

FINANCIAL INSTITUTIONS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before directing a question to the Minister of Small Business about financial institutions.

Leave granted.

The Hon. R.R. ROBERTS: The *Financial Review* has been carrying a story about a summit being held by the Business Council of Australia in relation to debt and, in particular, the flow-on effects being caused to small business by the collapse of some bigger corporations. As a result of the crashes many institutions have sought to limit their risk and tighten their credit lines, and this is having a disastrous effect on some small businesses with severe cash flow problems. Today's *News* had an article about some discussions taking place between the Minister of Small Business and the Premier with financial institutions to look at ways of relieving the plight of some small businesses. Has the meeting been completed and is the Minister able to report to Parliament on the result?

The Hon. BARBARA WIESE: I can provide further information about the meeting to which the honourable member refers. The meeting which I initiated and which was hosted by the Premier took place this morning with senior executives of financial institutions in South Australia. Small business relies to a much greater extent on financial institutions for finance. The policies being pursued by financial institutions at the moment, whereby they are tightening up on lending and trying to diminish their exposure to risk, is having some considerable effect on some small businesses around Australia.

The effect in South Australia has not been as pronounced as yet as in other parts of Australia and for that reason it seemed that there was a possibility for us to take action in South Australia which might preserve some businesses which would otherwise be subject to collapse over the next nine to 12 months, when most people are expecting difficult financial times. Small businesses could be assisted through the difficult times in order to ensure their long-term viability.

I was very pleased that there was a full house of representatives from South Australian financial institutions at this morning's meeting. They have enthusiastically endorsed the propositions we have put to them about ways in which the Small Business Corporation and individual lending institutions and their officers can work together in helping to identify problems that small businesses have in managing their financial affairs before they get into trouble so that they can rearrange their business management practices and get through the difficult times to ensure their long-term survival.

There is a tendency on the part of financial institutions to focus on the trading reports of businesses rather than looking at the cash flow forecasting and control of businesses. By working with financial institutions on those areas of activity we believe that we can assist businesses to work better and also to provide better information for financial institutions in assessing their lending facilities. It may also in the long term mean that there will be a lower level of bad and doubtful debts for those financial institutions. A program is now being pursued by the Small Business Corporation working with financial institutions which will, hopefully, over the next few months bring about a much healthier situation within the small business community in the State.

YELLOW BURR WEED

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Agriculture a question on the outbreak of yellow burr weed on Eyre Peninsula.

Leave granted.

The Hon. PETER DUNN: There has been an outbreak of this weed over a large area from certified seed procured from Victoria, somewhere near Dimboola. Approximately 10 tonnes of this seed was procured and distributed to Eyre Peninsula. In that seed was a small amount of yellow burr weed, amounting to about one seed in every 100 grams of seed. If a seeding rate of 10 kilograms per hectare of parabinga medic is used, that amounts to about 100 plants of yellow burr weed per hectare. Approximately 60 tonnes of that seed came into South Australia. Although other parts of South Australia have yellow burr weed, there is little of it on Eyre Peninsula. It has caused considerable concern on Eyre Peninsula, as it affects cropping areas.

The weed cannot be easily contolled with the high alkaline soils of Eyre Peninsula because the urea-based chemicals used to control it do not break down in the soils on Eyre Peninsula and therefore affect the subsequent germination of medics, which are a base to the lay farming system there. It is a most undesirable weed on Eyre Peninsula, which is relatively free of those bad weeds. What steps are being taken to avoid a similar infestation of any scheduled undesirable weed through a like event? Will the Government allocate a sum of money to the seed certification system so that further infestations may not occur?

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

CITY SIGNPOSTING

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about signposting.

Leave granted.

The Hon. L.H. DAVIS: Over six month ago I raised the important question of signposting on North Terrace. The Minister will remember that I made the point that a visitor to North Terrace's cultural boulevard is confronted with an embarrassing mish-mash of misinformation. At the time of the Adelaide Festival of Arts signposting is grossly inaccurate, ugly and out of date. The sign at the corner of North Terrace and King William Street points west to the Constitutional Museum, but it has been called 'Old Parliament House' for 3½ years. There simply cannot be any excuse for such slackness. An arrow pointing east at the same intersection omits to mention to the Police Museum, the Migrantion Museum and the Mortlock Library. Clearly the sign is at least four years out of date.

I am critical of the lack of consistency, the absence of signposting and of the ugly rusty poles. The Minister said 15 months ago that she would refer the matter to the Adelaide City Council, but nothing has been done in time for the Festival. It has been on the agenda for eight years. Does the Minister think that this is good enough?

The Hon. BARBARA WIESE: The point that the honourable member failed to reveal in his explanation was that in my reply to the question that he asked last time I indicated that I had initiated discussion on the matter before he raised the issue with me.

The Hon. L.H. Davis interjecting:

The Hon. BARBARA WIESE: As the honourable member has just indicated, I referred this matter to the City of Adelaide, which is responsible for signposting in the city, suggesting that it was probably about time that signposting on North Terrace was reviewed. It took some time to receive a reply from the city council, but inevitably it was a positive response. In fact, the latest development on this issue—

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

FISHERIES ACT

Order of the Day, Private Business, No. 1: Hon. M.S. Feleppa to move:

That regulations under the Fisheries Act, 1982, concerning River (Murray) fishery, made on 14 September 1989, and laid on the table of this Council on 26 September 1989, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

MARINELAND SELECT COMMITTEE

Adjourned debate on motion of Hon. K.T. Griffin:

I. That a select committee of the Legislative Council be established to consider and report on—

(a) the extent and nature of the negotiations by the Government and West Beach Trust which led to a long lease of West Beach Trust land to Tribond Developments Pty Ltd, an agreement for that company to redevelop the Marineland complex and a Government guarantee to the financier of that company for the purposes of the redevelopment;

(b) the extent and nature of negotiations between the Government, West Beach Trust, the Chairman of West Beach Trust and Tribond Developments Pty Ltd (and such other persons as may be relevant) and the events and circumstances leading to the decisions not to proceed with the development proposed by Tribond Developments Pty Ltd, the appointment of a receiver of Tribond Developments Pty Ltd, the payment of 'compensation' to various parties and the requirement to keep such circumstances confidential;

(c) all other matters and events relevant to the deterioration of the Marineland complex and to proposals and commitments for redevelopment;

with a view to determining the extent, if any, of public maladministration.

II. That the select committee consist of five members and the quorum of members necessary to be present at all meeting of the Committee be fixed at three.

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

IV. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 14 February. Page 115.)

The Hon. R.I. LUCAS (Leader of the Opposition): I move:

After paragraph II, insert new paragraph IIA as follows:

IIA. Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

I support the motion. This amendment is in line with the view that I expressed on behalf of the Liberal Party during the Address in Reply debate in relation to select committees in the Legislative Council. We have indicated that, although

not on all occasions, generally we will adopt a position in accordance with the traditions of the Council as outlined in the Standing Orders; that is, that select committees of the Legislative Council should comprise five members. During the past 10 or 15 years that situation has changed. Generally, committees have consisted of six members, but the Liberal Party now supports returning to the position of having five members.

If the Council agrees, I will move that select committees shall comprise five members, each with a deliberative vote. The chairperson of the committees will not have a casting vote, as outlined in our Standing Order 389. The Opposition does not believe that having a select committee consisting of five members (which may be two from the Government, two from the Opposition and one Democrat), with that Standing Order remaining, would be a fair situation. The Opposition believes that an amendment along these lines ought to be supported by the Legislative Council.

The Hon. ANNE LEVY (Minister of Local Government): I oppose this motion and I indicate that I will move an amendment to it, which position is not illogical. In addressing the substantive matter of the motion for a select committee, a couple of things need to be made very clear before I respond to some of the amazing mix of truths, half truths and misrepresentations which have been uttered on this matter.

First, the Government remains steadfast in its belief that a select committee is not necessary. It would be a lengthy and costly process to have one. It involves an issue which, if we are all honest, we will admit, the South Australian public has grown quite tired of and for which all possible documentation has already been made available to all members of both Houses of Parliament.

However, I understand that, despite this, members opposite are not prepared to listen to rational argument. It would not matter whether one document or 9 000 documents were tabled and made available for their information—they still intend to set up a select committee.

If that is the will of the Council, I indicate that the Government will cooperate fully. We believe that an inquiry such as the one proposed, if it is handled fairly and in a non-Party political way—and once the circumstances and chronology of events which took place is understood—will completely vindicate the decisions made. Having said that, I believe there are clear grounds, on the evidence already available to this Council, to reject the proposal for a select committee. On has only to look at the huge amount of material already in *Hansard* to see how closely this issue has been pursued both here and in another place.

My colleague the Minister of Industry, Trade and Technology has already answered numerous questions. The *Hansard* record of questions and answers involving the Minister in another place during Question Time and during the last Estimates Committee account on their own for some 100 pages. Last week, in an effort to give members a further opportunity to make a rational decision about the need for a select committee, the Government released some 1 000 pages of documents which bear directly on the issues to be considered by the proposed select committee. More documents were added today, and I tabled documents provided by the West Beach Trust in response to queries from a member opposite.

I would point out that, unlike some members of this Council and another place, we have been scrupulous in upholding the tradition of legal and commercial propriety. I trust that if or when the select committee is set up, the same legal and commercial propriety will be observed by members of the committee. I would remind members that there are still two matters before the courts, that there are still matters *sub judice,* which has obviously constrained the comments which Ministers have been able to make both outside and inside this place. Despite these constraints, Ministers have always made themselves available for interview on the matters which have been raised. The Government has nothing to hide at all and it has hidden nothing.

Since my ministerial colleague tabled the many Marineland documents last week, members should all have had some interesting reading. It is clear that no-one can properly interpret the events surrounding the Marineland matter by reading only a few selected documents and by hearing the claims of some of the parties in isolation. It is only possible to fully understand the events by examining them in their chronological order, by understanding the chain of events and the timing of certain decisions. The correct sequence of events, as detailed in the documents, absolutely rejects the notion put by the Liberal Party in this place, suggesting all manner of failures.

It made very sensational stories but it was quite divorced from the truth. The Opposition has clearly failed to understand what occurred and it still has been unable to absorb what went on, despite having a huge number of documents presented to it with a chronology which clearly helps in examining the vital issues as they unfolded. The first point which the Opposition clearly makes and which is wrong, as is clear from the documents, is the claim that Government support for a Marineland development collapsed. That is just not true.

Cabinet repeatedly reaffirmed its support for the Marineland concept, confirmed its support for the taking of dolphins in appropriate circumstances. However, in the light of the now clear fact that Tribond could not undertake the development, there was the search for an investor and the proposal for a redevelopment of the site without a dolphinarium, and the Government opted to support Zhen Yun's revised proposal of 2 February 1989.

The result is a project worth $39 million. It will employ hundreds of South Australians and will return rental revenue to the State of about $100 million over the next 50 years. If that highly significant and worthwhile development with all its benefits for the State's economy is an example of blundering, I would like to know what the Opposition would designate as a success.

I would now like to examine the chronology of the major events that led to the Government's eventual decision to support Zhen Yun's revised proposal. On 6 January 1986, Rod Abel wrote to the West Beach Trust Chairman, Geoff Virgo, confirming the interest of International Oceanaria Development Company Pty Ltd in the potential of redeveloping the Marineland facility and asking Mr Virgo to seek the Government's view on the taking of cetacea. In May 1986, Cabinet supported the taking of dolphins, approving a recommendation, as follows:

> . . . to allow for the upgrading of Marineland (both in facilities and function) in accordance to a plan of management approved by the Government and subject to this approval permit the taking of bottle-nosed dolphins from State waters to the extent necessary to provide for an initial breeding stock of animals if these cannot be obtained from established oceanaria . . .

This paved the way for discussions between the Abels and the trust, and it should be noted by members that on 28 May 1986 Grant Abel and Peter Ellen (of Elspan International, the proposed project managers) met with the trust and the condition of the Marineland buildings was discussed. This issue had already been raised verbally with Rod Abel by the Chairman of the trust when Mr Abel had visited Marineland previously.

Negotiations proceeded to the point where on 9 January 1987 a press release was issued by Rod Abel and Geoff Virgo announcing a $10 million development at Marineland to be completed over three years. Five days later an agreement was signed and Tribond officially took over as manager of Marineland. Events moved quickly from there, because at the beginning of June 1987 the Parliamentary Industries Development Committee held hearings on the proposed Marineland redevelopment and subsequently recommended to the Treasurer that the Government provide a guarantee not exceeding $9 million for Tribond to use as backing for financing of the Marineland redevelopment.

So, we had a completely bipartisan committee of Parliament made up of Government and Opposition members concluding that, on the basis of the report and the evidence provided to it from a range of sources, including the Abels, the project merited Government backing, particularly because of its perceived tourism potential. I would refer members to correspondence contained in the documents at pages 110, 122 and 128 of volume one, which referred to the concerns of solicitors for the Abels about the condition of the Marineland buildings. Members are no doubt aware that the Opposition has continued to claim and argue that somehow the Government and the trust led the Abels into the mire by not indicating the true state of the buildings.

The assertions of the Liberal Party in this matter are wrong. In fact, there has been a quite deliberate effort by the Liberals to mislead on this matter in the hope that it somehow adds weight to a conspiracy theory, which, after reading these documents, is quite evidently full of holes. Again, I would refer members to the documents and ask them to judge the matter, taking into account the fact that it was some two months after the letters referred to from the Abel's solicitors that a 40 year lease was signed by the West Beach Trust for the Tribond redevelopment site at Marineland.

It is only from this period on that the documents show a deterioration in the financial position of Marineland, until the Tribond directors themselves agreed with the then Department of State Development and Technology as to the need for an independent assessment of their financial position. I am sure that members are now aware of the Ferguson report, which was tabled among the documents presented by my colleague last week. I refer members to page 216 of volume one, if members have not yet perused it.

Again, I will let members make their own assessment of this document and compare it with claims from the Opposition that Tribond failed because of the unexpected deterioration of the Marineland buildings and the impact of this on attendances.

The Opposition has also tried to link the demise of Tribond to the reported threats of union bans. The first reports of union bans did not appear until August 1988—many, many months after the Ferguson Report—and, again, I let members make their own judgment about that claim by some members opposite. In this context, the Opposition's continued harping on whether the Government was aware of union bans is an irrelevancy, but it must be answered. It was forcibly answered by my colleague in another place, in reply to a question from the Opposition only last week. I would recommend that members interested in this issue read that answer in *Hansard*; it puts the matter most eloquently.

In summary, there were no formal bans. The UTLC and the Federation of Building Unions have confirmed that as recently as last week. The ludicrous aspect of all that is that a union official was quoted in the media, saying that bans were to be placed on a project which had not even gone ahead and which ultimately did not even proceed. I ask members to make their own judgment about whether the so-called union bans had anything to do with the failure of the Tribond project. Again, I refer members to documents in the file, including the revised development proposal from Tribond and the subsequent independent report by the Price Waterhouse Group. Given this report, the Department of State Development and Technology stepped in, making every effort not only to help support Tribond but also in seeking an investor.

In November 1988 the Zhen Yun Corporation was introduced to the department by Peter Ellen, of Elspan International, who still hoped to find someone to build the project which he had designed. In December 1988 Zhen Yun was told of State Cabinet's in principle support for its proposal for a redevelopment, including a dolphinarium. As I said earlier, the Government was still keen for the project to go ahead in full.

On 31 January 1989, Cabinet reaffirmed its decision to allow the capture of dolphins from the wild, if necessary, subject to an appropriate management plan. Only three days later, on 2 February 1989, my colleague, the then Minister of State Development and Technology, relayed Cabinet's decision to Mr Lawrence Lee of Zhen Yun, but he indicated that the company must make a commercial decision on its viability and should be aware of mounting local community concern over the keeping of dolphins in captivity and the reported threat of union bans. In the course of the conversation, an alternative proposal minus a dolphinarium, was raised. It is a fact, borne out by the documents tabled by the Minister, that Mr Lee was able that same evening to fax through to the Minister Zhen Yun's alternative proposal for a West Beach hotel without Marineland.

This is such a tight time-frame that it is beyond belief that anyone could give credit to the story that Zhen Yun had never considered such an idea, informed as it was by its local representatives of the changing climate of public debate. The simple fact is that the plans were faxed to Adelaide early that evening, within a few short hours of the telephone conversation.

It was after Zhen Yun put forward its reworked proposal that Cabinet met on 6 February and, in the absence of an alternative development, committed itself to supporting the new proposal in principle. Contrary to the claims of the Opposition, it was Zhen Yun which made the decision to alter its plans, based on its commercial assessment of the viability of the dolphinarium. The Government did not subject Zhen Yun to any 'improper pressure', to quote the Leader of the Opposition in another place.

The final piece of evidence on this score can really only come from two people: my ministerial colleague and Mr Lawrence Lee. My colleague is recognised both within this place and in wider circles as a man of the utmost integrity and honesty, and he has on a number of occasions said that no pressure was placed on Zhen Yun. Mr Lawrence Lee has no political axe to grind and, in letters to both the Minister and to the *Advertiser* as recently as 9 October last year, he confirmed the Minister's account: there was no pressure. We do not need a select committee to find out what we already know, but what the Opposition does not seem interested in listening to when the facts are presented to it. It is for that reason that we oppose the motion for a select committee.

However, I do understand that I am speaking to closed minds; they are not prepared to listen to anything I have to say. Their minds are made up; they will vote for a select committee. In consequence, I wish to move an amendment

to the motion as put forward by the Hon. Mr Griffin and indicate that, whether this amendment is carried or not, the Government will oppose the motion. However, if there is to be a select committee, it seems to me that it is right and proper that it should be a fair select committee and, on that basis, I move:

Leave out paragraph II and insert new paragraphs II and IIA as follows:

II. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members.

IIA. Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

In moving this, I am the one who is upholding the traditions of this Council. It is all very well for the Hon. Mr Lucas to say that he is upholding the traditions in one aspect by reverting to Standing Orders and then promptly to move an amendment which negates Standing Orders. That is not a logical position to take and, if the Hon. Mr Lucas was honest, he would admit that it is not a logical position to take. One cannot say that one is upholding the traditions of Standing Orders and then promptly move an amendment to bypass them. I would have thought anyone present could see the logical inconsistency in that.

Since I have been a member of this Council, select committees have had six members. I am indebted to the Hon. Mr Cameron for the information that select committees of six members predate 1975 and that, in fact, the first time one was set up was on 27 March 1974. This information comes from a speech delivered by the Hon. Mr Cameron on 2 April 1980. It may or may not be correct. I have not delved back prior to my entry to this Council, and the Hon. Mr Cameron has been known to make statements which, when challenged, he is not able to substantiate.

Members interjecting:

The Hon. ANNE LEVY: He said I had stated that I had a particular report in my safe. He has kept referring to this statement, which he made up. When I challenged him, saying that I had never made that statement, he said he would prove to me that I had said it. He has not yet produced that proof, and I bet I will be waiting for many years before he produces such proof, because I have never made such a remark.

The Hon. M.B. Cameron: You did.

The PRESIDENT: Order!

The Hon. ANNE LEVY: I have never made such a remark, and the Hon. Mr Cameron, I suggest, has made that comment so often that he has convinced himself that I said it.

The Hon. M.B. Cameron: I have sat here and listened to you say it.

The Hon. ANNE LEVY: If I said it, it would be in *Hansard.*

The PRESIDENT: Order!

The Hon. ANNE LEVY: As I said, the Hon. Mr Cameron has indicated he will prove to me that I have said it. I am still waiting. No proof has come and I dare prophesy that it never will. However, whether or not select committees with six members go back to 1974, I can certainly vouch for the fact that since 1975 select committees in this place, with very rare exceptions, have had six members. The first occasion on which I can recall one being set up was on 24 November 1976, when a select committee was set up on the Emu Wines Companies (Transfer of Incorporation) Bill. Six days later, on 30 November 1976, a select committee with six members was set up on the Crown Lands Act Amendment Bill. On the same day, a select committee with six members was set up on the Uniting Church. As a member of that committee, I recall well the Hon. Mr Griffin being a key witness to that select committee. I am sure he can recall giving evidence to that select committee, with six members.

During the 1975-77 period there was the occasional select committee with only five members. In each case they were on hybrid Bills on which there was no dispute or controversy at all, an example being the District Council of Lacepede (Vesting of Land) Bill. Since the 1977 election, other than these occasional hybrid Bills, all select committees bar one had six members. That one exception had four members to continue the tradition of having a balance of equal numbers of Government and non-Goverment members. I am sure the Hon. Mr Lucas can recall that select committee, because he and I served on that select committee, along with yourself, Mr President, and the Hon. Dr Ritson. That balanced select committee inquired into the disposal of human remains.

With that exception, all select committees have had six members in order to maintain a balance of numbers between Government and non-Government members. The select committee inquiring into the disposal of human remains had only four members because the Democrats did not wish to participate in that committee. It was therefore dropped to four members to ensure that the balance between Government and non-Government was maintained.

I really cannot understand why this change is being made. Members opposite usually pride themselves on following tradition and upholding the traditions of this place. They maintain most strenuously that this Council is different from the other House and has no relationship whatsoever to the other place.

The other day the Hon. Mr Griffin, in speaking to his motion, suggested that there would be only five members on this select committee because there had been a change in the other House. To me this is quite incomprehensible coming from someone who constantly stresses the independence of this Chamber. The election held last November made no change whatsoever to the composition of this Chamber; its Party-political composition is identical to what it was prior to the election. Even more, not a single face has changed.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: As I was saying before being so rudely interrupted, the election last November made no change whatsoever to this Chamber of the Parliament—not in Party composition and not even in a new face. Perhaps one might say, 'More is the pity, having to look at the same faces opposite for another four years', which comment may well be reciprocated by members opposite. At least they shuffled the faces around to change the view somewhat for the benefit of members on this side of the Chamber.

However, for members who have so long stressed the complete independence of this Chamber, what did or did not happen in the other place is surely irrelevant to what happens in this Chamber. For the past 15 or 16 years—if the Hon. Mr Cameron is to be believed in this matter—all major select committees of this place have had six members with equality of numbers between Government and non-Government members. I stress this, Mr President, because when the Government of the State changed between 1979 and 1982, there was no change to that tradition in this Council. For those three years, when there was obviously a great change in the other place, the tradition continued without any change in this Council. All select committees contained six members, three Government and three non-Government.

It was generally agreed that this was the correct and fair way to set up select committees, given the composition of this Chamber. There was never any reference to the composition of the other place. The select committees of this Chamber have reflected the composition of this Chamber. I feel that that is right and proper—and I would have thought that members opposite, who are so concerned that this Chamber be quite independent from the other place, would be the first to agree that the traditions of this place should continue and that select committees of this Chamber should reflect the composition of this Chamber.

Consequently, for the past 16 years every select committee, regardless of which Party was in Government, has consisted of three Government members and three non-Government members. I feel it is responsible and fair for this tradition to continue until there is a complete change in the composition of this Chamber. It is incomprehensible how members who claim fairness—

The Hon. J.F. Stefani interjecting:

The Hon. ANNE LEVY: The composition of this Chamber did not change last November. It is identical to what it was, even to the faces.

The Hon. M.J. Elliott: You've said that three times.

The Hon. ANNE LEVY: I had to say it again because the Hon. Mr Stefani obviously did not hear it the first two times.

The PRESIDENT: Order! The Minister will address the Chair.

The Hon. ANNE LEVY: I am happy indeed to address the Chair, Mr President, if you will protect me from interjections.

Members interjecting:

The PRESIDENT: Order! I will do my best. The House will come to order. The honourable Minister has the floor.

The Hon. ANNE LEVY: Thank you, Mr President. The election did not change the composition of this Council in any way. There is no reason why the traditions of this Council that have been built up over the past 16 years should change when there has been no change in the composition of this Council. I appeal to members, particularly those who claim to respect tradition and the independence of this Chamber, to support my amendment and restore the sanity and balance that existed only last year in the setting up of select committees. Nothing whatsoever has happened to this Chamber since then to alter it in any way. I oppose the motion and, in view of the closed minds of members opposite, move my amendment.

The Hon. M.B. CAMERON: I did not intend to speak on this matter; nor do I intend to speak for very long, because I hope that all the matters contained in the motion will be canvassed by a select committee. The motion to establish a select committee to look at this matter is serious. I suggest to the Hon. Ms Levy that, if she rose with the intention of gaining support for her point of view, she certainly went about it in a strange way. The tenor of her speech was such that it lost, rather than gained, support. I suggest that her speech was politicised, if she is to use that as an argument for leaving select committees as they were.

Matters surrounding Marineland are very serious and involve a number of rather strange decisions by the Government and the recent tabling of documents in this Council. When I first saw that pile of documents I thought the Government had finally decided to come clean, but I found that within three minutes there was already in front of me a document that had been either carefully left out, inadvertently omitted or, for some other reason, was not part of the tabled documents.

Worse than that, no Minister seemed to know anything about it, in spite of its being a very detailed account of advice from one Minister to another about how to avoid publicity on the important matter of a breakwater in front of the proposed Marineland complex.

That is a very serious matter because it involves the expenditure of taxpayers' funds. If Ministers of the Crown are unaware of or cannot remember within that short time just what has transpired between them, it is clear that there is a need for one of the Houses of Parliament, through a select committee, to examine all matters that relate to that proposal, especially when a very large sum of money is involved. I do not know what the breakwater would eventually cost.

The Hon. Anne Levy: It is nothing to do with Tribond.

The Hon. M.B. CAMERON: I know it is not.

The Hon. Anne Levy: It has nothing to do with the select committee.

The Hon. M.B. CAMERON: If that is not part of the select committee's terms of reference, I suggest we hold up this motion to make sure that it is a matter to be examined by the select committee. If the terms of reference of the select committee are not wide enough to cover that matter, I suggest that it should be included, along with any other matters relating thereto.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: For that and other reasons, I support the setting up of the select committee. There have been some very serious differences of opinion between the various parties involved in this dispute, not the least of which is the matter referred to by the Minister, that is, between Zhen Yun, the Minister of State Development and the Abel family. The Abels claim that they were given no choice but to sign secrecy provisions. If that is the case, that is a serious matter indeed and I believe that those people and any other person involved in those discussions should have the opportunity to put their view on the public record. The matter should be taken to the point where anybody who did not tell the truth would be in serious difficulty.

Parliament should have the right to judge who is telling the truth. Without any hesitation at all I support the setting up of a select committee to look into this whole matter. The Government claims that nothing is wrong, that there are no problems. If that is so, I suggest that a select committee would be the best vehicle to reveal that there is nothing wrong. It would be one way of clearing the air once and for all and I trust that the Government will rethink its attitude and go into the select committee with a view to clearing the air. It will have the opportunity to put the view that the Government has always been right. For the sake of the Government, I hope that is so because, if that is not right, it is a very serious matter.

I turn now to the age-old question of the number of members on a select committee. How many should there be? As the Minister so kindly pointed out, I raised this question when the random breath testing select committee was first put forward. At that stage, we as a Government attempted to have a five member committee; that was rejected by this Chamber. That committee came to a very sensible conclusion and I trust that people realise how it has benefited the State. One of the big problems is that you can never tell the people who are still alive that they are still alive because of the legislation. Drunk driving leads to random deaths and no-one knows what will happen until it happens, and then it is too late. That select committee

was a good committee which reached sensible conclusions that, in the end, were supported by the whole Chamber.

The Hon. Anne Levy: It had six members.

The Hon. M.B. CAMERON: That is correct.

The Hon. Anne Levy: They have all had six.

The Hon. M.B. CAMERON: I know that. It was a very good select committee.

The Hon. Anne Levy: They have all been good select committees.

The Hon. M.B. CAMERON: I suggest that the Minister starts reading the newspaper or does something else. Since that time, select committees have always had six members and the majority of this Chamber's select committees have come to very sensible conclusions because they have had sensible people on them. They have realised that there is a problem that must be solved. However, I must say that some committees of which I was a member—not the Christies Beach Women's Shelter select committee—became absolutely frustrating because they were politicised. I was a member of the Aboriginal health select committee and, although one can argue the reasons for setting it up in the first place—in my view the reasons were very genuine—it was the worst experience that I have ever been through as a member of a select committee. I have no desire to repeat that experience. If it means that we have to change the numbers on select committees to ensure that witnesses cannot be bullied, that people are treated properly, that we do not have a Chairman—

The Hon. Carolyn Pickles interjecting:

The Hon. M.B. CAMERON: You were not on the committee at that stage, Ms Pickles. Members of that committee were defied by the Chairman to the point at which we were told, 'Go ahead and move a motion of no confidence in me if you don't like what I'm doing.' The Chairman knew only too well that a vote of no confidence in the Chair would not succeed because of the numbers on the committee. I have absolutely no desire whatsoever to repeat that. I believe that every select committee from now on should be judged on the potential for committee members, regardless of Party, to use and abuse the processes of the committee and the people who come before it.

The Marineland select committee will be a very serious committee because people will be judged on the veracity of their statements. Therefore, it is with some reluctance that I support this motion for five members. I would prefer the new tradition to continue. Although people are making it sound as though it has been going on for 150 years, that is not the case; it is a new tradition. However, the new tradition cannot continue if members from this place, who sit on select committees, want to make certain that the truth does not come out and that matters are not properly discussed. I went through that experience on the Aboriginal health select committee and, because of it, I made the decision never to sit on a select committee again. That committee became an absolute shambles, and no conclusion was reached, which was most unfortunate.

As I said, it is with some reluctance that I support this motion. I believe that we should settle back and judge each committee on its merits. Let us see how this new system works. There have been changes since the new tradition was established, when there was only one Democrat member in this Chamber: there are now two. When the tradition commenced, the Hon. Mr Milne was the only Democrat. Faces have changed. I agree that nothing has changed since the last election.

The Hon. Anne Levy: Nothing has changed since the last select committee had six members.

The Hon. M.B. CAMERON: I know all that. The only thing that has changed is the attitude in select committees, and I suggest that members rethink how they operate within committees and go back to a commonsense attitude to try to arrive at the truth. Far too much point scoring has gone on in some select committees, certainly in the ones that I have been on. So, it is with some reluctance that I support the motion for five members, and I know that many other members share my reluctance. However, it is my belief that it has become necessary to do this.

The Hon. M.J. ELLIOTT: The Hon. Mr Gilfillan has already stated our attitude on the need for a committee. Basically, we have argued that a *prima facie* case exists for looking at certain matters. We will be going into it with a totally open mind. However, I wish to make a few comments about the change in the composition of the committees. I must admit to being mystified upon coming into this place as to why the Government had three of the six members, giving it the power to veto anything that the committee tried to do.

The Hon. Anne Levy: It applied during the Tonkin Government, too.

The Hon. M.J. ELLIOTT: It does not matter whether or not it applied then: I simply said that I was mystified as to why it was given the power to veto the workings of a committee. That aside, I have been on quite a few committees during the four years that I have been in Parliament. I was on five committees at one time and I have seen their operation. Some worked exceedingly well, whilst others worked very badly. On at least three committees, whilst claims were made by the Government that they were set up for political purposes, Government members used them politically to stall and frustrate the operation of the committees. That may be a matter of opinion, but it happens to be my opinion and clearly it appears to be the opinion of the Hon. Mr Cameron and, I imagine, that of the Liberal Party, which has now proposed five members for this committee that is under consideration.

After the election, how can a Party that obtained 38 per cent of the vote in the Upper House claim a right to 50 per cent of the membership of the committee and the right to control what a committee does or does not do? I agree that giving us one position in five gives us more than we would get on percentage terms, but obviously putting .5 of a Democrat on the committee would be an interesting proposition. Alternatively, we could set about having committees five/five/one, which would exhaust members fairly quickly with a couple of committees. The reality is that, whether we have two/two/one or three/three/one, if a committee ever became political, which it should not, it would at least by its behaviour reflect the behaviour of the Council as a whole, and that indeed is the important point. No longer will any one Party be able to frustrate the workings of a committee, as has happened on a number of occasions in recent years.

On one occasion one Democrat withdrew from a committee for that reason. With another committee, I was on the edge of walking out; in fact, I left the committee during proceedings on a couple of occasions simply to cool down rather than lose my temper with the way proceedings were going—they were quite outrageous. Another committee which was trying to prepare a report for the Council wasted countless days of work because of the politicking that was going on—and it was very obvious. This change has been brought on by the actions of the Government. If committees had been allowed to function in a non-political fashion, this change would not have occurred.

In reality, if a committee started misbehaving we could bring it back to the Council and bully it to behave itself. However, that is a nonsense position. If people go on to committees knowing that they cannot frustrate them any longer, then everything will stand or fall on its merits, I believe that committees will function far better and we will not see the sort of nonsense that we have seen over the past couple of years in particular.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: The Democrats see that this change has become inevitable and therefore support it.

The Hon. K.T. GRIFFIN: I thank honourable members for their consideration of the motion. I am pleased that the Hon. Mr Gilfillan has indicated his support for a select committee. Notwithstanding the tabling of a large number of pages, obviously there will be a lot more to come out in a select committee. I want to facilitate the establishment of the select committee, but in the light of the contribution of the Minister, and in view of the papers tabled earlier today in relation to the West Beach Trust's areas of concern, I seek leave to conclude my remarks and complete the debate on the next Wednesday of sitting.

Leave granted; debate adjourned.

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 285.)

The Hon. T. CROTHERS: I rise to indicate the Government's opposition to the Hon. Martin Cameron's Bill on freedom of information in its present form. From the very outset I must say that the nomenclature that the Hon. Mr Cameron has had appended to his Bill is, at the very least, a misnomer. I have read and re-read the Bill, the whole eight pages of it, and I have to say that at the very least a person who wanted access to information under the proposed Bill would in my view require legal advice of a very precise nature in order to understand exactly what the individual's rights are.

The language of a Bill of this nature should be couched in simple terms so as to ensure that an ordinary lay person walking in off the street would have no difficulty in understanding the nature of the legislation and what it means to them. With this Bill, unfortunately this is not the case. The drafting language is too legalistic, perhaps even jargonistic, in the parliamentary usage of that word. It leaves no doubt in my mind that, if allowed to go forward in its present form, it would lead to ordinary people having to go to unnecessarily expensive lengths in order to find out just what their rights are, under the terms of this Bill as currently expressed. There will be unnecessary and expensive holdups to the South Australian citizens whom this Bill purportedly is trying to assist. I do not blame the parliamentary draftspeople for this debacle, but rather the people who gave out the necessary drafting instructions from which the Bill has sprung.

I now turn to another one of the charges which the redoubtable Mr Cameron has endeavoured to lay at the feet of the Government; that is, that the Government over its several terms in office has sat on its hands and done nothing. This type of statement makes me wonder what the illustrious Mr Cameron was doing when he was a Minister in the Tonkin Government of 1979 to the end of 1982. It is my view that the silence was deafening with respect to freedom of information at that time.

But let us see if the assertion of Mr Cameron stands up relevant to this Government having done nothing by way of giving the South Australian public access to information on members of the public that may be held by Government departments. On 1 July 1989, this Government introduced principles of privacy and access to State Government bodies. The principles then introduced were 11 in number and covered such areas as collection of personal information by State Government authorities, storage of that information, access to records of personal information, correction of those records if necessary, use of personal information, disclosure of personal information, and the maintenance of anonymity in research.

These principles give all South Australians the opportunity to view records held by State Government authorities and also to alter any record which is incorrect or inaccurate. The principles sprang from 10 years of intense study of the whole issue of freedom of information, particularly as it related to the Federal Act and the Freedom of Information Act in Victoria. For instance, these two Acts to which I have just referred, over the period of their operation have thrown up some interesting statistical information. This information shows that some 55 per cent of all requests for information under the Victorian Act relate to requests for personal information from such departments as the Victorian police, the Health Commission, the Department for Community Welfare and the Metropolitan Fire Board; whilst at the Federal level requests for personal information account for over 90 per cent of all requests made and these generally relate to access to information held on individuals by departments such as the Department of Social Security, Veterans' Affairs and the Taxation Office, to name but a few.

Once this Government had evaluated these statistics over a period of time, it set about with a will to provide access for all South Australians to Government documents by simple administrative procedures instead of by costly legislation. I shall return to this cost consideration in due course.

As I have previously stated, this Government on 1 July 1989 issued an administrative instruction under the regulations laid down in the Government Management and Employment Act. This Act, amongst other things, requires officers of public agencies that fall under the responsibility of the Commissioner for Public Employment to carry out the administrative instructions which are legitimately and properly issued by Government. Non-compliance with the regulations, which now include the privacy and access procedures, constitutes an offence under the GME Act and enables action to be taken against any officer who does not comply with them.

Likewise, the South Australian Police Force, although exempt under the GME Act, is subject to the Police Regulations Act. One could have reasonably supposed that this method of providing access to information without the need for establishing a costly new bureaucracy to oversee the implementation of new legislation would have appealed to members sitting on the benches opposite who are always cutting crook about the Public Service and the charges that it imposes on South Australian citizens. But I am afraid that that would have been far too consistent a course for the present Opposition to pursue.

I have touched on the matter of administrative costs, and I have heard it said that if the Hon. Mr Cameron's Bill goes through it will cost $4 million per year to administer. To illustrate further what I am saying, I point out to this

Council that the Government is responsible for a whole range of the freedoms of its citizens. It has to find the necessary funds to ensure that its citizens, as far as the limited resources of a State Government fundraising capacity will allow, have freedom of access to proper health, housing and legal advice where it is needed and cannot be afforded. Just imagine how many more of our citizens could have access to legal, health and housing aid if we could spread the $4 million over those three areas alone.

It has been said before that Oppositions have the luxury of proposing measures which they then do not have to find the funds for, but at the end of the day it is Governments which have to make the decisions as to how they will dispose of their citizens' taxes. I pose the following questions to the Opposition: how many of our citizens' other freedoms will be encroached upon because we have had to find an additional $4 million per annum? How many of our deserving citizens who apply for legal aid will not be able to get it because of a scarcity of funding? I appeal to this Council that when considering this matter of freedom of information we do so in the context of all the other freedoms of citizens which we in this Parliament (and the Government) must protect and, indeed, do so. After all, he who pays the piper must of necessity call the tune. Let us not be beguiled by this particular piper who introduced the Bill as the children of Hamelin were to the extent that they disappeared altogether and forever from the face of the earth.

Truly, Mr President, the dirgeful tones of the mournful lament contained in the Hon. Mr Cameron's last contribution to this debate on 14 February of this year must not cause us to lose sight of the fact that the Government itself will shortly introduce a freedom of information Bill which I am sure will be more readily understood by the average citizen, much more so than the present Bill ever could be.

I conclude my contribution by saying that it is my view that had the Cameron Bill been drafted in Gaelic it might have been easier for citizens to comprehend. I oppose the measure before the Council and ask all members to oppose it with me.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

SELECT COMMITTEE ON CHILD PROTECTION POLICIES, PRACTICES AND PROCEDURES

Adjourned debate on motion of Hon. Diana Laidlaw:

That—

I. A select committee of the Legislative Council be established to consider and report on child protection policies, practices and procedures in South Australia, with particular reference to—

(a) provisions for mandatory notification of suspected abuse;
(b) asssessment procedures and services;
(c) practices and procedures for interviewing alleged victims;
(d) the recording and presentation of evidence of children and the availability and effectiveness of child support systems;
(e) treatment and counselling programs for victims, offenders and non-offending parents;
(f) programs and practices to reunite the child victim within their natural family environment;
(g) policies, practices and procedures applied by the Department for Family and Community Services in implementing guardianship and control orders; and
(h) such other matters as may be incidental to the above.

II. Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

III. This Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

IV. The evidence taken by the Select Committee on Child Protection Policies, Practices and Procedures appointed on 12 April 1989 be referred to the Committee.

(Continued from 14 February. Page 121.)

The Hon. CAROLYN PICKLES: I move:

After paragraph I insert new paragraph as follows:

1A. That the committee consist of six members and that quorum of members necessary to be present at all meetings of the committee be fixed at four members.

The Minister has made many points about the composition of select committees historically. I do not wish to further elaborate on those points other than to state that this is the reintroduction of a select committee that was set up during the previous Parliament. It was part way through its business and because of the proroguing of Parliament ceased to exist.

The Hon. Miss Laidlaw has moved this motion again but I note that she has not moved it in the form previously used, that the committee should have a composition of six members. I hope she will agree to having the same six members as before or, if not, certainly a composition to reflect the good work that was being done by that committee.

I need to respond to some of the remarks made by the Hon. Mr Cameron which, I think, reflect upon me personally. I do not have the *Hansard* in front of me, but he made the remark that the Chairperson of the Aboriginal Health Organisation Select Committee had harassed and intimidated witnesses. I was, latterly, the Chairperson of that committee and I assure members that I did not harass or intimidate any people who came before that committee. In fact, I think that I dealt with them sympathetically.

The Hon. R.I. Lucas: Who was the Chairperson before you?

The Hon. CAROLYN PICKLES: I do not wish to comment on that. I note that the Hon. Miss Laidlaw has given the select committee a deliberative vote and that she has called for evidence from the former select committee. I am pleased to see that those two parts of the original motion are there, particularly to bring foward the evidence received by the former committee, because some of that evidence was very important and should be placed before the new committee.

It is necessary to note that when the Hon. Ms Laidlaw moved for this select committee in the previous Parliament, I did not support it. However, I believe that there is a role for this select committee because there is a pressing problem in our society today where children in South Australia and throughout Australia—indeed, throughout the whole world—are still being abused in and outside their families and I believe that the Government has a duty to ensure that its young citizens can grow up in a safe and happy environment.

I also wish to make the point that since the previous select committee was first established in April 1989 the Government, through the Department for Community Welfare, has continued a number of initiatives to improve practices and services in the area of child abuse and child protection. I would like to comment quickly on some key developments since this time. We received evidence on the former select committee that this was an evolving practice.

A departmental Quality Assurance Unit is currently being established as an indication of the importance the department places on continually evaluating and improving the quality of all departmental services. The quality of departmental work in investigating child abuse can be seen to

have improved, in that the proportion of notifications of suspected child abuse which are substantiated has increased.

More specifically, though, initiatives have occurred to improve investigative practices in relation to child abuse notifications and reduce negative outcomes with those cases which enter the legal arena. A legal training officer was appointed in 1989, and specialised training has focused on collecting evidence and its presentation in court and preparing cases for court.

Training has also occurred regarding case conferences. Those case conferences which consider possible removal of a child have been streamlined. Children are only removed from home as a last resort. The number of contested court cases has not increased since 1986-87 and dropped in 1988-89. Where children have to be removed from home, access arrangements are now being successfully negotiated through the courts.

The judges from the Family, Supreme and Children's Courts have in the past criticised aspects of the work of the department. In order to update and improve the quality of practice, these comments have been collated and incorporated into training programs and policies of the department. The result is an improvement in the investigative practices of workers.

Interagency coordination in child abuse cases continues to be a major thrust to increase the capacity of the system to respond to notifications in a more consistent way, to protect the child and to offer families the best possible service at the time of crisis. Interagency guidelines, which have been drafted and released by the South Australian Child Protection Council, clarify the roles and responsibilities of all agencies involved in child protection cases and aim to minimise uncoordinated intervention with families.

The mandated notifiers training program commenced in March 1989. Approximately 380 professionals and non-professionals from a range of agencies including police, health, education, CAFHS, CAMHS and CSO have undertaken this training, resulting in a greater understanding of child abuse and more informed referrals. The program included an ongoing evaluation to ensure that increased awareness and improvement of quality of referrals results from the training.

In order to support families where abuse has occurred, a third self-help group for families experiencing sexual abuse has been funded in the metropolitan area, and an Aboriginal shelter for victims of violence and women with children at risk is currently being established.

As well as responding to the child once abuse has occurred, the Government has emphasised a continuing commitment to community education and preventative strategies to change the causal basis of violence and abuse in families. As such, the department, through the Premier, was represented on the National Violence Committee, which reported to the Prime Minister on 9 February this year. The report recommends that there be a national campaign for the prevention of child abuse, an initiative which came from South Australia and which was supported by the Minister.

The Senior Community Education Officer has been involved in helping to establish the South Australian Branch of the National Association for Child Abuse and Neglect and had a major role in the decision to run the first National Child Protection Week in August this year. The theme for the week is that 'Every child is special' and will focus on the importance of children's rights, safety and the prevention of abuse. In conjunction with the Children's Services Office a pamphlet for children, focusing on the importance of children's safety, has been produced and widely circulated throughout the Education Department, to fit with the protective behaviours program currently being taught in kindergartens and schools in South Australia.

As members can see, the Government has made a commitment to ensure that our children are protected in this State, and I believe that as a Government we will undertake that, if there are any deficiencies in this area, we will seek them out and ensure that they are improved.

I also want to comment on the time when I was elected as Chairperson of the former select committee. At that time I received some intimidating telephone calls, both anonymous and named, and I wanted to make clear to this Council that I will not tolerate any further phone calls of this nature. I hope that all members opposite would support this concept. It is not correct that members of the public should be allowed to ring up members of Parliament and threaten their families and lives or make other threats. I hope that we would consider the difficulties of some of the people who are involved in this issue and be sensitive to some of the difficulties that they have encountered in their lives.

However, I make quite clear that if a certain situation recurs which affects the former Minister of Community Welfare (Hon. Susan Lenehan) and me, as occurred two weeks ago opposite Parliament House, when a person approached and threatened us, I would have to say that the committee would need to rethink where it was going. I understand that the Hon. Ms Laidlaw has also had some rather upsetting altercations with people involved in this issue. I hope that that is not because of our sex but merely because we are politicians. If it is because of our sex, these people should understand that we are both strong women and will not be intimidated by these kinds of efforts. The Government intends to support the appointment of the select committee, and I urge members opposite to support our amendment.

The Hon. M.J. ELLIOTT: The Democrats will be supporting the re-establishment of the committee. We believed previously that there was an urgent need for such a committee and, in the short while that we took evidence, there were admissions that there had been some problems. Indeed, there was some evidence to suggest that a lot of those problems were being tackled. I still believe that it is worthwhile for us to look at this matter and to report back to this Council. There are matters worthy of further study. I need not say any more on that matter.

As to the composition of the committee, because it is an ongoing committee, I have been persuaded that in this case there may be value in retaining a committee comprising six members so that at least the Government representatives who were involved beforehand can maintain their representation through to the end of the committee. The Democrats will support the Government's amendment on that basis, but I make clear that in general terms the Democrats will more often than not see future committees comprising five, rather than six, members.

The Hon. DIANA LAIDLAW: I thank the Hon. Ms Pickles and the Hon. Mr Elliott for their contributions to this debate and I, together with my colleagues, am pleased to see unanimous support on this occasion for the re-establishment of this select committee, which is an important one. In fact, one could argue that there could be no more important select committee before the Council at this time or in the past (or, one could imagine, in the future) than one looking at the issues of the protection of children in our society, particularly at a time when there is a move within the United Nations and Australia for the ratification of the UN Declaration on the Rights of the Child.

I am disappointed that the Hon. Mr Elliott would not support the five-member select committee that I had proposed. The argument that it is an ongoing committee is hardly justification for the exception that he is prepared to make in respect of this select committee, namely, having six members rather than the five that he said he would follow in other circumstances, because over one-third of the membership of this committee will be changing.

I have enjoyed serving on the committee since it was established last year. The Hon. Trevor Griffin, I know, also shares my view on the value of the work undertaken by the committee to date and the evidence received. However, as time has passed, we have different responsibilities in this place and also in general parliamentary terms and, in the circumstances, I am very pleased that the Hon. John Burdett and the Hon. Peter Dunn have been nominated to represent the Liberal Party. I say that because the Hon. Mr Burdett was a Minister of Community Welfare between 1979 and 1982. He was, and continues to be, highly regarded for the work he did in that time in improving conditions, procedures and practices for child protection services in this State.

I am well aware, from many representations I have received from the Hon. Peter Dunn over recent years and from discussions I have had with him, that he is genuinely concerned about the protection of children in country areas, because of the lack of services and facilities in many towns and therefore delays in children receiving the attention they deserve when they are in need of care and protection. I am pleased that the select committee will be re-established. However, the Liberal Party remains of the view that the select committee should comprise five members on this occasion.

The Council divided on the amendment:

Ayes (11)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles (teller), R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Noes (9)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, K.T. Griffin, J.C. Irwin, Diana Laidlaw (teller), R.I. Lucas, R.J. Ritson, and J.F. Stefani.

Majority of 2 for the Ayes.

Amendment thus carried; motion as amended carried.

The Hon. DIANA LAIDLAW: I move:

That the select committee consist of the Hons J.C. Burdett, Peter Dunn, M.J. Elliott, M.S. Feleppa, Carolyn Pickles, and T.G. Roberts.

Motion carried.

The Hon. DIANA LAIDLAW: I move:

That the select committee have power to send for persons, papers and records: to adjourn from place to place; and to report on Wednesday 4 April 1990.

Motion carried.

NELSON MANDELA

Adjourned debate on motion of Hon. T.G. Roberts:

That this Council rejoices in the release of Nelson Mandela and hopes that with the promise of further electoral reforms it will soon make it possible for South Africa to join the ranks of civilised parliamentary democracies.

In particular, we hope that the South African Parliament, whose walls carry the matching half of our building's Westminster crest, can rejoin the Commonwealth Parliamentary Association as a genuinely democratic institution able to take a lead in the political development of Africa.

(Continued from 14 February. Page 122.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the motion and join with other members in this Chamber who have spoken on this motion in previous weeks to welcome the release of Nelson Mandela and also the demonstration of goodwill that has been shown by President De Klerk in the actions he has taken in relation to this matter and to recent events in South Africa. I believe we should pay tribute to not only Nelson Mandela's courage which he has demonstrated over 25 years of imprisonment, but also the courage that has been demonstrated by President De Klerk because this decision and some of the other decisions he has taken have certainly angered some of President De Klerk's strongest supporters within the white minority in South Africa and within his own National Party, in South Africa.

Apart from making the decision to free Nelson Mandela after 25 years of imprisonment, President De Klerk in recent months has taken a range of other decisions, such as lifting the ban on the African National Congress and other proscribed organisations; allowing the return of political exiles to South Africa; and the freeing of a number of political prisoners over recent months. Whilst we can concede that not all political prisoners have been, as yet, released by President De Klerk, he has released a good number and that is continuing. We believe it is a further sign of goodwill from President De Klerk and the National Party Government in South Africa. He has also allowed major anti-Government protests to be conducted in South Africa over recent months. They are only a handful of progressive moves or reforms that have been taken by the National Party Government and led by President De Klerk in South Africa, and indeed there have been many others over recent months. As I said at the outset, we welcome not only the release of Nelson Mandela but also we would like to support and encourage the reforms which have been undertaken gradually and which have slowly evolved through the Government of President De Klerk.

Whilst we should support this progress and the reforms that have been made by President De Klerk, there is obviously still the need for continued reform and relaxation of controls by President De Klerk and his Government. There is a need for continued negotiations between the African National Congress and President De Klerk on a whole range of issues. The one heartening aspect of recent developments has been the relative degree of productive and peaceful discussion between two men of vastly differing backgrounds, Nelson Mandela and President De Klerk.

I was interested to note in much of the recent publicity an article about the release of Nelson Mandela in the *Australian* (world news page) on Friday 16 February, under the heading of 'Mandela to seek Black Vote by 1994' from correspondents in Soweto. That article, in part, states:

The African National Congress (ANC) leader, Mr Nelson Mandela, predicted yesterday a settlement to South Africa's racial conflict would be reached within four years—so blacks could vote in the next election. Asked what he would do if the South African white minority Government failed to grant blacks one person, one vote on a common roll, Mr Mandela said: 'We should not prejudice issues.'

The National Party was elected to a five-year term in September. Mr Mandela said he believed it was possible to reach a settlement before 1994, when South Africa will hold its next election. 'The Nationals are clear that a settlement should be reached before the end of their term.' Mr Mandela said, 'We just hope we will be able to reach a settlement before the five-year term expires.'

'Our demand is clear, but we are aware of fears of whites being dominated by blacks. We are ready for honourable compromises without surrendering our principles.' He said he was convinced the two sides could find a solution acceptable to all.

Mr Mandela, 71, was speaking in one of his first interviews since his release on Sunday from a 1964 life sentence for plotting to overthrow white rule by sabotage. 'I am no prophet but I am certainly an optimist and in the course of my discussions with

the Government, especially with Mr De Klerk (the President), my optimism has been strenghtened,' he said.

That is an enormously heartening report to come out of South Africa, and I only presume that it is correct in indicating that Mr Mandela has made those statements. Obviously, he has made a whole variety of statements since his release and different ones have been seized upon by those who have had differing views about the situation in South Africa to indicate support for the views they had about whether Nelson Mandela should or should not have been released at all.

The statements attributed to Mr Mandela are, in my view, enormously heartening. There is no doubt that there is a genuine fear amongst the white minority about what might happen soon and about what might be unleashed by the release of Nelson Mandela and some of the other changes that President De Klerk has instituted over recent months. However, there would appear to be at least unanimity between President De Klerk, acting on behalf of the National Party Government, and Nelson Mandela that there is room for honourable compromise without surrendering principles and room for catering for the genuine fears of the white minority in South Africa about their future over the coming few years.

The Federal Coalition, through its Foreign Affairs spokesperson, Senator Robert Hill from South Australia, has indicated its attitude to the release of Nelson Mandela through a number of press comments and releases since his release. The essence of the Coalition's response has been that there have been heartening moves but that there are genuine concerns that we ought to be aware of in the white minority, and the Coalition believes it is imperative that the African National Congress demonstrate its good faith by giving up its arms struggle against the South African Government.

However, at this stage the ANC has not yet given up its long-held position of arms struggle against the South African Government. The view of the Federal Coalition and its spokesperson Senator Robert Hill—which is one I share—is that as a sign of good faith, since there have been honourable compromises or moves made in both directions by the key players in South Africa, the African National Congress ought to be urged by the Australian Government—currently the Hawke Government but if all things go right, a Peacock Government after 24 March—to abandon the path of armed struggle. Senator Robert Hill's press release, under the heading 'Hill urges support for end to arms struggle', states:

> The shadow Minister for Foreign Affairs, Senator Robert Hill, today called on the Hawke Government to use its influence with the African National Congress (ANC) to urge it to abandon the path of armed struggle. 'If there is to be a peaceful evolution to non-racial democracy in South Africa, it must be by negotiation. Mr Hawke and Senator Evans should recognise the extent of the political obstacles President De Klerk faces within the conservative white constituency. One way in which President De Klerk could build confidence within that constituency would be if the ANC, recognising the changes that are occurring, were to abandon the path of armed struggle, and seek to become a genuine dialogue partner. The Hawke Government would be playing a useful role if it was urging the ANC in such a constructive direction.'

What I have quoted makes the essential point that, while there has been progress, there is a need for compromise on all sides. Indeed, the ANC has its part to play in the evolution—

The Hon. I. Gilfillan: What about sanctions?

The Hon. R.I. LUCAS: The Coalition's position on sanctions is summarised by the note I have from Senator Robert Hill.

The Hon. I. Gilfillan: What is your opinion?

The Hon. R.I. LUCAS: I support the Coalition view, and that is that the international community should examine the relaxation of sanctions against South Africa, but that Australia cannot act in isolation in this area. Again, Senator Robert Hill—

The Hon. Anne Levy: Follow Thatcher.

The Hon. R.I. LUCAS: One can interpret that as each member would like to interpret it. I will indicate the Coalition's position and also my support for that portion in relation to—

The Hon. Anne Levy: Whatever it may be.

The Hon. R.I. LUCAS: No, not whatever it may be. The Coalition's position is quite clear. The Minister interjected about other Governments, but that is for other Governments to make judgments about. I can indicate the Coalition's position as expressed by the shadow Minister for Foreign Affairs and, indeed, will do so.

The Hon. Anne Levy: Follow Thatcher.

The Hon. R.I. LUCAS: No, it is not to follow Thatcher. Under the headline, 'Hill urges caution on sanctions', the Coalition's release states:

> Opposition foreign affairs spokesman Robert Hill tonight urged caution in the face of enthusiastic calls from his National Party coalition partners to wind back sanctions against South Africa. 'You have got to get the right balance between pressure and encouragement, which has always been one of the challenges in attempting to influence South Africa to end aparthied,' Senator Hill told AAP.
>
> He said the time might be right to remove some disincentives to business contact as a gesture of support for the South African Government's new direction. Other sanctions, such as bans on sporting contacts, should stay, he said.
>
> '[The ban on] sporting contacts has been highly symbolic, and it is one area that we specifically say in our policy would not change,' Senator Hill said.

There again follows more comment from Senator Hill in relation to the question of sanctions. However, on behalf of the Federal Coalition, as the official spokesperson on foreign affairs matters, he has urged caution in relation to the relaxation of sanctions. That would be a position that I personally would support.

In supporting this motion, and not wishing to prolong the debate, I point out that we toyed with amending certain aspects of the wording but, in the end, we chose not to do so. I was not entirely clear about the reference to the South African Parliament walls, crests and various other things, and I must say that, having read again the speech of the Hon. Terry Roberts, who moved this motion, I was none the wiser. However, I do not believe that there is anything sinister in what the honourable member has suggested. Nor do I believe that it adds too much to the essence of the motion, which is covered in the first paragraph. Therefore, we did not seek to play around with its wording.

My only other comment with regard to the motion's specific wording concerns the reference to making it possible for South Africa to join the ranks of civilised parliamentary democracies and the further reference to the Commonwealth Parliamentary Association. I must say that I have not been assiduous in my attendance of meetings of the Commonwealth Parliamentary Association, nor have I read its publications.

The Hon. M.S. Feleppa: Perhaps that will change now that you are Leader of the Opposition in this place.

The Hon. R.I. LUCAS: Yes, Mr Feleppa, it is a new found responsibility that I look forward to with earnest pleasure and I will undertake those new responsibilities with zest and zeal. I am confessing to sins of the past, not of the future. Some of my colleagues in this Chamber and in another place have closely followed the membership of the Commonwealth Parliamentary Association, and they were justified in making the point to me that even the Hon.

Terry Roberts would not believe that a number of members of that association come within the definition of a civilised parliamentary democracy. I will not indicate publicly the names of those CPA members. I am sure that the Hon. Terry Roberts would be aware of some of those countries. Had we drafted the motion ourselves, we might have worded that aspect of it a little differently, using less flowery language.

Nevertheless, as a Party, we have considered the motion and, for the reasons that I have indicated, we believe that it is important that there be unanimous, tripartisan support in Parliament for the essence of the motion moved by the Hon. Terry Roberts. For those reasons, the Liberal Party supports the motion.

The Hon. T.G. ROBERTS: I thank the Hon. Ian Gilfillan and the Hon. Rob Lucas for their contributions. The Hon. Mr Lucas was right in saying that the essence of the motion is in the first paragraph. The second part of the motion is symbolic, but it reflects the aspirations of those members of this place who would like to see South Africa join the Commonwealth Parliamentary Association. It is not a case of being selective and saying that some countries are more civilised than others: it is a question of maintaining a contact. That contact is important because of the moral support that is given by those countries that are more mature in their progression towards a perfection of the Westminster system and its application.

Although some countries apply the Westminster system in a different way from Australia and South Australia, it is everyone's wish in the Commonwealth Parliamentary Association that these nations are assisted in striving to attain the levels of maturity that exist in those countries that are far more advanced in their application of the principles of the Westminster system.

I share the concern of the Hon. Rob Lucas and the Hon. Ian Gilfillan about the next tenuous step to be taken by those who are responsible for the progression of parliamentary democracy in South Africa. The weight is falling very heavily on those people of goodwill in that country to dismantle a totally dehumanising system that has brutalised both the black and white people.

All Western nations, not just the members of the Commonwealth Parliamentary Association, have a responsibility to ensure that those negotiations continue and that the outcomes will favour the majority of people in Africa generally. The nations bordering South Africa—Mozambique, Angola, etc.—have had their boundaries and their economies torn apart by the festering sores that have dominated the southern part of the African continent over the past 20 to 30 years. I am sure all members agree that any support and assistance that can be provided by the South Australian Parliament and the Australian Parliament in a bipartisan way, either in an advisory capacity or in diplomatic roles, will add maturity to the negotiations. I thank those members who made a contribution and commend the motion to the Council.

Motion carried.

EQUAL OPPORTUNITY ACT AMENDMENT BILL

The Hon. Anne Levy, for the **Hon. C.J. SUMNER (Attorney-General),** obtained leave and introduced a Bill for an Act to amend the Equal Opportunity Act 1984. Read a first time.

The Hon. ANNE LEVY (Minister of Local Government): I move:

That this Bill be now read a second time.

It seeks to amend the Equal Opportunity Act 1984 to prevent certain kinds of discrimination based on age. The Bill fulfils the Government's election commitment to address the issue of discrimination on the ground of age. In June 1987, the Minister of Employment and Further Education established a task force to monitor age discrimination in employment. The task force comprised the Commissioner for Equal Opportunity, the Commissioner for the Ageing and the Director of the Office of Employment and Training.

The task force reported in March 1989. It concluded that there was sufficient evidence to justify the introduction of legislation aimed at improving societal attitudes in the area of age discrimination and to set a legal context for handling grievances. The task force report and a draft Bill were released by the Minister for the Aged in September 1989. The task force's consultations and research found evidence of discrimination in employment, retirement practices, the provision of goods and services, accommodation and education. The task force had a wide range of examples of discrimination drawn to its attention. Some of these reflected insensitive management or bad client service practices but there were many examples where age was being used as an indirect and inappropriate criterion when other more specific criteria were available.

The use of age as a criterion in employment was found to be very common, ranging from the protection of workers' benefits to advertisements for vacancies. For example, a survey of advertisements in the 'situations vacant' columns over three days indicated approximately 100 positions that contained a specific age requirement. These often discriminated against both younger and older persons as 'experience together with youth' requirements tended to result in a demand for persons in the 25-35 year age group.

Concerns in this area of education and training tended to relate to the lack of educational opportunities to support changes in career path and to circumstances that worked against employed, mature-aged persons undertaking studies for formal employment. A number of persons were able to cite examples of employer policies restricting access to training programs for older employees.

In addition, in relation to educational opportunities at the further and higher education level, there was a perception amongst older persons that priority of positions is given to younger applicants. There was also a strong feeling from mature-age unemployed persons possessing tertiary qualifications that this frequently limited their capacity to gain employment as they were perceived to be over-qualified for many areas of employment. The issues of early and mandatory retirement were also brought to the attention of the task force. Some employers use retrenchment and early retirement as a means of reducing the labour force, notwithstanding the contribution that can be made by dispossessed workers. Many workers feel that, at 60 or 65, they have a productive role to play and mandatory retirement robs the community of a valuable contribution and the individual of self-worth and income.

Whether the removal of the retirement age would produce consequential employment or societal difficulties was not clear from the task force's investigations. However, the task force noted that the view that the abolition of mandatory retirement would have only a small impact on labour force participation rates has been gaining currency. The task force recognised the broad ramifications of changes in current retirement practices and has recommended that a detailed examination of these complex issues be undertaken.

Considerable legislation already exists relating to the provision of goods and services. Much of this discriminates by

age. To a large extent this reflects societal standards, for example, minors' use of alcohol, drivers' licences and firearms. From examples drawn to the attention of the task force, however, it appears that age is used as the sole and often inappropriate criterion for the provision of some goods and services, for example, accommodation, property insurance, health insurance, banking and finance, health and welfare services, entertainment and club membership. The recommendations of the task force were:

(1) that age be included as a ground of discrimination under the Equal Opportunity Act in all the areas covered by the legislation;

(2) that existing legislation which contains age related provisions be exempt from the Act for a period of two years;

(3) that two working parties be established, one to address retirement and the other to review all State legislation, regulations, etc. and recommend appropriate changes to give effect to legislative exemptions; and

(4) that the task force commence consultations with employers and union services and accommodation providers on the implications of the introduction of the legislation.

A Bill based on the recommendations of the task force was introduced into Parliament in October 1989 with the undertaking that the legislation would be held over until this session to allow further consultation. Members of the task force have held meetings with representative groups to obtain their views on the Bill. There has been widespread support for the Bill in principle. The Government notes that a group of interested parties, including the South Australian Council on the Ageing, the United Trades and Labor Council, the Employers' Federation, the Chamber of Commerce and Industry, the Youth Affairs Council of South Australia and the South Australia Council of Social Services have been meeting together in a joint consultative process. This has allowed a useful exchange of ideas and information. A number of amendments have been made to the earlier Bill as a result of the task force's consultations.

With respect to the provisions of the Bill, I advise that it provides for age to be a ground of discrimination in employment, in education and in relation to land, goods, services and accommodation. It also deals with discrimination by associations and qualifying bodies. The Bill also includes a provision to prohibit discrimination against a person because he or she is accompanied by a child. This provision will apply to the provision of goods and services and accommodation. A number of exemptions are provided to reflect special considerations associated with age, for example, in the areas of insurance and superannuation, competitive sporting activity, and concessional admission fees and fares.

Proposed section 85f sets out exemptions in the area of employment. The Bill contains a specific provision so that compulsory retirement is not made unlawful at this time. The provision has a sunset clause of two years from the commencement of the operation of the Act. This will allow time for a thorough examination of the issues relating to compulsory retirement. In addition, the Government will review all legislation and regulations which contain age related provisions. It will examine the need for amendments to remove inappropriate references to age; and the development of consistency in areas where age remains a ground for legislative action. The Government accepts that in some cases age limits will be required, for example: to protect minors, that is, legislation that reflects societal expectations for the protection of persons of certain age groups; and legislation to promote the interests of disadvantaged groups or designed to benefit persons of a particular age group.

Therefore, the draft Bill does not seek to alter age limits specified in existing legislation. However, it inserts a provision which requires the Minister to report to Parliament within two years on all legislative provisions dealing with age. This will allow time for a proper assessment to be made of the provisions. The report must contain recommendations as to whether or not the legislative provisions on age should be amended or repealed. The provisions of the Bill dealing with age discrimination differ from those introduced in 1989 in the following ways:

(1) Proposed section 85f (4) *(b)* has been removed. The provision would have allowed employees not covered by awards or industrial agreements to be subject to discriminatory rates of salary or wages payable according to age.

(2) Proposed section 85h (2) *(a)* has been amended so that discrimination by qualifying bodies will be lawful provided that the discrimination is 'by or on account of the imposition of a reasonable and appropriate minimum age under which an authorisation or qualification will not be conferred'. The earlier draft did not require the minimum age to be 'reasonable and appropriate'.

(3) Proposed section 85i (3) has been deleted. The provision was included to ensure that mature age schemes by educational institutions would be lawful. However, this can be achieved by the 'special needs' provision in proposed section 85o.

(4) Proposed section 85o has been reworded. The emphasis of the section is to allow schemes or undertakings for the benefit of persons of a particular age or age group in order to meet a need that arises out of, or that is related to, the age or ages of those persons.

(5) Section 85q relating to insurance and superannuation has been amended. Superannuation schemes have been exempted from the operation of the Act at this time. The Commonwealth is examining the area of superannuation and it is considered preferable to await developments in that arena.

The Bill also contains a provision on an unrelated topic. The Bill provides that authorities or bodies that confer authorisations or qualifications to practise a profession or carry on a trade or occupation would discriminate on the ground of race, if they failed to inform themselves properly on overseas authorisations or qualifications of applicants for positions. I recommend this Bill to members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 amends the long title of the principal Act to include a reference to 'age'.

Clause 4 amends section 11 of the principal Act to extend the commissioner's functions under that section to fostering and encouraging informed and unprejudiced attitudes with a view to eliminating discrimination on the ground of age. Clause 5 relates to the recognition of qualifications or experience gained outside of Australia. Under the proposed new provisions, an authority or body empowered to confer an authorisation or qualification in respect of the practice of a profession or the performance of work will discriminate against a person on the ground of race if the authority or body fails to take proper and adequate notice of qualifications or experience gained outside of Australia and, in con-

sequence of that failure, refuses to confer a particular authorisation or qualification.

Clause 6 inserts a new Part VA into the principal Act. Section 85a sets out the criteria for establishing discrimination on the ground of age (and is consistent with other provisions of a similar nature throughout the Act). Section 85b will make it unlawful for an employer to discriminate against a person on the ground of age where the person is applying for employment with the employer, or is an employee of the employer. Section 85c will make it unlawful to discriminate against an agent on the ground of age. Section 85d will make it unlawful to discriminate against a contract worker on the ground of age. Section 85e will make it unlawful to discriminate against a partner within a partnership on the ground of age. Section 85f sets out the various exemptions to the provisions relating to employment. The provisions will not apply in relation to employment in a private household, to situations where there is a genuine occupational requirement that a person be of a certain age, or age group, or where the person's age could affect safety at work. The provisions will also not apply to acts done under industrial awards or agreements.

Section 85g provides that, after the expiration of one year from the commencement of the new Part, it will be unlawful for associations to discriminate against an applicant for membership, or a member, on the ground of age. However, the provision will not apply where an association has, on a genuine and reasonable basis, established various categories of membership or where it is reasonable that a particular service or benefit be provided to a particular age group. Section 85h relates to qualifying bodies and section 85i to educational bodies. Section 85j will make it unlawful to discriminate against a person on the ground of age in relation to the disposal of, or dealing with, an interest in land. Section 85k applies to the provision of goods or services, but will not regulate various scales of fees or fares, or the terms or conditions on which a ticket is issued, or admission is allowed to any place. Section 85*l*, applies to the provision of accommodation. Sections 85m to 85q set out various general exemptions from the operation of the new Part. Nothing in the Part will derogate from the law that relates to the juristic capacity of children, or affect the provisions of a charitable instrument. The Part will not render unlawful any scheme or undertaking initiated to meet the needs of a particular age group, and will not affect competitive sporting activities. Special provisions are also made for insurance and superannuation schemes. New section 85r will require the Minister to prepare a report for Parliament on the Acts of the State that provide for discrimination on the ground of age.

Clause 7 sets out various consequential amendments to section 100 of the principal Act.

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

CRIMES (CONFISCATION OF PROFITS) ACT AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation'

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

Page 1, lines 17 to 21—Leave out paragraph *(a)*.

During the course of the second reading debate I indicated that, in my view, it would be more appropriate that if the person responsible for dealing with the forfeiture of property was the Sheriff. The Sheriff is the officer of the court who is in a better position to handle this task. As the Attorney has indicated that he would like time to consider not just this amendment but others, I am happy to leave the remainder of my comments on this amendment until later in the day.

Progress reported; Committee to sit again.

WRONGS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 377.)

The Hon. I. GILFILLAN: I rise to indicate briefly the Democrats' opposition to this Bill. I intend not to spell it out in great detail but purely to indicate the principle that the Democrats feel very uneasy about, that is, the vicarious responsibility of parents of children who commit offences. There appear to be two ways in which to gain the desired end result, namely, to reduce the incidence of offences and to impact on the juvenile offender the seriousness of the offence and the fact that some form of reparation and ongoing punishment is necessary. These matters have been addressed in other pieces of legislation, not the least of which is the Bill that will be before us this evening: the Children's Protection and Young Offenders Act Amendment Bill.

We find serious cause for concern in following the track outlined in this Bill and indicate that it would be extraordinarily difficult for it to be implemented equitably without in some cases imposing an extraordinarily harsh penalty on people who are not as able as others to make the payment or reparation. Therefore, I wish to make it clear that the Democrats will oppose the second reading.

The Hon. C.J. SUMNER (Attorney-General): It appears that the Liberal Party and the Democrats are opposed to this Bill. From the Government's point of view, I find this attitude extremely disappointing. I would have thought that either the Liberal Party or the Democrats would be prepared to concede the principle of the proposition contained in the Bill, namely, that parents ought to take greater responsibility for the actions of their children. I am disappointed with the Liberal Party's attitude to this Bill, but I suppose I should not be surprised, because it is indicative of the Opposition's attitude to law reform generally. Unfortunately—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: We have had plenty of law reform under this Government, and it will continue. Unfortunately, when confronted with an issue such as this with which it does not feel comfortable, the Opposition tends to adopt a narrow minded and blinkered approach to a law reform issue such as this.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The honourable member interjects and says that it is a matter of resources, but that is ludicrous. This matter has been on the Notice Paper and in the public arena and available for debate in terms of a Bill since October. As far as a proposition is concerned, this issue was put in the public arena in the interim report of the Children's Protection and Young Offenders Act Working Party, which is an appendices to the full and final report of that working party of September 1989.

The working party was established on 1 February 1988 and delivered in October of that year an interim report that dealt with, among other things, the question of parental responsibility for the actions of their children. So, members cannot claim that the matter has been sprung on them—it

has been in the public arena. Although it was not specifically in the terms of reference, it was in the interim report of the Children's Protection and Young Offenders Act Working Party which was produced in 1988 and made public. Honourable members, whether it be Liberals or Democrats, cannot say that the issue has not been in the public arena for a long time.

The Hon. K.T. Griffin: I didn't say that.

The Hon. C.J. SUMNER: I am merely pointing out, if you were to say that, that it has been in the public arena since October 1988. Since then there have been a number of proposals and discussions on radio and in the community about the issue. So, whatever else the Liberals may say about it, they cannot claim that the matter has not been able to be debated. The specific terms of the Bill have been before Parliament and, therefore, before the public. One could not get a more public presentation of a Bill than having it introduced into Parliament.

The Hon. K.T. Griffin: You didn't send it to anyone.

The Hon. C.J. SUMNER: When the honourable member says that I did not send it to anyone—

The Hon. K.T. Griffin: You know that people do not know everything that goes on in Parliament. The first they knew or heard about it was when they got it from me.

The Hon. C.J. SUMNER: It was publicly announced in October. It was in the election campaign and in the policies of the Labor Party. The report was made public in October 1988, and it has been in the public arena since then. If honourable members are concerned that it was not sent to anyone specifically, that is a point that they can make, but I would have thought that introducing a Bill in Parliament was probably the most public position that one could take on an issue.

However, it does not alter the fact that, unfortunately, the Liberal Opposition tends to be narrow-minded and blinkered in relation to law reform matters, including this one, and it is, I suggest, completely incapable of thinking laterally to deal with issues of community concern. If we are just talking about the principle of it, my second reading speech referred to the continental system of law. I do not know why we should be so blinkered as to say that anything that happens in continental Europe ought not to be considered.

Clearly, as is indicated in the report of the working party and in my second reading speech, both the French Civil Code and the German Civil Code do contain specific references to parents being responsible for damage caused by their minor children residing with them. So, it is not as if it is a completely unprecedented proposition in the law of countries with which we at least have some affinity. Apparently, that is not good enough for the Opposition, which is not willing to think a bit laterally in this area or to think about law reform in a positive way or, indeed, where appropriate, to borrow from concepts that are entrenched in the law of other nations.

I find it even more surprising when one considers that it is the Liberal Party that talks about the importance of the family and the family unit in our society. That also is a position that the Labor Party supports. However, the Liberal Party attempts to portray the Labor Party as somehow not supporting the family. In the light of all its talk of the importance of the family as a basic unit of society, the unit wherein the values of young people and the community are set. I find it particularly puzzling that the Opposition is opposing this Bill, which is designed, in a small way admittedly, to reinforce certain values within the family unit; that is, imposing some obligation in the law on parents to take responsibility for the actions of their children which constitute criminal offence and, by those parents taking those reponsibilities, reinforcing the values of the family in our community.

I find, first, the narrow-minded attitude to be something to which I have become accustomed, but what I do find particularly puzzling is that, when the Government introduces a piece of legislation that is designed to reinforce the sorts of things that the Liberal Party continually talks about, apparently we are faced with a situation where the Bill is to be thrown out. The Hon. Mr Griffin, in support of his opposition to the Bill, quoted the Full South Australian Supreme Court.

In those cases the judges were enunciating the law as they saw it, but that does not mean that the Parliament should ignore the question of what the law ought to be in principle. I suggest to honourable members opposite that they ought to have another think about this issue and not just rely on what the Supreme Court has said that the law is but consider the principles from the basis involved. I would have thought that in particular Liberal members would have seen this as being a law which basically reinforced the sort of values within the family to which the great bulk of the community would want to adhere.

In my view, the Bill properly provides that parents who can be shown to have taken little or no responsibility for their children should not be able to escape complete responsibility for the actions of their children. The Bill is carefully drafted, and the liability arises 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.

What is an appropriate level of supervision and control over a child will depend on the facts in a given case. The provision recognises that there is an infinite variety of circumstances. When a child is at school, for example, the parents' appropriate level of supervision and control would in general and in terms of direct supervision be nil, although there may be questions of what is an appropriate level of general supervision for the child.

With respect to a non-custodial parent living in another State, presumably the level of specific supervision and control would be nil. Where the child has been placed with foster parents or the Minister of Family and Community Services, clearly, the level of supervision that could be exercised by parents would probably be nil. Different considerations, however, may apply where, for example, the child had been left with a 12-year-old baby sitter. They might also apply, as I indicated in my second reading speech, with the example of young children being out and about in school grounds until 2 a.m. Again, I would have thought that a Bill such as this would have reinforced the responsibility of parents to ensure that, as far as possible, their children are not out committing acts of vandalism or other antisocial acts within the community. This was a civil wrong that was being created.

Before a plaintiff could get to first base in an action under this Bill, he or she would have to prove that the parents were not exercising the appropriate level of supervision and control. Having established this, the parents could avoid liability if they showed that generally they did exercise control to the extent reasonably practicable in the circumstances and that they had in fact exercised an appropriate level of supervision and control over the child's activities.

So, there was a defence for parents to show that generally they did exercise a reasonable ('appropriate' is the word) level of supervision and control over the child's activities. That is, the parents who do take responsibility—what would be considered reasonable in the circumstances—for the children would not be penalised for an isolated incident. That

needs to be emphasised to counter a lot of the more extreme positions put by members opposite. Much of the Opposition's criticism was based on the assumption that responsible parents would be caught by the legislation. Clearly, they would not be.

An honourable member: It's not clear at all.

The Hon. C.J. SUMNER: It is very clear, as an analysis of the Bill would clearly have indicated. Members attempted to produce a feeling that the Bill would catch parents who were behaving responsibly. It is clear in the way it is drafted that it would not have done that. I can make that statement quite emphatically. The Bill was designed to pick up parents who were really taking no responsibility for their children in circumstances where, as parents, they ought to have done so. I would have said at the outset that that was a proposition that members opposite would have accepted. This moderate approach to making parents bear responsibility for their children is less than that which applies in the European countries to which I have referred, particularly the French Civil Code, which I quoted in my second reading speech. The German Civil Code also provides that parents are responsible for damage caused by their minor children residing with them unless the parent has fulfilled his or her duty of supervision or if such damage would have arisen despite proper supervision.

In other words, the law of those countries specifically recognises that parents have a duty of supervision. I would have thought that that proposition ought to be accepted in this community. Under the European schemes that I have mentioned, wherever a child causes damage, a parent is at risk of legal proceedings and has the onus of disproving the presumed negligence. This Bill did not even go as far as that. It was a carefully considered position which did not go as far as the law in those two European countries but which did at least say to parents that they do have a responsibility to supervise the activities of the members of their family unit.

I should point out that the South Australian Government is not alone in recognising that parents must bear responsibility for the actions of their children. The Victorian Transport Minister announced in November last year that that Government was looking at making the parents of children who deface public property accountable. Changes in the law in New South Wales were foreshadowed by the Governor during the recent opening of Parliament. He said:

> The Government has under consideration proposals which will place an obligation on the parents of juveniles involved in criminal offences to accept some measure of responsibility for the actions of their children.

I understand that the details of how this will be done are yet to be finalised. According to press reports, a white paper on criminal justice has been issued in the United Kingdom in which it is proposed that courts should have power to bind over parents who fail to exercise proper supervision over their offending children. Again, the theme is coming through that an obligation ought to be imposed on parents to supervise their children properly.

In the United States of America there is a widespread legislative pattern of making parents vicariously liable, subject to a monetary limit (in the vicinity of $2 000) for their children's vandalism.

Members interjecting:

The Hon. C.J. SUMNER: I am not saying that we have covered or picked up precisely the law in those countries, just as we did not precisely pick up the law in the continental countries: what we have tried to do is adapt the principle and apply it to our local circumstances. We have done that by way of the Bill we have introduced. What I am trying to point out to members is that the constant theme through the continental system (German and French), apparently, through the White Paper in the United Kingdom and through New South Wales and Victoria (and, indeed, it is quite widespread throughout the United States) is that there ought to be through the law—either civil or criminal—a greater obligation on parents to supervise the activities of their children. I would have thought that that was a proposition.

The Hon. K.T. Griffin: That's not a problem.

The Hon. C.J. SUMNER: The honourable member says it is no problem.

The Hon. K.T. Griffin: That is not what your Bill says.

The Hon. C.J. SUMNER It does; of course it does.

The Hon. K.T. Griffin: It does not; you know that.

The Hon. C.J. SUMNER: The honourable member is deliberately choosing or, if not deliberately, mischievously choosing to misinterpret what I am saying, which is that there has been a theme running through the law in those countries, which is now being given attention in Australia, not just in South Australia, and I believe that the Parliament should give serious attention to it. I turn now to some of the specific matters raised by members. I think I have said enough to indicate what the position would be where the child is at school, in the care of foster parents or the Minister of Family and Community Services or some other person.

The Hon. Mr Griffin refers to the courts' reluctance to impose liability on parents for injuries sustained by their children. This is acknowledged, but the Bill represents a direction to the court that the legislature considers that parents should bear greater responsibility for the actions of their children. That is the theme behind the Bill. The Hon. Mr Griffin also refers to the Law Society's concerns about insurance. The legislation does not treat the parents as having in some statutory way committed an offence themselves.

Questions were raised as to why the Minister of Family and Community Services was not included in the definition of 'parent'. The answer to that is simple: the Bill is designed to bring home to parents—the family unit, the people that members opposite talk about as being the basic unit of our society—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Quite right, but what the Bill is designed to do is reinforce certain values within the family unit and, as I said before, I am surprised to find opposition to this from members opposite. Members opposite raised a number of issues in relation to the Bill.

I would just emphasise that they could all have been considered, in some form or other, in Committee, had members opposite accepted the principle of the Bill—the theme that I have indicated as running through the law in the countries and other jurisdictions that I have mentioned. The Government is certainly not and never has been adverse to examining details or proposals for amendment in Committee. Indeed, that is the normal process adopted in this Parliament: the principle is agreed to and, if members want to debate the specific implementation of that principle, they do that in the Committee stages.

It is clear from what members opposite have said that the principle is not acceptable to the Liberal Party. I find that surprising and disappointing, because I would have thought it a simple proposition that parents within the family unit ought to take greater responsibility for their children's actions, and a greater responsibility to supervise their children is a proposition which ought to be accepted by the South Australian Parliament.

The Hon. K.T. Griffin: It is, and I said so—

The Hon. C.J. SUMNER: Then you should vote for the Bill and then discuss amendments in the Committee stages. That is normally what happens.

The Hon. T. Crothers: They're not fair dinkum.

The Hon. C.J. SUMNER: That is quite right; they are not fair dinkum in this case. I find it somewhat odd, as I have said, that the Opposition is opposing the Bill in the light of what is the generally accepted approach to these issues and, in particular, to the espousal of family values. I should not be surprised, since they tend to take a narrow minded attitude to law reform measures, particularly law reform measures that might draw on other jurisdictions.

The Council divided on the second reading:

Ayes (8)—The Hons T. Crothers, M.S. Feleppa, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Noes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, and J.F. Stefani.

Pair—Aye—The Hon. Barbara Wiese. No—The Hon. R.J. Ritson.

Majority of 3 for the Noes.

Second reading thus negatived.

[Sitting suspended from 6.5 to 7.45 p.m.]

CRIMES (CONFISCATION OF PROFITS) ACT AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 377.)

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: My amendment seeks to remove the reference to 'administrator', remembering that the administrator under the Bill is nominated by the Attorney-General and is obviously then responsible to the Attorney-General. The Attorney-General also exercises the prosecuting responsibility, and I would suggest that there is a conflict between, on the one hand, the role of the prosecutor, which is that of applying for a forfeiture or restraining order and, on the other hand, the task of the administrator, which is designed to administer the property which has been forfeited or which is subject to a restraining order.

It seems to me that it is more appropriate to have the two responsibilities separated so that the responsibility for making an application for forfeiture, which is a prosecuting responsibility, stays with the Crown Prosecutor and the Attorney-General, with the responsibility for administering the property forfeited or subject to restraining orders to be with the Sheriff, an officer of the court. There is then independence and there is no conflict between the different responsibilities.

I see the responsibility of the Sheriff, if the amendment is accepted, in respect of property which has been forfeited or which is subject to restraining orders being similar to responsibilities of the Sheriff in the execution of writs on behalf of, and as an officer for, the Supreme Court. It seems to me that that is a more comfortable place for the administration to rest.

Rather than establishing yet another office responsible to the Attorney-General, we ought to give the responsibility to the Sheriff, an officer already well established, whose duties are to the court and who can act at arm's length from the prosecutor. Then there will not at any stage be any suggestion that there is a conflict between prosecuting and administering.

The Hon. C.J. SUMNER: The Government opposes this amendment, because it is not necessary. The reason given by the Hon. Mr Griffin for the amendment is the possibility of a conflict between the prosecutor and the person appointed as administrator in that both will be responsible to the Attorney-General. The honourable member does not specify what this conflict of interest is, and I am unable to envisage what it could be. The prosecutor is interested in ensuring that the offender is deprived of the profits of the crime; the administrator is interested in preserving the property and obtaining the best price for it. In my view there can be no possible conflict.

In fact, the proposition for such an individual arose from the Deputy Crown Prosecutor, Ms Vanstone, who argued that it would be appropriate for an officer to be appointed both to manage properties which have been sequestered and to supervise sale and distribution. In her view, this officer should be located in the Attorney-General's Department and should work closely with the prosecutors and solicitors handling the work. She believes that the officer could also perform investigative functions, which it may not be appropriate to request police to perform. She believes that a significant loss of efficiency would result if the officer were located outside the department.

I support that proposition. The fact is that some expertise is needed in this area. Where there are similar Acts around the world it is important that, at an early stage of investigation, both police and prosecutors are alert to the need to confiscate assets or profits, if that is available. An administrator, who could perform the function of administering and in addition could be in the Attorney-General's Department working closely with prosecutors, could add to the resources available to perform this important task. I think that it is completely unnecessary in principle to place it with the Sheriff and that it would detract from the effectiveness of the Bill in practice.

The Hon. K.T. GRIFFIN: That is an interesting response, because it suggests that the Attorney-General is just looking for more staff under some other name. He is saying that this person will not only administer property which has been forfeited but also help the police or the Crown in investigations with a view to obtaining an order for forfeiture—the tracing of property. I would not have thought that was the responsibility of an administrator. In my view, an administrator is a custodian; a person who is given the responsibility for holding property which is the subject of a restraining order; for ensuring that it is preserved; and, when the time comes to sell the property, that it is sold at a proper price where no criticism can be made of the procedure.

Here we now have a curious extension of what is in the Bill where the administrator exercises a role in conjunction with the prosecutor and the police and, at the same time, is to administer the property. In my view, there is a clear conflict. There cannot be a custodian who has the responsibility for holding and administering property, a function that the Sheriff now does in relation to other property which might be the subject of orders of the Supreme Court and which could well be handled independently of the Crown.

If the Attorney-General wants more staff, he ought to say that he wants more staff and go through the procedure in the appropriate way. I suggest that the proposition is not very well thought out. I suggest further that what the administrator will do is rather clouded and confused, and that is all the more reason to separate the responsibilities of investigating and prosecuting on the one hand from administer-

ing on the other. I envisage that there may be a conflict of interest, particularly if property is held—

The Hon. C.J. Sumner: Of course there can't be.

The Hon. K.T. GRIFFIN: Of course there can. If property is held by the administrator, the administrator does not hold it for the Crown Prosecutor but for the Crown. That is separate. The obligation is like that of a receiver. The obligation of a receiver and manager of property is to preserve the assets and to get the best available price and to maintain some independence.

The Hon. C.J. Sumner: How is that in conflict with the Crown Prosecutor's role?

The Hon. K.T. GRIFFIN: It is in conflict.

The Hon. C.J. Sumner: It is not. It's bizarre.

The Hon. K.T. GRIFFIN: It is not bizarre. You don't understand what conflicts are all about. That is your problem.

The Hon. C.J. Sumner: I do understand.

The Hon. K.T. GRIFFIN: You do not. We don't want to get into debate about what is a conflict and what is not.

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: I do not believe, from what the Attorney-General has just responded, that the concept of administrator is particularly clear, and that is why I think it ought to be with a court appointed officer, so that there can be complete independence and the proper separation of the powers of, on one hand, prosecuting and investigating and, on the other, administering and acting as custodian.

The Hon. I. GILFILLAN: I acknowledge the logic in the amendment but, recognising that this is a Government Bill and the Attorney-General is convinced that he has the right formula, I indicate that the Democrats oppose the amendment.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons L.H. Davis and R.J. Ritson. Noes—The Hons M.J. Elliott and Anne Levy.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K.T. GRIFFIN: 'Financial institution' is defined as a bank, building society, credit union or a friendly society, and it then states:

> An institution of a kind declared by regulation to be a financial institution.

No criteria are set down for that. Can the Attorney-General indicate what other institutions might be declared by regulation to be financial institutions? Does he have in mind any criteria for the institution to be declared?

The Hon. C.J. SUMNER: It does not refer to any specific institution. That is included out of an abundance of caution to ensure that we have not left out any institutions of a financial nature.

The Hon. K.T. Griffin: Any criteria?

The Hon. C.J. SUMNER: No.

The Hon. K.T. GRIFFIN: That means that any institution, whether financial or otherwise, can be declared to be a financial institution for the purposes of this Bill, and it is not limited to any institution which might have some relevance to finance.

The Hon. C.J. SUMNER: There would not be any point in declaring an institution which is not, in fact, a financial institution under this provision.

The Hon. K.T. GRIFFIN: What I said is correct; it allows for that sort of declaration.

The Hon. C.J. Sumner: There is no point.

The Hon. K.T. GRIFFIN: It does not matter whether there is a point to it—the fact is that it can be done. That is all I am trying to identify. The Attorney-General is being rather cagey about it. During the second reading debate I asked whether it is intended that every offence under the Companies (South Australia) Code, the Companies (Takeovers) Code and the Securities Industry Code will be caught by the Bill, keeping in mind that there is very limited application of the principal Act to indictable offences and specific other identified offences, whereas it seems to be open slather under the Companies and Securities Code.

The Hon. C.J. SUMNER: To list in the Act all the offences under those Acts from the commission of which a profit could be made would, in my view, be extremely clumsy. However, it is recognised, with respect to the rest of the legislation in any event, that there are offences from which no profit can be said to be made. If this is so, no application for forfeiture can be made.

Clause passed.

Clause 4—'Liability to forfeiture.'

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

Page 4, Line 17—

After 'that person is' insert ', subject to subsection (2a),'.

After line 18 insert—

(2a) Subsection (2) is subject to the following qualifications:

(a) no forfeiture may be imposed if the publication or commercial exploitation occurs more than 10 years after the commission of the offence;

(b) if it appears to the court before which the question of forfeiture arises that the benefit in respect of which forfeiture is sought is only partially attributable to—

(i) publication of material concerning the circumstances of the offence;

or

(ii) notoriety achieved through commission of the offence,

the extent of the forfeiture must not exceed the proportion of the benefit that is so attributable.

I indicated during the second reading debate that I thought the provision in proposed subsection (2) was particularly wide. I am of the view that some sort of time limit from the commission of the offence ought to be imposed. I have '10 years' in my amendment, but as I indicated at the second reading stage I am not fussed whether it is 10, 15 or 20 years, as long as some time limit is included. Obviously, the statute of limitations would not apply and it may be that this can extend back 20, 30 or 40 years and I think that is unreasonable.

The other aspect of the subsection which concerns me is that some of the prospective publications may relate to matters totally unrelated to the notoriety of the author arising from criminal exploits. It seems to me that it should be reasonable for the court to be able to endeavour to make some distinction so that only that part of the benefit which the court deems to have arisen from the criminal exploits should be forfeited whilst the balance is not touched.

My amendment seeks to recognise that discretion in the court. It certainly does not resile from the principle of the subsection, which the Liberal Party supports. However, we believe that there ought to be some flexibility for the court and some equity in it. That is the reason for my amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment. I refer to the time limit that the honourable member has indicated as being to limit proposed section 4 (2) to only allowing profits from publication and such like to be confiscated for up to 10 years from the date of the

commission of the offence. The problem with an arbitrary cut-off date is that those who do not deserve to profit may well be the ones who do. For example, a person with a non-parole period of 20 years for a heinous crime may emerge from gaol and profit greatly from his story. The person may not even have been convicted of the crime until more than 10 years after the commission of the crime, which would make the situation even worse. The provision as it is is preferable.

There is really no reason why someone who has committed a crime should profit from it. Prosecutors can be trusted to use their discretion not to prosecute in appropriate cases if it is 20 or 30 years down the track and there is possibly a public interest in the story. I point out, however, that the Bill only prevents offenders from profiting from the crime: it does not stop journalists, authors or others telling a story on behalf of the offender. In other words, no censorship is involved in it. Presumably the offenders could tell the story themselves provided that they did not profit from it. I do not think that there is any basis for having a cut-off period in those circumstances.

The second part of the amendment proposes to give the court a discretion to attribute a portion of the proceeds to that part of the publication which relates to the crime. Frankly, that should be opposed. In my view, it would be impossible to determine and calculate in most instances. The very fact that a person is a criminal may be the only reason why anyone would be interested in the publication, yet the crime might be dealt with only briefly. How, for instance, in those sorts of circumstances could the court exercise its discretion? The second part of the amendment is impractical and would provide considerable difficulties for the court.

The Hon. I. GILFILLAN: Perhaps I have not picked this up, but what is the family's potential for receiving some reward for a story relating to the person?

The Hon. C.J. SUMNER: It does not cover family members. It covers the offender who should not profit. If the offender profited indirectly through the family with a subterfuge set up, that presumably would be covered.

The Hon. I. GILFILLAN: I am not clear from the discussion that took place on the second part of Mr Griffin's amendment whether the Attorney was recognising that it raised a point which he believed the court would address without the amendment or whether he believed that the intention in the amendment was unnecessary. Further, it appears to me that there may be some justification for a separation of the amount of benefit which applies to other matters than that related possibly to the offence of the person involved.

The Hon. C.J. SUMNER: Principally, the argument is that it is a complete impracticality. It would be an impossibility for a court, in any given circumstance to be able to dissect that section of the article which was subject to forfeiture and that which was not subject to forfeiture. There must be certainty, and that is what we have. It is clear from the way in which the Bill has been introduced. The example I gave earlier was that the fact that a person was a criminal might be the only reason why anyone would be interested in the publication, yet the crime might be dealt with only briefly.

I only have to put it in those terms to indicate what in my view would be an impossible task for the court to dissect. Would it say, 'Because the crime is dealt with in only one paragraph, we will allow profits from the sale of the whole of the book except for one paragraph. We will make that mathematical calculation'?

But then one could argue that, although the crime is dealt with only in a couple of paragraphs, the book is selling because this person is a notorious criminal. How would a court make such a judgment? I do not think it could and we would be giving the courts a mission impossible. My view is that a criminal ought not to be able to profit because of his fame and the fact that he has committed an offence.

The Hon. I. GILFILLAN: There are cases where this problem could pose a dilemma. The javelin thrower Reg Spiers is just one example that comes to mind in relation to a sporting career. It may not be an ideal case but there may be two completely separate reasons for a person's notoriety which could induce the media to pay for a story.

This is a Government Bill and I am not of a strong view one way or the other. However, I believe that this issue should be discussed so that the Attorney is fully aware of it. If he is happy with the way that the Bill is worded, he should say so. In such circumstances my role would then be to oppose the amendment. I take this opportunity to reflect on what could be the consequences in certain cases. If this sort of flexibility were not present, there could be an unjust forfeiture of assets.

The Hon. K.T. GRIFFIN: I acknowledge the difficulty with this clause, but I think we ought to at least give the court the power to make that division. One can think of prominent international persons who have gained notoriety through sport but who have also hit the headlines when they have committed an offence. In those circumstances a book would sell because that person is essentially a well-known sporting identity.

The Hon. R.I. Lucas interjecting:

The Hon. K.T. GRIFFIN: But some of the notoriety would also be in relation to offences. My colleague the Hon. Robert Lucas asks, 'What about Ian Botham?' That is a difficulty that I can see. Ian Botham has notoriety as a cricketer and a sportsman, but that is added to by the fact that he has committed as I understand, an offence. I do not want to abuse this person under privilege, because I am not using the example for that purpose; I merely indicate that some injustice may occur in those sorts of circumstances whether they relate to Ian Botham or anyone else. I acknowledge as I said at the beginning of my second reading speech, that the period of time might be a matter of judgment, if there is to be a time limit, but the court ought to have some direction in relation to the profits to be earned through publication where part only is related to notoriety. Proposed new section 4 (2) *(b)* refers to 'a benefit attributable in whole or part to notoriety achieved through commission of the offence'. This point is referred to in the Bill and I focussed on that in seeking to recognise that only portion may be forfeited where only part of the benefit arises from notoriety achieved through commission of the offence.

Amendment negatived; clause passed.

Clause 5—'Forfeiture orders.'

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

Page 5, lines 6 to 12—Leave out subsection (2a) and insert:

(2a) Where a person is liable to forfeit an interest in property but there is another interest in the same property that is not, apart from this subsection, liable to forfeiture (an 'untainted interest') the court may, if it thinks fit—

(a) order that the property be forfeited in its entirety but that the owner of an untainted interest be paid a specified amount out of the proceeds of realisation of the property or a specified proportion of the net proceeds of realisation;

or

(b) order that the interest vest in the owner of an untainted interest and that the property be charged with an obligation binding that owner to pay to the Crown, on sale of the property, an amount representing the

value of the interest so vested (to be fixed by or in accordance with the order).

I seek with this amendment to recognise the situation in which hardship may be caused to innocent third parties by an order that jointly held property, for example, be forfeited. I referred specifically in my second reading speech to the situation in which pensioner parents may have an interest in property, such as their home, another interest being held by a son who is convicted of a crime. Because the parents may be impoverished and have no other assets or the son might have squandered his ill-gotten gains and the only asset he has is the interest in the property, there may be no way in which the proceeds of the interest can be realised except by sale, and then the pensioner parents may well be on the street.

I am proposing that, in addition to an order for forfeiture resulting in the sale of a property in which innocent third parties have an interest, the court may order that the interest vest in the owner and that there be a statutory charge on the property with an obligation to pay to the Crown the amount ordered by the court when the property is sold. In those circumstances it seems to me that there is a greater opportunity for equity than in the legislation at present. That is one of the areas to which the Offenders Aid and Rehabilitation Service drew my attention and to which I referred in the second reading stage.

The Hon. C.J. SUMNER: I oppose the amendment. While it is designed to prevent potential hardship to innocent parties, there are a number of problems with it. First, I do not know how the value of the vested interest so-called is to be ascertained. If the interest does not mature for 20 years or so, it may be a very diminished interest, and I should have thought—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Maybe, but one can effectively undermine the legislation by this proposition. The innocent party in charge of the asset could well let it deteriorate until the amount of vested interest could not be realised on the sale of the property. Further, what is to happen if the property subject to the charge is sold to an innocent third party? There would need to be some system for registering the charge.

It seems to me that if people have obtained profits or assets, part of which have been obtained illegally, they should be subject to forfeiture. Certainly, the innocent party should be paid out that proportion of the interest that has been contributed to by the innocent party, as the Bill provides. I do not see that there ought to be the discretion to put off the selling up for a period of 20 years, for the reasons that I have outlined.

I am surprised that the honourable member is putting forward this proposition. The innocent party will be dealt with when the order for confiscation is made, and the innocent party will be paid out the appropriate amount relating to the contribution that the innocent party made to the particular interest. In my view there is no way that anyone should be able to hold property where that property or asset has been gained from criminal activity.

The Hon. K.T. GRIFFIN: I agree with that, but we are talking about a situation here where there can be real hardship to innocent third parties—I am talking about innocent third parties. All I am trying to do is give the court some discretion—not a discretion as to forfeiture or ensuring that the Crown gets that part of the property that has been acquired with the proceeds of criminal activity now that the innocent third parties are protected and the Crown is protected.

The Hon. C.J. Sumner: They get paid out.

The Hon. K.T. GRIFFIN: They get paid out eventually.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: The court can make an order—

The Hon. C.J. Sumner: That is nonsense.

The Hon. K.T. GRIFFIN: It is not nonsense. The court can make an order either that a fixed amount be paid or that a share in the value of the property when sold should be paid. There is a charge. There is provision in the law for registration of charges; there is provision for registration of orders of the court. The Attorney says that that is not possible, but it is possible, and he ought to know that one can register—

The Hon. C.J. Sumner: What about a motor vehicle?

The Hon. K.T. GRIFFIN: It does not matter whether it is a motor vehicle or real property.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Now you are taking it to ridiculous extremes.

The Hon. C.J. Sumner: There could be $10 000 worth of jewellery in the bank.

The Hon. K.T. GRIFFIN: No one will say that there is hardship created by selling jewellery.

The Hon. C.J. Sumner: They might.

The Hon. K.T. GRIFFIN: I would like you to tell me who. Essentially, we are talking about a discretion in the court. Sure, a motor car is a depreciating asset but in my view the court will not enter into this sort of arrangement of not authorising the sale but creating a charge in relation to a motor car. However, in relation to a home, in all the circumstances of the case it could be pursuaded that that is an appropriate way to go and, in those circumstances, the court ought to have that power. What is the problem with allowing the court to have that power?

The Hon. C.J. Sumner: There is a problem in principle.

The Hon. K.T. GRIFFIN: There is no problem in principle.

The Hon. C.J. Sumner: They should not be able to profit—

The Hon. K.T. GRIFFIN: They are not profiting.

The Hon. C.J. Sumner: They are, because they can use the asset for 20 years.

The Hon. K.T. GRIFFIN: But they are to account for it.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: That is nonsense; they are to account for it. The court makes the order. The Crown will get its value.

Members interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: It is not a compromise of the principle. The order is made that the tainted interest is to be charged with an obligation to pay either an amount or a proportion to the Crown.

The Hon. C.J. Sumner: They can live in it for 20 years.

The Hon. K.T. GRIFFIN: The innocent third parties can, yes. All I want to do is to provide an option for the court. That does not compromise the principle and the Attorney-General ought not to assert that it is a compromise of the principle. It is not. The forfeiture is recognised in the proposition that I put.

The Hon. I. GILFILLAN: I am concerned that the shadow Attorney-General mentioned that OARS had made a submission to him on this matter. I have had no communication about it from OARS, so I do not have any first-hand knowledge of its concerns. However, I have great respect for the compassion that it has for people who are innocent victims—quite often the family of offenders. If OARS feels that there are serious social costs that could be borne by innocent people as a result of the legislation, I am concerned about that aspect.

In my mind, this leaves the issue unhappily unresolved. With the Attorney-General keen to get the Bills passed before we rise tomorrow, there is not much time for any detailed discussion of the matter with anyone. My feeling is that OARS' view should be considered, and I ask the Attorney to undertake to have someone from his department have a conversation with Ray Kidney of OARS, so that the Attorney-General can be satisfied that OARS' fears are not soundly based. If the Attorney can give me that undertaking, I feel it is appropriate for me to oppose the amendment. At least I will then be reassured that OARS will have some opportunity to put its case to the Attorney-General.

The Hon. C.J. SUMNER: I am prepared to do that before the matter is dealt with in another place. However, I would respond by saying that, in relation to the Hon. Mr Griffin's amendment, there is no mention of hardship—hardship being a criterion that would enable postponement of the sale of the asset. That could lead to a situation where a family with a wife could have an asset in a joint name and the wife may have made no contribution to the property, yet all of the property, which could be a $3 million house if one wants to give an extreme example, could be obtained from the profits of criminal activity.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I know, but you are saying that in those circumstances, without any obligation to prove hardship—

The Hon. K.T. Griffin: It has to be subject to the general provision of the legislation. It is tainted property. In the circumstances that you outline, it is tainted property.

The Hon. C.J. SUMNER: Well, I just wanted to respond and say, first, that there is no mention of hardship. Secondly, one could have a situation where a wife was benefiting, in effect, from illegally obtained assets. The principle is clear: people ought not to be able to benefit from illegally obtained assets, whether or not they are an innocent third party.

The Hon. I. Gilfillan: It could be a very crushing penalty on a family that would otherwise be virtually homeless. Society will pay a much bigger cost further down the track.

The Hon. C.J. SUMNER: It would enable someone living in a $1 million house obtained from trading in heroin to continue to live in the house for 20 years. To my mind, that is not on.

The Hon. K.T. Griffin: That's nonsense.

The Hon. C.J. SUMNER: It is not. In any event, I am happy to discuss the matter with OARS, which has apparently made a submission to the Hon. Mr Griffin, and reconsider it before this Bill is considered in another place. I will discuss the matter with the honourable member prior to that.

The Hon. K.T. GRIFFIN: The Attorney-General is casting around for all sorts of extraordinary examples. He knows that the example that he has given is not relevant. If the property is put in joint names and it comes from the proceeds of criminal activity, the Bill provides for the courts to trace the proceeds. The Attorney-General cannot have it both ways. He cannot argue, as he has done, that where a $1 million house in the names of husband and wife has been purchased from the proceeds of criminal behaviour, only part of it is to be forfeited under the other provisions of the Bill, because that contradicts what he says he is trying to do and what the drafting of the Bill seeks to do. It seeks to enable the tracing of tainted property. In the circumstances that he has outlined, my amendment has no relevance because the property will be forfeited. It does not matter what other interests are in it if it is tainted. Although the Attorney has given an undertaking—and OARS wrote to me about it saying that there was concern about the protection of innocent third parties, such as a wife and children—I suggest that, in the light of what he has said on this clause, we shall not see any change.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons L.H. Davis and R.J. Ritson.

Noes—The Hons M.J. Elliott and Anne Levy.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 5, after line 17 insert—

(ab) by striking out subsection (4) and substituting:

(4) An allegation that a person was involved in the commission of a particular offence must, if that person has not been convicted of that offence or some other offence establishing the alleged involvement, be proved beyond reasonable doubt.

New section 4 provides that a person involved in the commission of a prescribed offence is liable to forfeit property, and new section 4 (2) provides that a person who commits or is party to the commission of a prescribed offence (and follows through with the actual provisions relating to forfeitures) is liable to forfeit property.

To put the question beyond doubt, it seems to me that, where there is an allegation that a person was involved in the commission of a particular offence and where there are consequences for forfeiture, that allegation must be proved beyond reasonable doubt if the person has not in fact been convicted of that offence or some other offence establishing the alleged involvement. I think that that is fair and reasonable and does clarify it to ensure that there is a conviction or at least proof beyond reasonable doubt for those who have been involved in the commission of a particular offence.

The Hon. C.J. SUMNER: The Government is prepared to accept this amendment at this stage at least. I may reconsider it in another place, but at this time I am prepared to accept it.

Amendment carried.

The Hon. K.T. GRIFFIN: The amendment to page 5, line 21, is no longer relevant because I earlier lost the argument about whether the Sheriff should be the administrator or whether a separate officer should be responsible to the Attorney-General. Also, the next amendment on the page referring to line 66 should refer to line 22 and is also not appropriate to now pursue. Therefore, I move my next amendment, which is as follows:

Page 5, after line 24—Insert:

(8) A court by which a forfeiture is imposed may order that a specified amount be applied out of the forfeited property, or the proceeds of realisation of that property, towards meeting the costs of legal representation of the person against whom the forfeiture was imposed.

This amendment deals with the reimbursement of costs of legal representation. There is no provision in the Bill or in the principal Act to allow a court in circumstances where property is either subject to a restraining order or is forfeited, to make some reimbursement particularly for the costs of legal representation by the Legal Services Commission.

This matter was raised with me and I understand with the Attorney-General by the Legal Services Commission. It drew attention particularly to the Victorian legislation where

discretionary power enables provisions to be made by the court that a particular amount be applied out of the forfeited property or the proceeds of realisation towards the costs of meeting legal representation. The Legal Services Commission's evidence to me was the situation of a recent drug offender where it was required to give legal aid because the offender's assets had either been frozen or were subject to forfeiture and the commission could gain no reimbursement of its legal costs.

Effectively, the taxpayer met the costs through the Legal Services Commission. Admittedly, the proceeds of confiscation go into the criminal injuries compensation fund and not directly to the taxpayer, but the Legal Services Commission is thus unable to recover any amount which can then be applied towards granting legal aid to other people charged with offences or for other advice. It seems reasonable that some provision be made, remembering that it is discretionary and also that, where a person is charged with a serious offence and that person's liberty is at risk, the provision of legal assistance becomes, in a sense, an obligation on the part of the Legal Services Commission. It is within the guidelines and, if no assets are available because they have been either restrained or forfeited, then ultimately the taxpayer pays. I think the proposition is reasonable and provides a discretion in the court.

The Hon. C.J. SUMNER: I point out that clause 6 *(c)*, which deals with restraining orders, provides that a restraining order may:

> provide for payment of specified expenditure or expenditure of a specified kind out of the property subject to the order;.

So, it is possible now to make that order relating to legal costs at the time of the restraining order. That clause was put in to meet the comments made by the Legal Services Commission.

Having said that, I indicate that the Government opposes this proposition put by the Hon. Mr Griffin. If one takes the view that the illegally obtained asset should not have been the the property of the offender and, in fact, is not legitimately the property of the offender, then it is difficult to see why a proportion of that illegally obtained asset should be used to cover the costs of the offender in dealing with an application for forfeiture. One would anticipate that, if the offender had other assets (that is, if he was rich), then he should be able to pay for the top Queen's Counsel out of those other assets and not out of the assets that he has illegally obtained.

If the person is impoverished following the confiscation of the assets (in other words, has no other assets to contribute to legal costs), then I think the normal processes of legal aid should apply and it should then be a matter for Government, as part of its legal aid budget, to accommodate the situation of ensuring that the Legal Services Commission can provide aid in those circumstances. So, I do not support the Hon. Mr Gilfillan's amendment.

The Hon. K.T. GRIFFIN: I recognise that there is a dilemma with this, but I put the view of the Legal Services Commission, which was put to me and as I said, was put to the Attorney-General, that some power ought to be given to the court to make an order if that is what the court is inclined to do. If the Attorney-General relies on new subsection (3) *(c)* as the appropriate authorisation to pay some contribution towards legal expenses out of forfeiture of property, I suggest that it will never be paid. It is a power exercise by an administrator who is a public servant and is not independent, as the court is. Following the precedent in Victoria and at the request of the Legal Services Commission, I think it is appropriate to have this sort of provision included in the Bill.

The Hon. I. GILFILLAN: There is a risk that these proceedings can actually add double jeopardy, in that an offender could be trapped into a very substantial legal fee which comes out of assets other than those that might be attributable to the offence. In our system of justice, that is a matter of some concern. I have been consistent in this debate in recognising that this is the Government's Bill. I am no expert in its interpretation and, although I acknowledge the argument, I indicate that the Democrats oppose the amendment.

The Hon. K.T. GRIFFIN: I indicate on this particular amendment that if I lose it on the voices I will not divide.

Amendment negatived; clause passed.

Clauses 6 to 8 passed.

Clause 9—'Orders for obtaining information.'

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

Page 7, lines 3 to 5—Leave out paragraph *(c)* and insert:

(c) an order (a 'monitoring order') requiring a financial institution to report promptly transactions affecting an account held with the institution.

Lines 9 to 14—Leave out paragraph *(b)* and insert:

(b) a monitoring order must specify—

(i) the name in which the account is held;

(ii) the kind of information the financial institution is required to give;

(iii) the person to whom the information is to be given;

and

(iv) the manner in which the information is to be given;

(c) an officer or agent of a financial institution to which a monitoring order is addressed who discloses the existence of the order except—

(i) as may be necessary to give effect to the order;

(ii) as may be required or authorised by the order;

or

(iii) for the purpose of obtaining legal advice or representation for the financial institution, or an officer or agent of the financial institution, on a matter related to the order,

is guilty of an offence.

Penalty: Division 8 fine or imprisonment.

My amendment to lines 3 to 5 results from a submission that I received only today from the Australian Finance Conference. It was not until the issue was drawn to my attention by another body to which I sent the Bill for consideration and comment that I felt this matter ought to go also to the Australian Finance Conference and the Australian Bankers Association.

The Australian Bankers Association telephoned some uneasiness about the drafting of the clause in so far as it relates to monitoring orders. It is meeting in Sydney on Friday and will be giving further consideration to it. The Australian Finance Conference had its central office look at the clause. I will take a few moments to read the letter which I have received. The amendments, incidentally, result from that and, in my submission, do not weaken the concept of a monitoring order but give it greater certainty so far as financial institutions are concerned. The letter from the Australian Finance Conference states, in part:

> . . . the provisions referred to in clause 9 of the Bill relating to monitoring orders cause us some concern. In particular, we consider section 9 (2) *(b)* is onerous and we seek its amendment. Two aspects of section 9 (2) *(b)* are of concern. First, the situations in which a financial institution can disclose the existence of a monitoring order are very limited. There is good reason for this, but we consider the limitation may remove the ability of financial institutions to adequately protect and apprise themselves of their legal obligations in complying with the order.
>
> Secondly, a person who discloses a monitoring order in other than approved circumstances is guilty of contempt of court. The offence is a strict liability offence. In other words, there are no defences available to an officer of a financial institution for disclosing the existence of the monitoring order. In the circumstances the offence is draconian.
>
> We recommend the following amendments to section 9 (2) *(b)*:

1. Creation of an offence with a maximum penalty expressed in terms of a fine or imprisonment or both as is the case in New South Wales. Under section 70 (2) of the Confiscation of Proceeds of Crimes Act 1989 (NSW) the maximum penalty for wrongful disclosure is a fine of $1 000 or imprisonment or both.

2. Extension of circumstances in which a monitoring order may be disclosed to include disclosure to a barrister or solicitor to obtain legal advice or representation.

3. Inclusion of a provision stating the order must not be disclosed to the person who holds the account to which the monitoring order relates.

Finally, section 9 a (1) *(c)* is also of concern in that the requirement for the order to simply refer to the account to which the order relates is insufficient. There is opportunity for authorities to indulge in fishing expeditions; and for financial institutions to breach client confidentiality and indeed the monitoring order because of lack of specificity.

We recommend that the monitoring order specify:

(a) the name in which the account is believed to be held;
(b) the kind of information that the financial institution is required to give;
(c) the person to which the information is to be given; and
(d) the manner in which the information is to be given.

The conference then refers to an amendment which it drafted for my assistance, and it suggests that its corporate lawyer in Sydney would be prepared to discuss the matter further.

As a result of that it seemed to me that the requests were reasonable, that the provisions for a monitoring order in the Bill is very wide and also vague and that it would not be a bad thing at all if everybody knew where they stood on this issue. So the first amendment seeks to specifically refer to an account held with the institution in respect of whom a monitoring order has been made. That may be implied in the Bill, but it is not clear and it ought to be clear.

The second amendment requires the monitoring order to specify certain information. Again, that may well be implied but it certainly gives greater guidance to the financial institution if there is information in the monitoring order about the name in which the account is held, the kind of information the financial institution is required to give to identify the person to whom the information is to be given and the manner in which the information is to be given. In my view there is good sense also in excluding information about the monitoring order being given to an officer or agent of a financial institution to which the monitoring order is addressed where that agent or officer discloses the existence in a way which is necessary to give effect to the order as may be required or authorised by the order or for the purpose of obtaining legal advice.

Finally, the penalty is changed from a reference to being guilty of contempt of the Supreme Court where there is no limit on the penalty that may be imposed by the court in order that a person may be appropriately dealt with. The penalty is specific: if an offence is committed, a division 8 fine or imprisonment applies. This strengthens the monitoring order and makes it more specific from the viewpoint of the authorities and the financial institutions, but does not prejudice the objective which the provision in the Bill seeks to achieve.

The Hon. C.J. SUMNER: The Government is prepared to accept both amendments at this stage. My officers did not have this amendment earlier to enable them to give it a full consideration, but on a quick examination there would not seem to be any problem. At this stage I agree to accept the amendments. However, I reserve the Government's right to reconsider this amendment along with the other one I mentioned earlier when the matter is examined in another place.

Amendments carried; clause as amended passed.

Clause 10—'Payment into Criminal Injuries Compensation Fund.'

The Hon. K.T. GRIFFIN: The amendment as circulated is no longer relevant; I will move it in an amended form. The amendment on file was dependent upon the change from Administrator to Sheriff. I wanted to ensure that the cost of employing the Sheriff, the Sheriff's officers and staff in the exercise of powers and functions should come from the criminal injuries compensation fund from the proceeds of realisation of property forfeited. However, with the Administrator still being the officer referred to in the Bill, I have concern with proposed subsection (2) *(a)* where it appears that all of the salary and costs associated with the appointment of the Administrator are to be paid out of the proceeds.

If this is an attempt to gain yet another staff member, it seems to me inappropriate that all the costs be paid when the Administrator might be a person who exercises other functions in the Crown Prosecutor's office besides those of Administrator. I do not propose to pursue that. What I think is inappropriate is that, out of the proceeds of forfeiture or realisation of property forfeited, the costs awarded against the Crown in proceedings under the Act should be paid.

It seems to me that an application by the Crown, if it is unsuccessful, should be treated no differently under this legislation from any other application made by the Crown where it is unsuccessful. I see no reason at all why the Criminal Injuries Compensation Fund should be depleted by the payment of these costs, which might be quite substantial. Therefore, I move:

Page 7, line 35—Leave out paragraph *(b)*.

So, the costs referred to in new subsection (1) *(a)* will be salary and other costs associated with the employment of the Administrator, and any costs awarded against the Crown in proceedings under the Act will be paid out of the normal revenue available to the Crown and will not be a charge against the Criminal Injuries Compensation Fund.

The Hon. C.J. SUMNER: I am prepared to accept this amendment on the same basis as I previously advised although at this stage I do not see a major problem with it.

Amendment carried; clause as amended passed.

Clause 11 and title passed.

Bill read a third time and passed.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: The Hon. Mr Griffin raised a query regarding the introduction of a remission system for young offenders. He seeks clarification as to whether young offenders dealt with under the present system can earn remissions under the proposed system. The Government considered this matter in the context of drafting the Bill, and has decided that young offenders dealt with under the existing system should still be able to earn remissions under the new system. The interrelationship between the two systems means that young offenders sentenced under the present system will gain remissions on that part of their sentence served after the commencement of these amendments. Periods of time spent in a detention centre up until the commencement date will not be the subject of remissions; that is, young offenders will not get remissions retrospectively. The number of young offenders who fall within this category is very small. In fact, the Department for Community Welfare advises that only three offenders fall within this category.

The Hon. Mr Griffin has expressed concern regarding the provisions of clause 4. The amendment to section 7 will allow general deterrents to be taken into account when a child is being dealt with for an offence as an adult. The Hon. Mr Griffin has indicated that the Legal Services Commission considers there is a problem with the drafting of proposed section 7 (1) *(da)* which suggests that the only underlying sentencing criterion for sentencing as an adult is the deterrent effect. I do not accept the argument put forward by the commission. Section 7 clearly states that the court must consider the factors set out when dealing with a child. The factor in section 7 (1) *(da)* is only one of the factors to be taken into account. The restriction is that the factor of deterrence can be taken into account only when a child is being sentenced as an adult. The Hon. Mr Griffin has indicated that he does not support the proposed amendment to the constitution of children's aid panels for drug related offences. This amendment was suggested by the Children's Court Advisory Committee. It is indicated in the second reading report that Department for Community Welfare workers have been receiving training in drug counselling through the Drug and Alcohol Services Council.

The Drug and Alcohol Services Council has expressed the view that drug related panels could easily be managed by community welfare officers. However, the Drug and Alcohol Services Council would be available in particular cases and could actually still be a member of the panel, provided it was approved by the Minister. This process should ensure that adequate drug counselling is available to young offenders. Therefore, I do not accept that the *status quo* should be maintained.

The Hon. Mr Griffin queries why a victim cannot be informed that a child will appear before a children's aid panel. The new provision allows a person to be informed that a child has appeared before a panel. Many would argue that this goes too far and that it may not, in some instances, be in the interests of the child that even this should be disclosed. However, in balancing the interests of the child and the interests of the victim, it was decided that the victim's interests required some information to be made available to the victim, and that after the event is preferable to before the event. Particularly where the alleged victim knows the identity of the alleged offender, it may be very undesirable for the alleged victim to know that the child is to appear before a panel.

The Hon. Mr Griffin is concerned that the provision which allows a person to disclose an appearance before a panel is, in effect, a mandate to tell a lie. I should like to make two points. Section 40, by providing that an appearance before a children's aid panel cannot be disclosed except with the approval of the Minister, ensures that appearances before aid panels do not jeopardise children in their future employment and life prospects. This *raison d'etre* will be defeated if employers, etc., can ask questions about appearances before aid panels. Once the question is asked, the damage is done unless a provision such as this amendment exists.

Secondly, it must be remembered that children who appear before panels have not been convicted of any offence. Panels were designed to deal with alleged child offenders in such a way that they did not carry the burden of a criminal conviction with them through life. The Hon. Mr Griffin is of the view that the limit of 60 hours of community service is too low: he suggests an increase to 120 hours.

The working party suggested a limit of 60 hours. The current community service orders range from a minimum of 120 hours to 240 hours, depending on the period of detention to which the child is sentenced. The existing option is a direct alternative to detention, which is an option only in serious cases. The proposal for community service in the Bill is a discrete sentencing option intended to be used in less serious cases, therefore it is appropriate for the maximum period of community service to be less. The limit of 60 hours is seen as appropriate. Further, the proposal to introduce community service as a discrete sentencing option has resource implications, and it is considered that the 60 hour limit will allow the court to exercise the option in a reasonable number of cases.

The Hon. Mr Griffin and the Hon. Diana Laidlaw have raised a concern regarding the inclusion of recreational and educational programs under the sentence of community service. I do not share their concerns expressed in this regard. This format already exists in respect of adult offenders. In addition, it is administratively easier for the Department for Community Welfare to deal with the matters as one sentencing option, not two. It is for the Children's Court to determine which part of a community service sentence can be performed by way of attendance at an educational or recreational course.

The Hon. Mr Griffin has indicated that he intends to move an amendment for the removal of the provision which states that community work is not to be work which would normally be performed by a person for fee or reward and for which funds are available. As the Honourable Mr Griffin has noted, this provision is already in the Act relating to existing community work. There has been no difficulty with the operation of the existing provision. Young offenders have attended at schools to undertake work, and no difficulties have been encountered. The provision requires that the work must not be work which would ordinarily be performed by a person for fee or reward and for which funds are available.

This provision gives a reasonable degree of flexibility and ensures that the option of community service does not interfere with paid employment. The Hon. Mr Griffin and the Hon. Ms Laidlaw believe that section 93 is unnecessarily limiting when it comes to reporting proceedings relating to offences. The section now enables the media to report the result of proceedings and a brief summary of the circumstances of the offence. This is quite sufficient for the public to be informed of what is happening in the Children's Court.

The working party pointed to three additional sources of information, namely, the annual report of the Children's Court Advisory Committee, the annual report of the Department for Community Welfare and statistics published by the Office of Crime Statistics. Further, the working party recommended improvements to the statistics published by the Office of Crime Statistics. I would point out that an extention of the publicity that can be given to Children's Court proceedings was opposed by the Senior Judge of the Children's Court and by the Children's Court Advisory Committee.

The Hon. Diana Laidlaw has referred to the French system providing sport and leisure programs for young people, including young offenders. South Australia is well aware of France's Bonne Maison crime prevention scheme and the benefits that could flow from adopting such an approach. In fact, in January 1989 I headed a study tour of crime prevention schemes in France and other countries. The study team also comprised the Director of the Office of Crime Statistics, a superintendant from the Police Departmetn and two members of Parliament. It observed crime prevention schemes in several French towns and cities and had discussions with Mr Bonne Maison and the architects of the French crime prevention program.

In fact, the delegation covered the Netherlands, Finland, Sweden, the United Kingdom, the USA and Canada. Not all the members of the delegation attended all those places, but crime prevention initiatives in those countries were examined by some members of the delegation.

Subsequently, in August 1989 the South Australian Premier launched 'Together against crime', a crime prevention strategy modelled on experience in France, the Netherlands and Great Britain. As the strategy document 'Confronting Crime' points out, the objective of the scheme is:

> To imbed crime prevention even further in the community, to make it as in France, a relevant concern for families, schools, training work, housing, the urban environment, culture, sport and other recreation.

As part of the strategy, $65 000 already has been allocated to the Police Department to extend the Blue Light program, to include camping, sport and other recreational activities for young people. Further, $10 million has been set aside to be allocated to community based groups and others—possibly other Government departments—over the next five years for grass roots crime prevention schemes that will involve enhancing educational, recreational and training opportunities for young people within a crime prevention context.

The 'Together Against Crime' strategy has been well received by crime prevention experts in the general community. Professor Duncan Chappell, the Director of the Australian Institute of Criminology, has described it as 'an important benchmark for the country at large'. In fact, the first meeting of the Coalition Against Crime was held last week and was attended by about 40 people representing Government departments, local government and community groups, and it has, in effect, commenced the crime prevention initiatives announced by the Government. Obviously, one important aspect of the crime prevention philosophy will be directed towards young people.

I should say that the philosophy behind the crime prevention program is innovative. I think that we have put together the broadest possible strategy available in Australia, backed, importantly, by a specific allocation of funds for a five year period. The philosophy behind the strategy, for those who did not take an interest in it prior to the election, is that, if one relies exclusively on the police, the courts or corrections, that is, the traditional criminal justice responses to crime rates and delinquency, inevitably one will fail. Crime rates have increased throughout the Western industrialised countries, irrespective of the traditional criminal justice resources that have been devoted to attacking crime.

The experience in Australia has been similar; the experience overseas in most Western industrialised countries and in Australia in all States is that crime rates and rates of delinquency have increased irrespective of the ideology of the Government in power. So, it is a phenomenum of Western industrialised nations which we have to attack and, in my view, attack in an innovative way. Undoubtedly, the common conclusion is that, if we rely exclusively on the police, courts and corrections—the criminal justice system—to deal with the crime rate, we will not succeed.

It appears that countries such as France and the Netherlands, which have had some success in broader crime prevention initiatives, have done so because they have developed a philosophy that has broadened crime prevention beyond what has traditionally been seen as the means of fighting crime—as the panacea for dealing with crime, namely, the criminal justice system—to broad community based crime prevention initiatives. The crime prevention programs in those countries have received bipartisan support, although initially in France the proposal was made by the Socialist Government of the early 1980s and was carried through by the conservative parties. In the Netherlands, for instance, the crime prevention policies were developed by a committee headed by a Labor member of the Netherlands Parliament, but they were picked up and included in the criminal justice system policies of the conservative party. It seems that those countries have had some success in dealing with crime rates, particularly petty crime rates.

It is still a matter of regret to me that an offer made to the Leader of the Opposition to join the coalition against crime and to give a bipartisan thrust to crime prevention initiatives in this State has not been taken up.

The Hon. Diana Laidlaw: When was that offer made?

The Hon. C.J. SUMNER: The offer was made at the time the coalition against crime was established.

The Hon. Diana Laidlaw: Prior to the last election?

The Hon. C.J. SUMNER: Yes, prior to the last election and at the time when everyone else who we indicated would be on the coalition was invited to attend. A letter was sent—

The Hon. Diana Laidlaw: An election campaign is not a very good time—

The Hon. C.J. SUMNER: Well, it is a matter for members opposite. All I am saying is that it is a matter of regret that, to date, the offer has still not been accepted. Indeed, I understand that no reply at all has been received from the Opposition. It may be that Mr Baker takes a different view.

The Hon. I. Gilfillan: I notice that no invitation was made to the Australian Democrats.

The Hon. C.J. SUMNER: Well, we know that you enthusiastically support these initiatives in any event.

An honourable member: Your reputation precedes you.

The Hon. I. Gilfillan: I think my reputation changes with the mood of the Attorney.

The Hon. C.J. SUMNER: Not at all. You are well represented, I am sure, by people in the coalition. I felt that it was worthwhile indicating those matters, particularly as the Hon. Miss Laidlaw referred to crime prevention initiatives in France. I commend to her the Government's program, 'Together Against Crime', which has been in the public arena for some months. I indicate that the approach taken by the Government to this issue, namely, to attempt to get a bipartisan approach, remains open.

Clause passed.

Clauses 2 and 3 passed.

Clause 4—'Factors to be considered when dealing with a child.'

The Hon. K.T. GRIFFIN: The Attorney-General has already responded in his comments on clause 1 to the matters raised by the Legal Services Commission. If the interpretation by the Legal Services Commission is proved correct by subsequent litigation, will the Attorney-General give a commitment to ensure that the drafting is reviewed and that any particular problem is remedied?

The Hon. C.J. SUMNER: Obviously, if that is proved not to be correct by judicial interpretation, we would have to review the section.

Clause passed.

Clause 5—'Screening panel list.'

The Hon. K.T. GRIFFIN: I draw attention to the fact that at least in my copy of the Bill in line 30 there is a reference to subsection (1). I think that should be subsection (2). Section 26 (1) of the principal Act deals with the preparation and maintenance of a list containing the names and addresses of persons qualified in accordance with subsection (2) for membership of screening panels. Subsection (2) deals with persons who are qualified: members of the Police Force and officers of the department. The amendment should more appropriately relate to subsection (2) rather than subsection (1).

The Hon. C.J. SUMNER: We agree. It is a clerical error.

Clause passed.

Clauses 6 and 7 passed.

Clause 8—'Constitution of children's aid panels.'

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

Page 2, lines 14 to 18—Leave out all words in these lines.

This clause deals with the constitution of children's aid panels. The Attorney-General has already indicated that he does not believe that the *status quo* should be maintained where drug offences are alleged and the child appears before a children's aid panel. My view is that, where a drug offence is alleged, the children's aid panel should consist of a member of the Police Force, an officer of the Department for Community Welfare and a person approved by the Minister of Health.

I am not convinced that community welfare workers have adequate training to deal with drug offences. Even if they did have, I think there is an advantage, because of the seriousness of drug offences in young people, for there to be some additional experience on the children's aid panel in dealing with those sorts of offences. For that reason I moved the amendment so that the *status quo* is maintained.

The Hon. C.J. SUMNER: The Government opposes this amendment for the reasons I have already outlined in my second reading speech. I point out that this amendment was suggested by the Children's Court Advisory Committee. It considered that the presence of two persons was sufficient, provided that one was a member of the Police Force and the other was able to provide an adequate counselling perspective which, of course, is the primary purpose of the aid panel—to provide a forum to enable effective counselling of parents and children and to enable effective warnings and undertakings to be given.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

The Hon. K.T. GRIFFIN: If my amendment is lost on the voices, I will not divide on it.

Amendment negatived; clause passed.

Clause 9—'Provisions relating to disclosure of appearance of child before a children's aid panel.'

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

Page 2, line 29—After 'child' insert 'will be appearing or'.

I recognise that the provision in the Bill to allow a victim to be informed of the fact that a child has appeared before a children's aid panel is a departure from the philosophy of the principal Act, but it is a change that I support because I believe that victims do have a right to know what has occurred in relation to a young offender. One of the real difficulties that victims experience is that they do not know and cannot be told about the circumstances where their assailant is a young offender. I think the provision in the Bill is appropriate, but I believe it ought to be extended. I do not accept the reservations that the Attorney-General has outlined. I think there is value from the victim's perspective in knowing what will happen to a child, if a child is going to appear rather than has appeared before the children's aid panel.

The Hon. C.J. SUMNER: The Government opposes the amendment for the reasons I outlined earlier in the debate.

The Hon. I. GILFILLAN: We oppose the amendment.

Amendment negatived; clause passed.

Clause 10 passed.

Clause 11—'Sentencing powers of Children's Court.'

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

Page 3, after line 23—Insert new paragraphs as follows:

(d) by inserting after subparagraph (iii) of paragraph *(b)* of subsection (1) the following subparagraph:

(iiia) that the child attend or participate in such educational or recreational programs as the court specifies;

and

(e) by inserting after paragraph *(c)* of subsection (1) the following paragraph:

(ca) upon convicting the child, or without convicting the child, direct the child to attend or participate in such educational or recreational programs as the court specifies in the order;

This amendment is important. In my second reading speech I outlined (and the Attorney-General has responded) my proposition that the court should be empowered to make an order that the 'child attend or participate in such educational or recreational programs as the court specifies'.

That provision is in lieu of the provision involving community service orders, where a young offender can be required to attend at any educational or recreational course of instruction approved by the Minister and that is to be taken as community service. However, as I said during the second reading debate, the difficulty with that in the area of community service is that it debases and compromises the concept, and the public understanding, of community service. Community service orders should be what they say they are—they should relate to community service, and attending an educational or recreational course is not a community service.

For that reason, even with adult community work orders, instances have been drawn to my attention where orders have been made for a person to attend an educational or recreational course in satisfaction of a community service order and it has been put to me that this brings the system into disrepute, because it is just not community work or community service. However, we do not want to deny the court the opportunity to use the sort of programs to which my colleague the Hon. Diana Laidlaw referred which are character building and rehabilitative for young offenders—they may be educational or recreational programs. So, it is my view that we should provide those as a separate sentencing option for the court.

It may be all very well for the Department for Community Welfare to say, 'It is more convenient for us to run them all together', but the fact is that attendance at an educational or recreational program is quite separate and distinct, anyway, and there is nothing to prevent their being dealt with administratively in the same section of the department without their being separate sentencing options.

I point out to the Attorney-General that there is another real difficulty in making them a community service order. If one looks at the provisions attaching to community service orders, in the Bill they are limited to 60 hours (we would hope to extend that to 120) and to the performance of not less than four or more than 24 hours in each week. That is very limiting. It may be, for example, that there is a week-long camping-adventure or camping-recreational course which it is appropriate for the young offender to be ordered to attend.

Under a community service order that is impossible, because 60 hours will pass in less than the week—it is 2½ days—so, one would be lucky to include a weekend. However, it may be appropriate to require a young offender to attend such a recreational course in particular for longer than just a weekend.

It may be during the school holidays that a character building, recreational camp in, say, the outback or the countryside is held. That is a very persuasive argument for removing recreational or educational activities from community work, apart from the earlier point that I made that it is not perceived to be nor can it be regarded as community service. However, the option ought to be there and it ought

to be broader than that which is presently provided in the Bill.

The Hon. DIANA LAIDLAW: I support the remarks made by the Hon. Mr Griffin. In his concluding comments, he suggested that educational and recreational courses should not be perceived to be nor regarded as community service orders. I reinforce that by quoting from the report of the Children's Protection and Young Offenders Act Working Party, which the Attorney himself suggests is the basis for most of this legislation. It is quite clear from the comments on page 40 of that report that:

> The working party favours the wider implementation of community service orders but is concerned that, without some safeguards, the problem of escalation of sentences will arise; that is, that it will be used as a sentencing option when the offence is minor and other less interventionist options are available to the courts to deal with the offender (e.g. fine or unsupervised bond).

The working party goes on to explain what it sees as community service orders, referring to programs with young offenders in New South Wales in respect of the railway reparation scheme and New South Wales State Railway property. It goes on to suggest that such schemes in South Australia for community service orders should be used within schools for reparation of property and also in respect of damage to State railway authority property.

As I indicated, the working party has very specific notions of what it means by community service orders and we should respect those views in seeking amendments to this legislation. Earlier, the Attorney-General pointed out that the Department for Community Welfare may find it administratively easier to deal with community service orders in the manner in which the Government has presented in this Bill. That is a secondary consideration over the presentation of the working party in respect of community service orders.

Earlier this evening I spoke with the Attorney-General and with my colleague the Hon. Mr Griffin about offenders who have absconded from youth training centres, which was the subject of a question that the Attorney-General was asked earlier today, and also the subject was raised during Question Time in the other place. The Minister of Family and Community Services in the other place indicated that it was his belief that the present state of the legislation in South Australia is such that, because it was not an offence, an absconder could not be charged. The Minister said that he would be inviting members to address that matter by way of amendment to the relevant Act at the appropriate time.

It is my view that an appropriate time to address this situation would be tonight as we have the Children's Protection Young Offenders Bill before us. However, I am advised by people more knowledgeable in these matters than myself that this matter should be addressed under the Community Welfare Act—under 'Subdivision 8—Miscellaneous', following on from section 75, which refers to a child being absent, without lawful excuse, from any place in which he is being detained. I will not be proceeding with this matter in relation to this Bill but I do believe very strongly that we must address this matter at some stage. I do not think it is acceptable for a young person who absconds from an institution for detention to get away with no offence being attached to that action.

The Hon. C.J. SUMNER: The Government does not accept, for the reasons I have outlined, that it is inappropriate for an educational or recreational program to be part of a community service order. The Government would not wish to see the capacity of the court to include as part of a community service order, participation in an educational or recreational program. In so far as the honourable member's amendment does that, we would oppose it. A community service order could appropriately contain a provision that an offender attend an educational or recreational program, and it could include an order that a child offender carry out other specified community service. The Government does not see a problem in philosophical terms in including as part of a community service order the capacity to order participation in an educational or recreational program. The Government would oppose the Opposition's proposition to preclude educational or recreational programs from community service orders.

However, the Government is prepared to accept the honourable member's proposition in so far as it would enable the court to order participation in an educational or recreational program as a separate order, apart from a community service order. So, in so far as the honourable member's amendment does that, I would support it. Unfortunately, I am not quite sure how we arrive at that result with the amendments that are before us, but that is the position the Government would take if we could sort out the amendment.

The Hon. DIANA LAIDLAW: I am very pleased that the Attorney accepts what I would call this enlightened amendment of the Hon. Trevor Griffin, after he suffered some nasty comments from the Attorney-General earlier today. Does the Attorney have any comments further to my remarks about absconding from an institution being an offence?

The Hon. C.J. SUMNER: The honourable member has been given considerable lenience by the Chair to introduce that subject matter.

The Hon. I. Gilfillan: You made what was in effect a second reading speech to begin the Committee stage, so there has been a fair bit of licence.

The Hon. C.J. SUMNER: My speech was to reply to matters raised during the second reading debate.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: The only reason that was done, in case the Hon. Mr Gilfillan had not been listening, was so I did not have to formally reply at the end of the second reading debate. The honourable member may have noticed over his many years in this place that that is a course of action that has occurred on many occasions, agreed to by the Opposition and the Government. I am sorry to put the honourable member's nose out of joint, but it was effectively using clause 1 to reply to the second reading debate.

The Hon. I. Gilfillan: I am defending the Hon. Diana Laidlaw.

The CHAIRMAN: Order! Would the Hon. Attorney get back to the Bill.

The Hon. C.J. SUMNER: The problem is that my comments related to matters raised in the second reading debate. The matter raised by the Hon. Ms Laidlaw is completely extraneous to anything in the Bill at the present time and anything likely to be in the Bill. It related to a question she asked in the Parliament earlier today. It is has nothing to do with this clause or the Bill whatsoever.

The Hon. I. Gilfillan: You were reflecting on the Chair.

The Hon. C.J. SUMNER: I was not reflecting on the Chair; I was making the point that, quite rightly, the Chair offered the honourable member considerable leniency to introduce this matter.

The CHAIRMAN: I think everybody has had considerable leniency. Can we get on with the Bill.

The Hon. C.J. SUMNER: I trust that the Hon. Mr Gilfillan is now fully informed. The point raised by the Hon. Ms Laidlaw is important. As I think I said earlier this afternoon, I would be surprised if there was not an offence of absconding from a training institution.

The Hon. Diana Laidlaw: The only reason I raised this matter tonight is because it is not an offence and I thought that we may have been able to address the matter here.

The Hon. C.J. SUMNER: I am surprised that it is not an offence. Presumably, community welfare has cogent reasons for it not being an offence. If so, I will want to hear them, but it will have to be fairly persuasive because it is my view that absconding from a training institution should be an offence. It may be that different views are held on this matter by the Government or within Parliament, but as the issue has been raised I will pursue it, although now is not the appropriate time.

Amendment carried; clause as amended passed.

Clauses 12 to 14 passed.

Clause 15—'Insertion of Division IVA.'

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

Page 5, line 22—Leave out '60' and insert '120'.

This amendment relates to the number of hours of community service which can be specified by the Children's Court. I think that 60 hours is inadequate. I realise that there may be resource implications for the department, but if there is to be community service it ought to be at a realistic level. The maximum period of community service that can be required to be performed is 24 hours a week—which means less than three weeks of, say, the school holidays—or not less than four hours in each week, which is 15 weeks. I think we ought to give the court a wider discretion in relation to community work than the limit of 60 hours. As my recollection is that in relation to adults the maximum is 320 hours, it is not unrealistic or unreasonable to expect young offenders, in some cases, to serve up to 120 hours community service.

The Hon. C.J. SUMNER: As I have previously indicated, the Government opposes this amendment, the main reason being that we are trying to draw a distinction between community service orders as a discrete option and community service orders as an alternative to a custodial sentence. The figure of 60 hours has been chosen to distinguish between a community service order as a discrete option and a community service order as an alternative to detention.

The minimum community service order as an alternative to detention is 120 hours, indicating the more serious nature of a community service order in lieu of detention. We have chosen the 60 hours to ensure that the court is aware that there is a distinction. The 60 hours is a discrete, separate sentencing order—up to 60 hours—not as an alternative to detention but as a separate order that can be made. For more serious matters the minimum ought to be 120 hours. That is the reason behind the difference between the 60 hours and the 120 hours.

One can argue about the 60 hours and, if members opposite want to haggle, I am prepared to do that to some extent, subject to the Hon. Mr Gilfillan's views on the matter. However, I feel that the distinction should be maintained for the reasons that I have outlined.

The Hon. I. GILFILLAN: There seems to be some scope for negotiation there, and I suggest that the Attorney throws in a number, the shadow Attorney throws in a number and the Chairman picks the winner.

The Hon. C.J. SUMNER: My first and final offer is 90 hours. I move to amend the Hon. Mr Griffin's amendment as follows:

Leave out '120' and insert '90'.

Amendment to amendment carried; amendment as amended carried.

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

Page 5, line 26—Leave out '60' and insert '90'.

Amendment carried.

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

Lines 40 to 42—Leave out paragraph *(h)*.

I recognise that the Attorney-General has been prepared to make some concessions in relation to my amendment to clause 11. I suppose there may be circumstances in which the Children's Court may want to make a community service order which is partially service and partially educational or recreational. I am not sure that that happens in the adult area, but I think we ought to keep community service as community service and not confuse it with the alternative educational or recreational courses, and it is for that reason that I persist with my amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment for the reasons already stated.

Amendment negatived.

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

Page 6, lines 15 to 17—Leave out all words in these lines.

New section 58f provides that work selected for the performance of community service, must not be work that would ordinarily be performed by a person for fee or reward and for which funds are available. I do not believe that there ought to be that limitation. It is arguable, I suppose, that, if there is graffiti at a railway station, bus stop or on one of the red hens, the removal of the graffiti or painting over it would ordinarily be performed by a person for fee or reward employed by the STA or on contract to the STA. One could argue that within the STA's budget, for example, funds were available for that general purpose. In those circumstances, it would be an argument against a community service order requiring a young offender to undertake a project of cleaning up graffiti in those circumstances. For that reason, the amendment seeks to remove that restriction. That provision is already in the principal Act, and I will seek later to remove it.

My recollection is that, when community service orders were first considered by the Parliament, that provision was not included. My recollection is that, when the Liberal Party was in Government, the amendment was moved by a member of the then Opposition and supported by the then lone Australian Democrat. That is how it has persisted in the general scheme of community service orders. There is no need for it. It is an unreasonable limitation and can restrict the availability of community service in circumstances where it would be most desirable to use that means of having the work done.

The Hon. C.J. SUMNER: The Government opposes the amendment for the reasons already stated. This provision has been in the legislation for some time and, indeed, is in the legislation dealing with the Correctional Services Act relating to adult community service orders. It is an issue of principle that has been accepted by the Parliament in the past and it should continue to be so accepted.

The Hon. I. GILFILLAN: It is an issue of some concern that there may be good reasons why an offender should be asked to do certain work regardless of the restraint on paragraph *(b)*. The issue is too complicated to deal with through a simple deletion, because there are very good reasons why community service orders in general should not be used to replace normal regular employment. It makes it very difficult in a simple amendment to achieve what is a sensible approach for the use of community service orders in this context.

I am sorry that, for various reasons, this matter has not been discussed. I did not see the amendment before this evening and, on that basis, I feel obliged to support the Government. I am not sure whether the Hon. Trevor Griffin indicated that he will raise the issue again in relation to a further amendment.

The Hon. K.T. Griffin: The proposal is to delete a similar provision that is already included in relation to other sorts of community service orders. It is a later amendment.

The Hon. I. GILFILLAN: I can see a distinction between what should be a restriction on the general use of CSOs where they may replace regular employment and a situation where CSOs are used in terms of a corrective procedure for an offender. Does the Attorney see this subclause as restricting a CSO under which, for example, an offender is required to clean graffiti from the outside of a railway car?

The Hon. C.J. SUMNER: I do not see it as a problem. If a problem arises, it could be examined again. However, this particular qualification on the use of community service orders is in the existing legislation and has not proved to be a difficulty.

The Hon. K.T. Griffin: But you have not used CSOs in this category before.

The Hon. C.J. SUMNER: That may be so, but it certainly has not proved to be a difficulty in the past in terms of finding adequate work for offenders to do. I do not think it will be a problem with respect to this specific provision under which child offenders are required to do community work to make good damage. In some circumstances, it may interfere. The community service orders being provided for here as a discrete option are not confined just to the offender fixing up damage that he or she might have done. It may be that it is not possible: the job may be too big or the offender may not have the skills to do it. For example, an offender may not have the skills to remove graffiti from a railcar: that might require painting skills, and so on. Therefore, the offender may be required to do something else. Where it is possible to get the child to repair the vandalism, that ought to be available as a first sentencing option. That is what the Bill is designed to do. However, it will not be possible in every case for the child offender to actually do the work to repair the damage—they may not have the skills. The issue has to be considered in that light. I would prefer to let this clause, which is common to all community service order provisions at the present time—for adults and children—remain. If there are problems with the operation of the legislation, we can come back and examine it. Frankly, from our experience to date, I do not think it will create major difficulties.

Amendment negatived.

The Hon. DIANA LAIDLAW: I note from the working party report that both in the commentary and in the recommendations some emphasis is placed on the implementation of community service orders and the significant resource implications of such schemes. Certainly, it is recommended that additional resources will need to be made available for the implementation of these schemes, whether they be initially with respect to railways or to the repair of damage to school property. What, if any, money has been made available to date for these schemes, including the provision of funds for supervision as well as for materials? It would be most disheartening to see that the court has this new sentencing option, which we all support, but that the funds are not available to make sure that it is an effective option.

The Hon. C.J. SUMNER: I take note of the honourable member's comments and will ensure that they are made known to the Treasurer when considering the budget submission on this topic for the 1990-91 budget. Funds for resources will be applied for in the next financial year.

The Hon. DIANA LAIDLAW: So, even though it may be proclaimed, it will not be operable until after the budget?

The Hon. C.J. SUMNER: It may be operable if resources can be found within the department as presently budgeted for. Otherwise, the matter will have to be dealt with in the normal budget process.

Clause as amended passed.

Clause 16 passed.

Clause 17—'Power of court to order compensation or restitution.'

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

Page 6, line 29—Leave out '$5 000' and insert '$10 000'.

This clause seeks to increase from $2 000 to $5 000 the maximum amount of compensation which may be awarded against a young offender. My recollection is that the $2 000 limit was fixed in 1979, so the increase to $5 000 is probably close to being in line with inflation. However, I think that we need to consider whether $5 000 in today's community is an adequate maximum compensation. There are many young offenders in the older bracket who are well off because they have work but, of course, some do not. It seems to me that we ought to be making a more specific attempt to have young offenders pay something towards either restitution or compensation to restore community property or a victim's property, and $5 000 does not appear to be an adequate sum. Certainly $10 000 would give the court a much wider range within which to work and it is less likely to be sneezed at by young offenders.

It is a matter of judgment as to what figure should be applied, but I would prefer a higher figure to give the court more flexibility to ensure that the order for compensation is realistic and matches the immediate and prospective capacity of the young offender to pay. Even if it is payable over a period of time, perhaps a year or two, I see no problem with that. Young offenders should recognise that they have an obligation to pay something back towards what they have taken. Even if it is over a period of several years, that is reinforcement of the obligation that they have to individual victims and to the community at large. I strongly urge the Committee to support an increase in the maximum compensation that can be awarded to the sum of $10 000.

The Hon. C.J. SUMNER: I will not oppose this amendment at this stage. I do so on the basis that I will examine it before the Bill passes in another place. At this stage I am prepared to support the amendment.

Amendment carried; clause as amended passed.

Clauses 18 and 19 passed.

Clause 20—'Persons who may be in court.'

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

Page 7, after line 26—Insert new paragraph as follows:

(ab) by inserting after paragraph *(e)* of subsection (1) the following paragraph:

(ea) an alleged victim of the offence before the court (that is to say, a person who suffered injury, loss or damage resulting from the offence);.

This amendment is designed to ensure that an alleged victim of a crime is entitled to be present when the court is dealing with the alleged offender. The judges of the Children's Court presently allow alleged victims to be present in the court under section 92 (1) *(h)*, which allows the court to authorise any person to be present in the court. However, I think the alleged victim should be specifically authorised. The right of the alleged victim to be present is qualified, as it may be that the alleged victim is also a witness in the proceedings and it may be necessary to ensure that the alleged victim is not present in the court until he or she has given his or her evidence.

The Hon. K.T. GRIFFIN: I support the amendment. It is a move towards giving a victim more information about what is happening to a person who is charged with an offence involving them. It is appropriate to allow them to sit in the court on the occasion that the offence is being

dealt with and there are adequate safeguards in the subsequent part of the amendment.

Amendment carried.

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

Page 7—
Line 28—Leave out 'subsection' and insert 'subsections'.
After line 31—Insert new subsection as follows:
(1b) Where an alleged a victim of the offence before the court is a witness in the proceedings, the court may exclude him or her from the court at any time if the court thinks it necessary or desirable to do so for the purpose of the due administration of justice.

Amendments carried; clause as amended passed.

Clause 21—'Restriction on reports of proceedings.'

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

Page 7, lines 33 and 34—Leave out "by striking out from subsection (1a) 'this section' and substituting 'this Act' " and insert paragraphs as follows:

(a) by striking out subsections (2) and (3) and substituting the following subsection:
(2) Unless otherwise ordered by the court, a report of proceedings under Part IV may be published in accordance with this section.;

and

(a) by striking out from subsection (4) 'the result of proceedings referred to in subsection (2), or a summary under subsection (3)' and substituting 'a report of proceedings under Part IV'.

This amendment is critical. I have constantly sought to have section 93 broadened to enable full reporting of proceedings in the Children's Court where those proceedings relate to offences, provided of course that the identity of the young offender or anything which might tend to identify the identity of that young offender is not disclosed. The difficulty with present section 93 is that the result of the proceedings may be published. In accordance with section 93 a court must make the result available to the person desiring to publish the result of such proceedings and, in the publication of the proceedings, there may be a brief summary—not a general summary—of the circumstances of the offence unless the court orders otherwise.

So, other than the charge, no information can be imparted to the public during the course of the proceedings being heard. The details of the offence and the evidence which is led may not be published. That derogates from the right of the public to know what happens in our courts, it makes the court less accountable publicly, and it can give unnecessary weight to anecdotal evidence about the leniency of the Children's Court. It is important for the proceedings to be accessible to the media as the conduit through which the public comes to know about what happens in the courts.

The real problem is that, if there is an embargo on publication of information, that suggests that there is something to hide. It does not matter whether there is or there is not but, if one is prevented from knowing something, then one will believe that something funny is going on or that something is covered up. I do not believe that that is in the interests of the Children's Court, the administration of justice or the community at large. I have constantly argued for a relaxation of the embargo on publication of information under section 93. Whilst the embargo remains, there will constantly be misgivings about the operation of the Children's Court. However much those misgivings may be without foundation, questions will be constantly raised about not only the administration but also the penalties which are imposed.

I suggest that, as with suppression orders, where they have been very significantly reduced, the Attorney-General should accept that, with the Children's Court, where it is dealing with offences or allegations of offences, everything about the proceedings—except the name and address of the child and anything that might tend to identify the child, or even to identify witnesses for that matter—should be available for public reporting. That is the essence of the amendments that I have on file in relation to this clause. I believe very strongly that it is in the interests of the community, the court and the administration of justice that this openness be promoted and I therefore indicate that, if the Government is not prepared to accept this amendment, I will call for a division.

The Hon. I. GILFILLAN: On my understanding of the amendment, I am sympathetic to the intention. It is reasonable to reflect on the general belief by all Parties that the Children's Court be more accessible and the proceedings be opened to more public scrutiny. It is the right trend, otherwise, suspicion in the public mind tends to heighten and media speculation tends to become more sensational and overloaded with what can perhaps be quite unfair implications that the sentences are weak and that only a slap on the wrist approach is taken.

From all points of view, I am persuaded that the intention of the amendment is soundly based. I cannot pretend to have followed through its implications bit by bit, and it may appear that some of its consequences have not shown up in our discussion in this Committee. However, at this stage, I indicate that the Democrats support the amendment.

The Hon. C.J. SUMNER: In the light of that indication, I will not oppose the amendment at this stage, but I reserve the Government's right to consider it when the matter is debated in another place.

Amendment carried; clause as amended passed.

Clause 22—'Publication of reports of certain criminal proceedings in an adult court.'

The Hon. K.T. GRIFFIN: In consequence of the amendment that has just been passed, I oppose this clause.

Clause negatived.

Clause 23—'Special provisions relating to work projects or programs.'

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

Page 8, line 5—Leave out 'paragraph *(d)*' and insert 'paragraphs *(d)* and *(e)*'.

This is similar to the amendment to clause 15 which provided that work which is ordinarily performed by a person for fee or reward and for which funds are available should not be work selected for community service. This is a different provision but, having lost my amendment to clause 15, I suspect that this amendment will be unsuccessful.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

RETIREMENT VILLAGES ACT AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: With the concurrence of the Opposition and the Australian Democrats I will use clause 1 to respond to certain matters raised by honourable members during the second reading debate.

The question of possible further amendments was raised by honourable members opposite. The task force established by the Justice and Consumer Affairs Committee was given limited terms of reference, that is, consideration of the introduction of a code of practice, statutory implied terms for residence contracts and the inclusion of a statutory warning in residence contracts.

The terms of the task force were not to consider broad sweeping amendments to the Retirement Villages Act 1987. It was formed in response to the public criticisms of the

retirement village by the Commissioner for the Ageing in respect of the lack of disclosure given to prospective residents.

Accordingly, any broad amendments to either: *(a)* ensure that at least two menbers of the board of management of an administering authority should be nominees of residents: or *(b)* providing refunds during a 12 months settling in period less a penalty for a person wishing to leave after a few months or alternatively, providing a refund of equity in the original loan within six months after leaving less a retention, with the balance being paid on the resale of the licence, as proposed by the Hon. K.T. Griffin, would necessitate a fundamental change to the thrust of the Act, and such amendments would require extensive discussions with industry and consumers. This Bill is not the proper place and time for these amendments as the consultative process may take some time.

Further, it is acknowledged that the Bill, in primarily referring to the introduction of the form 6, will not satisfy many or the complaints that are found in this industry. The development of form 6 is the Government's second stage in dealing with retirement villages, the first being the passage of the Retirement Village Act 1987. A third stage will involve a very careful analysis of processes within the industry and will focus on providing better protection for residents and prospective residents of retirement villages.

The third stage is the subject of a study presently being conducted by the Commissioner for the Ageing and the Commissioner for Consumer Affairs. In the course of this study the Commissioners will consult with interested parties and any submissions that members of the community may wish regarding amendments to the Retirement Villages Act 1987 will be considered by the Government.

The Retirement Villages Act 1987 was never intended to be an all-embracing Act dealing with every aspect of life in a retirement village. As I said in Parliament on 23 August 1988:

> It is not an Act dealing with the welfare of the aged as such. It is an Act which has the scope to deal with certain defined issues of the rights of occupants of retirement villages vis a vis the developer. Those who followed the passage of the Act through the Parliament would know that the Act was designed to provide for security of tenure for the residents, which it does. It is designed to ensure proper disclosure, which it does, although it is possible that that could be improved in some ways. It provides a dispute resolution mechanism through the Residential Tenancies Tribunal and it provides for the establishment of a residents committee to deal with issues that may arise from time to time in the village. I have no evidence before me to indicate that those basic criteria of the Act are being met. That does not mean that some amendments may not be necessary but certainly, I believe, in terms of the original intention of the legislation (which is as I have outlined) that this is being met.

In relation to the need for a Form 6, the task force was established to resolve the issue of proper disclosure and after extensive discussions it was decided that a Form 6 disclosure document, which is to be contractually binding on the administering authority, would be suitable as it would address the areas of principal concern to prospective residents. The issues were chosen due to their influential nature on the decision making process of a prospective resident.

It is acknowledged that the Form 6 will be an additional document to what is already an extraordinary amount of paper work which is handed to residents, as stated by the Hon. Mr Griffin. However, there is clearly a perceived need for administering authorities to be compelled to consider the advertising material and promises that either they or their agents may make to prospective residents. The proposed amendments in the Bill will achieve this by:

(i) making the contents of the Form 6 contractually binding on administering authorities and where a conflict occurs between the contents of the Form 6 and the contents of the resident's contract, the administering authority will be bound by what it states in the Form 6; and

(ii) agents and the administering authority will not be able to provide any information to prospective residents other than the information in the Form 6, nor can any advertising material go beyond the material contained in the Form 6. In this respect, prospective residents are accorded the protection that prospective investors are given by the Companies (South Australia) Code in respect of shares or debentures acquired pursuant to a prospectus.

The concept of the Form 6 was supported by the representatives of the South Australian Council on the Ageing who were on the task force, even though SACOTA now states that it does not believe the Form 6 goes far enough. Further, it should be noted that the bulk of the public submissions received by the Commissioner for the Ageing did not object in any great detail to the Form 6 as exposed.

Whilst most prospective residents may receive an 'extraordinary amount of paperwork' (in the Hon. Mr Griffin's terms), it is the contracts themselves that form the bulk of the paper. The Commission does not believe it is the role of the Government, nor is it the intention of the Act as it presently stands, to regulate the extent and nature of the contractual conditions. If people do not wish to read the information provided, that is their responsibility, but there should be sufficient controls in place to ensure that adequate disclosure is given.

It is possible to accept any proposed amendments to the Form 6 that are proposed by the Opposition, or any other Party. The Form 6 is to become law by virtue of amending regulations to the Retirement Villages Act Regulations 1987. Consequently, any proposed amendments should not hold up the passage of the Bill. The amendments need not be proclaimed until such time as the regulations are ready.

In response to a submission received by the Hon. Mr Griffin that the Form 6 be incorporated with the documents already prescribed (that is, Form 1 of the regulations and schedule 2 of the Act), this will not be feasible as parts of the latter documents cannot contractually bind the administering authority.

With respect to the cooling-off period, the amendment extending the cooling-off period from 10 business days to 15 business days was inserted into the Bill as a result of the public comments received on this point by the Commissioner for the Ageing. It should therefore be noted that the amendment:

(i) is a result of submissions by consumers; and

(ii) the extension will give prospective residents further time in which to consider the extensive documentation consumers are provided with.

The extension of time is in excess of the period applicable under the Land Agents, Brokers and Valuers Act, but a survey of most residents and prospective residents will reveal that they do not consider that their situation can be compared with the types of contracts covered by that Act. Residents and prospective residents consider they need further protection.

Further, whilst a 15 day or 10 day cooling-off period may, according to providers of hostel-type accommodation, be inapplicable to hostels, they are not for other forms of retirement villages. Unlike these other forms, hostels do not generally charge tens of thousands of dollars in admission. It should also be noted that the extension of the cooling-off period will not, or should not, affect the care given. In response to the changes to contracts, the amendment will

only affect future contracts and can be effected by a simple typographical correction.

Clause passed.

Clauses 2 and 3 passed.

Clause 4—'Administration.'

The Hon. K.T. GRIFFIN: The Commissioner for Consumer Affairs is to assume responsibility for the administration of the Act. Can the Attorney indicate whether the whole of the Act will be committed to the Minister of Consumer Affairs rather than to the Attorney-General?

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clause 5—'Creation of residence rights.'

The Hon. K.T. GRIFFIN: The Attorney-General has indicated that amending regulations will embody the disclosure statement. Is it proposed to expose draft regulations for comment by interested parties and, if so, is the Attorney-General prepared to make copies of the draft available to the Opposition?

The Hon. C.J. SUMNER: Yes.

The Hon. K.T. GRIFFIN: Does the Attorney have any idea when that is likely to be?

The Hon. C.J. SUMNER: They will be ready shortly.

The Hon. K.T. GRIFFIN: It is proposed to extend the cooling-off period from 10 to 15 business days. Yesterday I had a call from a Voluntary Care of the Ageing officer who said that, from the point of view of his organisation, 10 days adequately covered the needs of the elderly. Other bodies have suggested that, because this issue was not part of the exposure debate by the working party, it is inappropriate to proceed with it now without consultation with organisations that are likely to be affected. Did the move for the extension from 10 to 15 days came from individuals rather than organisations, and, if it was from organisations, can the Attorney name them?

The Hon. C.J. SUMNER: I do not have the details of who made those submissions. They were collated by the Commissioner for the Ageing. I will undertake to provide the honourable member with the details of the groups which proposed an increase to 15 days.

Clause passed.

Remaining clauses (6 to 12), schedule and title passed.

Bill read a third time and passed.

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

Second reading.

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

That this Bill be now read a second time.

The purpose of this short Bill is to give effect to a request of the trustees to extend the list of hospitals to which the Act applies. The Da Costa Samaritan Trust was initially established at the turn of the century by way of a bequest of Louisa Da Costa. Its funds were to be applied for the relief of convalescent patients of the Royal Adelaide Hospital.

In 1953, the Da Costa Samaritan Fund (Incorporation of Trustees) Act was passed. The Act provided the trustees with corporate status, and generally facilitated the management of the trust. In keeping with the original Trust Deed, the Act provides that there shall be not less than three trustees, who are currently Mr P.B. Wells, AM, Mr K.B. Price and Mrs B.F. Garrett, MBE.

In 1969, amendments were made to the Act to extend the powers of the trust beyond providing benefits to convalescent patients of Royal Adelaide Hospital. By virtue of the amendments the trust could then apply its funds to patients of The Queen Elizabeth Hospital and any other hospital as may be proclaimed (such hospital being a public hospital within the meaning of the Hospitals Act.) Flinders Medical Centre and Modbury Hospital have since been so proclaimed.

The trust plays an important role in assisting convalescent patients of limited means. Hospital personnel screen the financial situation of patients and make requests for assistance. Applications are also considered from organisations which help convalescent public hospital patients. The trust spends a major proportion of its income on individual patient help, special equipment and projects. Individual assistance includes night or supplementary day nursing, paraplegic supplies, special glasses and shoes, hearing aids, travelling expenses to receive special treatment, nebulisers, oxygen concentrators and rehabilitation equipment for disabled persons. While there are some established schemes, e.g. for assistance with patient transport or purchase of equipment for disabled persons, the trust does not duplicate, but caters for people in need who, for one reason or another, fall outside the schemes.

The trust has sufficient funds to assist a wider range of patients in the metropolitan and the country area, and has sought to broaden its scope. The Act contains an impediment in that under section 19 (3) only public hospitals within the meaning of the Hospitals Act 1934-1967 can be proclaimed to be hospitals to which the section applies. The provision is anachronistic—not all hospitals which the trustees have in mind are 'public hospitals' within the meaning of the Hospitals Act, nor would it be appropriate to so declare them, as the Hospitals Act has been superseded by the SA Health Commission Act, and the Hospitals Act will be repealed in due course.

In order to give effect to the trustees' wish to extend their scope, the amendment therefore deletes reference to the Hospitals Act prerequisite and substitutes a requirement that a hospital must be an incorporated hospital within the meaning of the South Australian Health Commission Act as a prerequisite to the Governor issuing a proclamation. The amendment also provides for the trustees to recommend those hospitals they wish to be proclaimed, thereby ensuring that they retain control of the process. The trustees have indicated that the hospitals they have in mind at this stage (all of which are incorporated under the SAHC Act) include:

Lyell McEwin Health Service
Adelaide Medical Centre for Women and Children
Berri Regional Hospital Inc.
Mount Gambier Hospital Incorporated
Port Pirie Regional Health Service Incorporated
Whyalla Hospital & Health Services Incorporated (The)
Port Lincoln Health and Hospital Services Inc.

The Government supports the good work of the trust and is anxious to facilitate its operations. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 19 of the principal Act. Section 19 enables the Da Costa Samaritan Fund Trust to apply the balance of its income, after payment of management

and other expenses, for the benefit of convalescent patients of the Royal Adelaide Hospital, the Queen Elizabeth Hospital and any other hospital declared by proclamation to be a hospital to which the section applies. Under current subsection (3) only public hospitals within the meaning of the Hospitals Act 1934-1967 can be proclaimed to be hospitals to which the section applies. This clause deletes subsection (3) and substitutes a new subsection under which only incorporated hospitals within the meaning of the South Australian Health Commission Act 1976 can be so proclaimed. The new subsection also specifies that any such proclamation must be on the recommendation of the trustees.

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

SUPPLY BILL (No. 1)

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

STAMP DUTIES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the lateness of the hour I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill implements a recommendation of the Law Reform Committee Report on Delivery of Deeds. The main recommendations of the report have been incorporated into the Law of Property Act Amendment Bill which was introduced into Parliament in 1988 and was passed in the first session of 1989.

The Bill provides that an instrument is liable to duty according to its term notwithstanding the existence of any conditions affecting its execution. However, if any such condition is not fulfilled provision is made for the Commissioner, on being satisfied that the instrument will never come into force, to cancel the stamp and refund any duty paid.

Clause 1 is formal. Clause 2 inserts section 17 into the principal Act to make an instrument that is executed conditionally liable to stamp duty as if it had been executed unconditionally.

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

REAL PROPERTY ACT AMENDMENT BILL

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

MAGISTRATES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 11.5 p.m. the Council adjourned until Thursday 1 March at 2.15 p.m.