## LEGISLATIVE COUNCIL

Tuesday 2 June 1981

**The PRESIDENT (Hon. A. M. Whyte)** took the Chair at 2.15 p.m. and read prayers.

### ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Audit Act Amendment,
Building Societies Act Amendment,
City of Adelaide Development Control Act Amendment,
Companies (Acquisition of Shares) (Application of Laws),
Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws),
Education Act Amendment, 1981,
Election of Senators Act Amendment,
Electoral Act Amendment,
Food and Drugs Act Amendment,
Hairdressers Registration Act Amendment,
Harbors Act Amendment,
History Trust of South Australia,
Industrial and Commercial Training,
Irrigation Act Amendment,
Kangarilla Temperance Hall (Discharge of Trusts),
Motor Vehicles Act Amendment,
National Companies and Securities Commission (State Provisions),
National Parks and Wildlife Act Amendment,
Petroleum Act Amendment,
Pitjantjatjara Land Rights,
Port Pirie Racecourse Land Revestment,
Police Offences Act Amendment,
Police Regulation Act Amendment,
Primary Producers Emergency Assistance Act Amendment,
Prisons Act Amendment,
Public Finance Act Amendment,
Public Service Act Amendment,
Recreation Grounds Rates and Taxes Exemption,
Residential Tenancies Act Amendment,
Road Traffic Act Amendment, 1981,
Road Traffic Act Amendment (No. 2), 1981,
Securities Industry (Application of Laws),
Soccer Football Pools,
South Australian Meat Corporation Act Amendment,
State Transport Authority Act Amendment,
Statutes Amendment (Administration of Courts and Tribunals),
Statutes Amendment (Valuation of Land),
Statutes Amendment (Water and Sewerage Rating),
Tea Tree Gully (Golden Grove) Development Act Amendment,
Urban Land Trust,
Workers Compensation (Insurance) Act Amendment.

### PUBLIC WORKS COMMITTEE REPORTS

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

Ceduna Courthouse and Office,
Glenside Hospital—Organic Dementia Unit and Infirmary,
Loxton North Primary School redevelopment,
Mines Department Building, Glenside (Core Library Extension),
Novar Gardens Police Complex (Phase II),
Port Augusta North-West Primary School—Stage I,
Stirling East Primary School—Upgrading and Redevelopment,
Thebarton High School Redevelopment.

### PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

*By Command—*

Advisory Council for Inter-government Relations—Report, year ended 31 August 1980.

*Pursuant to Statute:*

Children's Protection and Young Offenders Act, 1979-1980—Regulations—Forms—Various Amendments.
Explosives Act, 1936-1974—Regulations—Various Amendments.
Justices Act, 1921-1980—Rules—Fees.
Local and District Criminal Courts Act, 1926-1980—Local Court Rules—Costs.
Lottery and Gaming Act, 1936-1980—Regulations—Sale of Tickets.
Metropolitan Taxi-Cab Act, 1956-1978—Regulations—Fees.
Motor Vehicles Act, 1959-1980—Regulations—Motor Cycle Number Plates Registration and Licensing Fees.
Racing Act, 1976-1980—Dog Racing Rules—Qualifying trial amendments.
Road Traffic Act, 1961-1980—Regulations—Traffic Prohibition—Berri, Noarlunga and Enfield.
Stamp Duties Act, 1923-1980—Credit and Rental Stamp Duty.
Supreme Court Act, 1935-1980—Supreme Court—Appeals—Various Amendments.
Third Party Premiums Committee Report.
Racing Act, 1976-1980—Dog Racing Rules—Qualifying Trial.
Road Traffic Act, 1961-1981—Traffic Prohibition (Hindmarsh) Regulations.

By the Minister of Corporate Affairs (Hon. K. T. Griffin)—

*Pursuant to Statute—*

National Companies and Securities Commission—Report and Financial Statements, for the period 11 March 1980 to 30 June 1980.

By the Minister of Local Government (Hon. C. M. Hill)—

*Pursuant to Statute—*

Boating Act, 1974-1980—Regulations—Caloote Landing Zoning.
Education Act, 1972-1980—Regulations—Reduction of Salary.
Friendly Societies Act, 1919-1975—Amendment to General Laws—Independent Order of Rechabites, The South Australian District No. 81, The United Friendly Societies Council of South Australia, National Health Services Association of South Australia.
Hartley College of Advanced Education—Report, 1980.
Local Government Act, 1934-1980—Regulations—Crown Solicitor's Settling Fee.
Prisons Act, 1936-1976—Regulations—Payment of Prisoners.

South-Eastern Drainage Act, 1931-1980—Regulations—Various Amendments.
South Australian Teacher Housing Authority—Report, 1980.
City of Adelaide—By-laws—
No. 2—Vehicle Movement.
No. 10—Street Traders.
No. 40—Trishaws.
City of Burnside—By-law No. 25—Lodging Houses.
City of Tea Tree Gully—By-law No. 46—Keeping of Dogs.
District Council of Clinton—By-law No. 23—Keeping of Dogs.
District Council of Ridley—By-law No. 7—Control of Horses, Cattle and Sheep.
Department of Correctional Services—Report, 1979-1980.
Department of Local Government—Report 1980.
Corporation of Adelaide—By-law No. 13—Signs.
District Council of Meadows—By-law No. 40—Repeal of By-laws.

By the Minister of Community Welfare (Hon. J. C. Burdett)—

*By Command—*

Australian Agricultural Council—Resolutions of the 109th meeting held on 4 August 1980.

*Pursuant to Statute—*

Beverage Container Act, 1975-1976—Regulations—Plasti-shield Bottles.
Chiropractors Act, 1979—Regulations—Registration.
Dried Fruits Act, 1934-1972—Regulations—Board Fees.
Food and Drugs Act, 1908-1976—Regulations—Lice Infestations.
Forestry Act, 1950-1974—Proclamation—Section 274, Hundred of Kennion—Ceasing to be Forest Reserve.
Hairdressers Registration Act, 1939-1981—Regulations—Fees.
Health Act, 1935-1978—Regulations—Licence Fees.
Industrial Conciliation and Arbitration Act, and Workers Compensation (Insurance) Act—Industrial Court Rules—Appeals.
Meat Hygiene Act, 1980—Regulations—Licence Fees.
Metropolitan Milk Supply Act, 1946-1980—Regulations—Discontinuance of Brucellosis Vaccinations.
Motor Fuel Licensing Board—Report, 1980.
Noxious Trades Act, 1943-1965—Regulations—Noxious Trades Area.
Planning and Development Act, 1966-1980—Regulations—Metropolitan Development Plan—Corporation of Burnside—Zoning.
District Council of Munno Para—Zoning.
Corporation of Noarlunga—Zoning.
Corporation of Port Adelaide—Zoning.
South Australian Health Commission Act, 1975-1980—Hospital by-laws—Elliston Hospital Incorporated, Wallaroo and District Hospital Incorporated.
Vertebrate Pests Control Authority—Report 1979-80.
Commercial and Private Agents Act, 1972-1978—Regulations—Licence Fees.
Fees Regulation Act, 1927—Regulations.
Places of Public Entertainment Act—Fees.
Licensing Act—Fees.
Land and Business Agents Act, 1973-1979—Regulations—Agents, Managers and Salesmen—Fees—Land Brokers—Fees.
Land Valuers Licensing Act, 1969-1974—Regulations—Land Valuers' Fees.
Packages Act, 1967-1972—Regulations—Brand Fee.
Residential Tenancies Fund—Report on Administration, 1979-1980.
Industrial and Commercial Training Act, 1981—Industrial and Commercial Training Regulations, 1981—Revocation of Regulations.
Planning and Development Act, 1966-1980—Metropolitan Development Plan City of Glenelg Planning Regulations—Zoning.

## REPLIES TO QUESTIONS

**The Hon. J. C. BURDETT:** I seek leave to have the following replies to twenty-two questions without notice inserted in *Hansard* without my reading them. These questions have already been answered by letter.

Leave granted.

### FORESTRY COMMISSION

In reply to the **Hon. B. A. CHATTERTON** (25 February).

**The Hon. J. C. BURDETT:** In accordance with Government policy, consultation will occur if and when the occasion arises.

### Mr L. M. DALMIA

In reply to the **Hon. B. A. CHATTERTON** (17 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Forests has advised me that there is no foundation in the claims made by the honourable member.

### P.E.T. BOTTLES

In reply to the **Hon. J. R. CORNWALL** (5 November).

**The Hon. J. C. BURDETT:** The replies are as follows: In response to the questions you asked during the debate on P.E.T. bottles on 5 November 1980 and your further question on 11 February 1981 on the same subject, I provide the following information:

1. Tests have not been conducted by the South Australian Department for the Environment. However, a computer literature search of combustion tests of polyethelene terephthalate has been conducted by Amdel for the department.

2. As a result of that investigation, Amdel reported that the disposal of P.E.T. soft drink bottles by burning in domestic or municipal incinerators is considered to be safe to human beings.

3. Yes.

4. It is incorrect to assert that the Government relied on manufacturer's claims. Information was supplied from laboratories overseas via the State Pollution Control Commission of New South Wales.

5. My department has submitted the Amdel report to me. I have referred the report back for further information. I will provide a copy of the report as soon as the department has responded to that request for further information.

### WOODS AND FORESTS DEPARTMENT

In reply to the **Hon. B. A. CHATTERTON** (26 February).

**The Hon. J. C. BURDETT:** The Minister of Forests has advised me there is no suggestion that the major activities of forestry and conversion will be divorced from the Woods and Forests Department. The comment applied only to a suggestion made previously by the Hon. B. A. Chatterton, M.L.C., that the Government was seeking to sell shares held by the South Australian Timber Corporation in two particular joint venture operations.

## I.M.V.S.

In reply to the **Hon. J. R. CORNWALL** (25 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Health has informed me that in section 15.12.11 of the Wells Report the committee recommended that:

> the institute's medical pathology services in areas where there are satisfactory alternative comprehensive private pathology services should be strictly limited to providing services which are profitable overall at the basic levels of specimen collection frequency, reporting rapidity and consultation advice necessary for good medical care.

The Government endorses the tenor of the committee's recommendation and has referred this along with the other recommendations to an implementation team. The committee has not recommended that clinical pathology services would not be available to private practitioners. Tests which are provided by the institute will continue to be available when requested to all practitioners. Furthermore, the Government is committed to improving the efficiency of the institute and in ensuring all services are provided in a cost-effective manner. The Wells Report establishes a framework within which this can be done.

## BLACK HILLS NURSERY

In reply to the **Hon. J. R. CORNWALL** (17 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Environment advises the following:

1. Plants removed from Black Hill Nursery
   *(a)* Twenty-four tube-sized plants removed during December 1980
   *(b)* Forty-eight tube-sized plants removed during January 1981.
2. Plant sales
   *(a)* December 1980—923; sales value $878
   *(b)* January 1981—1 134; sales value $1 094.

## HEAD LICE

In reply to the **Hon. J. A. CARNIE** (25 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Health has informed me that, although A200 head lice lotion is widely available for sale in South Australia, there have been no local reports that it has caused eye damage. In 1980 A200 was the subject of an investigation following reports that it had caused several cases of eye damage in New South Wales. As a consequence of that investigation, the manufacturer of A200 has reformulated the product and made several changes to the warning statement on the label and to the instructions for use contained in the product package. If cases of eye damage resulting from A200 are reported in future, consideration will be given to restricting its sale in this State.

## GOVERNMENT CARS

In reply to the **Hon. M. B. DAWKINS** (26 February).

**The Hon. J. C. BURDETT:** It is assumed the honourable member's question is in reference to the Ministerial fleet of vehicles. There is no established replacement policy with respect to heavy-duty sedans in the Ford LTD class. However, these types of vehicles generally have a three to four-year life and are replaced on this basis provided that funds are available. Existing vehicles are being replaced with Ford Fairlanes where heavy-duty sedans are needed and by Holden Commodores where the lighter class of sedan car is used. Government changeover policy for this class of car is two years or 40 000 kilometres, whichever is the earlier.

## COAST PROTECTION BOARD

In reply to the **Hon. J. R. CORNWALL** (26 February).

**The Hon. J. C. BURDETT:** I am informed by my colleague the Minister of Environment of the following:

1. D. Speechley, Acting Director of Planning (Acting Chairman); R. Culver, University of Adelaide; R. Kinnane, Marine and Harbors; D. Morgan, Waite Institute; D. Mason, Glenelg Council; G. Joselin, Tourism.
2. The honourable member would know that the Coast Protection Board and the Coast Protection Division are the responsibility of the Minister of Environment, and both provide advice to the Minister of Environment. All matters dealt with by the board, including forward programming, are referred to the Minister of Environment through the Director, Coast Protection Division and Director-General, Department for the Environment.
3. $1 200 000.
4. The board is not responsible for the provision of foreshore facilities. That is largely the initiative and responsibility of local government. However, the Coast Protection Board and Division can and do provide technical assistance and grants to local government. This function is currently under review.
5. No major change.
6. Yes. Although it is clear that the annual sand replenishment programme is the cheapest available solution to the protection problem of Adelaide beaches, a major investigation is currently under way on alternative protection strategies.

## MOUNT LOFTY FIRE TOWER

In reply to the **Hon. J. R. CORNWALL** (19 February).

**The Hon. J. C. BURDETT:** The Mount Lofty obelisk is classified by the National Trust in that it is considered essential to the heritage of South Australia and should be preserved. The obelisk is recorded in the Register as the Mount Lofty Observing Tower and is number 2916 on that register. The State Heritage Committee has not assessed this structure, and for this reason, it is not on the Register of State Heritage Items. The estimated cost of upgrading the tower and installing the necessary fire spotting facilities would be approximately $10 000; however, other alternatives to provide similar facilities are being currently examined. It is anticipated that a suitable fire-spotting facility will be in operation on Mount Lofty prior to the next fire season.

## SWIMMING POOLS

In reply to the **Hon. J. R. CORNWALL** (26 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Health informs me that health authorities have not

tested any swimming pools for the presence of *naegleria fowleri* since 1 December 1980. However, as part of its own investigations, and in response to specific requests, the Engineering and Water Supply Department has tested a total of twenty-seven pools since that date. Of the pools tested, twenty-three were tested once, two were tested five times and two were tested on more than five occasions. *Naegleria* species were isolated on four occasions, and appropriate remedial action was taken. The Minister of Health was not advised of the closure of three public swimming pools in Perth during January.

## WATER SUPPLIES

In reply to the **Hon. R. J. RITSON** (26 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Health wishes to assure the honourable member that there will be continuing education of swimming pool hygiene. Health authorities have always drawn attention to the need to properly operate and disinfect swimming pools, and will continue to do so. The advice given by health authorities regarding pool hygiene is straightforward and factual, and is most unlikely to provoke public alarm.

## HEAD LICE

In reply to the **Hon. J. A. CARNIE** (25 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Health informs me that A200 pyrinate liquid is on sale and in fact is widely used in South Australia. Following reports of eye damage in New South Wales, the manufacturing company is changing the surfactant used in the product. In South Australia no complaints have been received by School Health Services on eye damage caused through the use of the proudct. However, several cases of eye damage resulting from the use of other products have been reported from the Adelaide Children's Hospital and the Flinders Medical Centre.

At this stage, the South Australian Health Commission does not propose to take any action on the matter but, if this does become necessary, the Pharmaceutical Services Branch of the commission would be advised by the Drug Evaluation Committee of the National Health and Medical Research Council, which monitors the use of pediculicides. My colleague points out that all pediculicides are potentially dangerous, if they are used improperly and not in accordance with the directions stated by the manufacturers.

## ABORTION PAMPHLET

In reply to the **Hon. ANNE LEVY** (3 March).

**The Hon. J. C. BURDETT:** I suggest the following reply to the question regarding the abortion pamphlet asked by the Hon. Anne Levy:

> My colleague the Minister of Health has informed me that a draft pamphlet on abortion has been developed on behalf of the commission chaired by the late Sir Leonard Mallen for publication by the South Australian Health Commission. No firm date for publication is available. The Minister is in favour of information on abortion being made available to women

## URANIUM

In reply to the **Hon. J. E. DUNFORD** (11 February).

**The Hon. J. C. BURDETT:** The honourable member's three questions have been considered by my colleague the Minister of Health, who advises me as follows:

1. The Thebarton Council has made available a summary of its debate regarding the Amdel Laboratories at Thebarton.

2. On advice given by the Minister of Local Government, there are no powers under the Local Government Act which would allow the setting up of nuclear-free zones. It is therefore considered that the passing of a resolution by a council declaring a nuclear-free zone would have no force or effect at law.

3. Reports of investigations conducted by the South Australian Health Commission into radiation matters at Amdel, Thebarton, have been provided to the Thebarton Local Board of Health.

## MILK BOTTLES

In reply to the **Hon. C. W. CREEDON** (25 February).

**The Hon. J. C. BURDETT:** In metropolitan Adelaide there are two companies engaged in the processing and packaging of milk, not one as in Tasmania, so the likelihood of a company denying its customers their preference for bottled milk is most unlikely. It is true that the proportion of milk sold in bottles compared to that sold in cartons has dropped rather dramatically over the past few years, to the extent that sales of cartoned milk now outnumber sales of bottled milk by a ratio of almost two to one. It should, however, be realised that this dramatic change in ratio has come about solely by consumer preference.

Since metrication and the introduction of the one-litre carton, which is now the predominant milk package sold in non-returnable containers, and the establishment of a 600 millilitre bottle, which is now the only size returnable container sold, there has been a swing to the litre carton. It is true that milk-bottling equipment in South Australia is getting older, and if the trend towards cartons continues it is unlikely that further milk-bottling equipment will be purchased or replaced. However, should the level of bottled milk drop to such an extent that it becomes uneconomical for two processors to continue to operate bottling lines, it seems certain that the spirit of co-operation and rationalisation that has existed in South Australia for many years will continue, and that bottling would be carried out by one or other of the processors until such time as the demand for bottled milk in total diminishes to such an extent that it would be uneconomical to continue to handle it.

To demonstrate the trend from bottles to cartons I have listed the market share of each package for 1970 and 1980.

| | 1970 Per Cent | 1980 Per Cent |
|---|---|---|
| Sales of white and flavoured milk by container: | | |
| Bulk | 4.5 | 3.4 |
| Bottles | 88.6 | 37.8 |
| Cartons | 6.9 | 58.8 |

I wish to repeat my earlier comment that this change has occurred as a result of consumer preference and was not encouraged through promotion by either processing company, the manufacturers of cartons or the board.

## HORSNELL GULLY FIRE

In reply to the **Hon. J. R. CORNWALL** (12 February).

**The Hon. J. C. BURDETT:** The Minister of Agriculture informs me that the honourable member's allegations of a pay-out or collusion in the appointment of Mr John Fitzgerald are without foundation. In the first instance, the salary scale could hardly have been an inducement to Mr Fitzgerald because his remuneration as Fire and Operations Officer with the National Parks and Wildlife Division as at 10 January 1981 was $16 611, plus an allowance of $2 076 in lieu of overtime and penalty payments. to give a total of $18 687. His commencing salary with the C.F.S. Board was $16 128, although this has since been increased by the application of the 3.7 per cent C.P.I. increase and a 9 per cent work-value increase awarded by the Industrial Commission to officers covered by the C.F.S. Board operational staff agreement. Mr Fitzgerald's salary is now $18 230, but there is an opportunity for him to earn overtime. Even with such a component added to his flat salary rate he would, on present C.F.S. overtime patterns, exceed the C.P.I. adjusted rate for the fire and operations officer by little more than $300 per annum before tax.

The vacancy for Regional Officer, Country Fire Services, arose in July of last year when Mr G. A. Keay was promoted to the position of Superintendent, Operations, at C.F.S. Headquarters. Advertisements seeking applications for the vacant position subsequently appeared in the *Weekend Australian* and the *Advertiser* on 11 July and 19 July 1980, and in all twenty-nine persons responded to that call. That number was narrowed to a final short list of four, who were interviewed by a panel comprising Messrs R. D. Orr and J. F. Hare representing the C.F.S. Board and Messrs P. A. Malpas and G. A. Keay as senior members of headquarters staff.

The outstanding applicant for the position was a Mr J. Fulwood who, as the result of earlier employment dealings with the board, was known at that time to have a medical problem which ruled him unfit for appointment. A subsequent medical examination revealed that the problem still existed and it was decided, most regrettably, that he be passed over. The three remaining applicants were interviewed by the panel on 7 October 1980, when it was decided that none should be recommended to the C.F.S. Board for appointment. A subsequent reassessment of all applicants confirmed that view and, although it was agreed by senior staff that the position warranted readvertisement, no further action was taken for several weeks because of pressing operational commitments.

In early November 1980, Mr Fitzgerald made a personal approach to the Director of Country Fire Services asking if the position of Regional Officer was still vacant. When asked about his interest in the position he intimated that, from a personal viewpoint, he had fulfilled the role expected of him by the National Parks and Wildlife Division and, for the future, saw himself contributing more significantly to State-wide fire protection through the medium of the C.F.S.

He was advised by the Director that applications for the current vacancy had closed on 8 August 1980, but since it was the intention to readvertise, he would be free to lodge an application. The appropriate advertisement appeared in the *Advertiser* of 29 November last, and applications closed some three weeks later. Of the six applicants, three, including Mr Fitzgerald, were selected for final interview by the panel, which, in addition to the persons already mentioned, included Mr J. F. Gaetjens as the representative of insurers of the C.F.S. Board.

The panel was unanimous in its selection of Mr Fitzgerald on the grounds that 'the candidate proved that by his past experience in fire service matters and policies, supported by practical fire-fighting expertise, field experience and training qualifications, was ideally suited for the position of Regional Officer as advertised'. This candidate could be sent straight from headquarters to a job in any region, and should be able to carry out the duties required.

Thereafter, the approval of the Minister of Agriculture was sought in accordance with secton 18 (4) of the Country Fires Act, 1976-1980. The appointment of Mr Fitzgerald was discussed for the very first time between the Director and the Minister's office on Tuesday 20 January 1981. This meeting took place after the Country Fire Services Board had written to the Minister requesting approval to appoint Mr Fitzgerald. The main concern of the Minister was that staff-ceiling guidelines were followed, and it is emphatically stated that no other discussion was held at that time, or at any other time, in relation to Mr Fitzgerald and his joining the Country Fire Services headquarters staff.

Mr Fitzgerald's appointment was approved by the Minister, and he commenced duties on Monday 9 February 1981. He has been seconded back to National Parks and Wildlife Service until the termination of the fire-danger season. The honourable member's allegations that Mr Fitzgerald was threatened with dismissal under the Public Service Act are equally without foundation and are strongly denied.

## ASSOCIATION GRANTS

In reply to the **Hon. ANNE LEVY** (18 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Health has provided the following reply to your question without notice on 18 February 1981 in regard to association grants:

> In a letter dated 17 February 1981 the Family Planning Association was advised of its grant for the 1980-1981 financial year. The Minister has provided me with details of all the sums allocated to the Community Health Domiciliary Care and Deficit Funded Institutions for the 1980-1981 financial year. These amounts will be increased as a result of award variations and may also be increased as a result of other budget variations. I will ensure that these details are supplied to the honourable member, and ask her to note that there are fourteen and not eighteen Deficit Funded Institutions.

## COUNTRY SLAUGHTERHOUSES

In reply to the **Hon. B. A. CHATTERTON** (17 February).

**The Hon. J. C. BURDETT:** In reply to the honourable member's question asked in this Council on 17 February last, I am pleased to provide the following response:

Neither the Meat Hygiene Act of 1980 nor the regulations under that Act make any reference to the fixing of an actual level of throughput. The Joint Committee on Meat Hygiene Legislation recommended that slaughterhouses be licensed to continue to supply their usual retail and wholesale customers. Also, it recommended that the meat hygiene authority fix levels of throughput above which a slaughterhouse will be required to become an abattoir.

The joint committee considered that the authority shall be flexible on this level of throughput, and was of the opinion that 5 000 sheep equivalent units per annum is a reasonable figure. It is not the policy of the authority to

restrict the throughput of a slaughterhouse where that throughput is designated to servicing the slaughterhouse proprietor's own existing retail butcher shop or shops at the time of proclamation. In the isolated cases where other wholesaling of licensed slaughterhouse meat was occurring at the time of proclamation, the current throughput ceiling will be applicable. On the other hand, the Act requires owners of slaughterhouses who wish to trade freely throughout the State to upgrade their premises to abattoir standard, which requires in-house ante and post-mortem inspections of all throughput.

## FLY MENACE

In reply to the **Hon. G. L. BRUCE** (12 February).

**The Hon. J. C. BURDETT:** My colleague the Minister of Health has informed me that the Central and Local Boards of Health have a role under the provisions of the Health Act for fly-control activities in South Australia. The prevalence of flies this season has led to many complaints and, consequently, additional advisory and control measures have been involved.

Contact has been made with the Fly Suppression Unit in Victoria, and copies of the material developed by that unit have been obtained. Advisory material has been circulated to Local Boards of Health for distribution, and arrangements have been made to include the organisations suggested by the honourable member in future distributions. The C.S.I.R.O., in conjunction with the Department of Agriculture, is investigating the use of dung beetles as a means of fly control.

## LITTLE DOLLAR SAVER

In reply to the **Hon. C. J. SUMNER** (26 February).

**The Hon. J. C. BURDETT:** The South Australian Surf Life Saving Association does derive a benefit from the scheme in that it receives $1 for each booklet sold. To date, the association has received about $5 000 from such sales. I believe that the scheme will finish later this year.

## BEER CONTAINERS

In reply to the **Hon. J. E. DUNFORD** (26 November).

**The Hon. J. C. BURDETT:** I am pleased to be able to assure you that your constituent's fears that plastic containers may affect the quality and enjoyment of their beer are unfounded. The Commissioner for Standards has approved 170 ml and 425 ml plastic containers as beverage glasses pursuant to the regulations under the Trade Measurement Act, 1971-1976. Since this decision was made, a number of licensed premises and clubs have chosen to use them because the impact resistance and durability of the acrylic container has almost entirely eliminated problems associated with the accidental and deliberate breakage and chipping of glasses with consequent benefits in replacement costs and public safety.

Although some licensees have had reservations about replacing glasses with acrylic containers because of customer resistance and the suggestions that beer loses its head when poured into an acrylic vessel, tests have shown that beer retains its head, and is kept colder, for a longer period in an acrylic container than in glass.

The acrylic containers referred to should not be confused with those commonly used in publicans' booths at sporting and other functions which are either of polystyrene or polyethelene plastic and manufactured as disposable containers. Any effect that the use of acrylic containers may have on Australian glass manufacturers will be determined by their ability to assess and respond to the consumer demand.

## REPLIES TO QUESTIONS

**The Hon. C. M. HILL:** I seek leave to have replies to seven questions without notice inserted in *Hansard* without my reading them. All the replies have been sent to the appropriate members.

Leave granted.

## WATER QUALITY

In reply to the **Hon. N. K. FOSTER** (25 February).

**The Hon. C. M. HILL:** The matter referred to by the honourable member has indeed been studied and the matter raised on many occasions over the last thirty years. Indeed, at the completion of the Snowy Mountains Scheme in the early 1960's, a study by the Snowy Mountains Authority was undertaken to evaluate the possibility of diverting water of the Clarence River to flow in a westerly direction, rather than empty into the ocean. This proposal has not eventuated to date because of the complexities of the proposal. However, the Minister of Water Resources believes that, in the long term, some of the swift flowing rivers on the Eastern Coast will have at least portion of their flow diverted to the western side of the Dividing Range.

At the moment there would be little benefit in such a scheme, as under the sovereign State situation any waters so diverted would belong to New South Wales and the likelihood of South Australia deriving benefits from diversions into the upper reaches or tributaries of the Darling River are fairly remote when one considers the massive irrigation proposals that the New South Wales Government is currently considering.

Any diversions into the tributaries of the Darling would undoubtedly be totally used by New South Wales at this stage and, if that were to be the case, all that South Australia would receive would be increased salinity and no water. As has been stated previously, for any benefit to accrue to this State from such a scheme an increased allocation under the River Murray Waters Agreement would have to be negotiated.

The evaluation of the Chowilla Dam proposal by the River Murray Commission showed that construction of the dam could not be justified at that time on the basis of economics. Nothing has happened to change those conclusions. Neither the Snowy Mountains Engineering Corporation or the Snowy Mountains Hydro-Electric Authority has undertaken any investigation, testing or reporting in relation to the Chowilla Dam proposal. With regard to the lowering of the water temperature in water mains to limit the growth of bacteria connected with amoebic meningitis, the original investigation for water treatment in northern towns was commenced early in 1975. As part of the study, a number of specific water-quality parameters were examined with respect to their significance and possible methods of control.

One such parameter examined was the temperature of the water supplied to consumers. Within realistic limits, the temperature of the water supplied by itself does not represent a health hazard. Additionally, the effectiveness of temperature as a control mechanism for micro-organism contamination of domestic water supplies is not proven. A

number of methods of controlling the temperature of domestic water supplies to approximately 20-25°C were investigated: refrigerative cooling with and without storage; evaporative cooling; use of sea water in heat exchangers; and covering the Morgan-Whyalla pipeline.

As an indication of the order of costs involved, the covering of the Morgan-Whyalla pipeline for the whole of its length is approximately $130 000 000. Investigations have shown that temperature of water supply, in practical terms, is not an effective method of disinfection. Furthermore, the cost of controlling the temperature of water supplied in a distribution system as extensive and complex as that for the northern towns is prohibitively high.

## AMATEUR FISHING LICENCES

In reply to the **Hon. B. A. CHATTERTON** (19 November).

**The Hon. C. M. HILL:** The Victorian amateur fishing licence applies only to inland waters of Victoria and does not include marine fisheries or the Murray River. Provision for recognition of inland waters fishing licences held by amateur fishermen outside of Victoria is contained in legislation which is at present before the Victorian Parliament. As the intention of the Victorian legislation is quite clear and the number of South Australian fishermen who could benefit is very limited it is not proposed to pursue the matter further.

## MULTI-CULTURAL EDUCATION ACTIVITIES

In reply to the **Hon. C. J. SUMNER** (4 March).

**The Hon. C. M. HILL:** The report was prepared by Dr Ron Witton and published in September 1980. It is a major input into the investigation of the implications of multi-culturalism. The report is currently being assessed.

## CRASH REPAIR INDUSTRY

In reply to the **Hon. C. J. SUMNER** (5 March).

**The Hon. C. M. HILL:** It is expected that legislation covering the tow-truck industry will be introduced in the next session.

## BOOK SALES

In reply to the **Hon. ANNE LEVY** (4 March).

**The Hon. C. M. HILL:** On 4 March, the honourable member drew to my attention an apparent discrepancy between a remark in a written reply to the Leader of the Opposition on the matter of book sales conducted by the Libraries Board and my reply to the honourable member on 25 February 1981 on the same matter. The written reply to the honourable Leader may have been clearer if the number of booksellers involved had been stated, as in my previous reply to the Hon. Miss Levy. Approximately ten booksellers attended the book sale, and of those three or four purchased books at a discounted price because they purchased large quantities of books.

It may therefore have been clearer to state in my letter to the Leader that 'a considerable percentage' of the booksellers who attended the sale availed themselves of the special offers for large purchases, rather than using the phrase 'a large number of booksellers who attended'. As I previously stated, the number of books purchased by booksellers (3 000) was not very large compared with the total number of books offered (80 000).

## MULTI-CULTURAL EDUCATION ACTIVITIES

In reply to the **Hon. ANNE LEVY** (4 March).

**The Hon. C. M. HILL:** In its endeavour to cater for a section of the South Australian population which does not have English as its first language, the Department of Further Education effort includes the following programmes:

(1) Diet and nutrition in Greek and Italian languages at Croydon Park College of Further Education.

(2) Dressmaking in Greek and Italian languages at Croydon Park, Kensington Park and Port Adelaide colleges.

(3) Bilingual stenography consisting of basic language skills and applied business language skills, offered at Croydon Park and Kensington Park colleges.

(4) Courses for mothers with pre-school children in Greek, Italian and Croatian/Serbian are offered in co-operation with the Kindergarten Union of South Australia. There are two Greek classes, one Italian and one Croatian/Serbian class.

(5) Interpreter level 2 course offered in Greek, Italian, Croatian/Serbian and Spanish languages at the Community Languages Centre.

(6) Languages for professionals

(i) for lawyers and law students in Italian

(ii) for medical staff and students (Greek, Italian and Spanish)

(iii) for social workers (Greek, Italian, Croatian/Serbian)

(iv) for teachers (Greek, Italian and Croatian/Serbian).

(7) Language maintenance and development programme consisting of five courses offered at three colleges in three languages. There is a whole range of on-arrival courses with a functional approach to language learning and focusing on priority areas of need for newly arrived migrants. These above courses are offered at three metropolitan colleges. These programmes are seen as a first step in providing general access to other Department of Further Education courses as well as providing courses to satisfy particular needs of the ethnic communities.

The Department of Further Education is currently investigating multi-cultural perspectives in other Department of Further Education courses, such as were introduced in 1979, when for one year Croydon Park College of Further Education offered automotive techniques in the Greek language. At present, the feasibility of offering motor maintenance in Vietnamese is being examined.

## POLICE FORCE RECRUITMENT

In reply to the **Hon. G. L. BRUCE** (24 February).

**The Hon. C. M. HILL:** All recruits to the Police Force are required to meet the physical requirements as to height, weight, minimum inspiration and maximum expiration as set out in regulations 16 (1) and 16 (2) of the regulations under the Police Regulation Act. In addition, they are required to undergo a medical examination performed by the police medical officer, including eye sight testing. Because of the nature of police work, all candidates recruited for operational areas must be physically and medically suitable in all respects. Regulation 16 (3) gives the Commissioner of Police discretion in special circumstances to accept a candidate who does not comply with the physical requirements. This discretion would generally be exercised where a person

possesses a special qualification, skill and/or experience which would be of special benefit to the department and, without exception, would mean deployment in a 'non-operational' role. A recent appraisal of eye-sight standards has resulted in candidates who wear sight aids to be accepted to the Force, provided that they meet a specified unaided visual acuity.

## REPLIES TO QUESTIONS

**The Hon. K. T. GRIFFIN:** I seek leave to have the replies to seventeen questions without notice inserted in *Hansard* without my reading them.

Leave granted.

### PUBLIC FINANCE BILL

In reply to the **Hon. B. A. CHATTERTON** (17 February).

**The Hon. K. T. GRIFFIN:** The second reading explanation of the Bill indicated that its provisions would provide part of the framework within which programme and performance budgeting and a new Treasury accounting system would be developed. Because there is still a great deal of work to be done in these two areas, the Bill tends to be an enabling piece of legislation rather than setting out to define exactly what will be done.

The Government's current intention is that additional information will be provided on the operation of Special Deposit Accounts, and the P.P.B. and T.A.S. Teams are working towards that end. Until their recommendations have been received and considered, however, it is proposed that the information currently provided on Deposit Accounts should continue to be provided, except for the additional data on the reasons for opening new accounts which is now required by section 31 *(f)* of the Audit Act.

### RAILCARS

In reply to the **Hon. C. W. CREEDON** (17 February).

**The Hon. K. T. GRIFFIN:** The upgrading of a single red hen railcar to assess the extent of upgrading to meet present-day standards of passenger comfort and safety is expected to be completed by July 1981. A report on the feasibility of upgrading the remainder of the red hen fleet will then be prepared by the State Transport Authority. Should a decision to refurbish the remainder of the fleet be made, it is expected that the work will extend over three to four years.

### GRAPEGROWERS' MEETING

In reply to the **Hon. B. A. CHATTERTON** (19 February).

**The Hon. K. T. GRIFFIN:** Both the Minister of Consumer Affairs and the Minister of Agriculture received invitations to attend the meeting at Tanunda on 10 February 1981, and both replied stating that they were unable to attend because of prior commitments. The Minister of Agriculture arranged for officers of his department to be present as observers, and to report to him on any matters of policy discussed at the meeting.

The Premier received a letter, signed by people attending the meeting, deploring the fact that neither Minister attended to hear their grievances. He also received a report on the meeting from Dr Richard Smart of Williamstown. He has acknowledged these, noting the above and that a meeting has been arranged for 28 May 1981 when a deputation from the Barossa Valley growers will be able to discuss their dissatisfaction with the present system of fixing wine grape prices and terms of payment with the Deputy Premier, the Minister of Consumer Affairs and the Minister of Agriculture.

### PETROLEUM BILL

In reply to the **Hon. C. W. CREEDON** (19 February).

**The Hon. K. T. GRIFFIN:** The usual term for a petroleum production licence is twenty-one years. Licences can be cancelled, suspended or attract fines of up to $1 000 per day where a licensee contravenes or fails to comply with a provision of the Petroleum Act that is applicable to him, or a term of the licence, or an order of lawful instruction of the Minister.

### AIRPORTS

In reply to the **Hon. N. K. FOSTER** (19 February).

**The Hon. K. T. GRIFFIN:** Recent discussions between the State and Federal Ministers for Transport are leading to the establishment of the State Airfields Committee. As part of its terms of reference, that committee will be required to investigate and identify an alternative site in the Virginia/Two Wells area to provide for the Adelaide region long-term airport needs. No site has yet been identified. However, the issues raised by the honourable member will be considered by the committee in its deliberations.

### SPEED LIMITS

In reply to the **Hon. C. W. CREEDON** (24 February).

**The Hon. K. T. GRIFFIN:** As the honourable member is aware, the maximum speed at which the holder of a driver's licence may drive a motor vehicle in this State is 110 kilometres per hour. Among the conditions imposed on the holder of a probationary licence is the requirement not to drive at a speed greater than 80 kilometres per hour.

At the time of introducing legislation relating to probationary licences, the Motor Vehicles Act was also amended to apply this same restriction to the holder of a learner's permit. As well, the holder of a learner's permit or probationary licence is required to observe all other prescribed speed limits.

If the holder of a learner's permit or probationary licence is found guilty of an offence or offences which attract a total of three or more demerit points (e.g. exceeding prescribed speed limit), the Registrar of Motor Vehicles may cancel the permit or licence. In the circumstances, the Minister of Transport considers that the existing provisions are adequate, and does not propose any change to them.

### MOTOR VEHICLE INSURANCE

In reply to the **Hon. N. K. FOSTER** (25 February).

**The Hon. K. T. GRIFFIN:** The Minister of Transport is not aware of any section of the Road Traffic Act which itself discriminates or, as suggested, enables insurance companies to discriminate against younger road traffic offenders.

The Minister has also supplied me with a copy of a table of statistics from a publication titled Road Traffic Accidents, 1979, produced by the Australian Bureau of Statistics, Adelaide, comparing the age of drivers with accident involvement. Although these statistics would support the view that the younger the person the higher the incidence of accidents, the qualifying notes at the bottom of the table should be taken into account before any conclusions are drawn from the figures given. As the Minister is not aware of any discriminatory legislation against younger drivers, he is unable to comment on the question of amending existing legislation.

## PROSTITUTION

In reply to the **Hon. C. J. SUMNER** (26 February).

**The Hon. K. T. GRIFFIN:** The Police Department will continue to police the law as has been done in the past. The existing legislation is deficient in certain areas, and a review is currently in train to prepare recommendations for legislative change which will facilitate more effective enforcement of the law.

## URANIUM

In reply to the **Hon. L. H. DAVIS** (3 March).

**The Hon. K. T. GRIFFIN:** The Minister of Mines and Energy would have no objection to appropriate officers from the Department of Mines and Energy being available to brief Labor Party members on request on matters relating to uranium. Any request for such a briefing should be directed through the Minister's office.

## TRAFFIC SIGNALS

In reply to the **Hon. N. K. FOSTER** (4 March).

**The Hon. K. T. GRIFFIN:** The installation of traffic signals at locations such as the Fosters Road/Grand Junction Road junction and the proposed intersection Sudholz Road extension/Grand Junction Road/Walkleys Road is a relatively low cost treatment in comparison with the alternative of grade separations. The estimated cost of these signals is $36 000 to $40 000, respectively, whereas a single-grade separation will involve an expenditure of funds of the order of $3 000 000. Similarly, the cost of installing co-ordinated traffic signals at the off-set T junction of Black Road and Majors Road with South Road is low when compared with the extremely high cost of realigning Black Road (with or without an overpass) to form a four-way intersection with Majors Road and South Road.

Even though topography of some locations may appear to lend itself to grade separation, the high cost of such works precludes their construction at a time when scarce road funds are urgently needed for projects which show greater benefit, in terms of cost effectiveness, in the treatment of traffic delays and accidents. According to Highways Department recorded accident data, there has been a reduction in the incidence of accidents at the two T junctions since the traffic signals commenced operation; viz, South Road/Black Road: 1977—24, 1980—12; South Road/Majors Road: 1977—28, 1980—13.

## ETSA DEPOSITS

In reply to the **Hon. G. L. BRUCE** (4 March).

**The Hon. K. T. GRIFFIN:** The Electricity Trust pays interest on security deposits at a rate 1 per cent higher than the current rate paid by the Savings Bank of South Australia on ordinary savings accounts. At present 5 per cent is paid on deposits up to $4 000 and 7 per cent on amounts in excess of $4 000. These rates are reasonable considering that repayment of the deposit is guaranteed by a Government statutory authority and must be made immediately the depositor no longer requires supply, that is, the deposit must be available 'at call'. Interest is credited annually to electricity accounts rendered during the July to September quarter and to the final account.

## INSURANCE BROKERS

In reply to the **Hon. D. H. LAIDLAW** (4 March).

**The Hon. K. T. GRIFFIN:** The Adelaide office of Kinloch (Insurances) Pty Ltd was maintained by a local insurance broker, David Stevens and Associates, to provide a postal and telephone service to the Adelaide branch offices of Kinloch's Victorian clients, many of whom are national companies.

Inquiries by the Department of Public and Consumer Affairs have revealed that the company did not seek new clients in South Australia. The only insurance contracts entered into in South Australia were some workmen's compensation policies for the South Australian branches of the company's Victorian clients.

It is possible that some South Australian employees could suffer loss as a result of the collapse of Kinloch if the premiums paid by the company's Victorian clients on behalf of its South Australian branches were not received by the appropriate insurers, but retained by Kinloch. However, neither the Department of Industrial Affairs and Employment nor the Department of Public and Consumer Affairs has received any indication of such losses or prospective losses to employees. Therefore, it is believed that no South Australian-based company nor employee nor consumer has been affected by the collapse of Kinloch (Insurances) Pty Ltd.

The need to regulate certain activities of insurance brokers has been recognised throughout Australia by consumer protection authorities, the insurance industry, and other bodies for several years. At the same time, it has been considered that it would be most appropriate to take action on a national level rather than on a State level. (In Queensland, however, brokers in the fields of marine and general insurance are already required to be licensed, and Western Australia plans to introduce legislation to regulate brokers very soon.)

In 1976, the Law Reform Commission (L.R.C.) received a reference from the Commonwealth Attorney-General concerning, *inter alia*, the responsibility for, and occupational regulation of, insurance intermediaries. Through the medium of meetings of their standing committee, Consumer Affairs Ministers have continued since that time to communicate their concern at the apparent lack of control over the operations of some insurance intermediaries to the appropriate Commonwealth Ministers, but have nevertheless awaited the final recommendations of the L.R.C. on this reference before taking independent action.

In September 1980, the L.R.C. released its Report on Insurance Agents and Brokers. The report recommends the introduction of Commonwealth legislation requiring: the compulsory registration of brokers; the maintenance by brokers of professional indemnity and fidelity guarantee insurance; and the establishment by brokers of trust funds, and restrictions on the manner of investment of moneys received by brokers.

The Commonwealth Treasury is currently considering the L.R.C.'s Report and the accompanying draft Insurance (Agents and Brokers) Bill. It is doing this in close consultation with the States and other interested parties. The Federal Treasurer announced in Parliament on 5 March 1981 that the Commonwealth at this stage has 'no firm collective view' on the matter and will not determine its policy until all responses have been received. This matter is to be discussed again by Ministers of Consumer Affairs at their meeting in May. It is hoped that the Commonwealth Government will have given a clearer indication of its intentions by that time.

## GAMBLING

In reply to the **Hon. N. K. FOSTER** (5 March).

**The Hon. K. T. GRIFFIN:** Officers of the Lotteries Section of the Recreation and Sport Division have been aware of various problems arising from the sale of Instant Bingo tickets and other similar offerings to the public and action has, from time to time, been taken to correct irregularities which have become evident.

The Instant Bingo tickets to which the Hon. N. K. Foster, M.L.C., refers have been in circulation for approximately five years. Tests conducted by Lotteries Section officers, on a wide sampling of tickets used for Instant Bingo, have in many instances confirmed the Hon. Mr Foster's findings, and a circular has been sent to the major lottery ticket distributors identifying the problem and expressing concern at the use of such tickets. It has also been recommended to these distributors that the design and construction of tickets should be such that the hidden numbers, letters or characters cannot be read or deciphered with the aid of a strong light or by any other means.

In many instances, distributors have expressed their thanks for the information received from the Recreation and Sport Division as they were genuinely unaware of irregularities in some of the tickets which they were marketing. Indications are that some distributors are getting together in an urgent endeavour to remedy the situation. Lottery Section inspectors will continue to be particularly vigilant in regard to these tickets.

It should be noted, however, that there is no provision under the Lottery and Gaming Act and/or regulations which empowers the Government to enforce the withdrawal of objectionable lottery tickets. Unlike the Lotteries Commission, which together with its agents sells its own lottery tickets and therefore has tight control over the quality and security of such tickets, associations conducting lotteries pursuant to the Lottery and Gaming Act obtain their tickets from diverse sources and are thus subjected to the use of many forms of tickets such as some types of Instant Bingo tickets which are susceptible to tampering.

When complaints involving malpractices are received by the Lotteries Section there are only two courses of action currently available:

1. Advise the lottery promoters that any activities related to the incorrect use of tickets, such as tampering with tickets in the promotion of lotteries conducted under the Lottery and Gaming Act, would be subject to prosecution as fraudulent practices.

2. Inform the ticket manufacturers/distributors that their tickets are subject to malpractices and that such actions would have an adverse effect on their sales and reputation unless they take steps to improve security.

In the first instance, where there is evidence that a club's officers may be involved in malpractices, investigations are undertaken by Lotteries Section inspectors and members of the police force to identify the particular offence. When an offence is established charges are instigated by the police under the relevant controlling Act(s). In the second instance, experience has shown that many distributors acknowledge irregularities and endeavour to rectify them immediately, forcing other competitors to follow suit. There are some distributors, however, who continue to ignore the problem and further the proliferation of insecure tickets.

## POWER SURGE

In reply to the **Hon. G. L. BRUCE** (5 March).

**The Hon. K. T. GRIFFIN:** The Minister of Mines and Energy informs me that the General Manager of the Electricity Trust of South Australia has stated that the trust does not accept liability for damages resulting from a tree falling across electricity mains at Fairview Park on 2 March 1981. However, it is arranged for the costs of damage to consumers' appliances to be met, and loss assessors are calling on the consumers involved for this purpose.

## PARLIAMENT HOUSE MODIFICATIONS

In reply to the **Hon. N. K. FOSTER** (11 February).

**The Hon. K. T. GRIFFIN:** The alterations to Parliament House to allow better access and facilities for disabled persons include modifications to the strangers galleries and to entrances at various points of the building, including the basement entrance at the Festival Theatre car park. It is estimated that the total cost of all the modifications will be in the vicinity of $25 000. With respect to the basement entrance, it is acknowledged that the original modifications did not allow easy access by disabled persons. A revised proposal has now been implemented to remedy the problems associated with the previous modifications.

## VEHICLE REGISTRATIONS

In reply to the **Hon. C. W. CREEDON** (3 December).

**The Hon. K. T. GRIFFIN:** The question of dishonoured motor vehicle dealers' cheques has been referred for the attention of the working party appointed to review the Secondhand Motor Vehicles Act.

## PROFESSIONAL LIABILITY INSURANCE

In reply to the **Hon. FRANK BLEVINS** (3 December).

**The Hon. K. T. GRIFFIN:** The Treasurer is not aware of any significant demand from nurses for access to personal indemnity schemes against professional negligence. I understand that the S.G.I.C. has received isolated approaches from nurses for that type of insurance cover, and in each instance has referred the inquirer to the relevant professional association. The cost of individual purchase of insurance would be prohibitive, and premium rates would necessarily vary in accordance with nursing specialities. No inquiry would appear to have been received from any association. The General Manager of the commission has advised that, were any inquiry received from an Association, the commission would treat the matter as a normal business transaction, and quote accordingly.

## QUESTIONS

### EDWARD CHARLES SPLATT

**The Hon. C. J. SUMNER:** I seek leave to make a brief explanation before asking the Attorney-General a question about the conviction of Edward Charles Splatt.

Leave granted.

**The Hon. C. J. SUMNER:** Doubts have recently been raised in the *Advertiser* by a journalist, Stewart Cockburn, about the conviction in 1978 of Edward Charles Splatt for the murder of a 77-year-old Cheltenham woman. In a series of articles in the *Advertiser* last month Mr Cockburn outlined his doubts about that conviction and came to the following conclusion:

> After research extending over the past eighteen months I have concluded that it is only remotely possible that Splatt personally killed Mrs Simper. It is conceivable that he knows who did, in which case he could be an accessory before or after the fact. But that, too, I believe, is only remotely possible. Splatt certainly denies that he either killed Mrs Simper or knows who did.

On 5 May the *Advertiser* reported that the Attorney-General had called for a report on the conclusions of Mr Cockburn. It was also reported that the Legal Services Commission had sought a report from counsel, Mr F. B. Moran, Q.C. There has been a suggestion since then that the report the Attorney-General was to obtain was a report from the officers who were involved in prosecuting the case. My questions are as follows. First, who was commissioned to carry out the report referred to in the *Advertiser* on 5 May, and what were the terms of reference of the report?

Secondly, will an independent report be sought if this, in fact, was a report of the Crown law officers involved in that case? Thirdly, has the report been received by the Attorney? Fourthly, if so, will it be made public either now or at any time in the future? Finally, what action does the Attorney intend to take in this matter?

**The Hon. K. T. GRIFFIN:** I have indicated that I called for a report on the articles that appeared in the *Advertiser* newspaper under the authorship of Mr Stewart Cockburn. The report that I sought was directly related to the matters that he had raised, to ascertain whether there was any new evidence which had been disclosed and which would warrant a reopening of the case, whether that evidence was credible, and whether that evidence was sufficient to make any reasonable person change his or her mind as to the guilt of Splatt, which was, of course, the unanimous verdict of a Supreme Court jury.

The report that I commissioned was undertaken in my department. It is not appropriate for me to name any particular officer, because to do so may well put that officer, or in any other instance an officer of the Government who is named as preparing a report, under undue pressure, when, of course, responsibility for decision-making is a responsibility not of the public servant but of the Minister. In this case, I intend to take the responsibility for any decision that ultimately is made and not to thrust that responsibility on to a public servant.

Because the report is being prepared by my officers, to avoid any suggestion that that report is biased and that I have acted without an independent assessment, I have also commissioned an independent report from a person with wide experience in the criminal jurisdiction.

**The Hon. C. J. Sumner:** Who is that?

**The Hon. K. T. GRIFFIN:** When that report is received, I will then be in a better position to indicate my views and the Government's views on this particular matter. The question of whether the report will be made public is a question on which I have not yet reached a conclusion. I am not prepared to name the independent lawyer who is making the independent assessment.

### ROAD MARKING

**The Hon. M. B. DAWKINS:** I seek leave to make a short statement prior to asking the Attorney-General, representing the Minister of Transport, a question about roadworks.

Leave granted.

**The Hon. M. B. DAWKINS:** My question relates to some delay in line marking on highways and main roads after new work is constructed or old work is reconstructed. All members have doubtless noticed signs stating 'New work—no lines marked' on the sides of roads after construction or reconstruction. Considerable delays sometimes follow and, unfortunately, in some cases these signs remain for all too long a period. No-one expects lines to be re-marked within, say, a few days or a week of completion of the new work but there are, as I have indicated, delays of weeks on some occasions. In the interests of safety, will the Minister request the Highways Department to endeavour to overcome, as far as possible, these delays that occur from time to time after road construction?

**The Hon. K. T. GRIFFIN:** I will refer that question to my colleague and bring back a reply.

### WHYALLA HOSPITAL

**The Hon. J. R. CORNWALL:** I seek leave to make a brief statement prior to asking the Minister of Community Welfare, representing the Minister of Health, a question about Whyalla Hospital payments.

Leave granted.

**The Hon. J. R. CORNWALL:** It has recently been brought to my attention that a radiology practice in Whyalla owes the South Australian Health Commission and the Whyalla Hospital Board approximately $300 000. The practice is conducted by Dr Tom Mestrov and Dr John Chan. After the introduction of Medibank in 1975, Dr Mestrov resisted entering into an agreement with the Hospitals Department under which he was to pay service fees for public patients seen on a fee-for-service arrangement at the Whyalla Hospital.

This amount was for his use of all hospital facilities, equipment and staff during the conduct of the hospital part of his practice. With the help of a tough accountant he has continually resisted making payments until early this year. Late in 1978 the Health Commission set up a schedule whereby Dr Mestrov would have to pay 50 per cent, that is half, of the 85 per cent scheduled fee for bulk-billed patients. Dr Mestrov again refused to accept these arrangements. In the meantime he continued to receive the total payments on a fee-for-service basis for his public patients. On 19 April the Whyalla Hospital was incorporated and the Hospital Board inherited the situation.

Early this year the board concluded an agreement with Dr Mestrov for payment of $121 500 which he owed in service fees from 19 April 1979 to the end of 1980. The amount repayable over a period of almost three years is interest free. An amount estimated at almost $200 000 is still owed to the South Australian Health Commission for service fees from 1975 to April 1979. As recently as six weeks ago no satisfactory arrangement had been concluded with Dr Mestrov to pay this sum to the Health

Commission. The Auditor-General is very concerned about the situation and recently wrote to the Health Commission pointing out that it has a duty to take action to regain that money.

This is a quite scandalous story. An unscrupulous doctor, with the help of a smart accountant, has literally obtained a long-term interest-free loan of approximately $300 000 by the most dubious possible business practices. If similar conditions are imposed by the Health Commission to those negotiated with the Hospital Board, he will have the use of most of the $300 000 interest free over an average period of more than ten years. In other words, at current interest rates this man is being allowed to legally rip off the taxpayers of South Australia for more than $150 000, that amount representing the interest that would accrue on the money he has already in hand. That is quite disgraceful. If he had directly defrauded the Medibank scheme for this amount he would be deregistered and gaoled.

Will the Minister of Health take urgent action to immediately recover all moneys owed by Dr Mestrov by way of service payments prior to 19 April 1979? Will she further ensure that interest is added to that amount at bank rates prevailing during that time? Will she assist the Hospital Board to renegotiate its agreement with Dr Mestrov so that repayments will be made under the same conditions?

**The Hon. J. C. BURDETT:** I hope that the honourable member is justified in naming the doctor and in calling him unscrupulous. I will refer the question to my colleague the Minister of Health and bring back a reply.

## LOCAL GOVERNMENT GRANTS

**The Hon. C. W. CREEDON:** I seek leave to make a brief explanation before asking the Minister of Local Government a question about personal income tax receipts allocated to local government.

Leave granted.

**The Hon. C. W. CREEDON:** According to reports there is some disquiet amongst councils about the attitude of the Federal Government, which is trying to coerce local government into applying its untied grants (received through the allocation of the 2 per cent personal income tax receipts) to services usually paid for out of council rates. It seems that the Federal Government wants councils to reduce their rate revenue and cut services. Obviously the Federal Government thinks it should be the only body to collect taxes. Local government works within the framework of the State Government, but I have not noted whether or not the State is of the same opinion as that expressed by the Federal Government.

It is important to remember that it was not until the advent of the Whitlam Government that local government as such received any recognition from the Federal Government. It was that Government that made 1½ per cent of personal income tax receipts available. During the last six or seven years this has increased to 2 per cent. These sums of money have been a boost to local government, and one can see that good use has been made of these funds for the benefit of local communities. Local government was deprived for many years before these grants became available. It has now become accepted that local government will share 2 per cent of personal income tax receipts. It should be theirs to spend in the community's interest without interference from government. Is the Minister aware of the Australian Government's attempt at interference in the matter of how councils spend their allocation? Will he support our State's local government against Federal Government interference?

**The Hon. C. M. HILL:** I have no knowledge of any official approach or plan by the Federal Government in regard to the matter that the honourable member has raised. I did read something in the press yesterday but to the best of my knowledge it was simply a press report. I know nothing about its having any real foundation. The Federal grant money, which as the honourable member stated is 2 per cent of personal income tax collected by the Commonwealth Government, is by law distributed to local government as untied grants.

I suspect that the press release originated from a proposal by the Prime Minister in which he simply made the suggestion that yet another means of reducing taxation in Australia would be for local government to use some of its untied grants money from the Federal Government for the provision of services in such a way that local councils might be able to consider reducing council rating. That would, in effect, be a lower form of taxation upon rate payers. I support the present principle under which that money is used, namely, the untied principle.

## WOMEN'S SHELTERS

**The Hon. FRANK BLEVINS:** I seek leave to make a brief explanation prior to asking the Minister of Community Welfare a question about women's shelters.

Leave granted.

**The Hon. FRANK BLEVINS:** During the recess the Fraser Government's so-called razor gang cut something of a swathe through many of the necessary services that people require in the community, in an attempt to save money so that prior to the next election it can reduce taxes in the hope of gaining some electoral advantage. I am sure that it will do that at the expense of people who are already in very distressed circumstances. One of the items threatened by the activities of the razor gang is women's shelters. I know that the Minister has, on occasions, praised the work that women's shelters carry out. We regret that they are necessary but I am sure the Minister would agree that they do an extremely good job.

I am concerned about all women's shelters but particularly about one in my home town, that is, the shelter in Whyalla known as Eloura, which has been described by various people as being probably the best run women's shelter in Australia. Being in a central position for so many country areas, it has a far wider role than just catering for the needs of people in Whyalla. Indeed, it gives a service to people as far away as Cleve, Cowell, Ceduna, Coober Pedy and many other areas. What representation has the Minister made to the Federal Government to ensure that there is no reduction in funds available to run women's shelters? If he has made any representations and those representations are not successful, what arrangements will he and his Government make to ensure that the work of women's shelters does continue in spite of hostility from the Federal Government towards them?

**The Hon. J. C. BURDETT:** In the past, 75 per cent of the ongoing revenue funding for women's shelters has come from the Commonwealth Government, with 25 per cent coming from the State Government. In regard to capital expenditure, 50 per cent has come from the Federal Government and 50 per cent from the State Government.

The position regarding the statements made in relation to women's shelters in so far as they apply to South Australia is unclear. The funding has been made to the South Australian Minister of Health, and has then been

provided to the Department for Community Welfare, which has actually made the payments to the women's shelters.

There is some question about how what has been said in the press about women's shelters applies to South Australia, because an agreement is in existence between the Minister of Health and the Federal Government. The Minister of Health is taking up this matter at present, and I am having talks with her this week to discuss how this applies in relation to women's shelters. So, at present the matter is far from clear. The Federal Minister administering this matter is the Minister for Health, to whom I do not have direct access and, pending my discussions this week with the South Australian Minister of Health, I have not yet made any representations to the Federal Government.

Regarding the women's shelter in Whyalla to which the honourable member has referred, it depends on the general issue. I certainly have said, and do say, that the need to provide for women's shelters certainly exists. There must be a facility to provide for women when they leave their homes: those women must have somewhere to go. To say the least, I would certainly be concerned if funds for women's shelters were withdrawn altogether. This matter has been accepted by the Federal Government in the past on the basis to which I have referred.

**The Hon. C. J. Sumner:** They are withdrawing from everything at the moment, though.

**The Hon. J. C. BURDETT:** All right. I am stating that it would be difficult indeed for a State Government with restricted funds to pick up the tab. Certainly, this matter has not yet arisen, and I hope that it will not arise, because the question of health funding, including the funding of women's shelters, has not yet been settled and clarified. As I have said, I am in the process of trying to clarify the matter.

## INDIGENOUS PEOPLES CONFERENCE

**The Hon. ANNE LEVY:** I seek leave to make a short statement before asking the Minister of Local Government, representing the Minister of Aboriginal Affairs, a question regarding the conference on indigenous peoples.

Leave granted.

**The Hon. ANNE LEVY:** As honourable members may have read in the press, the third annual world conference on indigenous peoples was held in Canberra from 27 April to 2 May this year. It was quite an event to have such a conference, which a large number of delegates from all parts of the world attended, held in Australia. I understand that the South Australian Government agreed to provide $11 000 to enable four people from this State to go and that the remainder of the South Australian contribution was being sent to Canberra to support the holding of the conference.

The South Australians who were sent by the Government consisted entirely of four South Australian public servants. I understand also that, in determining the South Australian delegation to this world conference, there was no consultation whatsoever with any of the Aboriginal groups in South Australia. No Aboriginal people were asked whom it was felt it would be appropriate to subsidise to attend the conference by paying their air fares, accommodation and registration costs. The National Aboriginal Council in South Australia was not even consulted regarding whom it thought might be the best people to represent South Australia's indigenous people, namely, the Aborigines, at this conference.

Can the Minister confirm the information that I have indicated to the Council and say why no consultation occurred with any Aboriginal people or groups before deciding on the Aboriginal delegation?

**The Hon. C. M. HILL:** I will direct those questions to the Minister of Aboriginal Affairs and bring back a reply.

## CYCLISTS

**The Hon. G. L. BRUCE:** Will the Attorney-General, representing the Minister of Transport, say whether any direct instructions have been issued to the police to take no action against persons riding push bikes on footpaths if such actions are seen by them or reported to them by the public? If no such instructions exist, can the Minister suggest what action people can take if such actions occur in their suburbs? Finally, what progress is the Government making in its efforts to have special bicycle tracks introduced in the metropolitan area?

**The Hon. K. T. GRIFFIN:** I have a recollection that the previous Government gave some instructions to the police not to prosecute in those cases. Certainly, I will refer the matter to the Minister of Transport in order to obtain more detail, and I will bring back a reply.

## WORKERS COMPENSATION

**The Hon. J. E. DUNFORD:** My question, which I direct to the Attorney-General, relates to workers compensation and the Industrial Commission. I am a pretty patient fellow.

**The PRESIDENT:** Order! Does the honourable member want leave to explain his question?

**The Hon. J. E. DUNFORD:** Yes, Sir, although it is a short question.

Leave granted.

**The Hon. J. E. DUNFORD:** I am not an unreasonable person. I have written to the Attorney-General on two occasions in relation to the matter to which I now refer.

**The Hon. C. J. Sumner:** He never replies to correspondence.

**The Hon. J. E. DUNFORD:** I will not get much of an answer to my question, either. On 24 March, I wrote a letter to the Attorney-General, who says that he is concerned about people and the law. I received a reply to that letter very quickly; in fact, it was written on 2 April. The letter stated:

> I refer to your letter of 24 March. I have no idea what you are talking about. I will have some inquiries made.

This is the most astounding letter that I have ever received. The Attorney stated:

> If you look at the Bill for the Legal Practitioners Act, which is presently at the second reading stage in the Legislative Council, you will see that the complaints procedures have been revised dramatically.

Of course, Sir, I have read the Bill and heard the second reading. True, the procedures have been changed dramatically, but they have nothing to do with the proposition that I put to the Attorney-General. I wrote to him again on 29 April and set out clearly what I wanted him to do and to find out for me. On 11 May, I received the following reply:

> The Attorney-General has asked me to acknowledge your letter of 29 April concerning Mr J. Selvatico and the Law Society of South Australia Incorporated. The Minister will reply as soon as possible.

My letter of 24 March got the sort of reply to which I have referred, and then on 29 April I set out clearly what I

wanted. It is now 1 June, and the Minister is going to look at the matter again.

**The Hon. C. J. Sumner:** How long ago was that?

**The Hon. J. E. DUNFORD:** That was 11 May, and it is now 2 June, yet he said that he was going to reply as soon as possible. This letter is all about workers being robbed in the workers compensation court—the Industrial Commission—and about workers having money taken out of their pockets by lawyers.

**The Hon. K. T. Griffin:** What about Harrison?

**The Hon. J. E. DUNFORD:** He is mentioned in the letter. What about Genders, Wilson and Partners?

**The Hon. N. K. Foster:** He's a Minister!

**The Hon. J. E. DUNFORD:** He's a Minister. It is a breach of the Workmen's Compensation Act. I will now read section 41 (2) of the Workmen's Compensation Act.

**The PRESIDENT:** Order! Does that explain your question?

**The Hon. J. E. DUNFORD:** It certainly does, Mr President. Without reading this section I might just as well have said nothing at all. Section 41 (2) of the Workmen's Compensation Act states:

> No legal practitioner acting for a workman shall be entitled to recover from that workman any costs in respect of any proceedings under this Act or to claim a lien in respect of such costs on or to deduct such costs from any sum awarded as compensation unless those costs have been awarded by the Court.

I prefaced my explanation by referring to the Workers Compensation Act and the Industrial Commission, because cases under that Act are heard in the Industrial Commission. If a lawyer does not adhere to section 41 (2) of the Workers Compensation Act he should be advised to do so by the Industrial Commissioner, because they must know that that should be done—that is what they are being paid for. Industrial Commissioners must be aware of that very important part of the Act. I have read Mr Brown's report and it does not mention money in relation to the rehabilitation of workers. A person who has been injured can be taught how to ride a bicycle again and he can be rehabilitated, but that is no good at all without money, but that is what is happening under the Workmen's Compensation Act. I have referred the Attorney-General, by letter, to a specific case, stating:

> As you know there have been blatant breaches of section 41 (2) of the Workers Compensation Act by various practising solicitors. One such firm is Genders, Wilson and Co., and in this regard see, for example, Industrial Court file 278 of 1976, S. Caperno.

All the Attorney had to do was ask his stooges to get that file. He would then have seen that Genders, Wilson & Partners had breached the Act with the help, consent, and probably with the connivance of the Industrial Commission. He has done nothing in three months while these workers have been robbed. The Attorney has asked about Harrison. Harrison has already been caught and has admitted that he did this. He did this with the court's support. He could not have done it unless the Industrial Commission allowed it to happen. Workmen are supposed to go to the Industrial Commission for justice, but they have not been getting it.

I am in possession of a list of lawyers who have been doing exactly the same thing, and that list has been forwarded to the Attorney-General. Even though I have brought this crime to the Attorney's attention, it has continued against the working class people of South Australia. In a further letter, I asked the Attorney to please stop it from continuing, but he said, 'No way'. The Attorney is the law and order man. I hope that the Attorney will not treat this Council with the type of respect that he has shown me as a representative of the workers of this State.

*The Hon. K. T. Griffin interjecting:*

**The Hon. J. E. DUNFORD:** I am referring to Mr Selvatico, and do not tell me that you do not know anything about it. Why was this matter not referred directly to the Statutory Committee pursuant to section 42 (3) of the Legal Practitioners Act? This issue has also been raised recently by Mrs De Cicco of PRONAC. It would appear that the Law Society is not conducting investigations in accordance with the Legal Practitioners Act. I believe a Solicitor-General's opinion should be obtained on this point. Will the Attorney attend to that? Why has Mr Harrison's request to the President of the Law Society of last October for the difficulties over costs and the Workers Compensation Act to be explained in the Law Society Bulletin, not been acted upon? Why are proceedings not being taken by you under section 55 of the Legal Practitioners Act against all lawyers who have breached section 41 (2) of the Workers Compensation Act, references to which are well known to the Law Society and, in fact, well known for a long time. How many composite orders (that is, compensation including costs) have been made in the Industrial Court since 1 July 1980, which have not been subject to the taxation of client and solicitor costs?

In addition to the above, I point out that I have been approached by Mr Van Der Haak and Mr Chris How of Whyalla relative to their complaints to the Law Society. On the basis of what they tell me I am very concerned that Mr Harrison (and the Attorney referred to Mr Harrison), may be being victimised by the council of the Law Society, as at present a number of matters that he has been charged with could be equally applicable to other practitioners, but they appear to be immune from action. Why is Harrison being dealt with in public under the current legislation whilst others will obviously be dealt with in private under the much less harsh new legislation? In the interests of fair play I believe that these matters should be investigated.

**The PRESIDENT:** Order! The Hon. Mr Dunford should continue with his questions.

**The Hon. J. E. DUNFORD:** The Attorney-General asked about Mr Harrison, and he has been dealt with. Mr Harrison has been dealt with and so should all the other lawyers, but not under the new legislation. The Attorney referred to the new legislation in his reply. All the Attorney's mates, and he referred to Wilson, who is a Minister of the Crown, will be dealt with eventually. I will not stop until these people, who have not properly represented workers, are brought before a court, where the responsibility lies with the Commissioner.

**The Hon. K. T. GRIFFIN:** The reason why the Hon. Mr Dunford received a letter some time ago stating that I could not understand what he was going on about was that his letter was incomprehensible. There was no coherence or any factual information in the letter which would have enabled inquiries to be made.

**The Hon. J. E. DUNFORD:** Mr President, I rise on a point of order. The Attorney-General's comments are a reflection on my intelligence. I do not mind those comments outside the Chamber. I will read the letter referred to by the Attorney-General and then let the Chamber decide.

**The PRESIDENT:** Order! Under what Standing Order are you making your point of order?

**The Hon. K. T. GRIFFIN:** It took quite a long time to work out what the Hon. Mr Dunford was on about, but a letter has been prepared, which the Hon. Mr Dunford will receive, stating:

I refer to your letters of 24 March 1981 and 29 April 1981 concerning Mr Joseph Selvatico and the Law Society of South Australia Inc.

The President of the Law Society has now provided me with a report on the matters you have raised in your letters and he has also forwarded me a copy of his letter to you dated 11 May 1981 which answers most of the matters you have raised.

Section 42 (3) of the Legal Practitioners Act states that a charge must be sent on to the Statutory Committee. However, both Mrs De Cicco and Mr Selvatico have not made charges and it would appear that the Law Society has not breached the Legal Practitioners Act. Mr Selvatico in his complaint referred specifically to section 42 (4) of the Act and said that questions he raised about the practitioner's conduct should be referred to the Statutory Committee by the society. In accordance with the standard practice where a charge is not laid, an investigation of the complaint was undertaken at the direction of the council. In the ordinary course this would have led to a report to the council and a decision by council whether there was a *prima facie* case of illegal or unprofessional conduct warranting investigation by the Statutory Committee under section 42 (4).

I understand that the person appointed by the Law Society to investigate Mr Selvatico's complaint has been endeavouring to interview Mr Selvatico, without success. It therefore appears that the Law Society is not able to take the matter any further in the absence of a charge by Mr Selvatico and without his co-operation to permit the enquiry into his complaint to proceed further.

There is another letter in reply to Mr Dunford that he will receive in due course, and it reads as follows:

*re: Legal Practitioners Act*

I refer to your letter of 8 May 1981 and supply the following information in reply to your questions.

The only matter relating to a legal practitioner in the Full Court list for April 1981 was that of Mr Mark Harrison. Other cases relating to legal practitioners heard by the Full Court in February this year were those concerning Mr Nicholas Vadasz, Mr Francis Viner Smith and Mr Edward Foster Skewes.

Mr Vadasz's name was removed from the roll of legal practitioners on his own application. In January 1981 he had been gaoled for four years after pleading guilty to having imported heroin into Australia. Mr Viner Smith's name was struck off the roll on the application of the Law Society of South Australia following a conviction of conspiracy charges in the Victorian Supreme Court in 1979.

The Law Society had also applied for Mr Foster-Skewes' name to be removed from the roll following a conviction on conspiracy charges in the Victorian Supreme Court in 1979. At the hearing he made his own application for removal of his name from the roll which was acceded to by the court. None of these cases were subject to an inquiry by the Statutory Committee of the Law Society. All these cases were public. Each was listed and appeared in the Cause List printed in the *Advertiser*. In the case of Mr Vadasz his name was not mentioned, the matter appearing as 'in re a practitioner'.

**The Hon. C. J. Sumner:** Why was he not named?

**The Hon. K. T. GRIFFIN:** It was an order of the Supreme Court. The letter continues:

The hearings were open to the public and the *Advertiser* reported the cases on 3, 24 and 25 February 1981, respectively.

**The Hon. C. J. Sumner:** Why not Harrison?

**The Hon. K. T. GRIFFIN:** In regard to Mr Harrison, I do not intend to deal with the matter in detail. The matter was considered by the Supreme Court and he has been suspended from practising, pending a further inquiry at the direction of the Supreme Court. It would be inappropriate to deal with the details of his case while the matter is *sub judice*.

**The Hon. J. E. DUNFORD:** I desire to ask a supplementary question. I will not accept that for an answer. The letter that the Attorney-General claims is incomprehensible is comprised of only three paragraphs, and I would like to have it inserted in *Hansard* for the public to see. The public should see this letter that the Attorney claims he cannot understand. In this letter I have asked him a question. I have asked what he is going to do about Genders and Wilson.

**The Hon. K. T. Griffin:** Is this a supplementary question?

**The Hon. J. E. DUNFORD:** It is. You are not the President, and I am asking Mr President—you are too ugly to be the President.

**The PRESIDENT:** You are asking me whether you can have the letter inserted in *Hansard*. If it is not statistical matter, it cannot be incorporated.

**The Hon. J. E. DUNFORD:** I ask a supplementary question. Will the Attorney ascertain how many breaches of section 41 (2) have occurred since 1980? Will he number and name them? Will he tell me what action he intends taking against firms that have breached this section of the Workers Compensation Act? What action will he take in regard to Industrial Commission judges? What will he do in regard to section 41 (2)? What will you do about all the other lawyers, not just Harrison?

**The PRESIDENT:** Order! If you want a reply to the supplementary question, you should ask it. I will give you the opportunity to get the reply.

**The Hon. K. T. GRIFFIN:** I am not aware of any breaches of the Act in regard to the industrial jurisdiction. If the honourable member alleges that there have been breaches, he should draw the detail to my attention and I will have some inquiries made.

**The Hon. J. E. DUNFORD:** I desire to ask a supplementary question. My question is set out in the letter that the Attorney cannot understand. I have named the company and I have supplied the file number. The Attorney said I should bring it to his notice, but I have done that—

**The PRESIDENT:** Order! The Hon. Mr Dunford will resume his seat when I call 'Order'.

**The Hon. J. E. Dunford:** What sort of charade is this? I have told the Council about this matter three times, yet the Attorney suggests that I bring it to his attention. The Attorney is a lunatic.

**The PRESIDENT:** Order!

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## QUESTION ON NOTICE

### ROXBY DOWNS

1. The **Hon. BARBARA WIESE** (on notice) asked the Attorney-General:

1. What calculations has the Government made to ascertain the relative costs and benefits to the South Australian community of the Roxby Downs project?

2. In particular, what estimates are there of the infrastructure costs of the project which will be borne by the taxpayer?

3. What estimates are there of the loss of potential revenue due to various forms of taxation and other incentives to the companies concerned?

4. What are the estimated revenues to the State from Roxby Downs?

5. What is the Government's latest estimate of the number of jobs which may be provided directly and indirectly as a consequence of the Roxby Downs project?

6. Over what period of time will these jobs be created?

**The Hon. K. T. GRIFFIN:** The Olympic Dam project is in the exploration phase of development. Until a definitive ore reserve is established by the joint venture partners and until the size and scope of the venture are defined it is not possible to ascertain costs, benefits, infrastructure, revenues, employment opportunity and timing. In due course, the appropriate calculations and estimates will be undertaken by officers of the Department of Mines and Energy with those of Treasury.

## ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

**The Hon. K. T. GRIFFIN (Attorney-General)** obtained leave and introduced a Bill for an Act to amend the Road Traffic Act, 1961-1981. Read a first time.

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

*That this Bill be now read a second time.*

It embodies the results of the Government's consideration of the recommendations of the Select Committee of the Legislative Council on Assessment of Random Breath Tests. Members will recall the history of this matter. The Government announced in its policy before the last election that it would seek to introduce random breath testing in South Australia in the interests of road safety.

Legislation was accordingly put before the Parliament early in 1980, but the Legislative Council did not pass that portion of the Bill introducing random breath tests. Instead, a Select Committee was set up to inquire into the matter and its report was presented in March 1981. The Government has since then been considering the committee's views and this Bill sets out the Government's decisions.

The Government welcomes the recommendations of the bipartisan Select Committee, in particular the primary one that:

> . . . on balance, the introduction of random breath testing of drivers of motor vehicles by members of the Police Force is likely to contribute to a reduction in the road toll.

This reinforces the Government's conviction that it was right to propose random breath testing and that it is a worthwhile initiative in the fight against the road toll. The Government has accepted nearly all the recommendations of the committee in drawing up this Bill. As well as making substantial reforms to the drink-driving laws, the Bill brings up to date the penalties that apply to reckless driving offences (under section 46). In addition, the concept of community service recognizances is provided for offences involving reckless driving and drink-driving. This reform is complementary to the Offenders Probation Act Amendment Bill which has been put before the Parliament, and it is something that the Select Committee put considerable stress on in connection with drink-driving convictions.

The Government accepts the committee's view that random breath testing should be introduced for a period of three years only and be reviewed at that time. The Bill provides for this limit and the Government will at the appropriate time take steps to set up a Select Committee to make the review. The Government acknowledges the importance of the testing causing as little delay as possible and the Bill therefore states that no undue delay or inconvenience should be caused to those affected.

Once this Bill is passed and the Government comes to give detailed consideration to the administration of its enforcement, the Government will give close attention to what the Select Committee has said concerning this. The procedures will be designed to minimise the delay caused to motorists who are stopped, and studies of interstate experience will be made to help in devising such procedures. To help assess the effect of the testing, the Bill requires the Commissioner of Police to report to the Government and the Parliament along the lines suggested by the committee.

A major aspect is that of the penalties that are to apply, and the Government is proposing significant advances in this area. The minimum suspensions of driving licences are being increased substantially in some cases, and the fines are being increased as well. The Select Committee made clear that it did not want people convicted because of random testing to face a gaol sentence, and suggested a separate scale of penalties.

We cannot justify separate mechanisms if we want random breath testing. Because the Government believes that random testing is an essential part of any programme to reduce the road toll, the Government accedes to the committee's views. In future, no gaol sentences will apply to breathalyser-related offences, and even for D.U.I. offences gaol will only be an option rather than mandatory. This is a major change, and an enlightened one in terms of seeing drinking problems much more as a sickness than as a crime.

Already the Act provides for second and subsequent drink-driving offenders (within the prescribed area, at present the metropolitan area) to be assessed as to whether they have an alcoholism problem and the court can, if it wishes, prevent such an offender holding a driver's licence indefinitely until the court is satisfied that the problem has been beaten. Provision is made, in line with the committee's report, for first and second offenders to be compelled to attend a suitable lecture, unless the court deems this impractical.

The Government fully agrees with the Select Committee about the importance of adequate data being collected to make the review in three years time a useful one, and therefore the Road Accident Research Unit of the University of Adelaide has devised a three-year program to evaluate the impact of random breath-testing. Already this year the Research Unit has been carrying out a programme of random testing to ascertain what the present position is, involving nine thousand drivers over a twelve-week period.

Similar surveys will be conducted at the same time of the year in 1982 and 1983 to measure what changes occur when random testing is operative. This program will indicate drivers' attitudes to driving with a level of 0.08 and the number who are doing so, and whether this changes over time. As well, the Research Unit will use police accident reports and records to derive information on the number of accidents involving alcohol and the cost effectiveness of the use of police resources in detecting offences by both random and non-random methods. The Government has already provided $78 000 to the Research Unit as an initial contribution for the conducting of this research.

This legislation is based on both a Government election promise and lengthy consideration by a Select Committee. In a strong way, it indicates the community's concern about drink-driving and the potential dangers this brings to all road users. While minimising inconvenience to road-users, it seeks to enhance their opportunity to drive on our roads free of the fear of being the victim of a drink-driver.

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

Leave granted.

**Explanation of Clauses**

Clause 1 is formal. Clause 2 provides that the measure shall come into operation on a day to be fixed by proclamation. Clause 3 inserts a new section 5a which provides that the amendments proposed by the measure shall apply only in relation to offences committed after the commencement of the measure. Clause 4 amends section 46 of the principal Act which provides that it is an offence to drive a vehicle recklessly or at a speed or in a manner dangerous to the public. The clause increases the fine provided for offences against this section from a minimum of $150 to a minimum of $300 and from a maximum $500 to a maximum of $600. The clause also increases the licence disqualification for a subsequent offence of reckless or dangerous driving from a minimum period of one year to a minimum period of three years. These increases bring the penalty more into line with the penalties proposed for drink-driving offences.

The clause replaces subsection (3) of the section which, in cases where a person charged with an offence against subsection (1) is convicted of the offence, precludes the making of an order under the Offenders Probation Act, 1913-1971, or the Justices Act, 1921-1981, the effect of which would be to reduce or mitigate the penalties prescribed by subsection (1). The clause replaces this subsection with a subsection that sets out the mandatory licence disqualification requirements separately from the penalty provision. The new subsection precludes the making of any order that would have the effect of reducing or mitigating the driver's licence disqualification prescribed by the subsection except in the case of a first offence that the court thinks is trifling.

The new subsection (3) also includes a provision designed to ensure that the powers under the Offenders Probation Act may be exercised in appropriate cases in relation to the penalties of a fine or imprisonment notwithstanding the fact that it will continue to be mandatory for courts to impose a licence disqualification. That is, where a court convicts a person of an offence against subsection (1), it is proposed that the court must impose the appropriate licence disqualification, but then may, depending upon the particular circumstances of the offence or the offender, discharge the offender without penalty, discharge him without penalty conditionally on his entering into a recognizance, impose a sentence of imprisonment but suspend the sentence conditionally on his entering into a recognizance, or impose a fine not less than the prescribed minimum nor more than the prescribed maximum.

In this connection, it should be noted that the proposed amendment to the Offenders Probation Act presently before the Parliament would, if enacted into law, extend the kinds of recognizances presently available to include, amongst others, a recognizance requiring the probationer to undertake a period of community service at one of the proposed community service centres. The clause substitutes for subsection (4) a new subsection that has the same effect as the present subsection and provides that certain previous offences (whether committed before or after the commencement of the measure) shall be taken into account for the purpose of determining whether an offence is a first or subsequent offence for the purposes of the section.

Clause 5 amends section 47 of the principal Act which provides that it is an offence for a person to drive a vehicle or attempt to put a vehicle in motion while the person is so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle. The present penalties for this section vary according to whether the offence in question is a first, second or subsequent offence. The present penalty provision provides in respect of a first offence for a minimum licence disqualification of six months together with a fine between a minimum of $300 and a maximum of $600 or imprisonment for a maximum period of three months. The clause has the effect of varying this range of penalties by increasing the minimum fine to $400 and the maximum to $700. The present penalty provision provides in respect of a second offence for a minimum licence disqualification of one year together with imprisonment for a minimum of two months up to a maximum of six months. The clause has the effect of varying these penalties by increasing the minimum disqualification to three years, by removing the minimum period of imprisonment and by providing, as an alternative to imprisonment, a fine between a minimum of $600 and a maximum of $1 000. The clause also provides that these penalties for second offences shall also apply to subsequent offences.

The clause substitutes for the present subsections (3) and (4) new subsections that correspond to the new subsections inserted in section 46 by clause 4. In the same way, proposed new subsection (3) sets out the mandatory licence disqualification requirements separately from the penalty provision and includes provisions designed to prevent reduction or mitigation of the disqualification except in the case of a trifling first offence and to ensure that the powers under the Offenders Probation Act may be exercised in relation to the penalties of a fine or imprisonment notwithstanding the mandatory licence disqualification requirement. Under the section, as amended by the clause, a court convicting a person of an offence against subsection (1) would be compelled to impose the appropriate licence disqualification.

In addition, the court would have the option of imposing a fine not less than the prescribed minimum nor more than the prescribed maximum, imposing a period of imprisonment not more than the prescribed maximum, or, pursuant to the Offenders Probation Act, depending upon the particular circumstances of the offence or offender, discharging the offender without any further penalty, discharging him without further penalty conditionally on his entering into a recognizance, or imposing imprisonment but suspending the sentence conditionally on the offender entering into a recognizance. As mentioned in the explanation of clause 4, the Bill to amend the Offenders Probation Act presently before the Parliament would, if enacted into law, extend the kinds of recognizances presently available to include, amongst others, a recognizance requiring the probationer to undertake a period of community service at one of the proposed community service centres.

Clause 6 amends section 47a of the principal Act, which is a general definition section, by inserting a definition of 'breath test'. The clause defines the expression as meaning either an alcotest or a breath analysis. Clause 7 amends section 47b of the principal Act which provides that it is an offence for a person to drive a motor vehicle or attempt to put a motor vehicle in motion while there is present in his blood a concentration of alcohol not less than 0.08 grams of alcohol in one hundred millilitres of blood. The present penalties for this offence vary according to whether the offence is a first, second or subsequent offence and whether the concentration of alcohol is less than 0.15 grams or 0.15 grams or more. This arrangement is retained but the clause varies the penalties in a number of ways.

The clause removes imprisonment as either an optional or mandatory penalty for any offence against the section. For a first offence of less than 0.15 grams, the clause increases the minimum licence disqualification from one month to three months and provides for a fine of between $200 and $500. For a first offence of 0.15 grams or more, the clause retains the present minimum licence disqualification of six months and provides for a fine of between $400 and $600.

For a second offence of less than 0.15 grams, the clause increases the minimum licence disqualification from six months to twelve months and provides for a fine of between $500 and $800. For a second offence of 0.15 grams or more, the clause increases the minimum licence disqualification from one year to three years and provides for a fine of between $600 and $1 000. For a subsequent offence of less than 0.15 grams, the clause increases the minimum licence disqualification from eighteen months to two years and provides for a fine of between $600 and $1 000. For a subsequent offence of 0.15 grams or more, the clause retains the present minimum licence disqualification of three years and provides for a fine of between $600 and $1 000, that is, the same licence disqualification and range of fines as proposed for a second offence of 0.15 grams or more.

The clause substitutes for the present subsections (2a) and (3) new subsections that correspond to the new subsections inserted by clauses 4 and 5. In the same way, proposed new subsection (3) increases the range of sentencing options available to a court convicting a person of an offence against subsection (1) in so far as it has the effect of enabling an order under the Offenders Probation Act to be made as an alternative to the scale of fines proposed for offences against that subsection. Proposed new subsection (3) also increases the licence disqualification for a first offence that is trifling from a minimum period of fourteen days to a minimum period of one month, thereby bringing it into line with the corresponding licence disqualifications for other drink-driving offences and reckless or dangerous driving offences.

Clause 8 inserts into the principal Act a new section 47da authorising the police to conduct random breath tests. Under proposed new section 47da, the Commissioner of Police may authorise members of the Police Force to require any person driving on a section of road specified by the Commissioner during a day so specified to submit to an alcotest, and, if the alcotest indicates that the person has consumed alcohol, to submit to a breath analysis. For this purpose, the Commissioner is authorised to establish a breath testing station consisting of such facilities and devices as he considers necessary to enable vehicles to be stopped in a safe and orderly manner and the breath tests to be made in quick succession.

The proposed new section requires members of the Police Force performing duties in connection with the breath tests to be in uniform and to conduct the tests in such a way as to avoid undue delay or inconvenience being caused to those affected. The Commissioner of Police is required by the new section to report to Parliament annually on the operation and administration of the section. Subsection (7) of the proposed new section provides that the section shall expire after three years.

Clause 9 amends section 47e of the principal Act. It is consequential to clause 8 in that it empowers members of the Police Force to require drivers driving on a section of road during a day specified by the Commissioner in an authorisation under proposed new section 47da to submit to breath tests. The clause amends subsection (1) of section 47e which empowers members of the Police Force to require drivers detected committing certain driving offences to submit to breath tests.

The clause adds to the driving offences listed under this subsection the offence under section 20 of exceeding the speed limit in relation to road works and certain vehicle lighting offences. The clause also amends the penalties and licence disqualifications for an offence of refusing to submit to a breath test so that they correspond to those proposed by clause 6 in relation to offences of driving with a concentration of alcohol of 0.15 grams or more in 100 millilitres of blood.

Clause 10 inserts in section 47g certain evidentiary provisions relating to the conduct of random breath testing. Clause 11 amends section 47i of the principal Act which provides for compulsory blood tests for persons injured in motor vehicle accidents. The clause amends the penalties and licence disqualifications for an offence under the section of refusing to submit to a blood test so that they correspond to those proposed by clause 6 in relation to an offence of driving with a concentration of alcohol of 0.15 grams or more in 100 millilitres of blood.

Clause 12 inserts a new section 47ia requiring any court convicting any person of a first or second drink-driving offence to order the person to attend a lecture conducted pursuant to the regulations unless proper cause for not making such an order is shown. Clause 13 arose as a result of the amendment proposed by clause 9 in relation to motor vehicle lighting offences. The clause amends section 111 of the principal Act so that it makes it an offence to drive a motor vehicle the lighting of which does not comply with the requirements of sections 119, 120, 121 and 124 of the principal Act.

**The Hon. C. J. SUMNER** secured the adjournment of the debate.

## MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

**The Hon. K. T. GRIFFIN (Attorney-General)** obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act, 1959-1981. Read a first time.

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

*That this Bill be now read a second time.*

It is complementary to the one amending the Road Traffic Act to provide for random breath testing and other recommendations made by the Select Committee of the Legislative Council on Assessment of Random Breath Tests. Thus provision is made in line with the committee's wishes for L and P plate drivers not to be allowed to drive when they have a blood-alcohol level between 0.05 and 0.08. This will be a useful additional tool in the task of impressing on relatively inexperienced drivers the dangers of driving while drinking.

The Motor Vehicles Act already provides for a three-month delay before drivers in these categories can apply for their permit or licence once they have lost it, and this period will be applicable to this new provision. Any longer period, as has been suggested, would cause undue complications in an already complex section of legislation. The principle enshrined in this Bill puts proper emphasis on the need for new drivers to realise the dangers of drink-driving from the start of their driving career. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 75a of the principal

Act which authorises the Registrar of Motor Vehicles to endorse certain conditions on learners' permits. The clause amends this section so that it imposes as a condition of every learner's permit a requirement that the holder of the permit shall not drive a motor vehicle, or attempt to put a motor vehicle in motion, while there is present in his blood a concentration of alcohol not less than 0.05 but less than 0.08 grams in 100 millilitres of blood. Contravention of this condition would, under subsection (5) of the section, constitute an offence punishable by a fine not exceeding $200. The clause also requires any court convicting a person of an offence of contravening that condition to order the person to attend a lecture conducted pursuant to the regulations unless proper cause for not making such an order is shown.

Clause 4 amends section 81a of the principal Act which provides that first licences are subject to certain probationary conditions. The clause adds to the probationary conditions presently provided under the section a condition corresponding to the condition proposed by clause 3 in relation to learners' permits. Contravention of a condition under this section also constitutes an offence punishable by a fine not exceeding $200. The clause provides in the same way as does clause 3 for a court convicting a person of contravening the condition to order the convicted person to attend a drink-driving lecture.

Clause 5 amends section 81b of the principal Act which provides for cancellation of learners' permits and drivers' licences for breach of a probationary condition. The clause extends the application of this section to breaches of the proposed condition of learners' permits and probationary drivers' licences prohibiting driving with a blood alcohol level of 0.05 or more but less than 0.08 grams in 100 millilitres of blood. The effect of the clause would be to render any person guilty of a breach of such a condition liable to be disqualified for three months from holding or obtaining a learner's permit or a driver's licence.

**The Hon. C. J. SUMNER** secured the adjournment of the debate.

## COOBER PEDY (LOCAL GOVERNMENT EXTENSION) BILL

**The Hon. C. M. HILL (Minister of Local Government)** obtained leave and introduced a Bill for an Act to confer limited powers of local government on the Coober Pedy Progress and Miners' Association Incorporated, and for other purposes. Read a first time.

**The Hon. C. M. HILL:** I move:

*That this Bill be now read a second time.*

Last year the Legislative Council appointed a Select Committee to examine the need for local government in Coober Pedy and if such a need was found to exist, to prepare an address to His Excellency the Governor pursuant to section 23 of the Local Government Act with a view to introducing local government in the relevant area. The committee reported on 26 November 1980, and in its report recommended as follows:

*(a)* Your committee has examined the need for local government in Coober Pedy and does not recommend the preparation of an Address to His Excellency the Governor pursuant to section 23 of the Local Government Act, 1934-1980.

*(b)* On the evidence received, the establishment of full local government, as envisaged in the Local Government Act, is considered inappropriate for Coober Pedy at this stage.

*(c)* However, your committee believes that a need exists for some legislative backing to be granted to the Coober Pedy Progress and Miners' Association to enable it to be responsible for certain local services, and to raise revenue for those purposes, if it wishes to assume such responsibilities.

*(d)* Therefore, your committee recommends that the best course of action to follow would be for the Government to introduce a Bill for this purpose and that it then be referred to a Select Committee as a basis for discussion with the Coober Pedy community.

The purpose of the present Bill is to give effect to the recommendations of the Select Committee. The Bill therefore confers upon the Coober Pedy Progress and Miners Association certain limited powers of local government. It defines an area in relation to which those powers are to be exercisable. It provides a statutory means by which the association may impose charges upon properties within that area. It defines the various functions that the association may undertake and provides a means by which those functions may be expanded. The operation of the Bill is to be kept under review, and to ensure that the matter comes before Parliament within a reasonable period of an expiry date of 31 December 1986, is fixed by the Bill. I point out to members that the Bill is a hybrid Bill and will therefore be referred to a Select Committee of this Council at the second reading stage. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 sets out the definitions required for the purposes of the new Act. Clause 4 sets out the powers of the association. The association is empowered to build and maintain streets, roads and public places within the area; it may provide and maintain halls, community centres and recreation facilities; it may make provision for the collection and disposal of refuse and establish and maintain depots for the purpose; it may provide and maintain a cemetery in or adjacent to the area; it may provide and maintain an airfield; it may provide and maintain public offices for the purposes of the association; and it may carry out any other function for the benefit of the area determined upon by the association and approved by the Minister. The association may expend moneys in subscribing or contributing to the provision and maintenance of ambulance services; the provision and maintenance of hospitals and medical and dental services or facilities; the cost of providing and maintaining fire-fighting services under the Country Fires Act; the cost of the acquisition and maintenance of mine rescue equipment and the cost of mine rescue operations; the establishment and maintenance of a library; and any other purpose determined upon by a general meeting of the association and approved by the Minister. Subclauses (4), (5) and (6) provide for the extension of appropriate sections of the Local Government Act to the association.

Clause 5 deals with the levy of charges upon land by the association. The association is empowered, with the consent of the Minister, to levy charges in respect of a financial year upon land within the area. The basis upon which these charges are to be levied will be set out in the notice. The provisions of the Local Government Act relating to the recovery of rates, the rebate or deferment of rates, the imposition and remission of fines for non-payment of rates, and the payment of rates by instalment, will apply in relation to charges levied under this section as if they were rates under the Local Government Act.

Clause 6 empowers the association with the consent of the Minister to borrow moneys for the purposes of the new Act. Clause 7 deals with accounts and audit. Clause 8 provides that no alteration should be made to the constitution, rules or regulations of the association without the consent of the Minister. Clause 9 is a regulation-making power. Clause 10 provides that the new Act will expire on 31 December 1986.

**The Hon. FRANK BLEVINS** secured the adjournment of the debate.

## LOCAL GOVERNMENT ACT AMENDMENT BILL

**The Hon. C. M. HILL (Minister of Local Government)** obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934-1981. Read a first time.

**The Hon. C. M. HILL:** I move:

*That this Bill be now read a second time.*

It is consequential upon the provisions of the Statutes Amendment (Valuation of Land) Act which was passed by Parliament earlier this year. While most councils now simply adopt assessments made by the Valuer-General for the purpose of local government rating, there are still some that make their own assessments. For the purposes of these councils, it is necessary to ensure that assessments of annual value and land value (i.e. unimproved value) that have already been made will continue to operate as assessments of annual value or land value (i.e. site value) under the amended definitions. Of course all new assessments will be made under the new definitions, and so it is only necessary to deal, in this respect, with the transitional period. The Bill also inserts a new provision empowering a council to convert an assessment of annual value into an assessment of capital value. This will give a council that has made its own assessments of annual value a ready means of converting its assessments into the more comprehensible assessments of capital value.

Clause 1 is formal. Clause 2 provides that the amendments made by the Statutes Amendment (Valuation of Land) Act do not affect the validity of existing assessments of annual value or land value. Clause 3 provides for the conversion of assessments based on annual value into assessments based on capital value.

**The Hon. FRANK BLEVINS** secured the adjournment of the debate.

## HANDICAPPED PERSONS EQUAL OPPORTUNITY BILL

Adjourned debate on second reading.

(Continued from 5 March. Page 3547.)

**The Hon. ANNE LEVY:** I support the second reading of this Bill and recognise that it is a major piece of legislation being brought before the Council. It arises from the recommendation of the Bright Committee which considered the plight of physically handicapped people and which was set up by the previous Government. The present Government has followed through these measures and produced the Bill now before us. I think that in these circumstances it can be regarded as a bipartisan measure, and it certainly receives the full support in principle from this side of the Chamber.

I would like to say a few words about the situation regarding physically disabled people in Australia, because we need to recognise that the services available for them are fragmented, paternalistic and often old-fashioned. As a community we have been very slow to come to grips with the special needs of people who are disabled as distinct from those who are old or sick. Governments have been slow to realise that disabled people are not a special group with needs different from the rest of the community but rather are ordinary citizens with special difficulties in getting their ordinary needs fulfilled. There has been a stream of official inquiries and surveys undertaken throughout the 1970s which have repeatedly produced evidence of inadequate inflexible services and lack of consumer involvement on the part of the disabled themselves. Little positive reaction has resulted so far, however. Disabled people certainly know all about this, and they are beginning to organise themselves and demand control over their own lives. They are talking of their rights as citizens, not of their needs as disabled people.

In developing policies for any disadvantaged group of people, it is essential to establish basic principles that will withstand the test of time and fashion and provide a yardstick for evaluation. Equal rights and integration into the community are the principles that should govern the development of programmes for the disabled people, or so I would maintain. The United Nations Declaration on the Rights of Disabled Persons reads, in part:

> Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible.

It should not be necessary in a civilised society to spell out such basic rights. However, the facts show that in Australia disabled people are treated as second-class citizens. For the majority of them, life is not as normal and full as possible, because of the way in which our communities are organised in both a physical and emotional sense. Difficulties in achieving access to and within the built environment effectively prevent disabled people from joining in ordinary forms of work and play. As a result, very few disabled people are seen. Because they are not seen, there is no continuing reminder of their existence, let alone their difficulties, and, as a result, nothing changes. It is a real Catch 22 situation. The minority who do manage to join in risk encountering hostile and denigrating attitudes.

For the most part, however, the community is not so much hostile as it is ignorant and unaware. To the extent that disabled people are thought about at all, they are seen as different and not expected, or expecting, to join in the ordinary life of the community. They are expected to be dependent, and arrangements are made for them to be cared for in situations which encourage and reinforce this dependency. It is a vicious circle from which only the exceptionally strong manage to escape.

As long as disabled people are denied physical access to their own community and are prevented from achieving their maximum potential, it will be necessary to continue proclaiming the principle of equal rights for disabled people. Equal rights will be achieved only by integrating disabled people into the community and enabling them to be involved in and responsible for their own affairs to the degree that is commensurate with their age and ability.

Integration means, as far as possible, putting an end to disabled apartheid in the form of separate and special education, employment, accommodation, and recreation. In future, the aim should be to integrate disabled people into normal services by breaking down the physical and emotional barriers that keep them out. I see this Bill as a measure of attempting such integration.

Traditionally, and to a large extent unconsciously, both parties have accepted the non-participation and dependency of disabled people. Changing these attitudes will mean a considerable emotional adjustment on both sides, on the part not only of the disabled but also of the non-disabled. However, this will take time, first-hand experience and, above all, goodwill. This Bill illustrates an attempt to change these attitudes by changing behaviour in the community, and in this respect it is a valuable first step.

In legislation, language should be unambiguous because of its power to influence attitudes. Terms which are used for the disabled are clearly explained in the United Nations statement on the International Year of Disabled Persons, as follows:

> There is a distinction between an impairment, which is a quality of the individual, a disability, which is a functional restriction due to that impairment, and handicaps, which are the social consequences of the disability.

The implication is that handicap is not only a personal matter but also a matter for society and, should society affirm an equality of rights for handicapped persons, it becomes obliged to construct opportunities for them to express their human potential. As I said earlier, the Bill is an attempt to assert equal rights to handicapped people and to alter behaviour in the community so that they are more able to develop their full potential.

The precise number of physically or mentally disabled Australians is not known. The most recent figures are from a health survey which was conducted by the Australian Bureau of Statistics in 1977-1978. They showed that 9.9 per cent of the population over two years of age suffered from a chronic condition that limited their activities in some way. This is a substantial percentage in itself but, as the survey did not include people at that time in hospitals, nursing homes, or other nursing institutions, it must be an under-estimate of possibly significant proportions.

Attempts to measure the incidence and nature of disability on an Australia-wide basis have not been successful. The first inclusion of relevant questions in the census by the Labor Government in 1976 resulted in inconsistent answers because of difficulties in interpretation. The intended follow-up study is occurring only this year, and is currently under way. I hope that the results of this survey will be available before the end of the International Year of the Disabled Person.

There have been numerous references to the fact that data on disabled people is lacking in our community. The National Advisory Council for the Handicapped has suggested for a census questions that could overcome some of these problems. The Williams Committee into Technological Training stated that it was 'greatly hindered by the absence of statistical data on the number of handicapped people and the types of handicap' in its inquiry into education and training needs. The committee recommended that the Bureau of Statistics and the Department for Social Security should reach an agreement on questions of disability for the 1981 census. However, as we were told last week, no questions on disability are to be included in this year's census. Therefore, we will have to rely on the survey that is currently being conducted to have an idea of the magnitude of the problem in Australia.

Looking at another area that very much affects the disabled, I would like to consider briefly the right to work for disabled people. Work is just as personally significant to the disabled as it is to the non-disabled. However, work has always been much harder for disabled people to secure. This has been one of the major reasons for the establishment of sheltered workshops. Although I do not intend to debate the relative merits of sheltered workshops today, it is fair to say that in most cases they have not provided the satisfying and challenging work environment that they were meant to provide. While the goal of open employment may not be attainable by all disabled people, there are barriers to open employment that must be removed, whatever the present overall employment situation is.

These barriers include negative attitudes of employers, and there is certainly strong evidence of discrimination in employment, as was revealed by the report of the New South Wales Anti-Discrimination Board. There are also physical barriers, such as lack of transport and lack of access to buildings. The Bill before us deals only with the first of these matters, that is, negative attitudes and discrimination. In itself it will not solve all the problems faced by the disabled. In fact, access is specifically excluded under the conditions of the Bill.

**The Hon. K. T. Griffin:** That's dealt with under the Building Act regulations.

**The Hon. ANNE LEVY:** Yes, I am aware of that. However, this Bill is a very necessary step in the right direction. I believe that the importance of equal opportunities for physically handicapped people in education cannot be over-emphasised. There are several general principles which can be set down for the education of disabled people. First, disabled children have the same right to education as non-disabled children, whatever their disability and wherever they are living.

Secondly, whenever possible their education should be in normal schools, having regard to the maximum useful association between children with special needs and others consistent with the needs of both. It should be noted that this integration is not a one-way affair but has potential for mutual benefit. Where integrated schooling is not possible, adequate and effective special facilities should be provided. The involvement of the parents of disabled children in decisions about the education of their children, and their place within the education process itself, should certainly be encouraged. The education of disabled people is primarily an educational matter and should not be regarded as a welfare responsibility. We need to remember that education is not synonymous with schooling. The rights of older children and adults to continuing education must be recognised.

Other problems which affect the disabled very markedly include the rights of access and the rights of mobility. One of the most common barriers to the full participation of disabled people in the community are the barriers created by the architectural features of buildings. I believe that the minimisation of these barriers in buildings is an important precondition of full participation of the disabled in our community. Public buildings, places of employment, shopping centres and recreational areas must be made more accessible in order to accord disabled persons the same opportunities as are available to able-bodied people.

I recognise that South Australia is presently the most advanced State in relation to the implementation of building regulations to improve access for disabled people. The changes which came into operation in January this year will make easier access possible to all new public and commercial buildings and greater mobility within them. Buildings covered under these revised regulations include offices, department stores, shops and supermarkets, hotels and motels, flats, and home-units. However, the new regulations did not require any changes to existing buildings, and owners can only be encouraged to make the necessary changes to provide greater access and mobility. I mention that because this Bill makes no such provision.

Whilst one piece of legislation cannot solve all the

problems of the disabled, we should recognise the limitations of the Bill before us while at the same time wholeheartedly welcoming it. The situation of disabled people in our community can be described in terms of closed circles, which involve attitudes, access and integration. Positive attitudes by both disabled and non-disabled people will lead to the improvement of physical and emotional access. In turn, this will lead to greater integration of disabled people and increase their chances of living as fully and normally as possible. That should be our goal. Negative attitudes such as dependency and discrimination maintain the physical and emotional barriers which inevitably mean a segregated existence. In turn, that does nothing to change attitudes. In fact, it reinforces them. That is the situation at present, but there is certainly a growing movement to change it, coming partly from the stimulus of the International Year of the Disabled Person. Disabled people are developing an awareness of their rights, and they will not be satisfied until they can function as equal members of the community. It is hoped that this Bill will assist them in that fight.

Turning to the Bill itself, I note that it has been modelled on the Sex Discrimination Act, which was passed by this Parliament in 1975. However, there are several important differences. The definition of 'discrimination' is similar to the definition set out in section 20 of the Sex Discrimination Act. It merely replaces physical impairment where the earlier Act referred to sexual and marital status. Likewise, the areas in which discrimination is being made illegal are similar to those in the Sex Discrimination Act; that is, the areas of employment and education and the provision of goods and services.

The Commissioner for Equal Opportunity, whose existence was established by the Sex Discrimination Act, is to have the same powers with regard to the handicapped as she now has in relation to discrimination involving sexual or marital status. I note that it is possible under this Bill for the Commissioner to delegate her powers, functions, duties or responsibilities, but she is not able to do that under the Sex Discrimination Act.

**The Hon. K. T. Griffin:** It makes it more flexible.

**The Hon. ANNE LEVY:** I agree that it makes it far more flexible. In view of the extra workload for the Commissioner, it is obviously a very necessary power. I wonder whether such powers of delegation should be put in the Sex Discrimination Act so that the Commissioner responsible for both Acts would be able to delegate functions relating to the two areas of discrimination that she is meant to administer. I certainly hope that as a result of this Act extra staff will be appointed, as the current staff cannot even cope with the work under the Sex Discrimination Act, let alone the extra work under this measure. Under this Bill, as in the earlier Act, the principal method of procedure where discrimination is suspected is for a complaint to be made to the Commissioner by the individual concerned, who will then work by conciliation and discussion with the people concerned. If conciliation does not achieve removal of discrimination, the Commissioner will refer the case to the Handicapped Persons Tribunal, which in this Bill plays exactly the same part as the Sex Discrimination Board under its Act. The powers of the tribunal are very similar to those of the Sex Discrimination Board. It can order damages to be paid and instruct a respondent to cease discrimination. It can also make orders for a respondent to undertake certain actions.

Can the Minister say whether there is any reason why this Bill does not include the provision which occurs in the Sex Discrimination Act concerning damages being awarded for injured feelings, as is the case under that Act? I refer to section 41(4) of the Sex Discrimination Act. There is no corresponding power given to the tribunal in this Bill. I would like the Minister to comment on whether this is an intentional omission and, if it is, to say why.

Furthermore, in this Bill there is a limitation on the power of the tribunal which does not occur in the Sex Discrimination Act. I refer to the conduct of inquiries. The Sex Discrimination Board can conduct inquiries on its own motion or if it is requested to do so but, under clause 45 of this Bill, the tribunal may only initiate an inquiry on the application of the Commissioner. It does not have the power to initiate an inquiry on its own. This would seem to be an undesirable weakening of the powers of the tribunal in relation to the handicapped when compared with the powers of the Sex Discrimination Board. I see no reason why this initiative should not reside with the tribunal in this legislation, just as it does with the Sex Discrimination Board. The experience gained from individual cases brought to it could well lead it to feel that a thorough-going inquiry was necessary in some particular area, and it should have the power to conduct this if necessary.

One very laudable point in this Bill is that the Commissioner will have the power to institute, promote or assist in research relating to the problems of handicapped people, as set out in clause 7 (2). I commend the Minister for giving this power to the Commissioner, as a research function is necessary in this area and, as long as sufficient staff is provided, this should contribute a great deal to learning about the problems faced by the handicapped and what can be done to alleviate those problems.

I regret that there is no such research power given to the Commissioner in regard to the Sex Discrimination Act. The only research power that the Commissioner has there is in searching legislation to find where there may be legislative discrimination on the grounds of sex or marital status. There is no power to initiate any research relating to discrimination in the community, and I would hope that at some time such a power can be given to the Commissioner under the Sex Discrimination Act.

Also, under this Bill the Chairman of the tribunal does not have the power to determine questions relating to the admissibility of evidence and other questions of law and procedure, as can the Chairman of the Sex Discrimination Board under that Act. In both cases, the Chairman has to be a judge or a legal practitioner of seven years standing, and it would be appropriate for the Chairman of the two bodies to have the same powers. I hope the Minister can indicate why that provision has been omitted in the Bill and whether he will consider including it in the Bill to keep the desirable analogy between the Sex Discrimination Board and the Handicapped Persons Tribunal. This change would result in only a small amendment to clause 16.

I welcome in this Bill all the references to guide dogs for the blind. Indeed, I am glad to see with the Bill's passage that it will be illegal to require a blind person to be separated from his guide dog. It is surprising that such a thing need be legislated for. It would seem to me to be incomprehensible that anyone could require a blind person to be separated from his guide dog, but I presume that there must be occasions where it has occurred in the community for it to be included in this legislation, and I certainly welcome its appearance.

I now refer to the employment provisions of the Bill. There are a number of differences between this Bill dealing with handicapped persons and the Sex Discrimination Act. In regard to discrimination by employers under the Sex Discrimination Act, it is permissible if the employer has less than five employees. This provision is

not to apply for handicapped people. There is no such provision in this Bill as occurs in the Sex Discrimination Act. It seems to be rather anachronistic that an employer who has four employees should be able to discriminate against one sex or a particular marital status but will not be able to discriminate on the grounds of physical impairment.

The old excuse for being able to discriminate in the case of fewer than five employees is, as I understand it, the hoary old question of having proper toilet facilities. If we are to raise the question of toilet facilities, exactly the same conditions could apply with regard to people who are physically disabled. We could have a situation where an employer of five employees can discriminate on the grounds of sex but may not discriminate on the grounds of physical impairment.

This is not a criticism of this Bill—far from it—but I hope it is a recognition that such a clause in the Sex Discrimination Act is unfair and should be removed so that the Sex Discrimination Act can be brought into line with the provisions of this Bill. Similarly, under the Sex Discrimination Act, a firm of six or more partners cannot discriminate on the grounds of sex but, if there are fewer than six partners, it may so discriminate. In this Bill a firm comprised of one or more members will not be able to discriminate on the grounds of physical impairment and, if there are two partners (obviously, one must have two, because with only one there cannot be another partner) in a firm they may not discriminate on the grounds of physical impairment but they will still be able to discriminate on the grounds of sex.

This is grossly unfair to those who are discriminated against on the grounds of sex. Whilst I welcome the clause as set out in this Bill, it is a further pointer to the need to revise the Sex Discrimination Act to bring its provisions into line with the more reasonable provisions existing in this Bill.

I am certainly very glad to know that clause 27 of this Bill clearly states that this provision applies to an association established for any purpose whatsoever. This phraseology is not used in the Sex Discrimination Act, where discrimination by associations is prohibited only where it is an association relating to employment or qualifications for employment. The amendment of that section of the Sex Discrimination Act has been recommended in numerous annual reports from the Commissioner for Equal Opportunity to Parliament.

I am very glad to see that her recommendation regarding the Sex Discrimination Act is being put into the Handicapped Persons Equal Opportunity Bill and I sincerely hope that very soon we will have amendments to the Sex Discrimination Act that will bring it into line in this regard with the Handicapped Persons Equal Opportunity Act as strongly recommended by the Commissioner for Equal Opportunity as a result of complaints laid before her over the past six years. It strikes me as slightly ironic to think that the blind, deaf, lame, and so on, will have more rights than women in our society until the Sex Discrimination Act is amended to bring it into line with the Handicapped Persons Equal Opportunity Act.

Under the education section of the Bill, no exemptions are provided for as in the Sex Discrimination Act. The Sex Discrimination Act has an exemption for schools that are wholly or mainly for students of one sex. There is no such exemption in the Bill before us. I ask, in all seriousness, whether consideration was given to this matter. We do have special schools that are set up for people with certain disabilities and, when this Act becomes law, those schools would not be able to refuse admittance to any non-disabled children who apply to go to it. It may be said that it is unlikely that they would apply but it seems to me desirable to have some commonsense provision perhaps to enable certain exemptions in certain cases.

We may also have a situation where a parent wishes to enrol his child who has a physical impairment in a school that does not have facilities to cope with that disability. Under this legislation, the school would have to enrol such child, even though it might not be in the best interests of the child if the school was not able to cope with the impairment that the child has. I wonder whether this is a desirable system or whether it will introduce undesirable discrimination that could be used in another case, and I should be grateful for comment by the Minister on that matter.

**The Hon. K. T. Griffin:** It's a real dilemma, isn't it?

**The Hon. ANNE LEVY:** Yes. That is why I am asking for comment. I presume that it has been thought about. Under the section on goods, services and accommodation, no exemption is provided in the Bill as in the Sex Discrimination Act where there can be discrimination in the provision of accommodation when an owner or one of his near relatives lives on the property and accommodation is available for fewer than six people. Again, there is no such restriction or exemption provided in this legislation. I am not saying that there should be but, again, is this a suggestion that the qualification in the Sex Discrimination Act should be removed, or are we then going to have the situation where the disabled would have more rights in our society than women have?

The Bill, in Part VII, General Exceptions, specifically allows for discrimination in favour of handicapped people as set out in clause 38. Again, this has no counterpart in the Sex Discrimination Act. I welcome its appearance here. The Labor Party always has believed in helping those who are disadvantaged and we would wish to see such a clause in this legislation.

The Sex Discrimination Act also exempts sports activities from non-discrimination on the grounds of sex where strength, stamina, or physique are relevant. There is, again, no such exemption in this legislation as is in the Sex Discrimination Act, and sporting bodies do not receive the exemptions regarding physical handicap that they do regarding sex. I wonder whether this is a deliberate omission from this legislation or whether it is a further indication of the decision to amend the Sex Discrimination Act following the review of that Act that the Attorney promised us was occurring as long ago as last October.

There are two new things in this legislation, other than those that I have mentioned, that do not occur in the Sex Discrimination Act. One is in clause 50 (4), which states that an appeal under that provision shall not be conducted as a rehearing of the matter that was before the tribunal. This is in an appeal to the Supreme Court against the decisions of the tribunal. Likewise clause 53 is a completely new provision that creates an offence of molesting, wilfully insulting, hindering, or obstructing the Commissioner for Equal Opportunity. I in no way disagree with either of those two provisions but I hope that their inclusion is not because the experience with the Sex Discrimination Act has led to the necessity for their being included, and I sincerely hope that no-one has been molesting, wilfully insulting, hindering, or obstructing the Commissioner for Equal Opportunity as she has administrered the Sex Discrimination Act. If this is so, I would hope for her sake that the review of that Act would occur very soon.

In conclusion, I say that we certainly welcome this legislation and hope that some of the points I have raised

can be answered by the Minister or taken up in the Committee stage. I certainly support the principles of the Bill and it is most important to have such legislation in this International Year of the Disabled Person. I hope that it will be emulated by other States in Australia as our Sex Discrimination Act has been. Once again, South Australia is leading Australia in important legislation. I support the second reading.

**The Hon. L. H. DAVIS:** As the Hon. Miss Levy has rightly said, this is indeed a piece of pioneering legislation. It is all too easy for members of the community to forget that the level of impairment is much greater than is generally recognised. In fact, in the initial paper circulated for discussion by the Bright Committee in late 1977, the observation was made that physical and mental impairment affected one in eight people resident in South Australia. Disabilities can be caused at birth as a result of thalidomide or Downs Syndrome. There are diseases such as deafness, multiple sclerosis and blindness which can be progressive impairments and in some cases also be present from birth. Some disabilities are sudden in their impact as a result of a car smash or illness. In talking about that form of disability I refer to both physical and intellectual disability. Ultimately, we are all disabled in a sense through old age or sickness.

I was interested in the comments of Mr Philip Adams, who is a consultant to the International Year of the Disabled Person. He made a perceptive observation when he said that our social attitude in this area has not kept pace with our technology. Disabled people do not want pity, but dignity. They want access to public buildings, cinemas, education and jobs, but most of the time they do not even have access to our minds. I would suggest that this legislation in some way seeks to open the minds of the community through enshrining the rights of the handicapped and through the Commissioner for Equal Opportunity drawing to the public's attention those rights.

Mr Adams further observed that we often flinch away from a disabled person simply because we fear mortality, and any deformity is an intimation of death. He quoted a New South Wales State Minister as follows:

> We have just built this marvellous railway system in Sydney. It cost us millions and everyone forgot the question of access—the Government, the planners, the architects, and everyone. On opening day we found that no-one in a wheelchair could get on to a single station. It makes one so ashamed to realise how the disabled have been forgotten.

Not only do we have legislation at a State level relating to discrimination, whether it be sex discrimination or racial discrimination (which exists already at the State level and is to be joined by this piece of legislation) but also there is legislation in force at the Federal level. I perused the sixth annual report of the National Committee on Discrimination in Employment and Occupation (the last available report)—sixth annual report for the fiscal year 1978-1979. It examines complaints on the grounds specified in the I.L.O. Convention No. 111, that is, complaints as to discrimination based on race, colour, sex, religion, and so forth. For the year ended 30 June 1979, there were 332 such complaints. Complaints received on grounds not specified in the I.L.O. Convention No. 111 for 1978-1979 totalled 336, of which fifteen related to discrimination on the grounds of disability. That may seem a small figure. Some fifteen complaints related to discrimination on the grounds of disability in a total number for 1978-1979 of 668. I would suggest that severely understates the issue and that those who are disabled, whether it be physically or intellectually, often do not complain because they sense a hopelessness in complaining.

The Federal Government also recently announced a $2 000 000 national campaign for employment of disabled people which seeks to improve the quantity, quality, and range of employment opportunities. It is interesting to note that during 1980 an estimated 48 300 disabled people registered for work with the Commonwealth Employment Service and 8 400 were placed in jobs. This is a placement rate of 17 per cent. That does not compare particularly favourably with the placement of 30 per cent for all people. The Department of Employment and Youth Affairs carried out market research on employer attitudes to the disabled and found that the greatest factor inhibiting employment of disabled persons was a lack of awareness rather than negative attitudes. That is an interesting observation and ties in with the observations of the Bright Committee Report, which I will deal with shortly.

The committee on the rights of persons with handicaps chaired by Mr Justice Bright presented a paper containing recommendations for law reform to assist persons who are handicapped. That paper was published in October 1977. That committee advertised locally and interstate and received 250 submissions. Many of these submissions understandably related to mobility and access problems. Even at that stage in its initial report the committee was suggesting that it was appropriate to introduce one Act to deal with issues affecting handicapped persons rather than many piecemeal amendments to existing legislation; in other words, a code for the handicapped where their rights are clearly defined. They observed that persons with handicaps account for one in eight South Australians—that is, persons suffering physical or intellectual impairment. The committee stated:

> In speaking of rights for persons with handicaps . . . we mean the right to equal opportunity as fellow citizens to enjoy a decent life, as normal and as full as possible.

They should be entitled to the assistance as of right rather than as a special privilege. It is interesting to note, as indeed the survey of the Department of Employment and Youth Affairs noted, that submissions to that committee time and again underlined that ignorance of problems faced by the handicapped persons rather than an act of deliberate discrimination against them was the cause of lack of employment opportunities and unwitting discrimination against them.

Many practical examples of discrimination against handicapped persons were contained in that very worthwhile report from the Bright Committee. One of the submissions suggested, and I think there is a lot to commend it (although it is obviously outside the scope of the legislation now before us), that there was the need for a specialist job-placement service for handicapped persons. The Bill now before the Council reflects many of the findings of the two reports, as the previous speaker has already observed. In addition, it reflects the input from many people associated with the International Year of the Disabled Person.

Many people who are physically handicapped have made a contribution to this legislation. This legislation is a good example of a Government setting a lead in developing community attitudes rather than responding to community attitudes. We are increasingly seeing law being used to state general principles of community attitudes. We have already seen examples in the Sex and Race Discrimination Acts and in the equal opportunity legislation. I believe that the legislation is to be commended in that it is on the one hand enshrining rights of the physically impaired and, on the other hand, it is labelling what are regarded as discriminatory acts.

It is to be commended also on the appointment of the Commissioner for Equal Opportunity as the person responsible to the Minister for the general administration

of the Act. By appointing that person, we are recognising that the physically impaired are entitled to an equal opportunity. It is also appropriate to commend the State Government on appointing the Attorney-General as the Minister in charge of the State Government's involvement in the International Year of the Disabled Person.

**The Hon. C. J. Sumner:** What's so special about that?

**The Hon. L. H. DAVIS:** It is very special, because South Australia is the only State—

**The Hon. C. J. Sumner:** The Attorney-General in our Government set up a committee and had the conduct of the thing. There is nothing particularly remarkable about it.

**The Hon. L. H. DAVIS:** I am merely making an obvious observation. Whereas no other State has appointed an Attorney-General in this regard, we have recognised that handicapped people need their rights protected. This is more appropriately done in the area of the Attorney-General rather than that of the Minister of Health, as has occurred in other States, where Ministers of Health have been appointed to manage their State Government's involvement in the International Year of the Disabled Person.

The Commissioner for Equal Opportunity has her role defined in clause 7. That clause underlines the rights that handicapped persons have, and the assistance that the Commissioner gives to them in advising them of benefits, assistance or support that may be available to the physically impaired. The clause provides that the Commissioner shall assist those people in gaining access to any such benefits, assistance or support. The Commissioner shall also promote or assist in research and the collection of data relating to the persons who are physically impaired. I hope that in this respect the research facilities available to the Commissioner will be an ongoing commitment by the Government to ensure that data which is of use to us in better catering for the rights of the disabled will become available.

The legislation has been covered in a comprehensive manner by the Attorney-General in his second reading explanation, as well as by the former speaker, and I do not intend to go through its provisions in detail. However, it is important to recognise that the legislation, by itself, cannot change community attitudes. It is important for the Government and the Commissioner who is responsible for the general administration of the Act to ensure not only in this very special year for disabled people but also thereafter that they do all in their power to see that the community is made aware of the rights of the physically impaired and of what are regarded as discriminatory acts.

Ignorance is not bliss when it comes to these rights. The education process that is obviously involved will, hopefully, start with children. In this regard, South Australians will be well served by providing for the physically handicapped children at the Regency Park Centre, which provides integrated habilitation and rehabilitation programmes for physically impaired children and adolescents. This programme includes with therapy education, social skills training, and work preparation.

In addition to helping physically handicapped children, I hope that we can, through the education process, make children in primary and secondary schools more aware of the rights of the handicapped and, in that way, enable them, as the next generation, to assist those who are intellectually and physically handicapped. That will help in the de-institutionalisation programme that obviously in time will flow from this legislation. It will better help the physically and intellectually impaired to integrate into the community, whether it involves a total independence or a planned dependence, rather than what for many is a total dependence on institutional support.

In conclusion, I support the Bill, with its emphasis on conciliation, on recognising the rights of the physically handicapped, and on ensuring that the community does not discriminate against those who suffer, through no fault of their own, from a physical impairment.

**The Hon. N. K. FOSTER:** I commend the Bill on the basis of what has been said in the debate thus far, and should like to refer to one or two matters, perhaps because of the laudatory manner in which the honourable member who has just resumed his seat dealt with this Bill in respect of his personal friends in this place. I thought that it was carrying the matter a little too far. The honourable member's patriotism in respect of Party politics went too far when he tried to say too many things about the Attorney-General in this respect.

The Bill has much to do with personal discrimination in the areas at which it aims. I should like therefore to deal with that aspect briefly and also to address myself to the serious matter of severity of discrimination by omission, which affects many people. One would be hard pressed to find an area that does not react unfavourably in relation to handicapped people.

Before embarking on that matter, I should like to state that I have waited for many months to see a glaring anomaly in this building corrected. I refer, of course, to the entrance from the car park, where much blundering has occurred and a lot of money paid to consultants in order to provide access from the car park for handicapped people who have a right to enter this building. I was horrified to arrive at the car park door one day to find that people in wheel chairs had no way of obtaining access to Parliament House. They had to exert about 700 lbs. pressure to try to open the heavy hydraulically-controlled glass doors entrance.

In haste, after my original complaint, the Attorney-General tried to solve that problem by altering the lay-out of those doors. Then, there was a repetition of a staggering sum of money being spent (I have not been able to ascertain from the department the sum involved) in a feeble attempt to correct the matter. However, those involved did not consult a disabled person or the Disabled Persons Association about this matter. Once more, I had to say to the Attorney-General, 'For God's sake, have something done. Knock some heads at the Public Buildings Department.' For many months, we saw a great deal more money spent, and at last the barricades were lifted. My simple suggestion of removing the double doors has now been adopted.

One of the doors which was shortened down to about 5 ft 8 in. has, at great expense, now been extended back to its original height. The walls, which are about 18 in. thick, had to be burrowed through to effect this. It has also been necessary to retile many metres around the entrance-way. I can think of only one handicapped person who has access to that doorway, and who I believe is a member of the Parliamentary Counsel's staff. There is no other door in this building where handicapped people can enter this building. I do not see how a handicapped person can be expected to climb the granite steps at the front of this building.

Although the Bill is very limited, it seems capable of being tested by handicapped people in that they can approach a tribunal. However, the Bill does not state that the Government will embark on a programme to provide public facilities such as public telephones for handicapped people. I ask the Attorney-General to reflect on the television programme where he attempted to get into a

public telephone box while seated in a wheelchair. I recall the Attorney-General, when referring to the wheelchair, saying 'It just won't go in'. This Bill should make some provision about this matter considering that Telecom made billions of dollars last year. Telecom has erected millions of these triangular monsters all over the country, and even able-bodied people have trouble opening their doors. The Government should provide public telephone booths that are easily accessible to handicapped persons.

The Government should also look overseas where a system of hydraulic steps has been developed to enable handicapped people to get into buildings which are otherwise inaccessible. At the moment the Government will be establishing the Handicapped Persons Tribunal in a building that is inaccessible to handicapped persons. Handicapped persons cannot even approach their local members of Parliament because they cannot get into this building.

Several months ago South Australia experienced a bout of very hot weather. I have read that on one weekend accidents in several swimming pools resulted in seven people becoming paraplegics. This Bill should contain a preamble warning members of the community, particularly those involved in aquatic sports, that they are vulnerable to neck injuries. I believe there are areas which cause discrimination through omission. I attended a meeting at Maitland on Yorke Peninsula last week where I stated that discrimination by omission was a very serious problem in this country. As an illustration, Maitland and a small area around it has local government representation, but nothing has been done to provide representation for the 400 Aborigines who work in the mission not far from Maitland. That is a clear example of direct and definite discrimination by omission.

I would also like the Attorney-General to examine the question of compensation. I am concerned about some of the phraseology used in relation to compensation and the misunderstanding that may flow from that phraseology. The wording of this Bill cannot be framed in the same way as a Bill for non-disabled persons. There is a great deal of reticence by disabled people when it comes to approaching boards or tribunals. I believe that some area of middle ground, such as a committee comprised solely of handicapped people, should be established. A suitable building with access for handicapped people should be provided for this committee. The Government has provided access to toilets for handicapped persons in this building and has spent a lot of money erecting signs advertising this fact, but handicapped people cannot get into this building to use those facilities.

**The Hon. K. T. Griffin:** You said they could.

**The Hon. N. K. FOSTER:** Only through the back door, and one must run the gauntlet of hell to obtain a card in order to get into this building through that door. As I have said, we should provide an area of middle ground through a committee comprised of handicapped people. We have them in the professions and right across the whole spectrum of society. They should have the right to force us to some point of understanding on their behalf.

**The Hon. K. T. GRIFFIN (Attorney-General):** I appreciate the attention that members have given this most important piece of legislation. There are some matters raised by members to which I am able to respond now, and there are other areas more appropriately dealt with in Committee. If I do not answer all the matters that have been raised by members now, there will be a better opportunity to explore the answers to those questions in Committee.

The Hon. Anne Levy raised a number of matters which relate to a comparison between the Handicapped Persons Equal Opportunity Bill and the provisions of the Sex Discrimination Act. She first drew attention to the fact that the Commissioner for Equal Opportunity under this Bill will have a power to delegate. That power was expressly provided because there are at present a number of difficulties imposed by the Sex Discrimination Act which mean that the Commissioner for Equal Opportunity has to give her personal attention to complaints and decisions and action under the Sex Discrimination Act.

With the added responsibility of this Bill, the Commissioner for Equal Opportunity will have to be in a position where certain powers and functions are delegated under her general overriding responsibility. I should say at this point that the Sex Discrimination Act is under review and that to some extent the matters that are dealt with in this Bill are likely to be a basis for consideration of amendments to the Sex Discrimination Act. The Government has taken the view that, at this stage of its legislative programme, priority ought to be given to this Bill so that changes which are made here can later be considered in relation to the Sex Discrimination Act as well.

The Hon. Anne Levy has asked me to explain why there is a difference between the provisions in this Bill with respect to the extent of damages that may be awarded by the tribunal compared with the damages that may be awarded by the Sex Discrimination Board. Specifically, there is no provision in the Bill for the Handicapped Persons Discrimination Tribunal to award damages for injury to feelings. Clause 48 (2) shows that we have sought to give to the tribunal the power to award compensation for any loss suffered by the complainant in consequence of contravention of the Act and to make certain orders which may be of a mandatory nature or an injunction nature. The Government takes the view that the Handicapped Persons Discrimination Tribunal is exercising powers and functions which are akin to judicial functions. It is essentially a tribunal that arbitrates on disputes that cannot be resolved by conciliation. To that extent it will not be governed by ordinary rules of evidence which protect both parties in the material that can be presented to the tribunal and which provide a proper basis for determining amounts of compensation.

The Government took the view that to extend the power of the tribunal to provide damages for injury of personal feelings may open up an area of compensation that was inappropriate to this sort of tribunal.

The Hon. Anne Levy has also drawn attention to the fact that there are some limitations on the powers of this tribunal with respect to the conduct of inquiries. If it is to be a tribunal which is essentially concerned with arbitrating on disputes which cannot be resolved by conciliation, the Government takes the view that it is inappropriate for it to have also an executive function of initiating its own inquiries unrelated to any particular complaint or complaints.

For that reason the Government believes that any action which should be taken to embark upon wide-ranging inquiries by the tribunal should really be initiated by some person who has administrative or executive functions, and not by the tribunal itself.

So far as the role of the Chairman is concerned, it has been common in the past to provide for a legally qualified Chairman to rule on questions of law, as in the Sex Discrimination Board. The Government has taken the view that as it is a tribunal, and at least one of its members will be legally trained, the decisions on questions of law ought to be made by the tribunal and not by any particular individual such as the Chairman.

The Hon. Anne Levy has drawn attention to the powers in this Bill which are not in the Sex Discrimination Act, that is, the power to undertake research and education, and also positive features which provide for positive discrimination as allowed in the Sex Discrimination Act but which are not allowed in this Bill. The Government takes the view, as I said earlier, that when this Bill passes its provisions will be taken into consideration in the final decision in regard to the Sex Discrimination Act.

It must be remembered that this Bill is drafted in the context of attitudes of the 1980's. As I have said, there is a review of the Sex Discrimination Act, which was passed in the early 1970s. Attitudes and experience have changed some of the requirements, and so what occurs in this Bill will be taken into consideration in the final review of the Sex Discrimination Act. The question of discrimination which is allowed in the Sex Discrimination Act where five or less employees are employed has not been regarded as being appropriate in the Handicapped Persons Equal Opportunity Bill. Nor has it been regarded as important that we should allow discrimination in certain firms. We believe that persons who suffer disability ought to be in the position of being regarded as equal in all respects if their ability to undertake a particular function is equal to that of any person without that disability.

**The Hon. Anne Levy:** The same applies in regard to women.

**The Hon. K. T. GRIFFIN:** I was reflecting on equal opportunity so far as it relates to handicapped people. For that reason we have decided in this Bill not to impose the sort of restrictions which undoubtedly will be reviewed in the final decision-making on the Bill affecting the Sex Discrimination Act.

Regarding education, the real dilemma I have raised is that we acknowledged the need for children with disability to participate in a normal environment, which has advantages and benefits for both those children and the so-called normal children. If we were to provide for some positive discrimination one way or the other, it would undoubtedly be a reflection on the general principle that we are seeking to achieve in education, but the educational area is one that has a number of perplexing questions so far as it relates to education of children with disabilities. What I propose is that I should take up in more depth with those particularly concerned in the education field the matters that the Hon. Miss Levy has raised and endeavour to expand on the difficulty when the Bill reaches the Committee stage.

With respect to goods and services, positive discrimination in favour of the disabled, and the question of no exemption in this Bill with respect to sporting bodies, they are all matters that the Government has examined so far as this measure is concerned. We believe that, because attitudes have changed and experience has demonstrated, certain provisions that are in the Sex Discrimination Act ought not to be included in this Bill. We regard this Bill as an up-date and for that reason this is the one I would prefer to concentrate on in setting a standard that could be taken into consideration with other reviews. There are several other matters to which the Hon. Miss Levy has referred dealing with particular provisions, but I think they would be more appropriately dealt with in the Committee stage, particularly clauses 50 and 53, and I propose to expand on the reasons for those clauses at that stage.

The Hon. Mr Foster has raised questions about compensation, particularly workers' compensation. It is a matter of some concern to ensure that rights under workers' compensation in particular are not prejudiced by this Act and that there is as little overlap as possible in the way workers' compensation is administered. Likewise, it is important that in certain areas where there are industrial health and safety requirements, we should not impinge on those, although, if there is a demonstration that such legislative provisions, whether Statute or regulations, need to be updated, it would be appropriate to review them. I think that what we are trying to ensure is that there is not the overlap that in some respects is evident on the face of the Bill at present, and that will be incorporated in some amendments that will be placed on the file in the near future. I again thank members, as I did at the beginning of my reply, for their attention to this important piece of legislation.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

## LEGAL PRACTITIONERS BILL

Adjourned debate on second reading.

(Continued from 5 March. Page 3551.)

**The Hon. C. J. SUMNER (Leader of the Opposition):** The Opposition is prepared to support the second reading, although we do so without a great deal of enthusiasm. The Bill is inadequate. The measure and the second reading explanation given by the Attorney-General fail to make any comment on many important issues that affect the legal profession and its relations with the public.

The Bill has been introduced while an inquiry into the legal profession is being conducted by the New South Wales Law Reform Commission. That inquiry, I understand, will report within about twelve months on all aspects of its reference. It has been continuing for some time and has produced a number of discussion papers. There is nothing in the Attorney-General's second reading explanation that would indicate that the Government has given any consideration to the proposals by the New South Wales Law Reform Commission. There is nothing in the explanation that indicates that he is aware of the major review of the legal profession that was carried out by a Royal Commission in the United Kingdom under the chairmanship of Sir Henry Benson.

We would have preferred that the Bill awaited at least the final reports from the New South Wales Law Reform Commission so that any reform of practices and procedures in the legal profession could have taken their conclusions into account. The Bill has been heralded by the Attorney-General as a major reform. In fact, it is a paste and paper job that does not come to grips with many of the issues. It does not come to grips with the question of specialisation in the legal profession. When I was Attorney-General, a committee was set up with Law Society participation to look at the question of specialisation and the role of Queen's Counsel. That committee was abandoned by the present Government.

There is no comment about the rule of silks and the two-counsel rule, which means that a Queen's Counsel cannot appear in court without a junior. There is no comment or opinion about court dress, the use of para-legal people in para-legal practice to reduce costs, or the question of advertising and whether the restrictions on advertising that currently exist ought to pertain. There is no discussion of the question of fees, costs for legal practitioners, and the role that the public should have in setting those fees.

A major defect in the Bill is that it does not proceed with the proposal that was in the 1976 Bill that the Labor Government had on legal education. The whole question

of legal education is left out of the measure. There is no discussion of continuing education and post-graduate education of the profession, many of the matters that are of concern to the public and were matters of concern to the United Kingdom and the New South Wales Government, and matters that have been discussed in most of the common law countries, such as Canada and the United States. Those matters have been ignored by the Attorney-General in this Bill. The key to reform should be public accountability, and on that issue we do not believe that this Bill goes far enough.

There is a major problem for professional organisations and a major conflict of interest which is inherent in their organisation. This applies no less to the Law Society as the organisation which both represents and regulates the legal profession. That statement indicates where the inherent conflict of interest lies. On the one hand the Law Society is the legal profession's—the lawyers'—union. It has the role of representing the interests of the legal profession. We had a recent example with the Law Society, in pursuit of the interests, as it sees them, of its members, and taking action against a proposal of the Government. That proposal which was initiated by the Labor Government and continued by the present Government was the triparte committee on workers compensation in this State.

The Law Society is strongly opposed to the proposal in the report that that committee produced. I understand that they have struck, or intend to strike, a levy to fight the proposals in that report. A case exists where the Law Society quite properly is representing the interests of its members and, of course, it does that in many other areas as well. One cannot complain if there is an interest group in the community. The Law Society acts in that way. It is for governments and other people to decide whether what the Law Society says in representing its members' interests is valid or in the public interest. The conflict arises because the Law Society not only does that but it also acts as a regulatory body for its members. Much of the work of the Law Society involves just that—laying down rules of conduct and ethical rules for behaviour of members of the profession.

In acting in that regulatory way the criteria that the Law Society applies ought to be the public interest. Therein lies the conflict. On the one hand the Law Society acts as the union with its interests being its members and their position. On the other hand it acts as a regulatory body where the public interest ought to be paramount. That is a position which is somewhat schizophrenic. It certainly leads to difficulties concerning the regulations of the profession in the public interest. In New South Wales, in the discussion papers produced by the Law Reform Commission, a proposal to overcome this conflict between the two roles was put forward. The proposal was that there ought to be established a Legal Profession Council which would be responsible for the regulatory aspect of the legal profession. I will quote to the Council some of the conclusions or suggestions that that discussion paper came up with. It was Discussion Paper No. 1 on the Legal Profession, General Regulation of the New South Wales Law Reform Commission. In discussing a new regulatory body on page 157, the commission outlined the basic guidelines as follows:

> Applying the views developed in the last chapter, we suggest regulation of the legal profession by a body which:
>
> (i) is charged with the responsibility of considering the interests of all sections of the public, including the profession itself;
>
> (ii) is not in a situation of conflict of interest by reason of being also committed to advance the sectional interests of the members of the profession, or any other group;

Those two points reaffirm the problem that I was pointing out. The report continues:

> (iii) will preserve adequate degrees of independence and self-regulation for the profession;
>
> (iv) is appropriate to regulate the way in which the whole legal profession serves the community, and is not confined in function or constitution to a section of the profession;
>
> (v) brings together, as members, people who are sensitive to the needs and viewpoints of all sections of the legal profession, and of as wide a possible range of other groups in the community; and
>
> (vi) provides an avenue for public participation in, and wider public understanding of what is involved in, the regulation of the profession.

In conformity with those guidelines the commission also suggested the following:

> We suggest the establishment of a new statutory body, which we tentatively call the Legal Profession Council. This Council would have a wide range of responsibilities in relation to the legal profession, some of which it might delegate to committees or other agencies or individuals, and in some of which it might be concerned only in a supervisory way. Its responsibilities would extend to policy-making and administration in specified areas. It would have power to make certain statutory regulations, subject to Government approval and to Parliamentary disallowance.

It further states:

> For example, in the field of professional standards and discipline, the Legal Profession Council would have responsibility for prescribing standards, and for investigating possible breaches of those standards, and in initiating appropriate proceedings. However, adjudication on breaches of standards and the making of appropriate orders in relation to practitioners who are in default would be the responsibility of bodies separate from the Council.
>
> While the Council would take over the relevant statutory functions of the Law Society, and the regulatory functions of the Bar Association, this would not lead to the disappearance of voluntary associations within the profession, which we would expect to remain to represent the interests of their members and to develop and press their views as to where the public interest, as well as their own interests, lay.

That was an attempt to separate the two functions—the function of representation of members' interests and the function of regulation. The suggestion was that on the Legal Profession Council, while there would be lay representation, there would be a majority from the legal profession. Further, the New South Wales Law Reform Commission suggested that there should be a committee on legal services which was to be independent of the profession and the Government and which would have appointed to it representatives of various interest groups in the community who have dealings with the profession. Such organisations mentioned were the Australian Consumers Association, the Council of Civil Liberties, women's organisations, probation and parole officers organisations, senior citizens organisations, Aboriginal organisations, small business organisations, doctors organisations, country interests, and local government and shire associations. The discussion paper also stated:

> A primary object of the Committee is to provide a forum for developing views of non-lawyers on legal matters. This would be defeated if the Committee were heavily influenced in its deliberations by persons conditioned by experience or training to look at issues as lawyers.

So, the New South Wales Law Reform Commission came up with proposals to try to overcome this inherent conflict

in the regulation of the profession. The Opposition does not intend to move amendments to give effect to those provisions but obviously more thought will need to be given to them. It is a pity that the Government did not wait for the final report of the Law Reform Commission to see what results it would finally come up with after it had received submissions on the discussion paper.

**The Hon. K. T. Griffin:** We've been waiting five years.

**The Hon. C. J. SUMNER:** That may be so, but the question of reform of the profession is an important one, and these inquiries are proceeding at present. I am not saying that I agree with all the aspects of the New South Wales Law Reform Commission's report. However, it is a solution. The Government has shown no hint of even being aware of the New South Wales Law Reform Commission's deliberations or of having any interest in what has been happening in that State. The reports raise the question of lay participation in the Law Society. Again, that is not a matter on which at this stage I intend to move amendments. However, there is a case for lay participation, even if it is without voting, because the society is a statutory authority which has the duty of regulating the legal profession.

I understand that this provision has been acceptable to the American Bar Association as well as in four or five Canadian Provinces. Certainly, I believe that the Law Society should report annually to Parliament on those matters which are clearly within the public interest and which impinge on the rights of the public, namely, those regulatory actions which the society takes. The Opposition will be moving amendments to that effect.

This Bill differs in a number of ways from the Bill introduced earlier by the Labor Government in 1976 and not proceeded with. It does not contain provision for a Commission for Legal Education, which was to make rules for the admission of practitioners and generally to oversee the question of the education of members of the profession. The Bill leaves matters as they are. The question of admission is to be left to the Supreme Court, and no attempt is made to bring together people interested in the question of legal education in order to try to get a consistent, coherent and continuous policy in that area. In this Bill, there is no scope for lay participation in relation to legal education. The Opposition believes that that is a retrograde step.

The Bill does not contain provision for a Legal Practitioners Board, which was in the 1976 Bill, which board would have had the responsibility of issuing practising certificates and otherwise being responsible for the regulation and conduct of legal practitioners. It was proposed that that board should have lay people on it. Three persons were to be appointed by the Attorney-General and three were to be nominated by the Law Society. Of the three persons appointed by the Attorney-General, one was to be the Deputy Master of the Supreme Court. So, in all probability, there would have been two lay people on that Legal Practitioners Board. That proposal has been abandoned, and the question of issuing practising certificates is now left with the Supreme Court. Of course, the current proposal reduces the capacity for public accountability of the profession.

The Bill makes some improvements on the matters of complaints and discipline. It establishes a Legal Practitioners Complaints Committee, three members of which are to be appointed by the Attorney-General. One member is to be a lawyer, and the Law Society is to nominate four members, one of whom must have seven years standing as a practitioner and another of whom is to be a non-lawyer.

So, under this proposal there will be a balance, depending on the appointments that the Attorney-General makes, of four practitioners to three laymen. The Opposition supports that proposition as far as it goes, although we do not believe that the area of public accountability is taken far enough. I will deal in Committee with certain matters relating to the Legal Practitioners Complaints Committee. One of those matters relates to clause 76 (2), which provides:

> No direction shall be given to the Secretary under this section—

namely, that relating to carrying out investigations into the activities of a practitioner—

> unless the Attorney-General, the Committee or the society (as the case may require) has reasonable cause to suspect that the legal practitioner to whom the proposed investigation relates has been guilty of unprofessional conduct.

Then, in the definition provision, 'unprofessional conduct' is defined as follows:

> 'Unprofessional conduct' in relation to a legal practitioner includes:
>
> *(a)* an illegal act of any kind committed in the course of his practice by the legal practitioner; and
>
> *(b)* any offence of a dishonest or infamous nature committed by the legal practitioner in respect of which punishment by imprisonment is prescribed or authorised by law.

There are two concerns here. The first is that the definition to which I have referred may be limiting and may define and confine the actions that at present would be considered to be unprofessional conduct. In this respect, I refer to what I suppose would be the judicial interpretation of 'unprofessional conduct'. This is contained in a case *In re a practitioner of the Supreme Court,* 1927 South Australian State Reports, page 58, where 'unprofessional conduct' is defined as follows in the headnote:

> Unprofessional conduct is not limited to conduct which is 'disgraceful or dishonourable' in the ordinary sense of these terms. It includes conduct which may reasonably be held to violate or to fall short of to a substantial degree the standard of professional conduct observed or approved of by members of the profession of good repute and competency.

That is the definition that has operated to the present time.

**The Hon. K. T. Griffin:** But the definition does not limit that.

**The Hon. C. J. SUMNER:** I appreciate what the Attorney-General is saying, namely, that the definition does not necessarily detract from that. However, by including in the definition of 'unprofessional conduct' certain things that are specified, illegal acts, and certain offences, there is an argument that one is limiting the unprofessional conduct as it was previously defined. I believe, whether or not the Attorney-General is right, that unprofessional conduct ought to be defined in the Bill, and the Opposition will move an amendment to that effect.

The other question that arises under clause 76 (2) is whether there is an area of conduct by a legal practitioner which does not amount to unprofessional conduct within the definition but which is conduct that ought to be investigated, particularly if it is conduct that continues over a certain period of time. For instance, delays in legal proceedings constitute one of the great complaints that the public makes regarding legal practitioners.

I believe that in certain circumstances delay has been held to be unprofessional conduct. There may be situations where the delay, according to the committee, is not such as to amount to unprofessional conduct, or, indeed, such as to give rise to a suspicion of unprofessional conduct. However, if there is a combination of

circumstances and a series of acts of delay which, of themselves, might not amount to unprofessional conduct but which, taken together, mean that the practitioner ought to be called to account, under clause 76 (2) there is a hiatus between unprofessional conduct and other conduct that ought to be investigated. I believe that the Attorney-General should comment on that matter and then clarify it in the Bill.

The next proposal relates to the establishment of a Legal Practitioners Disciplinary Tribunal. Matters will be referred to that tribunal after findings by the Legal Practitioners Complaints Committee, the Attorney-General, the Law Society or by any other persons claiming to be aggrieved through unprofessional conduct. In the first instance it will be the Legal Practitioners Disciplinary Tribunal that will be responsible for dealing with practitioners and imposing penalties if a case is found proved. The Bill provides that there shall be a panel of twelve members for the tribunal, and it states that they will all be legal practitioners. I disagree with that proposal.

I believe that there should be some lay participation on that tribunal. That has been done in at least half of the States of the United States; it has been accepted in other parts of the world and has gained approval, at least in principle, in some States of Australia and in New Zealand. I believe that the Bill should be amended to provide that four of the members of the panel for the tribunal should be appointed by the Chief Justice, four appointed by the Attorney-General, and four appointed by the Law Society. When a panel of three is established to adjudicate on a particular case, at least one of those three members should be one of the people appointed by the Attorney-General. I suppose the Attorney-General could restrict his appointees to legal practitioners, but one would anticipate that he would take the opportunity to ensure that there is some lay participation.

If the disciplinary tribunal is comprised solely of lawyers, and they are not judges of the Supreme Court so they do not have any degree of judicial independence and are not removed from daily contact with the legal profession, there is always the problem that the tribunal will be accused of carrying out disciplinary measures on members of its own profession. I am surprised that the Law Society would tolerate that position. I believe that the Law Society would be happy with a situation where there is some lay participation on such a tribunal. That will ensure that a charge of lawyers judging their own professional colleagues will not be raised. I will be moving an amendment to provide for the panel of three to always include an appointee of the Attorney-General.

The other issue raised in this context is whether the hearings of the tribunal will be public. At this stage I believe that the tribunal's hearings should be public. However, there should be some qualification in relation to confidential material. Another question in relation to the tribunal is whether the complainant, and I am not referring to the formal complainant but the aggrieved person, should have a right to attend the hearings of the tribunal and whether they should have a right to legal representation before the tribunal.

The Bill has another novel feature in relation to South Australia in that clause 90 will provide for the appointment of a lay observer. That is a proper decision and I support it. However, if my proposal for participation by lay persons on the disciplinary tribunal is carried, the need for a lay observer will not be as compelling. However, the proposal for a lay observer has considerable merit and should be supported. However, there are two qualifications. First, the complainant should have direct access to the lay observer, and I will be moving amendments in that regard. Secondly, the lay observer should report to the Attorney-General, and through him to Parliament, on his activities and on the conduct of hearings of the tribunal or the committee.

The Bill does not deal with the division of the profession. The present Act provides that the Supreme Court can divide the profession into barristers, who are able to appear in court, and solicitors, who prepare matters for the court. The question of the division of the profession is of considerable public importance. In the United Kingdom the profession is divided into barristers and solicitors. That situation also applies in New South Wales, but in South Australia we have always had a fused profession. Once a person is admitted as a legal practitioner to the Supreme Court he can appear in that court. If any moves are made to divide the profession it will be a matter of considerable importance to the public, and the public interest should be represented in that decision. At the present time the Supreme Court can make that decision, but I do not believe that that is satisfactory. The proposal in this Bill is not satisfactory, because it retains the right of the Supreme Court to divide legal practitioners into two classes, adding the safeguard that such a division can be ordered only on application of the Law Society. If that clause is passed there will be no Government or public input into the decision of whether the profession should be divided, and I believe that is quite wrong. As I have said, I believe the public should be involved in some way, because it will have enormous ramifications, not only on the profession, but also on the public which is served by the profession.

I refer to ramifications in regard to cost, quality of service and other matters. If a decision is made to divide the profession, it ought to be made by Parliament, and it is a matter for the public. It is not a matter exclusively for the Supreme Court on the application of the Law Society. Accordingly, we will move for the deletion of clause 6.

This Bill also provides for the incorporation of legal practitioners, and I would like the Attorney to provide some reasons to the Council why this is necessary. It has been suggested to me that the incorporation is a straight-out tax dodge, and that there is no justification for removing the traditional prohibition on professional incorporation in this case. I want the Attorney to assure the Council that that is not the case, that this is not just a means whereby legal practitioners can incorporate in order to avoid taxation obligations. I would also like to know what is the Government's policy on the incorporation of other professional people, the medical profession and the like. Does the Government have any consistent policy on this matter? I believe that the Attorney ought to specify why incorporation is sought and, in particular, he ought to specify in detail what taxation advantages will now accrue to legal practitioners as a result of incorporation.

One matter that might occur as a result of incorporation is that the profession, and those who incorporate, could bring themselves within the provisions of the Federal Trade Practices Act. That could open up an enormous can of worms for the profession, because action could be taken to deal with restrictive trade practices. The two-counsel rule, for instance, is considered by some to be a restrictive practice, and there are also the questions of ethical rules relating to fees and not undercutting fees, and there are the ethical views in relation to advertising and touting and the like. These could all be matters that come under the scrutiny of the Trade Practices Commission as a result of incorporation. I can only hope that the Attorney-General and the profession have thought that one through.

Another matter which is new is the question of professional indemnity, and again that is a matter that I support. There are some questions that I wish to raise. The provision is that the Law Society, on behalf of members of the profession, ought to be able to enter into a scheme with an insurance company to provide for indemnity for the public for professional negligence. There are a number of matters not covered in the Bill that I think the Attorney should comment on. First, will barristers be required to participate in the compulsory scheme, or will it apply only to solicitors? What will be the amount of insurance that will be taken out? Will the amounts vary, depending on the practice, the size of the practice, or will there be a fixed amount?

Again, this is a matter of public concern. There ought to be some report to the Attorney-General or the Parliament on the operation of the professional indemnity scheme. I believe that the Attorney should provide the Council with more details about how the scheme will operate. Has he considered the proposals on this matter in the discussion paper of the New South Wales Law Reform Commission? Already in the Legal Practitioners Act there is provision for a combined trust account and a provision whereby the interest obtained from that account is made available to a guarantee fund to assist members of the public who are victims of defalcations by legal practitioners.

With respect to the legal guarantee fund which deals with defalcations by legal practitioners, the question is raised about whether or not the profession, in addition to contributing by way of this trust account interest, should also be required to contribute by some kind of levy. In other words, if there is a direct levy from the profession to assist with this fund, there would be greater control by the profession over possible fraud and possible detriment to clients because of practitioners who may take their clients' money. I ask the Attorney to comment on that aspect and whether or not he sees any case for some kind of levy which would require the profession to contribute to the guarantee fund in addition to the interest which already goes in there from the combined trust account.

**The Hon. K. T. Griffin:** That is one of the main reasons for professional indemnity insurance.

**The Hon. C. J. SUMNER:** If professional indemnity insurance will cover all those situations, that is fine, and I appreciate the Attorney's interjection, because he can tell us whether or not professional indemnity insurance will cover the question of defalcation and the question of funds which are misappropriated by legal practitioners. If it does, then it is all to the good.

I have covered a number of matters in the Bill and I have placed on file for the consideration of members a number of amendments which give effect to some of the matters that I have outlined and others which I have not specifically touched upon in the second reading speech but with which I will proceed further in Committee. In general terms we are prepared to support the second reading. We believe that there is a case to tighten up the public accountability provisions in the Bill to ensure that, when the Law Society is acting in its capacity as the regulator of the profession, it is doing so in the public interest and cannot be accused of acting in its own interests. I support the Bill.

**The Hon. L. H. DAVIS:** This Bill fulfils an undertaking made by the Liberal Party before the 1979 State election. The Hon. Mr Griffin, as the then shadow Attorney-General, then stated:

> The present Legal Practitioners Act is antiquated, and a new Act is needed fully to protect the public and to regulate the affairs of the legal profession . . . The (Labor) Government has irresponsibly failed to press on with a new Bill in this area.

As the Hon. Mr Sumner observed, the previous Labor Government did indeed attempt to amend the Legal Practitioners Act on two occasions, the last occasion being in 1976. That Government did not try again in that three-year period, so it seems somewhat ironical for the Hon. Mr Sumner to upbraid the present Government for not waiting for a further year to be able to examine the contents of the New South Wales Law Reform Commission findings on the legal profession and the bar in New South Wales.

I think, as the Hon. Mr Sumner observed, in fact the New South Wales Law Reform Commission first reported more than two years ago in some preliminary findings. The commission first started meeting in 1976, with certainly no guarantee that it would report finally within the next twelve months. It is a weak argument indeed, I suggest, to say that South Australia, which has a different structure in the legal profession, should await the findings of another State.

The proposed legislation, which will repeal the existing Act, does provide much stronger protection for those people with a genuine grievance resulting from dealing with a legal practitioner, whether it be for tardiness in attending to a matter, a refusal to attend, lack of communication, or more serious examples of unprofessional conduct. The Hon. Mr Sumner expressed some anxiety as to the definition of 'unprofessional conduct' but I should have thought it was quite clear from the Act that unprofessional conduct did cover examples not only of illegal acts by legal practitioners, but also less serious matters, such as tardiness and failure to communicate, and that is implied in the Act, when it empowers the Legal Practitioners Complaints Committee to attempt to conciliate in certain matters or, where appropriate, to admonish a legal practitioner for inappropriate behaviour.

It is not a reflection on the legal profession in this State to say that there will be amongst its number those who are incompetent or unscrupulous. Although this number will be very small, such conduct inevitably casts a shadow over the whole profession, just as similar behaviour by a doctor, an accountant, stock brocker, banker, builder, real estate agent or other professional or tradesperson has an adverse effect on the profession or trade. Therefore, it is important to ensure that the legal profession is seen to have adequate and swift sanctions against its members who have failed to meet the standards demanded of them.

The establishment of the Legal Practitioners Complaints Committee in Part VI is a significant step to overcome one of the most persistent public complaints against professional bodies, namely, that they are slow to act and often unfair in the action taken when an allegation of professional misconduct is made. The Legal Practitioners Complaints Committee will have seven members, three nominated by the Attorney-General (one a legal practitioner and two lay persons) and four persons nominated by the Law Society, at least one of whom is not a legal practitioner.

The inclusion of lay persons should help to overcome the imagined or real fear of the public that the profession looks after its own. In addition to that, there are provisions for lay observers to attend the Legal Practitioners Complaints Committee. I must say I am not aware of any complaints against the Law Society of South Australia in this regard, although I do recollect the findings of the New South Wales Law Reform Commission over two years ago, which, in looking at the legal profession in that State, found a reluctance by the New South Wales Law Society and Bar Association to

take action, that there was an unhelpful attitude to complaints, a perfunctory investigation of complaints, and excessive sympathy for and leniency towards practitioners whose conduct was subject to a complaint.

It is pertinent to note that the recommendations of the New South Wales Law Reform Commission included the establishment of a Professional Standards Board, comprising both legal practitioners and lay persons, to deal with what was styled 'unsatisfactory conduct' and a *quasi* judicial tribunal to consider 'reprehensible conduct'.

The Bill before the Council proposes a not altogether dissimilar measure, namely, in addition to the establishment of the Legal Practitioners Complaints Committee, it also establishes a Legal Practitioners Disciplinary Tribunal, with twelve members, and they are to be legal practitioners nominated by the Chief Justice, with a panel of three to hear proceedings alleging unprofessional conduct on the part of a legal practitioner, that is, allegations of a more serious nature, whereas some complaints of a less serious nature will be handled by the Legal Practitioners Complaints Committee, such as where conciliation or admonishment is seen as the appropriate solution.

One could imagine examples of the Legal Practitioners Complaints Committee taking action against a legal practitioner who had, for example, not responded to letters or telephone calls over a long period, and that will constitute an admonishment rather than the matter being taken to the tribunal that has been established. We are proposing to introduce, in the regulatory aspects of the legal profession in South Australia, a two-tier system of review.

The two important aspects have been mentioned by the Attorney-General, in introducing the Bill, of appointing lay observers. There is no specific mention of how many lay observers the Attorney can appoint, and those lay observers can be appointed to sit in on any meetings of the Legal Practitioners Complaints Committee or the Legal Practitioners Disciplinary Tribunal. Although the Hon. Mr Sumner has expressed some reservation about the constitution of the Legal Practitioners Disciplinary Tribunal, the fact is that those practitioners are nominated by the Chief Justice and the Attorney-General can receive a report from those lay observers who have attended any sittings.

There are in the system checks that can be used in that sense, and I think it is equally impressive that, on the Legal Practitioners Complaints Committee, there are lay people who will ensure that justice is done. I am sure that overall it will ensure a speedier approach to complaints, justifiable or otherwise, that have been levelled against legal practitioners.

In addition to the regulatory function in the Act, there are other provisions relating to trust accounts, and so forth, and generally speaking those provisions are equally important to protect the public against defalcations and unprofessional conduct that does cause monetary loss to the client. I support the Bill and believe that it will enhance the standing of the legal profession in South Australia and at the same time ensure that the people dealing with the legal profession have the protection that they deserve.

**The Hon. M. B. DAWKINS** secured the adjournment of the debate.

## SELECT COMMITTEE ON ASSESSMENT OF RANDOM BREATH TESTS

**The Hon. L. H. DAVIS** brought up the report of the Select Committee, together with minutes of proceedings, and evidence.

Report received.

Ordered that report be printed.

## SELECT COMMITTEE ON LOCAL GOVERNMENT BOUNDARIES OF THE CITY OF PORT PIRIE

**The Hon. C. M. HILL (Minister of Local Government):** I move:

> That the Select Committee on Local Government Boundaries of the City of Port Pirie have leave to sit during the recess and to report on the first day of next session.

The Committee has conducted meetings at Port Pirie on 6 and 7 May 1981 and, due to local residents' interest in the matter, further meetings were held at Port Pirie on 20 and 21 May 1981. The Committee has received considerable evidence which requires further consideration and evaluation so that the resultant recommendations are in the best interests of the entire community. Accordingly, the Committee seeks this extension of time.

Motion carried.

## ADJOURNMENT

At 6.3 p.m. the Council adjourned until Wednesday 3 June at 2.15 p.m.