LEGISLATIVE COUNCIL

Tuesday 20 March 1990

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

SENATE VACANCY

His Excellency the Governor, by message, informed the Legislative Council that the President of the Senate of the Commonwealth of Australia, in accordance with section 21 of the Constitution of the Commonwealth of Australia, had notified him that, in consequence of the resignation on 1 March 1990 of Senator Janine Haines, a vacancy had happened in the representation of this State in the Senate of the Commonwealth. The Governor is advised that, by such vacancy having happened, the place of a Senator has become vacant before the expiration of his term within the meaning of section 15 of the Constitution of the Commonwealth of Australia, and that such place must be filled by the Houses of Parliament, sitting and voting together, choosing a person to hold it in accordance with the provisions of the said section.

The PRESIDENT: I inform the Council that I will confer with the Speaker of the House of Assembly and, pursuant to the powers vested in me by Joint Standing Order 16, arrange to call a joint meeting of the two Houses for the purpose of complying with section 15 of the Commonwealth of Australia Constitution Act.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following Questions on Notice as detailed in the schedule that I now table be distributed and printed in *Hansard*: Nos 1, 4, 5 and 6.

ARTS BOARDS

1. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister for the Arts: In respect of the following companies and institutions, who are the members of the respective boards, when were they appointed and for what term of office?

Aboriginal Cultural Trust; Adelaide Festival Centre Trust; Australian Dance Theatre; Carrick Hill Trust; Jam Factory Workshops Inc.; Multicultural Arts Trust; South Australian Art Gallery; South Australian Film Corporation; South Australian Museum; South Australian Youth Arts; State Opera of South Australia; State Theatre Company; Central Regional Cultural Trust; Regional Cultural Council; Eyre Peninsula Cultural Trust; Northern Cultural Trust; Riverland Cultural Trust; South East Cultural Trust.

The Hon. ANNE LEVY:

Aboriginal Cultural Institute Inc.

	When Appointed	Term of Office
Copley, Vince (Chair)	September 1988	2 years
Wilson, Garnet (Deputy Chair)	September 1988	2 years
Tongerie, Liz	September 1988	2 years
Lucas, Judith	September 1988	2 years
Rankine, Henry	September 1988	2 years
Cook, Colin	September 1988	2 years
Richards, Howard	September 1988	2 years
Tripp, Marj	September 1988	2 years

(There is capacity for three co-opted members and five *ex officio* representatives.)

Adelaide Festival Centre Trust

Roderick Nicholas Wallbridge (Chair)	13.4.89	2¾ years
Peter Brokensha	13.1.89	3 years
Graham Prior (Deputy Tony Summers) (AFA Nominee)	18.8.88	2¼ years
David Michael Quick	29.3.89	3 years
Marjorie Miriam Fitz-Gerald	13.1.88	3 years
Anne Murren Dunn	13.1.89	3 years
Alderman Michael Jeffrey Harrison (ACC Rep.)	15.6.89	2 years
Justice David Flaxman Bright (Deputy for Quick)	23.2.89	1½ years
Julie Minette Holledge	25.1.90	9 months

Australian Dance Theatre

	When Appointed	Term of Office
Judge Neal Hume (Chair)	4.5.87	2 years
Stephen Paddison	4.5.87	2 years
Michael Fitz-Gerald (Deputy Chair) (Elected)	30.5.88	2 years
Helen Beinke (Elected)	30.5.88	2 years
Leone June Watt	11.7.88	2 years
Gavin Vincent Oliver	11.7.88	1 year
Mary Constance Beasley	11.7.88	2 years
Darryl Warren (Elected)	4.5.87	2 years

(As a result of amendments to the ADT constitution on 22 March 1989 all appointments were extended by one year to three year terms.)

Carrick Hill Trust

Christopher Forbes Lauric, Dr (Chair)	2.2.88	3 years
Lyndon John Parnell (Local Council Rep.)	4.6.89	2 years
David Clyde Dridan	2.2.88	3 years
Naomi Victoria Williams	26.10.89	7 months
Suzanne Raymonde Roux	23.4.87	3 years
Ninette Clarice Florence Dutton	23.4.87	3 years
Tom Nash Phillips	19.9.88	1½ years

Jam Factory Workshops Inc.

Rowland Richardson (Chair)	17.3.88	2 years
Leslie Charles Wright	1.9.88	2 years
Anne Brennan	17.3.88	2 years
Zing Hai Tan	10.7.88	2 years
1 Vacancy		

Multicultural Arts Trust

The Multicultural Arts Trust is currently conducting a review of its structure and operating role, and is expected to report by 30 June 1990. In the interim, an Executive Steering Committee comprising Mr Len Amadio and Mr Basil Taliangis has been appointed.

Art Gallery of South Australia

Heather Bonnin (Chair)	1.1.90	3 years
Professor Peter Glow (Deputy Chair)	4.8.88	2 years
Michael Carter	1.2.89	3 years
Norman Ross Adler	21.7.88	3 years
Ronald Philippe McGregor	19.1.89	3 years
Jonathon Craig Mudge	19.1.89	3 years
Margaret Jean Nyland	1.1.90	3 years
Judith Kura Adams	1.1.90	3 years
Barbara Fargher (Staff Elected)	1.1.90	3 years

South Australian Film Corporation

Hedley Raymond Bachmann (Chair)	1.3.90	1 year
John Burke (Staff Nominee)	15.5.89	2 years
Carol Lynn Treloar	31.1.89	2 years
Quintin Young	10.6.88	2 years
James Bickford Jarvis	1.3.90	2 years
Jane Scott	1.3.90	2 years

South Australian Museum

Michael James Tyler (Chair)	20.3.89	3 years
John Moriarty	9.6.88	3 years
Charles Rowland Twidale, (Dr)	9.6.88	3 years
Arthur John Meuvley Wilson	17.9.87	3 years
John Summers	8.12.88	3 years
Winston Alfred Head (Staff Rep.)	21.3.86	4 years
Judith Mary Quigley	15.9.88	2 years
Frederick Edward Priest	15.9.88	2 years

South Australian Youth Arts Board

Maurice O'Brien (Chair)	3.4.89	1 year
Sister Judith Redden	3.4.89	1 year
Alan Farwell	3.4.89	1 year
Dr Janet Keightley	3.4.89	1 year
Paul Christie	3.4.89	1 year
Lewis Chapman	3.4.89	1 year
Christine Anketell	3.4.89	1 year
Geoff Goodfellow	3.4.89	1 year
Juliette Robertson	3.4.89	1 year
Malcolm Gray	Feb. 1990	2 months

State Opera of South Australia

Keith Smith (Chair)	25.3.88	2 years
Thomas Alan Hodgson	25.3.88	2 years
Robert Dahlenberg	28.3.87	3 years
John Francis Lovering, Dr	15.3.89	2 years
Christopher Hamilton (Friends' Rep.)	30.6.88	2 years
Mary Handley (Friends' Rep.)	30.6.89	2 years
Timothy William O'Loughlin	1.7.89	3 years
1 Vacancy		

State Theatre Company

Rosemary Neville Wighton	8.12.88	3 years
Paul Corcoran (Subscriber)	29.11.88	2 years
Barbara Crompton (Subscriber)	29.11.88	2 years
Bronwyn Jones (Staff Rep.)	15.9.89	1 year
Anthony Bush	7.12.89	3 years
Michael Steele	13.7.89	3 years
Ross Adler	21.5.89	2 years
Dean Pritchard	25.5.89	3 years

Central Region Cultural Authority

Gerlinda Trappe (Chair)	12.12.89	2 years
Alfred Engel	12.12.89	2 years
Clem Bormann	12.12.89	2 years
Ken Carter	12.12.89	1 year
Beverley Willson	12.12.89	1 year
Jenny Martin	12.12.89	1 year
Wendy Darnforth	12.12.89	1 year
David Keane	12.12.89	1 year

Regional Cultural Council

Penny Ramsay (Chair)	12.8.89	2¾ years
Peter Humphries	12.12.89	1 year
Barbara Wallace	12.12.89	1 year
Mavis Jackson	12.12.89	1 year
John Dawes	12.12.89	1 year
Peter Hollams	12.12.89	1 year
Joyce Ross	12.12.89	1 year
Margaret Luscombe	12.12.89	1 year
Judy Pearce	12.12.89	1 year
Gerlinda Trappe	12.12.89	1 year
Alfred Engel	12.12.89	1 year

Eyre Peninsula Cultural Trust

John Watson (Chair)	12.12.89	1 year
Jennifer Chillingworth	12.12.89	1 year
Kerry Dohring	12.12.89	1 year
Kevin McDermott	12.12.89	1 year
Michelle Stanley	12.12.89	1 year
Barry Wakelin	12.12.89	2 years
Margaret Luscombe	12.12.89	2 years
Terence Krieg	12.12.89	2 years

Northern Cultural Trust

Peter Hollams (Chair)	12.12.89	1 year
Allan Aughey	12.12.89	1 year
Joyce Ross	12.12.89	1 year
Heather Langford	12.12.89	1 year
Kathryn Harper	12.12.89	1 year
Ronda Cadzow	12.12.88	2 years
Richard Dixon	12.12.88	3 years
John Brakenridge	12.12.88	3 years

Riverland Cultural Trust

Mavis Jackson (Chair)	12.12.89	1 year
Gordon Johnson	12.12.89	1 year
John Dawes	12.12.89	1 year
Michael Hurley	12.12.89	1 year
Josephine Nelsson	12.12.89	1 year
Aileen O'Connell	12.12.89	2 years
Agnes Rigney	12.12.89	2 years
Andrew Coombe	12.12.88	3 years

South East Cultural Trust

Peter Humphries (Chair)	12.12.88	3 years
Diana Hooper	12.12.89	1 year
Nancy Mattison	12.12.89	1 year
Simon Bryant	12.12.89	1 year
Valerie Michelmore	12.12.89	1 year
June Emergy	12.12.88	2 years
Andrew Eastick	12.12.88	2 years
John Herde	12.12.89	2 years

FREE STUDENT TRAVEL

The Hon. DIANA LAIDLAW (on notice) asked the Minister of Transport:

1. Does the Minister consider that the Government's 24 hour free student travel scheme for primary and secondary students is in line with major recommendations contained in the Fielding report on 'Public Transport in Metropolitan Adelaide in the 1990s' aimed at assuring the State Transport Authority is a more market driven organisation?

2. If so, in what respects does the scheme relate to the Fielding report recommendations?

3. If not, why has the Government either ignored or overridden the major thrust of the Fielding report?

The Hon. ANNE LEVY:

1. The State Government has accepted the Fielding recommendations that the State Transport Authority should become a more market driven organisation, and that an appropriate operating cost recovery level and maximum deficit target should be set.

That the funding of concessions should be made through the appropriate 'welfare' agency, to ensure a greater degree of responsibility is also accepted.

2. This scheme does not relate to the Fielding report recommendations. The Government is firmly committed to the concept that the provision of public transport is a social service, and is committed to the maintenance of transport concessions, such as the primary and secondary schoolchildren fare free scheme, as part of the social justice strategy.

3. In line with this philosophy, the Fielding recommendation to gradually increase peak-hour concession fares to the level of adult fares has been rejected.

TRAM EXTENSION

5. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister of Tourism: Has the decision by the Adelaide City Council to commence work in March on a $1.2 million program to upgrade O'Connell Street, North Adelaide (involving the undergrounding of power lines, footpath and median strip paving, kerbing and treeplanting) been taken on the understanding that the Government has no intention of accepting the Fielding report recommendation that the Glenelg tramline be extended along King William Street and down O'Connell Street to Barton Terrace?

The Hon. BARBARA WIESE: The Fielding report does not contain a recommendation that the Glenelg tramline be extended along King William Street and down O'Connell Street to Barton Terrace. It in fact contains a recommendation that a study be undertaken of the extension of the Glenelg tramline to the Adelaide Oval.

As regards the basis upon which the Adelaide City Council decided to commence work on the upgrading of O'Connell Street, the honourable member should contact the council to obtain that information.

COALITION AGAINST CRIME

6. **The Hon. DIANA LAIDLAW** (on notice) asked the Attorney-General: What is the membership of the group Coalition Against Crime?

The Hon. C.J. SUMNER: The following persons have agreed to serve on the Coalition Against Crime:

Mr D. Rathman
Director
Office of Aboriginal Affairs
4th Floor, Education Centre
31 Flinders Street
Adelaide S.A. 5000

Ms Helga Kolbe
Education Department
31 Flinders Street, Adelaide, S.A. 5000

Ms B. Webster
Director
Youth Affairs Division
Department of Employment and TAFE
P.O. Box 713
North Adelaide, S.A. 5006

Ms C. O'Loughlin
Director
Domestic Violence Prevention Unit
Department for Community Welfare
1st Floor, Citicentre
11 Hindmarsh Square
Adelaide, S.A. 5000

Ms C. Treloar
Women's Adviser to the Premier
Department of the Premier and Cabinet
State Administration Centre
200 Victoria Square
Adelaide, S.A. 5000

Ms M. Fallon
Director
Social Justice Unit
Department of the Premier and Cabinet
Old Treasury Building
144 King William Street
Adelaide, S.A. 5000

Mr L. Mell
Safety House Association
76 Edmund Avenue
Unley, S.A. 5063

Mr D. Hunt
Commissioner of Police
202 Greenhill Road
Eastwood, S.A. 5063

Ms S. Vardon
Chief Executive Officer
Department for Community Welfare
Citicentre
11 Hindmarsh Square
Adelaide, S.A. 5000

Mr K.L. Kelly
Chief Executive Officer
Attorney-General's Department
12th Floor, SGIC Building
211 Victoria Square
Adelaide, S.A. 5000

Mr M.J. Dawes
Executive Officer
Department of Correctional Services
25 Franklin Street
Adelaide, S.A. 5000

Mr G. Byron
Director
Court Services Department
25 Franklin Street
Adelaide, S.A. 5000

Mr M. Schultz
Chairman
Ethnic Affairs Commission
24 Flinders Street
Adelaide, S.A. 5000

Mr T. Marcus-Clarke
Group Managing Director
State Bank of S.A.
91 King William Street
Adelaide, S.A. 5000

Mr R. Whitrod
Chairperson
Victims of Crime Service
49 Flinders Street
Adelaide, S.A. 5000

Mr R. Kidney
Director
Offenders Aid and Rehabilitation Service
222 Halifax Street
Adelaide, S.A. 5000

Mr B. Lovegrove
Police Association of S.A.
27 Carrington Street
Adelaide, S.A. 5000

Ms D. Bills
Seaton Youth Project
96A Trimmer Parade
Seaton, S.A. 5023

Ms J. Wood
S.A. Council of Churches
155 Pirie Street
Adelaide, S.A. 5000

Mrs S. Key
Adelaide Central Mission
10 Pitt Street
Adelaide, S.A. 5000

Mr D. Henderson
State Manager
Commercial Union Insurance Co.
G.P.O. Box 2171
Adelaide, S.A. 5001

Mr I. Yates
Director
S.A. Council on the Ageing
23 Coglin Street
Brompton, S.A. 5007

Ms H. Disney
Chairperson
S.A. Council of Social Service
194 Morphett Street
Adelaide, S.A. 5000

Ms C. Barnett
Chairperson
Community and Neighbourhood Houses Assoc.
109 Young Street
Parkside, S.A. 5063

Mr K. Davey
Executive Officer
Youth Affairs Council of S.A.
194 Morphett Street
Adelaide, S.A. 5000

Mr J. Morphett
President Elect
Chamber of Commerce and Industry
136 Greenhill Road
Unley, S.A. 5061

Mr P. Hall
Salisbury Council
12 James Street
Salisbury, S.A. 5108

Mayor D. McDonald
Mount Gambier City Council
P.O. Box 56
Mount Gambier, S.A. 5290

Ms P. Becker
Administrator
Southern Area Women's and Children's Shelter
P.O. Box 188
Christies Beach, S.A. 5165

Ms R. Craddock
Vice-President
Neighbourhood Watch
c/o 20 Dutton Terrace
Medindie, S.A. 5081

Justice E.P. Mulligan Q.C.
Judges Chambers
Supreme Court
Gouger Street
Adelaide, S.A. 5000

Rev. C. Dredge
President
Council of Churches
c/o 6 Melanto Terrace
Marion, S.A. 5043

Ms R. Hammond
Head of Aboriginal Issues
Royal Commission into Aboriginal Deaths in Custody
G.P.O. Box 1005
Adelaide, S.A. 5001

Mr P. Dare
Chairperson
S.A. Unemployed Groups in Action
c/o Parks Community Centre
Cowan Street
Angle Park, S.A. 5010

Judge A. Wilson
S.A. Branch, Crime Prevention Council
District Criminal Court
Sir Samuel Way Building
Victoria Square
Adelaide, S.A. 5000

Ms N. Cook
Riverland Women's Shelter
P.O. Box 370
Berri, S.A. 5343

An invitation was also forwarded to the Leader of the Opposition but no response has been received.

PUBLIC WORKS COMMITTEE REPORTS

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

Hillcrest Hospital Redevelopment—Stage I,

Port Augusta-Port Wakefield Road (RN 3500) Rehabilitation 17 km Collinsfield to Snowtown,

RN 4500 South East Highway White Hill-River Murray (Swanport Deviation) Duplication,

Tapleys Hill Road River Sturt-Anzac Highway.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

South Australian Finance Trust Limited—Report, 1988-89.

Supreme Court Act 1935—Rules of Court—Admission Rules.

Classification of Publications Act 1974—Regulations—Film Victoria Exemption.

By the Minister of Corporate Affairs (Hon. C.J. Sumner):

Credit Union Stabilization Board—Report, 1988-89.

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

Department of Fisheries—Report, 1988-89.

Regulations under the following Acts:

Fisheries Act 1982—

Gulf St Vincent Prawn Fishery—Licence Transferability.

West Coast Prawn Fishery—Licence Transferability.

Fisheries (Gulf St Vincent Prawn Fishery Rationalization) Act 1987—Licence Transferability.

Food Act 1985—Kangaroo Meat and Milk Products.

Occupational Therapists Act 1974—Registration Fees.

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

Director-General of Education—Report, 1989.

Regulations under the following Acts:

Local Government Finance Authority Act 1983—South Australian Regional Development Scheme.

Motor Vehicles Act 1959—Commercial Trailers.

National Parks and Wildlife Act 1972—Park Admission Fees.

Road Traffic Act 1961—Defect Notices.

Surveyors Act 1975—Declared Survey Areas.

Corporation By-laws—

City of Campbelltown:

No. 9—Bees.

No. 13—Waste Disposal Receptacles.

No. 33—Height of Fences.

Henley and Grange:

No. 6—Foreshore.

No. 7—Caravans.

No. 11—Bees.

District Council By-laws—

Central Yorke Peninsula:

No. 5—Street Traders.

Victor Harbor:

No. 28—Recreation Reserves.

Willunga:

No. 15—Beach Control.

No. 16—Fires and Rubbish on Beach.

Yankalilla:

No. 26—Dogs.

QUESTIONS

NATIONAL CRIME AUTHORITY

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

Leave granted.

The Hon. K.T. GRIFFIN: The Attorney-General said previously that he would be making a ministerial statement reviewing the operations of the NCA in South Australia since it was established here. On 13 February 1990, the Premier, in reply to a question in the House of Assembly, said that the Attorney-General's statement 'will be within the next couple of weeks'. It is now five weeks since that commitment was given by the Premier, nearly four months since the Attorney-General requested information from the NCA and well over two months since he acknowledges receiving it. Is the Attorney-General giving a ministerial statement reporting on the various inquiries of the NCA in South Australia this week, or is it being delayed because of the Federal election?

The Hon. C.J. SUMNER: No, it is certainly my intention to make a ministerial statement relating to the operations of the National Crime Authority in South Australia over the past 12 months. Certainly, the statement has not been delayed because of the Federal election. Quite clearly, anything that is said in the statement would, I suggest, only enhance the Government's position, not detract from it. I would have expected that, if I were looking for political advantage, I would have made the statement before the Federal election and not after it.

The statement is being prepared with the information that has been obtained from the authority and also from the Anti-Corruption Branch. Of course, other issues raised in the public arena over the past few weeks will also need to be dealt with in the statement. A further factor is that, as I understand it, the NCA will soon have a public sitting in South Australia and, because some of the issues that have been canvassed in the public arena over the past few weeks probably ought to be answered by the authority itself, I felt that it was reasonable to let the authority have its public sitting with the statement that it intends to make. I think that there will also be an opportunity for questions to be asked of the South Australian member, Mr Dempsey. Of course, that will be a matter for the authority.

The authority has indicated publicly that it will be having a public hearing and I assume that at that hearing a statement will be made by the authority. I think it is reasonable for the Government to await that statement before making its ministerial statement to the Council, but that still will be done as soon as practicable and certainly before the Council rises at the end of this session.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about the NCA and the Ark report.

Leave granted.

The Hon. R.I. LUCAS: On 1 March this year I asked the Attorney-General a series of questions about a confidential written communication from the NCA which was sent in late February to Mr Guerin of the Premier's Department. Three weeks ago the Attorney-General indicated that he would make inquiries and bring back a reply. My questions are: first, is the Attorney-General delaying his response to this question until after the Federal election and, if not, when will he reply? Secondly, will the Government table the first Ark report in a form which will not identify police officers named in it; if so, when will that occur and, if not, why not?

The Hon. C.J. SUMNER: The first question asked by the honourable member is a rather curious one. As I recall, the honourable member asked this question a day or so before Parliament adjourned for the fortnight's break for the Adelaide Festival. In other words, I have not had a

chance to answer this question during the past two weeks simply because of the very obvious fact—which would be known even to the honourable member opposite—that the Council has not sat during that period.

So, my answer to the first part of the honourable member's question is: No, I am not delaying an answer until after the Federal election. In fact, I have the answer here with me right now, and it is as follows. The Premier has provided me with the following response to the honourable member's question:

All written communications from the NCA to the Attorney-General, the Premier and Mr Guerin are marked 'confidential'. There has been no correspondence in the period mentioned which relates to the Attorney-General or to any investigation of the Attorney-General. The correspondence received concerned the resignation through ill-health of the former Chairman of the NCA (Mr Peter Faris QC).

I can only suggest that the honourable member reviews whomever he regards as his informants close to the NCA which formed the basis for the question asked by him on 1 March.

With respect to the Ark report, I have dealt with this matter at great length in the Council, publicly and at media conferences. I have said that the Government still has the question of the release of this report under consideration. No decision has been taken at this time to release the report.

The Hon. R.I. Lucas: Are you waiting until after the election?

The Hon. C.J. SUMNER: No, I am not waiting until after the election. In response to a question on 22 February 1990 asked by the Hon. Mr Lucas, I outlined the difficulties that had arisen with respect to the release of this report.

The Hon. R.I. Lucas: That's a month ago.

The Hon. C.J. SUMNER: Indeed it is, and the matter is still being considered by the Government. I have indicated the difficulties with the release of this report.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It is interesting that apparently members opposite are calling for the report to be tabled. I would like that to be on the record: that members opposite, the Liberal Party—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Lucas interjects and says that he supports Mr Justice Stewart. The position of the Liberal Party is that it supports Mr Justice Stewart. They have not seen the report and have not been able to make an assessment of it, but apparently they are prepared to accept Mr Justice Stewart in preference to Mr Faris. It is interesting to note the Liberal Party's position, which is that it supports Mr Justice Stewart.

The Hon. R.I. Lucas: Do you oppose him?

The Hon. C.J. SUMNER: No, I don't. They support Mr Justice Stewart and want the report tabled. That, apparently, is the position of the Liberal Party. There is no demurrer opposite, so I can take it, quite clearly, that that is the Liberal Party's position.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Liberal Party, or at least some people, have suggested that the report ought to be released with the names deleted. We have attempted to go through the report and delete the names to see whether or not that is a practicable proposition. Frankly, it is extremely difficult to release the report even with the names deleted. On 22 February, I went through the explanation for that and that position still stands; there are references to allegations made against police officers; there are names of informants; there are names of police officers, and so on. So, it is not just a simple matter of deleting the names and releasing the report.

Other options will have to be examined by the Government, and that is being considered at present. All I can say is that it is not a simple matter to just release the so-called Stewart report. I repeat again that it is not the report of the National Crime Authority. The Faris authority, and indeed the authority as presently constituted, do not agree with many of the conclusions of the Justice Stewart document. They believe that it would be unfair to the individuals named in the Justice Stewart document for it to be released. I suspect that virtually all the people referred to in the Stewart report are police officers. The Faris National Crime Authority said that it would be unfair to release the Stewart document with the names of the officers included in it. It said that it would be unfair to those officers and people concerned. That is obviously a matter that has to weigh with the Government in considering what to do with the report and, indeed, whether the report can be released.

On 22 February, I outlined the difficulties with a release of the Stewart document, and the matter, as I said, is still under consideration. However, I also indicate—and repeat what I said earlier—that the National Crime Authority itself is having a public hearing in the near future, and it may be that the authority will deal with some of the issues that have been raised in the public arena relating to the Operation Ark report. I have said before that some of the issues relating to that report and the difference of opinion between the Stewart document and the Faris report are matters that have to be examined or responded to by the authority itself or, indeed, may be the subject of inquiry by the joint parliamentary committee. They are not matters that the South Australian Government can become directly involved in or, indeed, instruct the National Crime Authority to do anything about.

What I do say is that the public hearing that the National Crime Authority intends to hold may include information relating to Operation Ark, and, if it does, then obviously the Government can take into account anything that the authority says at that public hearing with respect to whether it is desirable to release the report and answer some of the questions that have been raised in relation to it. So, once that public hearing has been held the Government will consider the position further. When I give my ministerial statement, which has been referred to earlier and which I have undertaken to give to the Parliament before it rises for the winter recess, the question of the release or otherwise of the Justice Stewart document will be considered in that ministerial statement. If a decision is taken not to release it, then the reasons for that decision will be spelt out for the Parliament to consider.

The Hon. R.I. LUCAS: I wish to ask a supplementary question. Other than the Attorney-General, who is currently considering the question of how the Stewart report might be tabled in the Parliament? Secondly, the Attorney-General indicated that options were being considered other than tabling with names deleted. What other options are being considered by the Attorney-General and those other persons who are considering what might be done by the Government with the Stewart report?

The Hon. C.J. SUMNER: I have the carriage of the matter. Other persons in the Attorney-General's Department have been involved in discussions about the report. Ultimately, however, it will be a decision for the Government to make whether the report should be released. That is where the responsibility rests for considering the matter, at least in the initial stages within the Government. The proposition, as I understand it from members opposite, is

that they support the Stewart document and believe it should be released. I understand that they would be happy if it were released without names. I have indicated that to go through and delete the names from the report is not a practicable proposition.

The Hon. R.I. Lucas: There is another option.

The Hon. C.J. SUMNER: I will come to that. That is not a proposition which can produce a report which is of a great deal of value. In any event, in order properly to preserve the anonymity of the people referred to in the report, it would be necessary to delete more than the names—the context, and so on—effectively to make the report emasculated to the extent of not being able to be released in that form. The other option is that a precis may be able to be prepared, although there are extreme difficulties with that as well. The other proposition is that the opinions, or at least a summary of the report, could be included in a ministerial statement, which I intend to give.

However, I can only repeat what has been said before: that, whether we are talking about the Stewart document or the Faris report, there was no finding of corruption or illegality by either authority in relation to the reporting of the Operation Noah allegations. Further, when the 13 matters were investigated, after the intervention of the National Crime Authority, none of those allegations was substantiated.

There is common ground on some of the recommendations between the two documents, and it should be emphasised that the Government has made public the Faris report in full and has made public the recommendations of the Stewart document. There is common ground with some of those recommendations, but there are differences of opinion on others. There is common ground that there was reason to criticise the South Australian Police Force for its handling of the Operation Noah allegations in 1989. That is common ground, and those criticisms are contained in the Faris document, which has been released.

The Hon. R.I. Lucas: No, it is not.

The Hon. C.J. SUMNER: It is, however, true—and I have said this publicly on numerous occasions previously—that the Stewart document is more critical of the South Australian police than the Faris document. However, I repeat that the Faris authority (that is, the National Crime Authority, as it currently exists, with which the Government has to deal) does not believe that the Stewart document should be released, because it considers that it is unfair to the officers who are named in it. Apparently members opposite are quite happy for a document, which the National Crime Authority believes to be unfair to the officers mentioned, to be tabled.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That is the question that members opposite—

The Hon. R.I. Lucas: Why are you trying to hide it?

The Hon. C.J. SUMNER: I am not trying to hide anything. What we are trying to do is—

The Hon. R.I. Lucas: It is a gross cover-up.

The Hon. C.J. SUMNER: —deal with what is admittedly a difficult situation as best we possibly can. It was not of the Government's making that we ended up with a Stewart document and a Faris report. That was something that occurred within the National Crime Authority, and that is something for which the National Crime Authority itself will have to answer. It is not of the Government's making.

I have said before that it is not a particularly satisfactory situation, but the reality is that at present we have the existing authority saying that, in its view, it would be unfair to release the Stewart document. It does not agree with many of the conclusions in the Stewart document. In those circumstances, I think that is a factor that needs to be taken into account.

I would have thought it was a factor that would have been taken into account by members opposite. I would have thought that they might perhaps have some concerns about the reputations of innocent people—but apparently they are not worried about the reputations of innocent people, innocent police officers, and they are calling for the report to be released, come what may. That is all right. That is the Liberal Party's position and it is on the record.

All I can say is that I have dealt with this matter at length. I indicated on 22 February the difficulties that there are with respect to the release of the Stewart document. I have said that the National Crime Authority is soon to have a public hearing. I have said that after that hearing the Government will provide a ministerial statement to the House on the National Crime Authority's operations in this State over the last 12 months. I have further said that in that statement the question of the release or otherwise of the so-called Stewart document will be considered and if a decision is taken not to release the document then reasons will be given for it.

ROADS, TRAVEL AND TOURISM

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question on the subject of roads, travel and tourism.

Leave granted.

The Hon. DIANA LAIDLAW: The Industries Assistance Commission Report on Travel and Tourism, September 1989 stated:

> . . . improved roads would benefit tourism unequivocally.

This conclusion was endorsed by the Australian Tourism Industry Association in its paper prepared for the National Summit on Debt, on 1 March this year, in Canberra. The Association argued that the tourism and travel industry:

> . . . overwhelmingly supports an increased priority for road funding, from the present revenue base.

Since 1983, South Australia has suffered severe cuts to road funding—amounting to $270 million—at the hands of both the Hawke and Bannon Governments. A further $160 million is to be cut this financial year.

In the last six Federal budgets alone, road funds for South Australia have been cut by $107.6 million in real terms, with another $52.2 million to be lost this financial year. Had our road funding from Canberra kept pace with inflation since 1983, South Australia would be receiving $143.5 million this financial year. Yet our actual allocation is only $91.3 million.

This bleak situation has been aggravated further by the actions of the Bannon Government, which over the same period has frozen the total allocation to roads at $25.726 million per annum. Therefore, while the Bannon Government has collected funds of $324.7 million in State petrol tax since 1983, over the same period it has returned only $154.3 million to roads—with the remainder, some $170 million, being siphoned off to general revenue. This year, a further $53.8 million is likely to be lost to road funding from petrol tax collections, even though the State petrol tax was introduced initially as a source of funding to be dedicated to the construction and maintenance of roads in South Australia.

My questions to the Minister are:

1. Does the Minister agree that the successive cuts by both the Bannon and Hawke Governments in funds for roads since 1983 have had an adverse impact on travel and tourism in South Australia?

2. Does she accept that the South Coast Road on Kangaroo Island, for instance, would now be sealed and therefore be an asset to tourism in South Australia, if the Bannon Government had since 1983 continued the earlier practices of allocating all State petrol taxes to road construction, rather than freezing, at 1983 monetary levels, the level of funds allocated to roads from this source?

The Hon. BARBARA WIESE: The honourable member asked whether the decrease in road funding during the past few years has had an adverse impact on tourism in South Australia. I am sure that she is well aware that it would be almost impossible to prove or, indeed, deny such a claim. There simply would not be statistics or sufficient evidence around to support such a claim, although from time to time one hears anecdotal reports of people saying that roads in particular areas of the country are not as good as they should be and that they are reluctant to travel to certain areas again unless roads are improved. Whether or not those views are widespread and whether or not people's travel patterns are affected is not something that either the Hon. Ms Laidlaw is or I am able to verify. However, I will make some remarks about the situation with respect to roads in South Australia and tourist roads, in particular.

Although there have been reductions in Commonwealth road funding in the past few years, as I understand, historically better allocation has been made to roads in South Australia than in many other parts of Australia, and the road system in South Australia is generally regarded by people who travel a lot by road, particularly people in the transport industry, as being much better than in other parts of Australia. Notwithstanding that, I hold the view that the State Government needs to take action—

Members interjecting:

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

The Hon. BARBARA WIESE: South Australia needs to take better action in future in order to take account of the tourism industry needs where roads are concerned and, for that reason, last year, I took a submission to the Resources and Physical Development Committee of Cabinet in which I outlined the need for Government infrastructure agencies, including the Highways Department, to pay more attention to the needs of the tourism industry when allocations for road funding are being determined in much the same way as the needs of other sectors of our economy are considered when working out future priorities.

I am pleased to say that that subcommittee of Cabinet, which comprises those Ministers who are responsible for such infrastructure agencies, supported the view that I put. In that submission I suggested that a review should be undertaken within the Highways Department of the methods used for the allocation of money to roads so that tourism interests can be better taken into account. I also submitted that a review should be undertaken of the money which is set aside annually for tourism roads grants, because, in my view, that amount is quite insufficient. However, even if there were to be an increase in tourism roads grants, that would not be satisfactory either, in my view, to meet the future needs of the tourism industry.

The honourable member referred to the south coast road on Kangaroo Island. She would probably be aware that I have paid particular attention to that road and identified it as a road of major tourism significance for South Australia. Kangaroo Island is one of those areas of the State that has the greatest potential to be our tourism flagship, both nationally and internationally. Therefore, it is very important that the south coast road be sealed as soon as possible.

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: That would cost some $10 million in today's terms, which is a very large sum of money. The honourable member sits there, blithely suggesting that this amount of money could easily be found. I ask her where she expects those resources to come from: perhaps from the hospital system or the education system. Indeed, perhaps we could take it from the money that is allocated for roads in various parts of the State on the recommendation of various local government authorities. I am sure she is not suggesting that the money should be found in that way. We are thus left with the problem of determining how best we can reach our decisions on priorities for the future.

I have taken the step of suggesting to the Premier that, on behalf of the South Australian Government, he should make a submission to the Federal Government to seek a special allocation on the basis that the south coast road on Kangaroo Island should be considered a road of national significance, enabling the road to be sealed. There is a precedent for such action to be taken by the Federal Government. The details of the submission are being finalised and I hope that it will be considered very shortly by the Federal Government, whether it be a Labor or Liberal Government. I suppose one of the things—

Members interjecting:

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

The Hon. BARBARA WIESE: One of the things that has emerged during the course of the Federal election campaign is that both of the major Parties have indicated that they will allocate much more in the way of resources to the roads of this nation during the course of the next term of government. I will do as much as I can to see that South Australia gets its share of any new Federal moneys that are provided in this area so that we can start to seal some of our major tourist roads and fulfil our potential in this area.

CANNABIS SEED

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of cannabis seed.

Leave granted.

The Hon. M.S. FELEPPA: Recently Judge Lewis of the District Court dismissed a case where a man was charged with possessing 100 000 cannabis seeds. Dr Robinson, head of the Forensic Service Division of the Australian Federal Police, confirmed that 30 000 of these could be expected to grow to maturity. To come under the Controlled Substances Act, cannabis must contain resin, and cannabis seeds do not contain any resin although the coating is of a fibrous material. The ruling of Judge Lewis was reported by the *Advertiser* on 8 March 1990, as follows:

> It is my opinion that seeds which contain no resin are not intended by Parliament to be included in the class of drug by definition in section 4 of substances which ought to be and are prohibited. It would seem to me that Parliament would hardly have had the intention of including seeds, in themselves in that class of substance which it declared illegal since it contains no resin.

The seeds themselves contain no psychotropic properties, that is, properties that act on the mind. Cannabis seed is used in bird seed mix without any harmful effect. Since

seeds in this quantity seem not to be for mixing with bird seed, it can be inferred—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.S. FELEPPA: —thus they are intended for growing plants for the drug market. This may be jumping to a conclusion, but to stifle the drug trade at this early stage and in order to close a gap in the law, will cannabis seed be made a controlled substance within the meaning of the Controlled Substances Act?

The Hon. C.J. SUMNER: Obviously, the Government believes that cannabis seeds should be included in the list of substances that are illegal. The Government has two avenues open to it: one is for the Crown to state a case to the Full Supreme Court on the decision of Judge Lewis, and the second is to amend the legislation to ensure that cannabis seeds are properly covered, as I think it is clear that that was intended by the legislation passed by the Parliament. They are the available options to the Government. The matter will be examined and either one or the other of those actions will be taken as soon as possible to clarify the situation.

NATIONAL CRIME AUTHORITY

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about the Stewart National Crime Authority (NCA) report.

Leave granted.

The Hon. I. GILFILLAN: Last night, on the *7.30 Report*, there was an extensive disclosure of the alleged contents of the so-called Stewart NCA report in which two police officers were named. This morning, on page 3 of the *Advertiser*, there was an article drawn from that program. In part that article states:

> Justice Stewart has since accused the NCA Chairman who succeeded him, Mr Peter Faris, QC, of watering down the original report almost completely in a report Mr Faris prepared on the Operation Noah investigations.
>
> While the Stewart report contained no findings of corruption or dishonesty, the *7.30 Report* said it found there had been 'negligence, incompetence and sheer inadvertence' in the way the South Australian police investigated allegations against themselves made during Operation Noah. The program said that of 13 complaints against police made during the anti-drugs phone-in last year, only one was correctly logged in a computer. It concerned a New South Wales Police Force officer.
>
> The Stewart report allegedly said the computer record was forwarded to the Australian Federal Police, who were coordinating Operation Noah, without correction. Details of the allegations were then passed to the South Australian Police Internal Investigations Bureau by one of the three senior officers named in the report. But the Stewart report allegedly was strongly critical of the way the complaints were dealt with.
>
> The *7.30 Report* said Justice Stewart criticised the officer for telling a parliamentary NCA joint committee two weeks after Operation Noah: 'I can state with surety that there is no organised corruption in our force.' Justice Stewart was said to have pointed out the officer would have been aware of 12 allegations made by the public about police involvement in the drug trade during Operation Noah.
>
> The *7.30 Report* quoted Justice Stewart as saying 'It would appear plain on the evidence that the Anti-Corruption Branch (of the South Australian Police Force) was also not advised of the existence of these allegations despite its acknowledged anti-corruption function and its liaison role with the NCA.'
>
> In examining the way the police investigated the complaints against its own officers, the Stewart report was claimed to have found:
>
> Six cases in which 'poor investigative practices' were employed.
>
> Two cases in which members of the same police station were asked to investigate colleagues.
>
> One case of 'unquestioned acceptance' by police of a report deemed inadequate by the NCA.
>
> Asked how the public would view the way the investigations into Operation Noah had been carried out, Assistant Commissioner Colin Watkins (not one of the officers criticised in the report) apparently told the NCA: 'They could be forgiven for thinking it was Disneyland.'

The article then goes on to quote Mr Sumner's reaction, with his saying, understandably, that the Government was in a 'difficult position' since the current NCA believed Justice Stewart's findings were unwarranted and should not be published and that the Government had ended up with two documents.

Further on, as the Attorney has already said to this Council, he said it was difficult to publish the report without the names being discloseed. He said that that was 'almost an impossible task'. We do have a precedent—the Griffin report, brought down in the early 1980s, on alleged police misconduct in which names were deleted and ciphers were used. The Attorney has referred to an NCA public hearing. I attended the previous public hearing of the NCA and anyone who attended such a hearing would not be particularly optimistic that that public hearing would tell us anything, The NCA has an avowed policy of secrecy and it seems to be able to adhere to that remarkably well in any public announcements, except if, from time to time, these reports have become available to the ABC.

I put it to the Attorney that, whether or not the Government releases the report, it is now apparently in the hands of the ABC—the full 139 page report. One can assume that it will not stop there. I think it is reasonable to assume that the contents of that report will very quickly become widely known throughout South Australia and, probably, the rest of Australia. It seems to be reasonable to say to the Attorney-General that whatever justification he had (and I will not make a judgment on that, as I believe he has treated the matter seriously and responsibly) before the current situation, where the Stewart NCA report has been largely disclosed, the position is now inarguably that the report must be tabled in Parliament in a form in which whatever names the Attorney-General believes should be disguised be so disguised, similar to the procedure used in the case of the Griffin report of the early 1980s. Not to do so will cause more distress to the Police Force through the allegations, rumours and innuendo that will circulate until the real document is revealed.

My questions to the Attorney-General are: did he see the *7.30 Report* and read the report in the *Advertiser* this morning and, as a result of that and anticipating that there will be further disclosures through the media, will he reconsider his decision, which he has apparently repeated today, not to release the report, because of the argument I put up that the cat is virtually out of the bag and that it is fairer for all for the report to be made available to this Parliament? As the representative seat of the people of this State, it is our duty and our right to have access to the document directly and not through the media.

The Hon. C.J. SUMNER: I did see the *7.30 Report* and the article in the *Advertiser*. In relation to the second question, I have not said that the Government has refused to release the report. I said that the Government is considering that matter and that no decision has been made to this time to release this report. I further said, however, that the matter would be considered, particularly after the public hearing of the NCA, which I have foreshadowed will occur shortly. When I give my ministerial statement—the audit, if you like—of the NCA's activities in South Australia during the past 12 months, the question of the release of the Stewart document will be dealt with.

If the conclusion is that it ought not be released, then the reasons for that decision will be set out as clearly as they

can be in that ministerial statement. I understand the arguments that the honourable member is putting to the Council and through this medium to me on behalf of the Government. The honourable member has advanced reasons why the report should be released by the Government, in any event. Whatever issues of principle might be involved, he has put to me that the report ought to be released because a media organisation already has a copy and is likely to release bits of it as it sees fit over the next few months.

I will take that submission into account, and ensure that the Government is aware of it when making its final decision on this matter. I understand the arguments put forward by the honourable member and I will consider them when examining the question whether the Stewart document should be released.

On the question of names, I understand that a precedent exists in the report tabled by the Hon. Mr Griffin in 1982 where names were coded and deleted from the text. It is fair to note that that report was written with a view to its being tabled and was probably written in a way in which names could be deleted easily and codes inserted without necessarily giving away the names of the persons or police officers referred to.

The Stewart document has not been written in that way. Some time has been spent on seeing whether the report can be properly released with the names just deleted. There are grave difficulties in doing this because of the context in which the names appear and the manner in which the report has been prepared. It is not possible to just go through the report and delete names—that is too simplistic an exercise, if you want to (as apparently the honourable member is prepared to agree to) protect the identities of the people named in the report. Because of the way in which the report is written, even if the names were deleted, the people to whom the report refers would be indicated.

This has led us to examine another possibility, that is, some kind of precis or synopsis, options which I mentioned earlier in answer to a question by the Leader of the Opposition. It may be that in the final analysis the honourable member is right when he says that the media have a copy of this report, although I do not know from what source. Apparently, the media have a copy of this report or at least are aware of enough of it to run a program on the *7.30 Report*. The Opposition says that the fact that the media have the report is justification for the Government's agreeing to release it, presumably with names or without any deletions.

All I can say is that the points made by the honourable member and indeed other members earlier today will be taken into account by the Government in making a decision whether to release the report. Although no formal motion has been passed, it is clearly on the record of this Council that the Liberal Party not only supports Mr Justice Stewart but also believes that the report—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: You said you supported Justice Stewart.

Members interjecting:

The Hon. C.J. SUMNER: Don't try to—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order. The Hon. Attorney-General has the floor.

The Hon. C.J. SUMNER: If the honourable member would refrain from interjecting, the matter could be dealt with. He made no bones about the fact that he supports Justice Stewart's report: that is the fact of the matter. He now interjects and says, 'Table it.' He says that we should delete the names and table the document.

The Hon. R.I. Lucas: I have been saying that for a month.

The Hon. C.J. SUMNER: That is all right, as long as the honourable member's position is clear. He says that just to delete the names is sufficient. Is that all you want to happen?

The Hon. R.I. Lucas: You must be getting hard of hearing.

The Hon. C.J. SUMNER: Is that all you want to happen?

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Leader of the Opposition makes it quite clear that he has been saying for months that the Stewart report should be tabled. How he will do that by deleting names I am not sure. But, that is the Liberal Party's position, and we will take into consideration their submissions on that point. The Democrats have also indicated that they believe the report should be released. The matters raised today by all honourable members will be considered by the Government before it makes a final decision on this matter.

SMALL BUSINESS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Small Business a question about the crisis in small business in South Australia.

Leave granted.

The Hon. L.H. DAVIS: I am sure that this morning the Minister noted on page 3 of the *Advertiser* an article headed 'Crisis in SA business confidence'. The article referred to statements by Mr Lindsay Thompson, the General Manager of the South Australian Chamber of Commerce and Industry. Following a comprehensive survey of chamber members, Mr Thompson expressed concern about the fact that small business in South Australia has been throttled by the high cost of finance and the low level of demand. He urged the State Government to work more closely with the private sector to reverse the feeling of 'absolute terror' in the small business community and to boost confidence and economic growth. The article states that about 40 per cent of businesses which responded to the survey expect a staff cut in the next year and that 57 per cent of firms do not expect any real growth in sales during this financial year.

Mr Thompson's remarks were echoed by Mr Stephen Young, a well-known managing partner of business insolvency specialists, Arthur Andersen. He said that businesses were struggling to survive the combined effect of high interest rates over a long period and that many businesses are finding restructuring extremely difficult.

Remarkably, the only rebuttal from the Government was from a spokesman for the Minister of Industry, Trade and Technology (Mr Arnold) who said that the business environment had not been helped by business itself talking down the State. That is a remarkable statement because all business is doing is referring to the facts. The reality is that not one person on the front bench of the Bannon Government has had any experience in small business. I find quite deplorable the Bannon Government's lack of will and preparedness to address a real crisis, the greatest crisis which small business has suffered in South Australia for at least 15 years.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: My questions are: first, does the Minister agree with the observations of Mr Lindsay Thompson and Mr Stephen Young that the high cost of finance is strangling small business in South Australia? Secondly, does

she support the high interest policy of the Hawke Labor Government—yes or no?

The Hon. BARBARA WIESE: I do not think there is very much in the honourable member's question that he has not already raised in this place many times before. He had his run in the newspaper today, and I should have expected that he would leave it there and let people get on with the job. However, I think it is important in the very brief time available to me to indicate that the State Government is doing as much as it can to assist small businesses in this State, particularly during this very difficult time.

I have already indicated that I expect the next 12 months or so to be difficult for business in South Australia. The State Government has under review the land tax system and electricity rates applying to business. We have met with financial institutions to make sure that they look at small businesses more sympathetically than they have in the past. We are establishing a business bookkeepers' scheme to give proper advice and assistance to small businesses, and I think that all those measures, not to mention the many others that we have in train, will be of some assistance.

In addition to that, I am sure that South Australians would recognise that these problems that have emerged in recent times are not exclusive to South Australia; they are happening in other parts of the country and, certainly, the general economic thrust of the Federal Government is supported by this Government.

ABORIGINAL LANDS TRUST ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

The purpose of this Bill is to enable the Governor to make regulations prohibiting the consumption, possession, supply and sale of alcohol and other regulated substances in Aboriginal communities that occupy Aboriginal Lands Trust owned and controlled land. Its purpose is to reduce vandalism, assault and social disruption frequently experienced in certain Aboriginal communities because of the availability of alcoholic liquor and other substances.

The Bill sets out to do the following:

- by regulation, restrict or prohibit the consumption, possession, sale or supply of alcoholic liquor on specified parts of Aboriginal Lands Trust lands;
- by regulation, prohibit the inhalation or consumption of any regulated substance (such as petrol) on specified parts of the lands;
- by regulation, prohibit the possession, sale or supply of any regulated substance on specified parts of the lands for the purposes of inhalation or consumption;
- by regulation, provide for the confiscation of alcoholic liquor or any regulated substance used in contravention of the regulations;
- by regulation, provide for the treatment or rehabilitation of any person affected by the misuse of alcoholic liquor or any regulated substance;
- by regulation, prescribe penalties for contravention of or non-compliance with the regulations; and
- under certain circumstances provide for the confiscation of vehicles used in the distribution and supply of alcohol or a regulated substance.

It is important to emphasise that this is a self-regulating piece of legislation and that it does not necessarily cover every Aboriginal community. The regulations will apply only to those areas where a recommendation is made to the Governor by the appropriate Aboriginal community council, and the provisions may be varied or revoked only on the recommendation of that community council.

The need for this Bill has arisen because of the devastating effects that alcohol abuse has had on some Aboriginal communities. Some Aboriginal communities have unhappily been virtually decimated by drunks and exploitation by grog-runners and profiteers. The sad results have been chronic ill health, vandalism, domestic violence and threats to staff and community members. This Bill is designed to address this issue head-on and has been strongly supported by Aboriginal communities. Until now, Aboriginal community councils have made unsuccessful attempts to control drinking on community lands and to curb the sale and supply of liquor. Police have had only limited powers in this area and have been able to intervene only when other associated offences have been committed. This Bill gives the police much wider powers in taking action against persons who consume, sell or distribute alcohol or other regulated substances on prescribed sections of the lands. It will also enable the courts to impose realistic penalties for offences committed against the regulations.

The wording of the Bill follows very closely the wording of provisions of section 43 of the *Pitjantjatjara Land Rights Act, 1981*, which were inserted in 1987. The by-laws made under that section have been effectively enforced on the Pitjantjatjara lands by the police and police aides. On the two visits to the lands by the Pitjantjatjara lands parliamentary committee since the introduction of the by-laws, the committee has reported a marked improvement in the general health and wellbeing of the people, including more effective law and order in communities. The committee has commented to the House on these matters in its reports tabled in 1988 and 1989. Wide consultation with Aboriginal communities and departments which provide services to Aboriginal communities has occurred in the drafting of this Bill.

An inter-departmental meeting, including representatives of the Aboriginal Lands Trust and the Yalata Aboriginal Community Council, was convened by the Office of Aboriginal Affairs in October 1988. This meeting recommended that strong laws should be enacted to control excessive alcohol abuse, vandalism, assault and domestic violence on Aboriginal communities especially at Yalata. This meeting was followed up by a community meeting at Yalata last November 1988, which was attended by the Aboriginal Lands Trust and the Office of Aboriginal Affairs. The meeting resolved that the Aboriginal Lands Trust Act should be amended in line with this Bill. The Aboriginal Lands Trust concurred in this recommendation. The Chair of the Aboriginal Lands Trust and an officer from the Office of Aboriginal Affairs met with the Yalata Aboriginal Community Council on 20 September this year. The draft Bill was discussed and the council has endorsed its adoption in its entirety. 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 inserts new Part V into the principal Act consisting of new section 21.

Subsection (1) empowers the Governor, on the recommendation of an Aboriginal community, to make regula-

tions controlling the consumption, possession, sale and supply of alcoholic liquor and regulated substances (i.e., petrol and other substances declared by the regulations to be regulated substances) on a specified part of the lands, providing for the confiscation of alcoholic liquor and regulated substances, providing for the treatment or rehabilitation (or both) of persons affected by the misuse of alcoholic liquor and regulated substances and prescribing fines (not exceeding $2 000) for contravention of, or non-compliance with, a regulation.

Subsection (2) provides that a regulation under subsection (1) cannot be varied or revoked except on the recommendation of the Aboriginal community on whose recommendation the regulation was made.

Subsection (3) empowers a member of the police force (which includes a special constable authorised by a member of the police force) to seize and impound any vehicle reasonably suspected of having been used in connection with the supply of alcoholic liquor in contravention of a regulation.

Subsection (4) requires the seizure of a vehicle under subsection (3) to be referred to a magistrate.

Subsection (5) empowers a magistrate, in certain circumstances, to order the confiscation of a vehicle used in connection with the supply of alcoholic liquor in contravention of a regulation.

Subsection (6) empowers a court by which a person is found to have been unlawfully in possession of alcoholic liquor or a regulated substance for personal use in contravention of a regulation, to undergo treatment or participate in a prescribed rehabilitation program.

Subsection (7) makes a person who contravenes or fails to comply with a regulation guilty of a summary offence and liable to the penalty specified in the regulations, or, if the regulations do not specify a penalty, liable to a maximum division 7 fine ($2 000).

Subsection (8) makes a person who contravenes a regulation regulating, restricting or prohibiting the sale of alcoholic liquor or prohibiting the sale or supply of a regulated substance for the purpose of inhalation or consumption, guilty of a summary offence and liable to a maximum division 7 fine or division 7 imprisonment ($2 ,000 or six months).

Subsection (9) is an interpretation provision.

The Hon DIANA LAIDLAW secured the adjournment of the debate.

REAL PROPERTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 March. Page 507.)

The Hon. L.H. DAVIS: I indicate that the Liberal Party supports this Bill. It is interesting to reflect that South Australia pioneered the way in relation to property titles when Sir Robert Richard Torrens introduced what is now known as the Torrens title system, which has spread to all States of Australia and many countries of the world. It is a scheme that was introduced some 132 years ago. So, when we debate this proposal we do so remembering that the scheme, which is now in place and which is much less cumbersome and much more effective than the physical holding of numerous pieces of paper as evidence of title, in fact originated in the then colony of South Australia.

The Bill is an example of a change in legislation which has been brought about by an advance in technology. There is criticism that at times Parliament sees too much legislation, but when we have legislation of this nature, which is designed to take advantage of new technology, hopefully to speed up processes, to cut costs and to introduce a system which will be more readily accessible to its many users, then it deserves support. That is not to say that there will not be questions on the legislation from members on this side of the House.

We accept that the proposal, far reaching as it is, will not be speedily introduced. The task which is set down for the Lands Titles Office is to register land in digital form to take advantage of the latest technology and to enable people to have access to information on titles not just at the Lands Titles Office, but ultimately elsewhere. This conversion from what is essentially a manual scheme at the moment will, we are told, take some 10 years to achieve, because in South Australia 800 000 titles are at present held with the Lands Titles Office.

I am interested to note that other States have been taking similar steps. Only last week in the national press there was an article which highlighted the fact that the Victorian Lands Titles Office is moving along a similar paperless path, as it was called. It is buying a $1.5 million Olivetti imaging system, which is claimed to be the first in any Lands Titles Office in the world, as part of a program to computerise its paper-based storage and handling system. It appears that other States are moving in a similar direction.

The Victorian Lands Titles Office has made off-site access to some of its data available over the last two or three years, and that has allowed banks, other departments and some legal firms to access electronically property ownership details. That is something to be commended. Only in February this year, through the Victorian LINK network, access was given to 250 solicitors' offices, given that they are responsible for much of the real estate work that is done in Victoria. Therefore, in Victoria it is proposed that over the next three to five years customers will be able to call up full titles and area plans on their office screens. That is what is set down in Victoria. To reflect on the magnitude of the task and the amount of paper that is involved in Victoria before I address my remarks specifically to South Australia, it appears that in Victoria, going back to 1862, there are 2.5 million titles—that accords with the difference in population between South Australia and Victoria—stored in 10 000 volumes over five levels and growing at a rate of 60 000 new titles, or 177 line metres of storage space, every year.

There is an enormous physical challenge in handling the manual system that is presently in place in South Australia and in Victoria. Indeed, in Victoria we are told that 80 people are employed to handle the titles as part of the process of meeting the demand for 4 000 searches a day from solicitors, banks, surveyors, professional searchers and the public. The first stage in Victoria will be to transfer titles data from paper to computer format. They have transferred 250 000 strata title certificates.

This imaging system, which is based on an Olivetti document image processor, will consist of document scanners, file servers, a 'juke box' containing 90 optical disks, each of which can store the equivalent of 50 000 standard A4 pages, and laser printers. It is interesting for me to refer to that, and I acknowledge that that information is contained in the *Financial Review* of Wednesday 14 March 1990. It was fascinating for me, having been born at the edge of the age of technology, to wonder at the rapid advances that have been made in this area.

I commend the second reading explanation of the Bill. I have often been critical in the past of second readings which

have been very scanty on information in relation to matters of substance, but I must say—

The Hon. T.G. Roberts: You have been critical about the Victorian Government in the past, too.

The Hon. L.H. DAVIS: There is a lot to be critical about when it comes to the Victorian Government, if one wants to digress, but I will not. I find the second reading, for a layman in technology matters, very helpful. I suggest that Ministers should look at this as a model of information which I think is useful not only for members of Parliament, but for other people who follow these matters. The second reading details the purpose of the changes in the Real Property Act and several other Acts which will require consequential amendments. It details the magnitude of the proposed change to the land title system in South Australia.

It is fair to say that the Lands Titles Office in South Australia has been highly regarded for its efficiency of operation in years gone by. Presumably that reflects on the high standard that was set by Sir Richard Torrens. The office had a system to live up to, to service and to advance. I think that has been done with some style, efficiency and effectiveness in years gone by. But this next step, the computerisation of the Titles Register, is a new and exciting challenge. One would imagine that the research and development which has been carried out over the past two years has been done in consultation not only within Government circles and across departments, but also within the computer network links of Government, and presumably with the private sector and the real estate industry. In other words, there has been full consultation to establish what is required and what system will best serve South Australians into the next century.

That is a very difficult choice. It is not easy, in a rapidly changing environment, to pick up the best equipment and say, 'This is what we will have,' because in six or 12 months there may be a new development which will make the decision perhaps look suspect. One has sympathy, in the public and private sectors, for the difficulty of decision making when looking at technology systems.

The difference between what is proposed and what we now have is stark. At the moment, we have a manual system which involves the retrieval of titles and instruments from the files for endorsing, the actual endorsement of the titles and instruments, the sealing of the endorsements and subsequent refiling upon completion of the registration process within the Lands Titles Office.

That is from a statement in the second reading explanation as to how the system now operates. There is an enormous amount of duplication. There are enormous amounts of physical handling and, presumably, some inefficiencies within the system. It will be interesting in the second reading debate, to find out about the savings which are expected over a period of time in terms of costs and employment and also to find out about some of the obvious benefits that will flow from this system.

The advantages which attach to the proposed computerisation of the Torrens title system will be to reduce manual effort, quite obviously, and to enhance the Land Information System (LIS). The Department of Lands has a proud record in developing systems such as the Land Ownership and Tenure System (LOTS) and the Automated Registration, Indexing and Enquiry System (ARIES), the unregistered document system.

One of the principal advantages quite clearly will be that people will not have to physically attend the Lands Titles Office to search the register. I have not been into the office to do a search for some time and I am not sure whether they use a number system or not, or whether one just has to queue up at the counter—I remember queuing there in the past. From the second reading explanation, I understand that some 2 000 photocopies of titles are requested each day. It means that a lot of people from solicitors' offices and real estate offices have to attend the Lands Titles Office to collect these prints. Computerisation of the Titles Register will make that information available on a terminal connected into the system. Presumably, it will mean a solicitor's office will be able to access the information that is required. This will be a tremendous advantage and will involve a physical saving of time, effort and cost. Of course, it will also simplify titles. The second reading explanation mentions that, for a variety of reasons, titles are often complex and require a relatively high level of expertise to interpret. It is proposed that this system will enable simplification of titles and it will also enable a title to be accompanied by a title diagram.

There are these cost advantages which, inevitably, are accepted as part of the benefits of a system such as this. There will be savings on duplication of effort and labour. Also, manipulating data input currently going into ARIES, to build new titles and to update existing titles is rated as another saving.

The other area in which I have had a long-standing interest relates to records management. This matter has fallen off the parliamentary agenda in recent times, because after some pressure and some public debate the Public Record Office was established. I must say that the occasion of this debate reminds me to make inquiries as to how well the storage of records and the effectiveness and efficiency of records management is progressing in South Australia. It was put to me that one of the reasons why we could not progress with records management and computerisation of our systems in many departments was that the records were so primitive, so hopelessly inadequate. One of the very strong arguments that I had at the time was that there was a lack of sophistication in culling the records; that quite often very valuable historic documents had been thrown out simply because records management was delegated to the most junior clerk on the lot.

The Hon. Anne Levy: There are experts on it now.

The Hon. L.H. DAVIS: I understand that some progress has been made in this important area in terms of cost savings, in taking documents that are not really required off the floor of a $350 a square metre office building in town and storing them in a low-cost and secure, and environmentally friendly, place.

The Hon. Anne Levy: At Gepps Cross.

The Hon. L.H. DAVIS: Correct—and I remind the Minister that I was at the opening some years ago. So, one of the benefits that will flow from this computerisation of the Lands Titles Office is that it will prevent the continued acquisition of physical pieces of paper. It will mean that the Lands Titles Office perhaps will not have to move quite as soon as may have been envisaged, say, 10 years ago.

In implementing a system that is going to cater for 800 000 titles, one of the obvious problems is the danger of that information being accessed by unfriendly parties. That is something I have read a little about and obviously it is an area where considerable expertise is involved. The second reading explanation goes to some length to assure us that there will be security associated with the system. I indicate that the Opposition accepts the need and the desirability of change. Essentially, this is a Committee Bill. I am sure that my colleague the Hon. Trevor Griffin, who has some expertise in this subject, will also make a contribution to this debate.

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

LEGISLATIVE COUNCIL AIR-CONDITIONING

The Hon. R.I. LUCAS (Leader of the Opposition): Mr President, I seek leave to ask you a question about the conditions in the Chamber.

Leave granted.

The Hon. R.I. LUCAS: A number of members have raised with me the fact that it is considerably warmer and stuffier than normal in the Chamber this afternoon. I wonder whether there has been a breakdown in the air-conditioning or something like that. A number of complaints have been made to me, and as this matter is within your jurisdiction, Sir, I seek your guidance on it. This session the question has been raised with me whether we supported a raising of the temperature in the Chamber, and we debated this matter in the Liberal Party room. I informed you, Sir, that we were unanimous as 10 members in this Chamber in being happy with the current conditions. As to the present situation, is this just a breakdown or has a decision been made to change the conditions? If a decision has been made for change, I think that not only the members should be consulted but also the staff, some of whom are required to wear heavy cloaks and gowns, as you do, Sir. The Chamber staff, too, ought to be consulted in relation to any change in policy on temperature and conditions in the Chamber.

The PRESIDENT: I am not aware of any changes having taken place, but it does feel warmer today. I have always worked on the consensus opinion of members in the Chamber. I am happy to have the matter looked into and to abide by a consensus of the opinion of members of the Chamber as to how the air-conditioning operates.

STRATA TITLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 287.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill. The principal Act has been in operation since September 1988 and a few technical matters, as a result of its operation in the past 18 months, need to be addressed, and this Bill deals with those matters. Essentially, the Bill deals with practical matters that need to be tidied up. In introducing the Bill, the Minister said that there have been a number of consultations with the Standing Committee of Conveyancers, the Real Estate Institute, the Law Society and the Institute of Strata Administrators in drawing up the Bill. I sent the Bill to a number of people and, during the course of my presentation, I will read the responses that I received so that they may be considered by the Attorney-General and his officers to determine whether or not amendments are necessary.

The Bill is not politically controversial. It is largely approached on a bipartisan basis and, from that point of view, it is likely that, if there are technical matters that need to be attended to, there will be no difficulty in tidying them up. In addition to the provisions of the Bill designed to clarify technical aspects of the legislation, several features need special focus. Where a strata scheme consists of residential premises, the management of the corporation is, by this Bill, required to be in the hands of unit holders, and the current provisions are tightened to ensure that this occurs. The Bill also seeks to provide that, wherever structural work is required or desired to be carried out by a unit holder, the present requirement of unanimous approval of unit holders should be amended to provide for a two-thirds majority of those entitled to vote, that is, two-thirds of the unit holders or as may be authorised by the articles of the strata corporation.

The Bill also clarifies the provisions for a poll so that each unit holder has one vote. Apparently, there has been some difficulty in relation to access to current policies of insurance, and the Bill seeks to ensure that they must be furnished upon request to an owner of a strata unit, to an intending purchaser or a mortgagee. Last, the Bill gives more flexibility for the leasing or licensing of part of a unit in non-residential premises.

I will address several specific issues before I deal with the correspondence that I have received on the Bill. One of the issues raised with me by the Land Brokers Society was the requirement for policies of insurance to be provided to an owner or an intending purchaser or mortgagee. I do not think there is any quarrel with that but the fee is presently limited by regulation to $15 for a non-owner and $5 for an owner. The concern that has been raised with me is that some of these insurance policies can be rather bulky and the maximum fee fixed by the regulations may be quite inadequate to ensure that the statutory obligation is met.

Whilst I am not suggesting that we incorporate a minimum or maximum fee in the legislation, it would be helpful to have some indication from the Attorney-General as to what may be proposed by way of regulation for fees that can be charged for copies of insurance policies. My experience is that, with a full policy, there may be 20 or 30 pages and, given the current costs of photocopying, that would be very much in excess of the $5 charged to an owner or the $15 for a non-owner. It is a question, then, of who will pay. Is it the unit holders, other than the unit holder making the request, or the unit holders generally where a non-owner makes that request?

A surveyor raised with me the question of the staging of land divisions, including strata developments. That is particularly important in relation to the Planning Act but also in relation to the Strata Titles Act. The surveyor told me that there is concern in the real estate development industry in particular that no legislation yet enables some form of staging of land divisions. I am not saying whether that is good or bad but we ought to know where that is likely to end up.

In relation to structural alterations, concern has been expressed to me about the requirement to allow those alterations where either a special resolution is passed or some other provision is included in the articles of the strata corporation. I have no quarrel with the special resolution but there is a concern that the articles of association can provide for structural alterations to proceed, either on a simple majority vote or even upon the approval of some other numbers of unit holders. Where there is a residential development, for example, where all units are at one stage held by the one person, it is possible to so arrange the articles of association that some fairly simple and perhaps not so convenient mechanism so far as other unit holders are concerned may be provided in those articles with no prospect of changing it at a later date. My proposal in relation to that is that we reduce the provision from unanimous approval to special resolution as the basis for approval, and not allow structural alterations where some other mechanism is approved or provided in the articles of association.

One of the persons to whom I sent the Bill was Mr Charles Brebner, who is Chairman of the Law Society Property Committee. He did not write to me in that capacity, but he

does have a lot of experience in the area of the Real Property Act and strata titles. I will draw attention to those issues to which he refers. His first point is that clauses 24 and 25 incorporate suggestions made by the Law Society. He goes on to state:

Clause 3 *(b)*. The word 'encumbrance' is defined in the Act. It is used in paragraph *(f)* in a different sense and a different word should be used.

Clause 6 *(a)*. In my opinion, it is not clear whether the consents referred to must be obtained both where the Registrar-General acts on the application of the registered proprietor and on his own initiative or only where he acts on his own initiative. They should be necessary in both cases.

To be consistent with the Real Property Act, this subsection should refer to the 'dominant land' and 'the servient land' and the 'registered proprietors' c.f. sections 86 and 88 of the Real Property Act. The comments on this clause also apply to clauses 7 *(f)* and 11 (section 17b).

Clause 11. Section 17a should state how an objection is lodged by a person who is given notice under subsection (1) *(c)*.

There is some substance in that; there is reference to an objection, but no mechanism provided. The letter continues:

Planning consent seems unnecessary for the discharge or variation of an easement under section 17b (5).

Clause 19 *(c)*. Is this merely giving advice to the person calling the meeting or does it have some legal significance? Could a member claim that a meeting has not been properly convened if he has not been asked if the time and place are convenient to him?

There is an argument as to the validity of the meeting where there has not been an appropriate question asked of each member. That ought to be addressed. The letter continues:

Clause 19 *(d)*. I always have difficulty counting a number of days. I am not aware of the court having interpreted the expression 'days away'. To be sure that a meeting can be adjourned to the same day in the following week, I suggest 'seven' be changed to 'six'.

Clause 20 *(c)*. This should provide that a ballot must be taken if it has been demanded. The use of 'will' in the principal Act has concerned me. For example, section 8 provides that where the stated requirements of the Act are satisfied 'the Registrar-General will deposit the plan'. In my opinion, it is doubtful whether this creates any duty enforceable at law or is merely an indication that a certain consequence will follow. This may be acceptable where the 'obligation' is on the Registrar-General but is not where the intention is to impose obligations on members of the public.

The Land Brokers Society generally supports the Bill. Although it has been involved in the consultative process it has still raised issues on two clauses, in particular. The society states:

Clause 11 creates a new Division VIII, which includes new sections 17a and 17b. In essence, section 17a provides a procedure whereby the consent to an application of a person, whose whereabouts is unknown can be dispensed with by the Registrar-General. This amendment is appropriate, as far as it goes. However, there appears to be no corresponding provision to allow the application to be registered unless the duplicate certificate of title, which is held by the person whose whereabouts is unknown, accompanies the application. It is possible to make an application to dispense with production of the duplicate certificate of title, but such an application can be made only where the duplicate certificate has been lost. It may be necessary, therefore, to amend the Bill to allow the Registrar-General to dispense with production of the duplicate certificate of title where an application is made under Divisions II and IV and where the whereabouts of a person, whose consent is required, is unknown. Clause 23 of the Bill would require the provision of a copy of all current policies of insurance taken out by the strata corporation. The society does not object to the provision of the information, but problems have arisen with the charge which can be made for providing this, and other information.

The letter then draws attention, as I said earlier, to regulation 12 (2) *(b)* of the strata titles regulations, which sets a limit. Having referred to that regulation, the Land Brokers Society continues:

While the society does not suggest that the provision of such information should be a money-making exercise, the fees charged may not reflect the full cost of providing the information. Given the cost of photocopying, the figures of $5 and $15 may no longer be relevant, and it may be more appropriate to devise some other means of charging, for example, a charge per page. This may appear to be a small point, but it has caused a number of problems, and this is reflected in the proposed amendment (2a) under which a strata corporation must not charge more than the prescribed fee under threat of a $500 penalty.

The final comments on the Bill were received from the consulting surveyors, B.T. O'Callaghan and Associates, who say that, in their view, the amendments generally appear to effect desirable improvements to the Act. Mr O'Callaghan did raise a question generally about strata titles and the difficulties experienced, particularly in relation to older homes being one of a number of units where the old home is a somewhat incompatible component in a complex, with its special requirements for maintenance. Whilst it is not directly relevant to this Bill and the matters with which it deals, it is important to note the concerns that he has raised. I would certainly appreciate some observations on the matter when the Attorney-General replies. Mr O'Callaghan states:

It seems to me that, by a rather complex process, the provisions of the Act including sections 5 (5), 19, 27 (3) and 28 can be utilised to establish a somewhat equitable arrangement but I have not known them to be utilised. I am, however, aware of some uneasy situations which exist due to the above circumstances. The problem generally arises because a council will not grant planning approval under the Planning Act for land division which would enable the issue of a separate 'Torrens title' for the old house. On the other hand councils will often propose that in lieu of land division the house should be incorporated in the strata plan.

From a planning viewpoint the ultimate effect from the point of view of the amenity of the locality seems to be the same and, from the point of view of the unit owners, land division would be far more desirable. It is understood that a long overdue amendment to the Planning Act relating to staging in land divisions has been overlooked in the Minister's office, Perhaps when this comes forward, some appropriate provision could also be made to facilitate the division of land in a manner which would separate an old house from a complex of modern units.

Obviously, a problem has been experienced and I would appreciate some information about that matter when the Minister replies. Mr O'Callaghan's observations in relation to clauses 8, 11 and 18 are as follows:

Clause 8, re: section 14. Concern was expressed at the time when the principal Act was originally before Parliament that subsections (4) and (7) may be used to prevent the issue of strata title where the Planning Act of the development plan may have been changed since the buildings were erected and legitimately used for separate occupation. In some cases this may have been many years previous.

One simple example could be a pair of maisonettes erected and separately occupied 50 years ago in an area which is now zoned commercial, or a group of flats constructed and separately occupied as, say, 10 tenancies 25 years ago which do not now satisfy the open space ratios or the car parking requirements for 10 tenancies.

Despite assurances given, I am not confident that in the above-mentioned circumstances, there is sufficient clarity to resist refusal under section 14 (4) *(i)* or section 14 (7) *(b)* (i). It would seem appropriate to add subsection (14).

Mr O'Callaghan then provides a draft as follows:

(14) Where the commission considers an application under subsection (4) *(a)* (i) or a council considers an application under subsection (7) *(b)* (i) (B), it shall have regard for the planning laws applicable at the time when the buildings were erected and when approval was given for separate occupation of the buildings.

In relation to clause 11, which relates to Division VIII, section 17 *(b)* (5), the letter states:

Since easements are not normally subject to the consent of planning authorities, it would seem appropriate to insert after 'authority' the words 'which consent shall not be withheld without relevant justification'.

Regarding clause 18, which relates to section 31, the letter states:

Since section 31 (2) provides for the minimum amount of $1 000 000 insurance against liability in tort to be increased 'as

the regulations may prescribe' it seems surprising that an increase to $5 000 000 is now to be achieved by amendment to the Act. One would expect that required insurance against liability would vary from a simple pair of units to, say, a multi-storey office block. Hence, the flexibility which could be achieved in regulations may be more appropriate.

I do not necessarily agree with that statement. I am comfortable with the increase from $1 million to $5 million, although Mr O'Callaghan does have a point that for a two unit strata development the risk is very much less than that involved for a much larger multiple unit development. So, it is worth giving some consideration to whether the amount of $5 million is too high and whether a lower minimum ought to be prescribed, or whether the figure of $5 million, on current insurance advice, is appropriate, bearing in mind that the figure is fixed on any one claim.

The aggregate of claims in any one year is a different matter, and $5 million in such circumstances would be appropriate, but the amount of $5 million for any one claim would be in excess of what has been awarded in the courts for any negligence claim of which I am aware and is unlikely to be awarded in the foreseeable future. These issues need some clarification and I will propose at least one amendment to this effect. However, the Opposition is pleased to support the Bill as a general tidying up exercise.

The Hon. BARBARA WIESE secured the adjournment of the debate.

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

Adjourned debate on second reading.

(Continued from 1 March. Page 511.)

The Hon. I. GILFILLAN: When I last spoke on this Bill I indicated that I wished to have discussions with people at the Kangaroo Island General Hospital. I have had a telephone conversation with Mr Paul Thomas, the Chief Executive Officer of that hospital, and I have now received from him a letter dated 19 March 1990, which reads:

Further to our telephone conversation of today I hereby confirm this hospital's interest in being included as a specified hospital in the abovementioned trust fund Bill.

For your information I advise that I have endeavoured to contact the trustees of the fund with a view to discussing the inclusion of our hospital. However, the restricted time frame has not permitted this course of action. Accordingly I would be pleased if you would consider taking whatever action you deem appropriate to include the Kangaroo Island General Hospital Inc. as a specified hospital in the Bill currently under consideration. In support of this request I tender the following background information:

- The Kangaroo Island General Hospital Inc. has been designated a regional hospital by the S.A. Health Commission due to our geographic isolation.
- We have established an extensive network of community based health services, e.g., four health centres, hostel, community nursing, community bus, home help, delivered meals, home maintenance and loan equipment service and to receive benefit from the trust would be an asset to our community health service.
- The inclusion of this hospital would have little financial impact on the fund. Rather, it would provide us with easier access for assistance when required; we have utilised the services of the fund in the past and have found the time delays that occur frustrate smooth delivery of the service to clients in need of immediate support.

I trust the foregoing information is of some assistance and should you require additional information please do not hesitate to contact me. I thank you for your valuable assistance in this matter.

The Bill is simple in its intent and quite justified: it is designed to facilitate the inclusion of other hospitals in the benefits which flow from the Da Costa Samaritan Fund to areas of assistance for convalescent patients of limited means. As mentioned in the letter, the Kangaroo Island hospital fills many of the requirements of convalescent patients, some of whom are of limited means, and has been recognised as a special case by the Health Commission which is aware of its geographic isolation.

Although this Bill does not specifically identify hospitals, a list of hospitals is named in the Minister's second reading speech. Several of these hospitals are from rural regional areas. They are: the Berri regional hospital, the Mount Gambier hospital, the Port Pirie Regional Health Service, the Whyalla hospital and the Port Lincoln Health and Hospital Services. So, I believe that it is in order for the trust to be requested to include the Kangaroo Island General Hospital on this list. It may have been by an oversight by the trust that this hospital was not mentioned on the list, but it would obviously be an advantage for the hospital's management to have the Kangaroo Island General Hospital proclaimed so that it can become a direct beneficiary of the fund.

With this in mind, I ask the Minister to take the cause of the Kangaroo Island General Hospital to the members of the board of the Da Costa Samaritan Fund with a request for favourable consideration to include this hospital on the list of hospitals to be proclaimed. As the Minister recognises, the Government does not have the power—nor should it—to direct what the trust can do. However, if the trust is eager to extend the area of its work to worthy recipients and to facilitate the use of its funds, there is a strong argument for the Kangaroo Island General Hospital Inc. to be included in the list for immediate proclamation in company with the other hospitals that have been mentioned.

So, I indicate the Democrats' support for this Bill and ask the Minister to indicate the Government's willingness to forward this request from the Kangaroo Island General Hospital to the Da Costa Samaritan Trust with its recommendation.

The Hon. BARBARA WIESE (Minister of Tourism): The honourable member has already acknowledged that the management of this fund resides with the trustees and that the application of funds is also a matter for which the trustees have responsibility. The Government has no power and no wish to be involved in deciding which hospitals should or should not be included in the scheme. The trustees have expressed the wish that maximum flexibility should be given to them in making their decision as to which hospitals should be included in their area of responsibility.

For that reason the mechanism has been developed for this Bill to allow for hospitals to be included by way of proclamation. The trustees have indicated to the Government that at the time of the enactment of this legislation the seven hospitals to which the honourable member referred are the ones that they would like to see proclaimed immediately. They have also indicated that they will consider later the matter of whether or not additional hospitals should be included in the scheme.

It must be borne in mind that one of the responsibilities of the trustees in managing the trust is that they must have regard to avoiding over-spending beyond its resources. I am not in a position at this stage to indicate whether or not the trustees would wish to include the Kangaroo Island General Hospital among the list of hospitals that it now wishes to proclaim. However, I am certain that any representations that are made on behalf of or by the Kangaroo Island General Hospital will be given very careful consideration by the trustees. I am sure that I can give an under-

taking on behalf of the Minister of Health that the Government will be happy to forward the request that the Kangaroo Island General Hospital has made so that the trustees can give it proper consideration.

Bill read a second time and taken through its remaining stages.

EQUAL OPPORTUNITY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 February. Page 453.)

The Hon. L.H. DAVIS: The Opposition supports the thrust of this Bill and is pleased to see that the Government has finally followed the lead of the Opposition in this matter. In fact, it is well known that the Liberal Party, through the Hon. Diana Laidlaw, has introduced private members' Bills on three occasions, from March 1988 to mid-1989, in an attempt to place aged discrimination on the statutes. In fact, it was only the stalling tactics of the Bannon Labor Government that sees us now debating this matter for a fifth time. The Attorney-General, in the shadow of the State election last year, introduced legislation to extend the Equal Opportunity Act to prevent discrimination on the grounds of age.

This matter has a wave of support around Australia. There is no question that there is an interest in aged discrimination, particularly as it relates to employment. There are precedents in North America and Canada on this subject which I will mention during my contribution. I will refer briefly to developments in other States since this matter was last debated in 1989.

It is a matter of record that in June 1987 the Bannon Government established a task force to monitor discrimination on the grounds of age. That task force was set the goal of reporting within 12 months, but it took two years for its report to see the light of day. The task force concluded that there was sufficient evidence to justify considering the introduction of appropriate legislation to cover age discrimination. It found that the most common examples of age discrimination were in the areas of employment, retirement, in the provision of goods and services and in education. That recommendation was accepted, and in October 1989 legislation was introduced.

Sadly, given that the task force had presumably consulted widely, there was little consultation by the State Government. In fact, several aggrieved parties criticised the State Government in 1989 for a decided lack of consultation. In Western Australia there have been recent developments. A discussion paper was circulated by the Western Australian Equal Opportunity Commission, which strongly recommended legislation to cover age discrimination. In May 1989 the Victorian Law Reform Commission released a public discussion paper, and I understand that this month a second paper will be made public that will include draft legislation. There is an expectation that legislation will be introduced within 12 months.

In New South Wales in April 1989 the Greiner Government established an interdepartmental working party which is expected to report shortly, with legislation likely to follow later in 1990. At the Commonwealth level there is some suggestion that the Labor Government may legislate to cover age discrimination. That is the picture, from a legislative point of view, around Australia at the moment.

Before addressing the Bill and commenting on various aspects of it, I want to discuss some of the developments that have occurred and some of the observations made about age discrimination by the task force monitoring age discrimination in South Australia and the very fine discussion paper released in Western Australia which, I think, acts as a useful backdrop in establishing what is age discrimination and the areas where it occurs.

The first thing I must say is that I found the report to the South Australian Government from the Task Force to Monitor Age Discrimination a rather disappointing document. The task force was comprised of the Commissioner for Equal Opportunity, Josephine Tiddy, Adam Graycarr, Commissioner for the Ageing, and Mr Edwards, Director, Office of Employment and Training.

Certainly, the document is well written. It is succinct—I think that is a polite way of describing it. However, on such an important matter there was a distinct lack of argument and there was a distinct lack of evidence. If one was making a judgment as to whether age discrimination legislation should be introduced, this document did not advance that case. They acted on presumption and they did not give clear-cut evidence of discrimination. They said:

> This report, therefore, has not attempted to document examples of discrimination. From its initial investigations, the task force reached the conclusion that sufficient evidence already exists to confirm that discrimination on the grounds of age is as common in society as is discrimination based on grounds that have already been made unlawful.

I think that is a presumption. The task force had been established to monitor age discrimination and, presumably, to develop the case in favour of legislation. I would like to think that when we are introducing legislation on such an important matter as age discrimination we do have some solid examples and some evidence on which to base that legislation. In developing very complex legislation, it is helpful to have those precise examples of where discrimination does exist in employment, in accommodation and the provision of goods and services. To that extent I found the arguments a little superficial.

I accept that its 12-month period of monitoring age discrimination was helpful in providing the Government with background information from which it proceeded to draft the legislation. However, in terms of developing the arguments and of making specific recommendations there was a lot left to be desired. I contrast that 11½ page report with the very comprehensive Equal Opportunity Commission of Western Australia's 121-page Discussion Paper No. 1 (for public comment), which was made public last year. This is an excellent document. I want to refer briefly to some of its observations, and I must say that I have found this document considerably more helpful than the task force's report. At page 11 of the discussion paper reference is made to the recent DOME (Don't Overlook Mature Expertise) report 'Mature Age Unemployment: Problems and Solutions'. The DOME organisation is very well respected and I have consulted with it in relation to this Bill. This report of 1987 outlines evidence of discrimination against older workers. The DOME survey of unemployed members found that 69 per cent of 40 to 65-year-olds found that their age was an obstacle to employment. The National Committee on Discrimination of Employment and Occupation, in the 12 years it received age discrimination complaints, reported 38 formal complaints of age discrimination in Western Australia in the period from 1973 to 1985.

The New South Wales Anti-Discrimination Board argued that distinctions between people based on age are often undertaken because it is administratively easy to use age as a criterion. It is relatively easy to prove age; it is a criterion that people understand. Age discrimination occurs when other assumptions such as ability, health, maturity and productivity are attached to age. That is an interesting

observation which referred to the New South Wales Anti-Discrimination Board argument, and that is set out on page 12 of this report from Western Australia.

The effect of age discrimination is something which has important sociological factors. Anthony Radford, who is a well-respected member of the Flinders Medical Centre community and an expert in this field of the ageing, argues that the myths of ageing contribute to deterioration in old age. Some of these are:

> The myth of withdrawal and disengagement from interests and activities which may find older people being involuntarily excluded from their interests and activities.
>
> The myth of homogeneity which suggests that all old people have the same interests and needs. It ignores the several generations contained in the over 65 group.
>
> The myth of senility which over-emphasises the incidence of senility (which only affects five per cent of over 65s).
>
> The myth of progressive institutionalisation which presumes that all older people will inevitably end up in institutionalised settings like hospitals, nursing homes and hostels. In fact, a very small proportion of older Western Australians are institutionalised, and research indicates that in Australia 10 to 30 per cent of those in nursing home care do not need that level of care.
>
> The myth of ineducability which falsely presumes that mental powers will necessarily decline with old age.

Those myths to which Redford refers are interesting, and I must say that, having been to countries in Europe and America, and liking to be a student of human nature, Australians do have a mental set about the aged. This is in contrast to North America where the aged are very much more a part of the community and where men and women over 70 and 80 years of age are still involved actively in community organisations; indeed, sometimes as presidents and secretaries of very important organisations, participating more fully in commerce and industry. After several months in North America it was an irresistible conclusion and it is something which I think we are slowly coming to recognise in Australia: the wealth of experience, the benefit of the aged contributing to the community in which they live.

I will mention some of the existing legislation in the United States of America and Canada, which is detailed in this very useful discussion paper from Western Australia. In 1964, the United States civil rights movement pushed for age to be included, with race and sex, as a ground of unlawful discrimination in the Civil Rights Act. On page 21 of the Western Australian report, the point is made:

> While not accepting the age amendment, the age discrimination debate [of 1964] did lead to a study of older workers by the Secretary of Labour and resulted in the enactment of the Age Discrimination in Employment Act (ADEA) in 1967 for workers aged 40 to 65 years.

That is 23 years ago in America. That Act is administered by the Equal Employment Opportunity Commission. The Age Discrimination in Employment Act ensures that hiring decisions are based on an objective evaluation of the individual's potential and performance rather than on misconceptions about the effects of age on ability.

That Act has been amended in 1978 and 1986, and it now protects all workers aged over 40 and prohibits compulsory retirement. As the Western Australia report observes, the United States is the only nation to prohibit compulsory retirement. The ADEA covers firms with 20 or more employees, all public sector employment at Federal, State and local level, unions with 25 or more members and employment agencies. It prohibits age discrimination against employees and applicants in the areas of hiring, dismissal, denial of employment pay, fringe benefits and other terms, conditions and privileges of employment.

Advertisements and notices indicating age preference are prohibited. The ADEA prevents victimisation of the complainant or persons assisting with the investigation of a complaint. Exceptions, however, exist in the legislation, and they include *bona fide* occupational requirements: (1) reasonably necessary to the normal operation of the business; (2) which relate to a legitimate seniority system or retirement plan. Many States in the United States have enacted legislation against age discrimination in employment and a minority of States have no age limits. In Britain there is no age discrimination legislation. In Canada, however, provinces have moved in that direction, and I will refer to that in some detail later.

The area where age discrimination is seen most often is in employment. That certainly has been the experience in the United States of America and also in Canada, and that is the experience in South Australia, as members will see when I detail the available statistics from the Commissioner for Equal Opportunity annual report. In Australia, the discrimination tends to be against women over 35 and men over 45, according to the Western Australian discussion paper at page 29. Generally, employed older workers suffer discrimination in the area of dismissal and compulsory retirement. Unemployed older workers have difficulty finding work because of age; and they experience longer periods of unemployment than the rest of the work force, and frequently assume retirement much earlier than planned, often because they are discouraged job seekers.

At the other end of the spectrum we find age discrimination in youth employment. The ability of young workers to find employment is an area of concern to all of us, because of the high level of youth unemployment, and one of the areas of debate, political and economic, is the differential in this country between adult and junior wages.

In America, there has been a move away from age based compulsory retirement, but in Australia we still have a 60-year age retirement for women and 65 for men; that is, the standard retirement age. That is linked to the eligibility for the age pension at 60 for women and 65 for men. As the Western Australian paper observes at page 45, retirement is a community practice and has no basis in law. Recently there was a case in New South Wales which questioned the nexus between retirement and pensionable age and argued that common practice was not sufficient reason to force a woman employee to retire at 60 when her male counterparts could retire at 65. Compulsory retirement for women at 60 when men retire at 65 could be argued to be unlawful sex discrimination.

There are flow-on problems associated with age-based compulsory retirement. If we decide to make compulsory retirement ages unlawful, it would have implications for workers' compensation legislation and perhaps other legislation as well. That is a matter which is important, because a male worker over 65 could be placed in an inequitable position if he did not receive protection through workers' compensation.

At the other end of the spectrum, we accept that there are legislative restrictions governing the age at which people can or cannot do certain things. On pages 58 and 59 of the Western Australian Equal Opportunity Commission discussion paper the age restrictions operating in Australia are listed. At six, a child must be enrolled at school. At seven, a child may be given a licence to take part in public entertainments. Eight is the age of criminal responsibility. At 10, a child may, subject to parental consent, effect an insurance policy upon his or her own life. At 12 the consent of the child must normally be obtained before that child is adopted. Also at 12 a male child may engage in street trading.

At 14 a child is presumed to understand the wrongness of a criminal act. A child must be heard in custody, guardianship or access proceedings in the Family Court. A girl

may be given judicial authority to marry. Fifteen is the school leaving age. There is a move afoot to increase that to 16. At 15, a female child may engage in street trading. One may raise the question as to why a male child may engage in street trading at 12, but a female child has to wait until the age of 15. At 16, a girl may consent to sexual intercourse; a child becomes a young person; a gun licence may be granted; and child endowment normally ceases. At 17, a driving licence may be obtained. That varies from State to State.

Eighteen is the age of majority, the voting age. A person is liable to serve as a juror and a person may make a valid will. Parents are no longer normally made liable for a child's maintenance. At 19, a young person is liable for registration under the National Service Act. Twenty-one is the age of majority at common law, the age at which, in respect of immigration children, the Minister for Immigration and Ethnic Affairs ceases to be the children's guardian. At 25, a young person is considered to be independent for the purposes of educational allowances. We debate age discrimination accepting that there is a backdrop of legislation which has age limitations imposed, not only particularly with children but also in some cases at the other end of the age range.

Finally, the Western Australian public document has a very useful selection of recommended reading, together with 52 recommendations, which I have read and which I can see have been implemented in many cases—or attempted to be implemented—in this legislation. Clearly, for national companies operating across Australia, it is important that if we are to have age discrimination legislation, there is comparability between the States. It will be disadvantageous, costly and cumbersome if national companies have to comply with various legislative requirements in respect of age discrimination. Therefore, State Governments, of whatever political persuasion, concede that there should be a similarity, a large core of consensus, with respect to such legislation.

One of the questions which is specifically addressed in the Bill concerns the compulsory retirement age. I read with interest an article which appeared in the *Journal of Industrial Relations* of June 1989 by Frank Reid of the University of New South Wales entitled 'Age Discrimination and Compulsory Retirement in Australia.'

He makes the point—a point well developed in argument both in Canada and the United States of America—that a national ban on compulsory retirement in Australia would be likely to have only minimal impact on participation rates of older persons. In other words, it does not really affect the composition of the work force in that particular age range. It does not have a significant impact on the inflow-outflow of people into the work force in that affected area. We are talking about the standard retirement age of 60 for women and 65 for men. I quote Mr Reid in the preface to his most interesting article:

> A ban (on compulsory retirement) is unlikely to have significant impacts on hiring and promotion opportunities for other employees because the number of persons choosing to work past traditional retirement age is small; the impact on the flow of new hires is confined to a temporary transitional period; and the number of employees likely to postpone retirement would occupy only a fraction of the job opportunities created by the continuing dramatic decline in participation rates of older Australians.

He reflects on the Canadian experience. In Canada the ban on compulsory retirement in Manitoba in 1981 and the ban in Quebec in 1982 had a very small impact on the participation rate. In the United States, in spite of the 1978 increase in the compulsory retirement age from 65 to 70 years the participation rates of males aged 65 to 69 has continued to decline slowly since 1978, and the participation rate of females aged 65 to 69 has remained constant.

Although there is no great evidence in Australia, because we do not have legislation as such which has abolished compulsory retirement, Mr Reid states at page 172, that 'some indication of the potential effect of such legislation can be obtained by measuring the impact on the labour market of the important July 1985 decision of the New South Wales Anti-Discrimination Board concerning sex discrimination in compulsory retirement policies'. The ruling in what was the so called Anstee case made it clear that employers in New South Wales had 'a legal obligation to raise the compulsory retirement age for females (or lower it for men) in situations where they differ'. Mr Reid goes on:

> This policy change has the greatest potential impact for females (and males) in the 60-64 year age range, since they are between the most common ages of compulsory retirement for females and males.

Reid then has a look at the likely outcome in New South Wales, and the existing evidence is consistent with the fact that there would probably be no great impact on the level of participation by people over 60 in the work force. That, as I have said, would be consistent with the evidence from the United States and Canada which reveals that raising or abolishing the age of compulsory retirement has had a minimal impact on the overall labour market.

Last weekend's *Australian* of 17 and 18 March had an article headed 'Anti-age discrimination legislation poses problems'. The point was made that the issue of age discrimination is of particular importance to women who can receive the age pension five years earlier than men and generally retire at an earlier age. Women also have a longer life expectancy. Of course, it is interesting that women generally live four to five years longer than men on average, and yet they have a standard retirement age five years earlier than men. When one looks at the statistics it really does not stack up that there should be that differential of five years between the male and female retiring age. The article states:

> But women could stand to lose one important benefit—a lower pension entitlement age—if anti-age discrimination is written into legislation. Under the Federal Government's pension arrangements, women are entitled to the age pension at 60 years of age, but men do not qualify until then reach 65. While men might claim the arrangements discriminate against them on the ground of sex, federal anti-age discrimination legislation could provide further grounds for the difference in eligible ages to be challenged.

That point must be considered seriously. The article continues:

> The Federal Government said it would monitor the superannuation investment levels of women for at least five years before looking at raising the pension eligibility age of women to the same level as men. A 1988 Department of Social Security (DSS) policy issue paper titled 'Towards a National Retirement Incomes Policy' says there are three main arguments for raising the pension age entitlement for women. These are to remove sex discrimination, to lower the cost of paying pensions, and to reduce incentives for women to become dependent upon social security payments and to maintain the labour force participation.

I raise that matter because it is important to recognise the demographic trends in our society. In 1966, 24 years ago, 80 per cent of all males in the 60 to 64-year old age group were employed in the workforce. Four out of five men in the 60 to 64 age group were employed in the work force. That figure now is down to 48.3 per cent; it is less than half. In the case of women, in 1989, 15.5 per cent of women were employed in the 60 to 64-year-old age group, a much lower percentage.

We are now faced with a demographic bulge of people in their fifties and, as we move into the next century, we will have a large cohort of Australians over the age of 60. So

when we are talking about abandoning a compulsory retirement age, notwithstanding all the anecdotal evidence from Australia—and more importantly the evidence available from at least a decade of experience in Canada and the United States—we should be cognisant of the fact that, with people under Federal awards or State awards and in private industry in a labour market the setting and terms of conditions are in a state of flux. It is important that we consider the way in which we abandon the compulsory retirement age and the consequences of it.

For example, in September last year the point was made in an article in the *Advertiser* that workers over 65 are automatically denied WorkCover income compensation for job related injuries, although the same levies are paid for all workers, and that anomaly, which was described as a prime example of age discrimination, was pointed out by the Opposition and admitted by the Labor Minister, Mr Gregory. This is an example of one of the situations which must be addressed in debating this matter.

I am relaxed about the abandonment of the retirement age. I am convinced that the American and Canadian experience suggests that there would be very little impact in Australia. However, because the Government has established a working party to examine this, it is appropriate to await its findings, and that is admitted as such in the Government's Bill. I foreshadow that the Opposition has an amendment on file that seeks to modify in a small way the Government's proposition in relation to abandoning the retirement age for men and women.

Finally, before I address the Bill, I want to look at the last two reports of the Commissioner for Equal Opportunity, that is, the annual reports for 1987-88 and 1988-89, with respect to the hard evidence that is available on age discrimination. In the 1987-88 report, it is shown that age discrimination complaints increased by 79 per cent over the preceding year. Most of those complaints were in the employment area, which confirms the worldwide observation that that is the dominant area of concern in age discrimination. In her annual report, Commissioner Tiddy recommended that the various protections of the Equal Opportunity Act be extended to cover age discrimination in all areas of the Act, including employment. She made the point that there are incidences of age discrimination that are acceptable to the community: the age of consent, the granting of voting rights, eligibility to hold a driving licence, and so on.

On pages 18 and 19, reference is made to the areas of discrimination and the grounds for discrimination. The Commissioner found that age accounted for about 2.5 per cent of the informal complaints and, of the 165 complaints with respect to age discrimination in that period, 55 were on the grounds of employment, which is one-third of the complaints. In addition, 29 complaints were on the grounds of goods and services, nine on education, six on accommodation, eight on clubs, 20 on common law and programs and human rights, and 38 on other grounds.

The report for 1988-89, which has just been tabled, shows an increase to 495 in the number of complaints on age discrimination, of which 316 were on the grounds of employment, which accounts for about 60 per cent of all informal complaints and which is a dramatic increase on the previous year. In addition, 78 of the 495 complaints were on the basis of goods and services, 33 on accommodation and 19 on clubs, the rest tailing off into very small figures. Age accounted for 495 complaints in a total of 7 318 complaints, which represents about 7 per cent of the total number of complaints. It is with that background that we debate this Bill for an Act to amend the Equal Opportunity Act.

The Bill inserts a new Part VA. Division I sets down the provisions in the principal Act, which contain the criteria for establishing discrimination on the ground of age. The definition in the Bill is the same as that in the principal Act. Division II provides the criteria for discrimination in employment, which is also mirrored in the principal Act. It also provides for discrimination against agents, contract workers and within partnerships. Exemptions are necessarily included because the area of employment is a very difficult and tricky one. One of the exemptions applies to employment within a private household. Another concerns the requirements of an award or industrial agreement made or approved under the Industrial Conciliation and Arbitration Act which may be outside the ambit of the division. That means that anyone under a State award and, therefore constitutionally, anyone under a Federal award, is excluded from the provisions of this particular division.

The division does not apply to discrimination on the ground of age in relation to the employment of a person if the person is not or would not be able to perform adequately, without endangering himself or herself or other persons, the work genuinely and reasonably required for the work in question. Nor does it apply to a person who would not be able to respond adequately to situations of emergency that should reasonably be anticipated in connection with the employment or position in question. That would rule out the 90-year old actor who wants to play the part of a child in a professional theatre company. Quite clearly, an employer must have the ability to exclude someone who could not perform adequately, and without endangering himself, the work genuinely or reasonably required within the terms of the position that has been advertised.

It raises the very interesting point of the company that wishes to develop a corporate image. I pose this question during the second reading stage, flagging to the Attorney-General my intention to pursue this matter. For example, a hamburger chain, which is seeking to capture the youth market, may wish to have young people working for it. As the legislation stands, it will be unlawful to advertise for a 16-year-old or 17-year-old to apply for the job. The advertisement could not be couched in terms of age. It would have to state something like, 'Operator required for hamburger chain. $7 an hour. No experience necessary.' If at the end of two years the hamburger chain has only young people working for it, the question may well be asked, 'What happened to all the grandmothers who unsuccessfuly applied for a position with that hamburger chain?' That may constitute age discrimination.

It is a difficult and delicate area. Nevertheless, we in this Parliament must address the practicalities and the realities of the legislation. I am particularly interested in pursuing that matter and the matter of junior wages versus adult wages, because pressure has been building up about the economy, as the Minister would be aware from the paper today. There is concern that legislation such as this could be a disadvantage to employer groups.

Division III deals with discrimination by associations and qualifying bodies on the ground of age. Those provisions follow the principal Act. The Bill clearly makes provision for a group such as Probus, which covers a particular age group, or Apex, which is restricted to people under 40 years of age. In Division IV, reference is made to discrimination in relation to educational authorities, and there have been some amendments to these provisions from the Bill introduced by the Attorney-General last October. I have some unease about the legislation as it is now drafted. I suspect

that it could allow someone of the age of, say, 55 to enrol for a kindergarten or for a 10-year-old to enrol in a TAFE course which has no prerequisite subjects.

Quite clearly, we are concerned with commonsense in the application of this legislation. We do not want the legislation to be abused or to have someone attracting cheap publicity—someone who may be a little bit off the beam doing something that, in fact, cannot be prevented. Therefore, I believe that an amendment in that area may well be necessary.

Division V relates to discrimination in relation to lands, goods, services and accommodation. Discrimination by a person disposing of an interest in principal land and in the provision of goods and services, is the same as that provided for in the principal Act. But, again, we have the difficulty of pulling out a provision from the principal Act, mimmicking it in this Act and saying, 'It works in the principal Act; therefore it will work in relation to age discrimination.' Clause 85k (2) provides:

> It is unlawful for a person who offers or provides—
> *(a)* goods;
> or
> *(b)* services to which this Act applies
> (whether for payment or not) to refuse or fail to supply the goods or to perform the services to another on the ground that the other person is accompanied by a child.

I put it that if a person went into a sex shop accompanied by a child, which in itself may be an unlawful act, it would be reasonable for the proprietor to refuse to serve the adult on the ground that the child was with that adult. This practical example reflects one of the difficulties of fashioning exemptions which cover the reasonable case that I have just put. So, the Opposition also has some concerns about this matter.

Discrimination in relation to accommodation is another matter that has been addressed at length by the Commissioner of Equal Opportunity in this State and has been the subject of much discussion in Western Australia, Victoria and New South Wales. I am quite frankly aghast to think that such embracing legislation has not been flagged in any way to the tourism industry. The tourism industry has not been consulted; it does not realise that it would immediately be in breach of the Act in those cases where the tourist operator has established an adult hide-away.

As the Minister of Tourism would well know, there are cases in South Australia of establishments which have won national tourism awards and which provide only for adults. In one case, it is a very elegant, well-known country house where dinner, bed and breakfast is provided for several hundred dollars for what is, arguably, one of the finest treats that a couple can enjoy. However, the establishment is not designed for children, and people who go there would reasonably expect that they would get their money's worth in privacy and peace. Also the surroundings of that establishment are not conducive to children in the sense that there are physical dangers and valuable antiques. The place was simply not designed for children.

Similarly, I have spoken to Martin Stanley, the proprietor of Mintaro Mews, which has won a national tourism award. That establishment has an arrangement whereby the open bar operates on an honour system where adults can help themselves. Quite clearly, it is not conducive to children running around helping themselves to Grandfather Port or whisky on the rocks when they are only 10 years old. In addition, the setting and the trappings of the place are not designed for children.

At this stage, I must declare an interest, as we all must in this Parliament where there is a potential conflict of interest. I have an interest in a bed and breakfast establishment, which my wife runs and which is called Miss Mabel's Cottage, located at Burra. When we established the bed and breakfast operation some four years ago, we had every intention of providing for children. The business is operated in a 140-year-old cottage, which my wife developed to reflect the rich history of the cottage and the family who lived there for all but the past 10 years. There are many delicate and expensive objects in that house. The house is not child-friendly and, in fact, on the few occasions that we have had young children there, a lot of damage was done. Therefore, we reluctantly made a decision to overcome that problem—the damage, cost and the anguish suffered sometimes by parents as well as the owners—not to have children staying at the cottage. Those are three examples that I note very quickly, having discovered this hole in the legislation quite recently. It is a matter of concern.

Another matter that may not be properly covered relates to accommodation in clubs. There is reference to clubs elsewhere in the legislation, but I am concerned to think that clubs could be seen to be discriminating if they did not accept children. I refer in this respect to clubs that are restricted to membership. I am also aware that the Residential Tenancies Act exempts persons from complying with the need to allow children to stay in homes, units or flats if that house, unit or flat is the principal place of residence of the owner. So, I would also like to flag that issue, and I have amendments on file to cover that situation.

In the second reading explanation of the Bill, the Minister said that some 158 Acts on the statute books in South Australia have some element of age discrimination. Clause 85r provides that the Minister must within two years after the commencement of this Part, prepare a report on those Acts of the State that provide for discrimination on the ground of age and must make a recommendation as to whether or not the Acts referred to in the report should be amended or repealed. That seems sensible. It is a measure with which I think all members would agree. However, I must say that I remain unsure as to the status of those Acts that contain elements of age discrimination, and I note that my colleague the Hon. Diana Laidlaw, in her initial legislation, had a specific clause providing that nothing in the exemption clauses would derogate from the operation of any other law that provides for or authorises discrimination on the ground of age, or renders unlawful any act done to give effect to, or to comply with, such a law. I would take advice as to whether or not it is necessary to reintroduce such a measure to safeguard the age discrimination provisions that exist in those 158 Acts.

General exemption provisions are provided for towards the end of the Bill, and one such provision exempts charities. The clause provides:

> This Part does not—
> *(a)* affect a provision in a charitable instrument for conferring benefits wholly or mainly on persons of a particular age, or age group;
> or
> *(b)* render unlawful any act done to give effect to such a provision.

There is also a dragnet clause under the heading 'Projects for the benefit of persons of a particular age group'. It states:

> This Part does not render unlawful an act done for the purpose of carrying out a scheme or undertaking 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.

I take it that that would cover Meals on Wheels and, arguably, mature age schemes, but I am not sure what else it would cover. This matter can be taken further during the Committee stage.

Reflecting again on the difficult and complex nature of this legislation, the Bill contains an exemption in relation

to sport by providing that it will not be unlawful to exclude persons of particular age groups from participation in a competitive sporting activity. In other words, there is nothing to prevent a school from having an under-12 tennis team. The Bill also contains provisions in relation to insurance which I will take further during the Committee stage. Although they are not dissimilar to what is contained in the principal Act, they have a new meaning when looked at in the context of age discrimination.

This Bill is the result of much effort by the task force, comprising the Commissioner for Equal Opportunity, the Commissioner for the Ageing (Dr Graycar) and Mr Edwards, and a growing body of opinion within the community headed principally by people in their senior years who see age discrimination as something which should be addressed in the statute books. It is also reflected in the movement around Australia to put age discrimination into existing equal opportunity legislation.

However, we should not ignore the concerns of employers in relation to this legislation, and its economic impact should be properly addressed. Indeed, I am disappointed that there is no reference to the economic impact of this legislation. One of the commitments of past Liberal Governments has been the examination of economic impacts of legislation such as this. Again, this matter will be more appropriately addressed in Committee.

Finally, although the Government can claim credit for the introduction of this legislation, it is worth noting again that the Hon. Diana Laidlaw introduced legislation which is arguably superior to and more practical than this Bill. Of the three occasions on which she introduced legislation into this Council, it was passed only once with the support of the Australian Democrats, but we should not forget her contribution to age discrimination legislation in South Australia.

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

STAMP DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 28 February. Page 472.)

The Hon. R.I. LUCAS (Leader of the Opposition): The Liberal Party supports the second reading of this Bill which seeks to impose stamp duty on instruments such as property deeds at the time of execution irrespective of conditions which may delay their coming into operation or cause them to remain unfulfilled. This Bill in part implements the recommendations contained in the Law Reform Committee's report on delivery of deeds. The major recommendations of that report have already been incorporated into the Law of Property Act. On the matter that we have before us this afternoon the Law Reform Committee commented:

> If an instrument has been executed on the basis that the execution is ineffective until that instrument is released by the party, for example, at settlement, it is not in actual fact stampable prior to that time. Furthermore, in any case where a condition of execution is not fulfilled, stamp duty paid should be refundable. The committee is of the view that uncertainty in this area should be resolved and recommends that the Stamp Duties Act 1923, as amended, should be amended to provide that an instrument is liable to duty according to its terms notwithstanding the existence of any condition affecting its execution but that, if any such condition is not fulfilled, the Commissioner be obliged on proof of the circumstances to cancel the stamp on the instrument and refund any duty paid, possibly with interest.

I intend to take up those last three words 'possibly with interest' during the second reading of this Bill, and during the Committee stage I will move an amendment in relation to the question of interest payments. The varying view on this vexed question of when instruments ought to be stamped can be illustrated by the following quotation from King C.J. in *Superannuation Fund Investment Trust v Commissioner of Stamps South Australia*, No. 2 1980:

> It seems to me, moreover, that the duty on a memorandum of transfer becomes chargeable at the point at which the instrument becomes the property of the transferee. The duty is charged upon the instrument as a 'conveyance or transfer' as appears from the second schedule to the Act. The instrument becomes effective as a conveyance or transfer when it is delivered to the transferee for use as a transfer. I do not think that the mere signing of a document in preparation for use attracts liability for stamp duty.
>
> The document is not chargeable with stamp duty until it becomes an instrument which is legally effective to affect legal rights. In the case of a memorandum of transfer this occurs when it is delivered to the transferee or when some other act occurs which indicates unequivocally that the transfer is available to the transferee so that he may procure its registration as a transfer of the property to him. When such delivery or other act occurs the instrument, if it is not already the property of the transferee, becomes the property of the transferee. It follows, in my opinion, that stamp duty, being a tax on a memorandum of transfer, which has become effective as a transfer, is a tax on an instrument which is the property of the transferee.

Obviously, this is very difficult for someone who is not practising in this area. I must confess that, having read that quotation and a number of other submissions received by the Liberal Party, I was struggling to understand exactly where we were in relation to stamp duties procedures in South Australia. I am indebted to the Taxation Institute of South Australia for the submissions which it made to the Liberal Party—and perhaps to the Government—and which made the situation a little clearer not only in relation to legal opinions such as the one I have quoted and others that I have not but also in the light of the institute's view of the current practice in South Australia.

Notwithstanding the view of King C.J., I have been advised by the Taxation Institute that the practice of the Commissioner appears to be to levy duty on all executed instruments whether or not they are conditionally executed and whether or not that fact was brought to his attention. In practice, therefore, it appears that the comments of King C.J. are not valid in the South Australian circumstance. As the institute concluded in its note to the Liberal Party, this amendment 'does legally if not practically in South Australia advance the taxing point'. The institute was arguing, at least to the Liberal Party, that we ought to make a distinction between the legal effect and what is, in effect, the current practice of the Commissioner in South Australia.

During the Attorney's second reading speech or the Committee stages of the Bill, I would be intrigued to hear the Attorney's response to that particular view from the Taxation Institute of South Australia. Therefore, this Bill will increase, at least in part, the stamp duty impost for some taxpayers. It is possible in some cases that the stamp duty that would have been paid on some instruments might never take effect. It is true that the taxpayer can seek a refund but, of course, the taxpayer is put to the cost and expense of so doing. In addition, the taxpayer has lost the benefit of his or her funds during that period. Again, I am advised that that might not just be a period of months; that can, in certain circumstances, be a period of some years.

During the Committee stages of the Bill we will be moving an amendment in relation to the repayment of interest. It is an amendment similar to the one which was moved in another place by the Liberal Party but which was unsuccessful. We would urge the Attorney-General and members in this Chamber, including the Australian Democrats, to give due consideration to the very short amendment that

we intend to move during the Committee stage of this Bill. This matter will be discussed in detail then.

There are two other matters that have been raised with me by the Taxation Institute which I intend to raise with the Attorney-General during this debate and to seek some sort of response from the Attorney on the concerns of the Taxation Institute in relation to the Bill before us. First, I refer to page 3 of the letter from the Taxation Institute, where reference is made to a possible alternative approach to the one which has been adopted by the State Government in relation to the varying legal opinions as to what ought to occur in relation to this matter. The Taxation Institute says:

> Another approach would be to provide that until the condition was fulfilled an instrument is not deemed to be executed for the purposes of the Stamp Duties Act. However, as it is appropriate in some circumstances to stamp documents prior to their having operation, it should be provided that an instrument, notwithstanding that it has been executed conditionally, may be stamped at any time and in the event of the condition not being fulfilled or the document being recalled then a refund is available. This approach of course has the advantage of minimising administrative involvement of all concerned until the instrument has become unconditional unless the taxpayer has the need for a stamped instrument.

As I indicated at the outset, I am not a practitioner in the field and I am struggling to handle my brief in this area. However, it is obviously an alternative approach that people who are experienced in the field have raised and, on their behalf, I raise it with the Attorney-General, and I seek his response, or the response of his officers, as to what might be wrong with the particular approach that the Taxation Institute has raised on this matter.

The second matter of comment raised by the Taxation Institute is as follows:

> As for the proposed section, apart from the lack of the interest being paid on a refund not being included as suggested by the Law Reform Commission—

I think that should be 'committee'—

> the only other comments are:
>
> (1) The requirement that the Commissioner be satisfied can sometimes give rise to difficulties.

Proposed section 17 (2) provides:

> If—
>
> *(a)* duty is paid on or in respect of an instrument that was executed conditionally by one or more of the parties;
>
> *(b)* the Commissioner is satisfied that, by reason of non-fulfilment of the condition, or recall of the execution, the instrument will never come into force,
>
> the Commissioner will, on application by a party who paid the duty and production of the instrument, cancel any stamp on the instrument and refund the amount of the duty paid.

So, the operative phrase that the Taxation Institute is questioning is this reference here to the fact that, if the Commissioner is satisfied, then a certain procedure can be adopted by a party who is seeking refund of stamp duty that has already been paid. The letter from the Taxation Institute continues:

> If the Commissioner is not satisfied the matter cannot be taken to objection as the objection procedure has no application. Accordingly, a dissatisfied party is required to go to the Supreme Court for a declaration, or for judicial review of the Commissioner's decision and in doing so may find that unless he can satisfy the court that the Commissioner has misdirected himself as to the law he may not recover his duty. This problem does exist in other parts of the Act.

Whether the Taxation Institute has taken up problems with other parts of the Stamp Duties Act in relation to the Commissioner satisfying himself about certain matters, and the fact that that might give rise to difficulties, is not something that is known to me. However, the Taxation Institute has raised its concern about this aspect of the Bill that we have before us and it has indicated that it believes that there is a similar problem in other parts of the Act. We therefore seek the Attorney's response, or perhaps the Commissioner's response, to the concerns that the Taxation Institute has raised in relation to this Bill. With those brief comments, I support the second reading of the Bill and indicate that we will be moving an amendment during the Committee stage of the debate.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: Three questions were asked by the Leader of the Opposition. He put the proposition that the proposal will lead, in effect, to an increased impost. The response is that it has always been the view of the stamps office that conditional contracts are liable to stamping upon execution. Therefore, it is the view of the stamps office that the Bill preserves the *status quo* and in fact does not increase the tax impost. The honourable member's second proposition was that the document did not have to be stamped until the condition was fulfilled.

The answer is that if it was provided that a document did not have to be stamped until the condition was fulfilled, that would lead to many documents not being stamped at all. Previous practice indicates that people do overlook the stamping of documents.

The third point queried the requirement that the Commissioner be satisfied that a refund is justified and that this may lead to difficulties. The fact is that other areas of the Act already provide for similar discretions, so the provision in this Bill does not create anything new.

The Hon. R.I. LUCAS: On the latter point, as I understand the submission from the Taxation Institute, that is the very essence of its objection or comment in relation to the Bill, namely, that it does agree that this provision about the Commissioner satisfying himself about a certain matter does exist in other parts of the legislation. As I quoted from its submission, this problem exists in other parts of the Act. I am not sure whether the Taxation Institute has ever raised these concerns with the Government by way of submission when Bills have come before Parliament on another occasion. However, it has raised this concern on this occasion. It concedes that this problem exists in other parts of the Act, but it is concerned about the other parts of the Act.

Looking at the appeal from assessment provisions under section 24, the Taxation Institute is arguing that in certain circumstances, if the Commissioner is not satisfied, the parties cannot then appeal against certain decisions. I am not aware of the other provisions of the Act about which it is complaining, because they are not before us at the moment. However, has the Government or the Attorney-General had a submission from the Taxation Institute about this overall provision in other parts of the Stamp Duties Act and has there been a formal response to the Taxation Institute on these matters?

The Hon. C.J. SUMNER: I understand that a submission has been put in on this point by the Taxation Institute and it is currently being examined. If not, the Leader of the Opposition has drawn to the attention of Parliament and now the Government, the Taxation Institute's view. I will undertake to have the Commissioner for Stamps examine the matter and respond to the Taxation Institute.

Clause passed.

Clause 2—'Duty payable in respect of instruments conditionally executed.'

The Hon. R.I. LUCAS: I move:

> Page 1, line 25—After 'paid' insert 'together with interest at the rate fixed under section 24 (10) in respect of refunds of duty under section 24 (2) or (7), calculated from the date of payment of the duty to the date of the refund.'

I spoke briefly about this matter during the second reading debate on the Bill. As I indicated, it is an amendment that the Liberal Party moved unsuccessfully in another place. However, we retain our view that if a party or a taxpayer has paid an amount of stamp duty and that, under the law of the land, to which we will all agree or to which we currently agree, that person in certain circumstances is entitled to a refund, perhaps after a year or a year and a half, or whatever it is, of, say, $1 000, the simple view of the Liberal Party is that the Government has had the use of those funds for those 12 to 18 months, but, more importantly, the taxpayer has not had the use of the $1 000 to invest in interest-bearing deposits or whatever investment he might want to undertake. We see it as a simple proposition that if, under the provisions of the Act, the $1 000 is to be repaid, there should also be some consideration of interest. That is the essence of the amendment that we have before us on this matter. As I said during the second reading debate, I urge that due consideration be given to it by members in this Chamber.

The Hon. C.J. SUMNER: The Government opposes this amendment. If adopted, it would provide interest on a very select and small area of refunds; namely, where the refund resulted from an instrument executed conditionally and where subsequently the condition of execution was not fulfilled.

At present, interest is payable only where there has been a successful objection to the Treasurer or a successful appeal to the Supreme Court. In these cases there has been a determination that the Commissioner's assessment was incorrect and therefore it is not unreasonable to provide for the payment of interest. In all other circumstances under the Stamp Duties Act and under the other State taxation Acts there is no provision for the payment of interest on refunds.

Over 1 000 refunds are processed each year under the Stamp Duties Act alone, and others relating to other Acts, covering situations such as the payment of conveyance duty on a matrimonial transfer and the parties subsequently divorce; the payment of conveyance duty on a first home transfer and the purchasers subsequently realise they are entitled to a concession; and where parties forward a cheque for payment of duty which is in excess of the duty payable.

The Government believes that it is not appropriate to pay interest on these types of refunds, and there is no more reason to pay interest on refunds in the situation where a refund results from the non-fulfilment of a condition in respect of a refund where the instrument was executed conditionally. Accordingly, the Government opposes the amendment as opening up a situation where interest could be paid at large on refunds. The Government does not believe that is justifiable.

The Hon. R.I. LUCAS: As always, we are in the hands of the Hon. Mr Gilfillan and the Australian Democrats. I do not intend to prolong the debate, but there are two other matters that I should like to raise for the Attorney's consideration. I want to quote the two provisions of section 24 of the Stamp Duties Act, to which the Attorney-General has referred. Section 24 (2) provides:

> The Treasurer may, on receipt of a statement of grounds of objection, confirm or modify the Commissioner's assessment and, if the assessment is reduced, any excess duty paid by the objector will be refunded together with interest on the excess, from the date of payment of the duty, at the rate fixed under subsection (10).

If excess duty has been paid and there has been an objection and it is found to be excess duty, interest is repaid, not just the amount of the excess duty.

Section 24 (7) provides:

> If the court finds that the appellant has paid duty that is not chargeable under this Act, or has paid duty in excess of the amount chargeable under this Act, the court will order the Commissioner—
>
> *(a)* to refund the amount that was not properly chargeable together with interest on that amount, from the date of payment of the duty, at the rate fixed under subsection (10).

Again, it is not just the amount of the excess duty; it is interest also being ordered. Paragraph *(b)* provides for the appellant's costs of the appeal to be paid.

Whilst I concede the Attorney-General has indicated that there are other sections in the Act where interest is not paid, the essence of the amendment is that we bring it into line with those two clear examples where, in certain cases where excess duty or too much duty has been paid by a taxpayer, not only the amount of the excess duty shall be repaid, but also some fair assessment shall be made of interest for investment opportunities forgone during the period from the levying of the duty to the time when the duty is eventually repaid.

The Hon. I. GILFILLAN: I think that the two examples that the Leader of the Opposition has outlined are in a different category from the matter before us. They are obvious misplacement of money; therefore, it is reasonable that interest do accrue to that. The way I interpret the situation covered by the Bill is that the parties do lodge a document with the intention of proceeding and it is no intervention or obstruction by the Government which eventually results in it not being fulfilled. Therefore, I see no reason why the Government or the Treasury should be responsible for paying interest on that particular stamp duty. It is clear that the Democrats will not support the amendment.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

SUPPLY BILL (No. 1)

Second reading.

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

Its purpose is to grant supply for the early months of next financial year. Present indications are that appropriation authority already granted by Parliament in respect of 1989-90 will be adequate to meet the financial requirements of the Government through to the end of the financial year. The Government will, of course, continue to monitor the situation very closely, but it is unlikely that additional appropriation authority will prove to be necessary.

The 1989-90 Budget provided for a net financing requirement of $154.3 million. While it would not be prudent to make precise forecasts at this stage, I can advise the House of some of the factors which will influence actual outcomes this financial year as compared with the Budget estimates.

Recurrent Budget

After taking into account revised accounting arrangements relating to superannuation, present indications are for total recurrent receipts to be on target with the Budget estimates. As usual, the picture for particular receipt areas is mixed and at this point in the year there remains considerable uncertainty over the likely outcome for the year.

Commonwealth general purposes recurrent grants are expected to exceed the Budget estimates because the Commonwealth's estimate of inflation for the year has been revised upward. The arrangements agreed upon at the 1989 Premiers' Conference provide for indexation of the base level of Financial Assistance Grants according to the actual increase in the Consumer Price Index for the four quarters ending March 1990 over the preceding four quarters. It must be noted, however, that the pool of funds made available by the Commonwealth for the grants was reduced significantly before the interstate distribution of grants was determined for 1989-90.

In the area of State's 'own source' receipts, revenue from payroll tax is expected to exceed the Budget estimate due to higher than anticipated employment growth.

Interest received on investments is also showing a small increase over budgeted levels. Offsetting this, however, it is now expected that revenues from stamp duties on conveyances and mortgages are likely to be lower than estimated in the Budget. This reflects mainly a 'flattening out' in the property market. Overall, the expectation is that recurrent receipts will be reasonably close to the Budget estimate.

On the expenditure side, the Government is maintaining its policy of restraint. The accent continues to be on savings and reallocation of resources. The Government's interest costs are now expected to be higher than estimated in the Budget because of prevailing interest rates. Wage decisions made since the Budget mean that the Government will be required to increase expenditure on wages and salaries. All areas of expenditure will continue to be closely monitored.

Capital Budget

At this stage of the year it appears that the Budget estimates for both capital receipts and payments will be closely adhered to. On the receipts side the estimates have not changed while the expenditure side of the capital Budget is expected to increase by about a net $2.4 million with the principal item of additional expenditure being for the purchase of a new helicopter for emergency services.

Overall Budget Result

As usual at this stage of the year there are emerging indications of over and under achievement of Budget estimates for both revenue and expenditure. It is difficult to estimate with any certainty the balance of these trends and so the overall Budget outcome. The Government will continue to closely monitor the Budget throughout the year.

Supply Provisions

Turning to the legislation now before us, the Bill provides for the appropriation of $800 million to enable the Government to continue to provide public services during the early months of 1990-91.

In the absence of special arrangements in the form of the Supply Acts, there would be no Parliamentary authority for expenditure between the commencement of the new financial year and the date on which assent is given to the main Appropriation Bill. It is customary for the Government to present two Supply Bills each year, the first covering estimated expenditure during July and August and the second covering the remainder of the period prior to the Appropriation Bill becoming law. That practice will be followed again this year.

Honourable members will note that the authority sought this year of $800 million is approximately 7 per cent more than the $750 million sought for the first two months of 1989-90. This is broadly in line with the increases in wages and other costs faced by the Government over the last year and should be adequate for the two months in question.

Clause 1 is formal. Clause 2 provides for the appropriation of up to $800 million and imposes limitations on the issue and application of this amount.

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

LIQUOR LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 February. Page 506.)

The Hon. K.T. GRIFFIN: The Opposition indicates its support for this Bill. It is essentially a Bill containing a number of housekeeping amendments to improve the administration and enforcement of the Act. Whilst that is generally the content of the Bill there are, however, some matters of substance which are important for the administration of the liquor industry, and I will deal with those as I examine the Bill.

I took the opportunity over the recess to refer the Bill to bodies such as the Australian Hotels Association, the Local Government Association, and some local councils, as well as to members on this side of the Council and in the House of Assembly who have areas in which late night entertainment is an issue because of the disruption of the peace of the local area and of constituents. I also referred the matter to the South Australian Restaurant Association, the Law Society and other groups.

On the basis of the responses that I have received it does not appear that there are many difficulties with the legislation. However, I understand that some other more substantive issues are still being considered by the Government and they may well form the basis for another Bill in the next session.

The major areas of amendment deal with issues such as live entertainment. That is extended in the Bill to include entertainment by pre-recorded amplified music in a discotheque complex. There are some provisions relating to the provision of meals in a dining area. Particularly in the context of an entertainment facility sham meals have been a constant source of concern, especially for the hotel industry. This Bill goes some way towards tightening the provision.

The Bill also provides for a producer's licence to be granted to an applicant who is accepted by the licensing authority as a genuine wine-maker who may not at that point have wine-making facilities but who will in the near future be establishing wine-making facilities at or adjacent to licensed premises. The Bill widens the grounds on which a local council may intervene in proceedings to include the question whether, if an application is granted, public disorder or disturbance would be likely to result.

The police are given power to require a person on licensed premises to provide evidence of age. That is a very difficult question and the Bill seeks to widen the power to deal with that issue. The Bill limits the offence of purchasing liquor at the request of a minor to those circumstances where the request is made by the minor on licensed premises. In that area I do have some concern and will be addressing some further remarks to it in due course. There is a provision for an objector or an applicant to vary his or her objection or application, as the case may be, at any time from the date of lodgment to the determination of proceedings.

I want to draw attention to a number of issues. Clause 7 allows the Licensing Court to award costs against a person who has frivolously or vexatiously brought proceedings or

has exercised the right to object to an application. The Bill seeks to extend the power of the court to an objector. That may be a local council, a local citizen, a hotel or other licensed premises. Whilst reference to frivolous or vexatious litigation or action is referred to in other legislation, it is in the context of an application and not generally speaking in relation to third party type appeals or objections. The concern that I have, particularly in this vexed area of live entertainment and noise and disruption in a local area, is that the extension of the power of the court to award costs against an objector may well discourage objectors from taking action to protect the character of their neighbourhood and to protect their peace and comfort.

Frivolousness or vexatiousness is not easy to determine. To a very large extent, it is subjective and I would have some concern if the introduction of this provision as sought in the Bill were to impinge upon and prejudice the rights of local residents. In my view, that is one of the consequences that could flow from a broadening of the power of the court to make an award of costs. I will be seeking to oppose clause 7 to retain section 22 as it is in the principal Act.

Clause 8 deals with the area of so-called sham meals. In a sense, there is some tidying up of drafting to make it tighter, but it does not really address what some areas of the hotel and liquor industry regard as a problem, that there are, in fact, sham meals. Of course, no-one is prepared to define what a meal is or should be. As I think that would be particularly difficult, I am not suggesting that we should endeavour to do that. However, representations to me indicate that the major concern is that there is no-one readily available to enforce the current law, largely because of the disbanding of the Liquor Licensing Squad in the Police Force.

That squad had the responsibility, specifically, for dealing with or detecting breaches of the Liquor Licensing Act. The fact that that squad has been disbanded and responsibility has been farmed out to regions—to local police—means that there is particular pressure on local police and a great difficulty created for them in picking up breaches of the Liquor Licensing Act in local communities. Even in suburbia the same sort of problem would apply, although police there are not frequently so much involved in the local community as they are in country areas. There is, immediately, a problem of enforcement. In the local community, the local police officer may well be a patron of a hotel when off duty and may know socially the people who run the licensed premises and many of the other patrons. In those circumstances it is not easy for a police officer to adequately and effectively control the administration of the liquor licensing law.

That applies partly to the sham meal context in the sense that there are inadequate resources available for policing. However, it is equally important, and more so in relation to limited licences, where some 11 000 limited licences are issued by the Licensing Court each year. Whilst in clause 14 there is a redrafting of section 46 to tighten the availability of limited licences, nevertheless, there is a problem because there is not adequate control through the Liquor Licensing Squad. More particularly, there is not the capacity to enforce the provisions of the Act, such as underage drinking. A number of problems have been created by the disbanding of the Liquor Licensing Squad and the requirement within the Police Force that local police exercise responsibilities for administering and enforcing the Liquor Licensing Act in local communities.

The Australian Hotels Association raised the issue of limited licences with me to suggest that the Bill does not address the real issue of the number of limited licences being issued in a way that is apparently indiscriminate. Clauses 29 and 30 give greater powers to local councils to intervene to protect the local community. That is particularly important in the area of live entertainment, discotheques, and what can be very late night functions at hotels. They cause a lot of concern to local communities, whether it is at North Adelaide, Glenelg, in other areas of metropolitan Adelaide or even in the country. It is difficult to police. One must know where to draw the line between the responsibility of the licensee and the responsibility of the individuals who are patrons.

Some suggestions have been made that a lot of the difficulty occurs in car parks or in streets where cars are parked in the vicinity of a licensed outlet and that a lot of noise occurs because of rowdy drinking activities in those locations as much as in the licensed premises themselves. It has been suggested that some consideration ought to be given to wider powers, whether through the police or private security guards, to bring that sort of rowdy and disruptive behaviour to an end. That has some difficulties, but it is an indication of the concern that is felt in some communities that they are considering that the extension of powers would be an appropriate way to deal with this problem.

Ultimately, the responsibility must come back to the Licensing Court. It does have power to impose conditions. There is a criticism that, sometimes, those conditions are not stringent enough, and that those conditions do not take into consideration the amenity of the local area and the interests of local residents. I must say that, on some occasions, I agree with that criticism. However, it is important that the issue of disruption be addressed and I am pleased to see that at least these two clauses of the Bill seek to go some way towards giving more power to enable that to be done.

I now draw attention to clause 27 and raise a question. This clause deals with consent of a lessor or owner of premises being deemed to have been given where the lessor was aware that the applicant proposed to sell or supply liquor on the premises. I am not sure what the reason for that is. I suppose it may result from some difficulty that may have been experienced in gaining consent of a lessor. The difficulty I see with the drafting is to determine how and in what context the lessor was aware that an applicant, who might be a lessee, proposed to sell or supply liquor on the premises. I would like some explanation of the particular problems that have prompted clause 27.

Under clause 31 an objection may be varied at any time before the determination of proceedings. The licensing authority has the discretion to allow a person to make that variation. It seems to me that we ought to consider ensuring that notice of such variation is required to be given to other parties within a specified time of that variation having been allowed. Maybe that is in the hands of the Licensing Court and is properly dealt with by its rules but, on the other hand, I would like to see some recognition of the principle that notice should be given as soon as it is practicable to do so after an application has been made and allowed.

Clause 45 relates to the sale and supply of liquor to a minor. Paragraph *(c)* of this clause limits the provision to those situations where a person is requested by a minor on licensed premises to purchase liquor on those premises on behalf of the minor. That makes it much narrower than what is in the present legislation. It seems to me that the present provision is desirable because it does not really matter where the request was made. If it was made off licensed premises to someone to purchase liquor or on licensed premises, that ought to be the offence. Therefore,

unless there is some persuasive reason why the amendment is desirable, legally or socially, I intend to move an amendment to ensure that the *status quo* remains.

I now draw attention to clause 47, which provides that an authorised person or a member of the Police Force may require a person to produce evidence of that person's age, that is particularly where there are reasonable grounds to believe that the person is under the age of 18 years. I would like the reference to prescribed premises in new subsection 1 *(a)* clarified and what is proposed to be prescribed for the purpose of that provision.

Clause 38 deals with the liability of directors of companies. It tends to make the liability of company directors clearer. It limits the liability of directors to those occasions where a liability of the body corporate arose at the time at which an amount became payable under section 100. I have had a concern about the extent to which directors are liable for the acts of a body corporate where there is a conviction. I have raised this on previous occasions because over the past seven years the Government has invariably included the sort of provision where the directors have been liable upon the body corporate being convicted, they themselves perhaps being subject to a conviction as a result and also liable to monetary penalty. There generally is a reverse onus of proof that, if they can establish that they were not able to prevent the commission of the offence by all reasonable means, they are not liable.

On the occasion that the principal Act was before us I made the point that under section 100 there is no defence: an order of the court may be enforced against a director of a body corporate that may have a liability or a related body corporate. Fortunately, the amendments in the Bill do restrict that, but not as effectively as I think it ought to. I would prefer to see some general provision that enables the directors at least to show that they could not, by the exercise of reasonable diligence, have prevented the behaviour by the body corporate.

In relation to clause 38, there is a provision for enforcement of an order of the Licensing Court by registration of a certificate as to the order in a local court of competent jurisdiction. I think there are some questions there in relation to the level of the court in which the certificate is registered, remembering that the local court has jurisdiction up to only $20 000, district courts up to $100 000 and, thereafter, the Supreme Court. I would like to see a local court exercising jurisdiction beyond $20 000, which is presently its limit in relation to civil matters. Therefore, I think we need to address that issue of what is the appropriate court.

The next issue relates to clause 60, which seeks to extend from one year to two years the period within which proceedings may be issued for breaches of the principal Act. I object to that, and I will be opposing it. There is a tendency for Governments to require a longer time within which to issue proceedings. I think it is unreasonable for citizens to be under a cloud for a long period of time, not knowing whether or not they will be prosecuted and, in some instances, not even being informed that they are under suspicion or investigation for a long period of time.

If a Government agency cannot get its act together and issue proceedings within a year, I think it deserves to miss out. Two years tends to sloppiness and delay. If it is necessary to have a two-year period within which to issue proceedings, it can only be that there are inadequate resources for the agency to investigate and reach a conclusion that prosecutions should be issued. In those circumstances, it is my view that the citizen ought not be put under threat but that the Government should exercise its responsibilities and address directly the issue of inadequate resources. Therefore, I will oppose clause 60.

The consideration of the last matter is triggered by clause 45, particularly because of the introduction of Keno into licensed clubs and hotels on a trial basis. It has been drawn to my attention that there is a restriction on the right of minors to play Keno. They are restricted from so doing in the casino, but they are not so restricted in licensed premises; nor, for that matter, are they restricted, as I understand it, when Keno is introduced into newsagencies and other facilities.

This is a matter of grave concern. Keno is a substitute for poker machines, and I think it is socially undesirable that young persons should be allowed to play Keno or, in effect, poker machines. I will move an amendment which will ban the availability of Keno in licensed premises to persons under the age of 18 years.

The broader issue of the availability of Keno to persons under the age of 18 years in places such as newsagencies needs to be addressed, and I will make more of an issue on this matter on a more appropriate occasion. So, I will move amendments, but generally I indicate that the Bill is supported by the Opposition.

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

RATES AND LAND TAX REMISSION ACT AMENDMENT BILL

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

ADJOURNMENT

At 6.19 p.m. the Council adjourned until Wednesday 21 March at 2.15 p.m.