LEGISLATIVE COUNCIL

Tuesday 16 October 1984

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:

Aboriginal Lands Trust Act Amendment,
Commissioner for the Ageing,
Dog Fence Act Amendment,
Libraries Act Amendment,
Wheat Marketing Act Amendment.

PETITIONS: X RATED VIDEO TAPES

Petitions signed by 2 183 residents of South Australia praying that the Council will ban the sale or hire of X rated video tapes in South Australia were presented by the Hons J.C. Burdett, M.B. Cameron, C.W. Creedon, K.T. Griffin, and Diana Laidlaw.

Petitions received.

PETITION: FIREARMS

A petition signed by 23 residents of South Australia praying that the Council will defeat any firearms legislation which is further restrictive; consider the effectiveness of present legislation; refuse further unwarranted increases in fees; and apply a significant part of the revenue gained to promote and assist sporting activities associated with firearms, was presented by the Hon. C.W. Creedon.

Petition received.

PETITION: VIDEO TAPES

A petition signed by 51 residents of South Australia praying that the Council will ban X rated material and more strictly censor R rated material contained on video tapes in South Australia was presented by the Hon. L.H. Davis.

Petition received.

PETITION: PORNOGRAPHY AND DRUGS

A petition signed by 24 residents of South Australia praying that the Council not legalise the publication of material concerned with certain pornographic acts and illicit drug taking was presented by the Hon. K.T. Griffin.

Petition received.

REGISTER OF MEMBERS' INTERESTS

The PRESIDENT: Pursuant to section 5 (4) of the Members of Parliament (Register of Interests) Act, 1983, I lay on the table the Registrar's statement of June 1984 prepared from ordinary returns of members of the Legislative Council.

Ordered that statement be printed.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Adelaide Festival Centre Trust—Report on the state of affairs of the Trust, as at 30 June 1984.

Rules of Court—Supreme Court—Administration and Probate Act, 1919—General Rules.

Rules of Court—Supreme Court—Companies (South Australia) Code—Supreme Court Act, 1935—Solicitors Charges for Non-Litigious Work.

Industrial and Commercial Training Act, 1981—Regulations—Farm Practice.

Public Service List, 1984.

Lotteries Commission of South Australia—Report of the Auditor-General, 1983-84.

State Government Insurance Commission—Report, 1983-84.

State Theatre Company of South Australia—Report, 1983-84.

Rules of Court—Supreme Court—Supreme Court Act, 1935—Legal Practitioners Fees.

Technology Park Adelaide Corporation—Report, 1983-84.

State Opera of South Australia—Report, 1983-84.

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Adelaide Railway Station Development Act, 1984—Regulations—Promulgation of Development Plan.

Department of Lands—Report, 1983-84.

Food and Drugs Act, 1908—Regulations—Cakes, Food Additives, Labelling.

Health Act, 1935—Regulations—Swimming Pools.

Local Government Finance Authority—Report, 1983-84.

Natural Death Act, 1983—Regulations—Prescribed Form.

Planning Act, 1982—Crown Development Reports by South Australian Planning Commission on—

- Proposed construction of dual unit timber classroom at Smithfield Primary School.
- Proposed unisex toilet at Chookarla Camping Area, Kuitpo Forest Reserve.
- Proposed camping shelter and toilet in Wirrabara Forest Reserve.
- Proposed erection of two single timber classrooms for the proposed Narunga Community College at Point Pearce Aboriginal Mission.
- Proposed Borrow Pits for Yunta to Tiverton Road.
- Proposal to open a Borrow Pit on Section 8, hundred of Murrabinna.
- Proposed Quarry for Gulnare to Spalding Road.
- Proposed construction of a new laboratory at the Parafield Poultry Research Centre.
- Proposed redevelopment at the Mount Compass Area School.
- Proposal to construct a covered area at Mylor Primary School.
- Proposal to construct additional stormwater drainage at the Kingscote Area School.
- Proposal to erect a single transportable classroom at the McDonald Park Primary School.

Commissioners of Charitable Funds—Report, 1983-84.

Racing Act, 1976—Rules of Trotting—Official Scratching Time, Heats.

State Clothing Corporation—Report, 1983-84.

City of Glenelg—By-law No. 67—Traffic.

Corporation of the District of Victor Harbor—By-law No. 26—Traffic.

By the Minister of Agriculture (Hon. Frank Blevins)—

Pursuant to Statute—

Australian Mineral Development Laboratories—Report, 1984.

Dairy Industry Act, 1928—Regulations—Fees and Farmers Requirements.

Education Act, 1972—Regulations—Teachers Registration Regulations.

Metropolitan Milk Board—Report, 1983-84.

Metropolitan Taxi Cab Board—Report and Financial Statements, 1983-84.

Mining Act, 1971—Regulations—Fees.

Motor Vehicles Act, 1959—Regulations—Accident Towing Fees.

Pest Plants Commission—Report, 1983.

Pipelines Authority of South Australia—Report on Accounts, 1983-84.

The Flinders University of South Australia—Report and Legislation, 1983.

Highways Department—Report, 1983-84.

By the Minister of Fisheries (Hon. Frank Blevins)—

Pursuant to Statute—

Fisheries Act, 1982—Regulations—
Port Broughton.
West Coast Experimental Prawn Fishery.

ELECTORAL DISTRICTS BOUNDARIES COMMISSION

The PRESIDENT: For the interest of members I point out that I have received a letter from His Honour the Chief Justice, as follows:

Mr Justice Walters has retired as a judge of the Supreme Court and has therefore ceased to be Chairman of the Electoral Districts Boundaries Commission.

I am required by section 78 of the Constitution Act, 1934, as amended, to appoint a judge of the Supreme Court to be Chairman of the Electoral Districts Boundaries Commission.

Subsection (2) of section 78 provides that the judge so appointed 'should be the most senior puisne judge who is available to undertake the duties of Chairman of the Commission'. The Senior Puisne Judge is Mr Justice H.E. Zelling. I have therefore appointed Mr Justice Zelling to be Chairman of the Commission.

QUESTIONS

DRUGS IN PRISON

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Correctional Services a question about drugs in prison.

Leave granted.

The Hon. M.B. CAMERON: All members and certainly the community would have been very concerned to read that yesterday a 22-year old inmate of Yatala Labour Prison was found unconscious in his cell suffering from a drug overdose, at that stage suspected to be heroin. The man was sentenced in May to a three year non-parole period. He was found lying on the bed in his B Division single cell at lunchtime yesterday. A quote in a newspaper states that some material and instruments, believed to include a syringe, were found with him.

The wife of a prisoner contacted the *Advertiser* yesterday and said that she had heard that the prisoner was nearly dead from an overdose of heroin. Asked whether there was much heroin in the gaol she said, 'There is more in there than outside.' That may well be a slight exaggeration, but it certainly leads to a considerable degree of concern in the community.

A number of questions arise from this incident, but the first and most important is: has the Minister instituted a full search of the prison for drugs following the statement by this woman that, 'There is more [drugs] in there than outside'? On the basis that there must be drugs inside the prison (otherwise we would not have a prisoner at the moment recovering in hospital from a very serious drug overdose), will the Minister revise visiting procedures at the gaol by instituting a full and adequate search of prisoners and their accommodation following the departure of visitors? That is a regrettable step, but it is obviously now necessary. Was the prisoner's father notified of the hospitalisation of his son and, if so, when? I understand that that is a problem. In fact, the prisoner's next of kin was not notified of the incident until today. Finally, can the Minister say how a prisoner can reach a stage of hospitalisation from a drug overdose in one of the prisons of this State, if there is supposedly proper and adequate supervision of prisoners?

The Hon. FRANK BLEVINS: I am pleased that the Hon. Mr Cameron had the grace to say that it was perhaps an exaggeration after referring to the statement in the *Advertiser* to the effect that there are more drugs inside the prison than outside. Of course, for quite obvious reasons, that is an exaggeration and perhaps a very serious exaggeration. Any incidents involving drugs in the prison system are to be regretted. However, it is a world-wide problem. Whilst drugs are available in the community it is inevitable that they will also be available in some quantities in the prison system. Despite prisons being what they are, it should be remembered that there is very extensive daily outside contact with them.

Very significant numbers of people work in prisons, visit prisons, have business in prisons, and so on; so there is significant outside contact daily. Wherever one has this outside contact, inevitably some trafficking in illegal drugs or other substances is bound to happen. We take extensive steps to minimise this practice. We would like to think that we could stamp it out, but, realistically, that is not possible. It has not been found possible anywhere else in the world, and I have no reason to believe that South Australia will come up with some magical solution.

It is not a new problem; the question of contraband in prisons has been a problem as long as prisons have been established. I am sure that if I was pressed I could bring an extensive list of illegal substances that were found in South Australian prisons in the years 1979-82, when the present Opposition was in Government, but I do not propose to go through that exercise unless I am pressed; it would not advance us much further.

As regards the question of what we do to minimise the problem of illegal trafficking in the gaols, not just of drugs but of any other illegal substances, I can outline some steps that are constantly taken in an attempt to minimise the opportunity of drugs being brought in to and used within prisons. These precautions include stringent security arrangements taken before, during and after contact visits. Visitors are not permitted to carry anything into the visiting area, and are also checked by metal detectors before entering the visiting room. Prisoners are frisk searched before and after contact visits, and a number are selected at random after each visit for a full strip search. A number of cells are also selected at random each week to undergo a full search. For example, in the first week of October, 17 cells were searched. There are also daily security checks in each cell and regular weekly searches of prison common areas: kitchens, recreational areas, etc. All mail and parcels addressed to prisoners is checked and the prison dog squad conducts a daily search of the prison perimeter.

So, honourable members will see from that that the Department of Correctional Services and the management of the prisons do whatever they can to minimise the opportunity of drugs entering and being used in prisons. When the new security fence is completed—and this will give us a much broader perimeter between the prison and the outside—it will be much more difficult to get illegal substances into the gaols. Also, our new visiting area will assist us greatly in reducing the opportunities. I say 'reducing' them because I will not mislead the Parliament by telling it that we will be able to eliminate illegal substances from being in the prison, when the previous Government failed also.

As regards the specific questions asked by the Hon. Martin Cameron—and I appreciate that they are very serious questions, warranting great attention—the question of searches has been answered. I am not prepared to tell the Council what additional measures we will take within the gaols following this incident; the questions of security in the prisons should not necessarily always be made public. The prisoners also have access to the media and to what is being recorded here now, and it would not be very wise to go into any detail.

I can assure the honourable member that as far as we are able vigilance in a number of areas will be increased. The answer to the question why the father of the prisoner was

not advised that his son was in hospital is very simple. The prisoner was conscious when he was taken to hospital; he spoke with doctors and the police before going to hospital; and, as he is 22 years of age, he is an adult, and he is treated as such. Generally speaking, prisoners would not thank us for informing people about their behaviour or about things that were happening to them of a medical nature without their express permission. As I said, the prisoner was an adult, he was conscious, and he was entitled to make his own decisions about whom he informed of what was going on. In short, it really was not our business.

The question of the prisoner's history is very difficult. I am not prepared to go into any detail of his medical history, because I believe that that would be improper, but I can say that he has had quite a history of drug taking. I understand that his father stated that on the air today, so I am not really saying anything new. If I thought that his father had not made that statement, I would not be repeating it here. Certainly, since that prisoner has been in our care we have done everything possible to assist him with his problems, but he has shown a great deal of reluctance to take part in any programmes. Of course, we cannot compel people to undertake treatment. If people are not motivated, particularly in the area of drugs, it is very difficult. We can only do what we can and offer programmes. Those programmes have been offered (and I do not intend to go into that) but without a great deal of co-operation from the prisoner.

As I said, we take every precaution that we reasonably can. The system will never be 100 per cent. The system under the previous Government was not 100 per cent, and no prison system in the world is 100 per cent. As soon as the prisoner was found he received very prompt medical attention. When we suspected that it was more than a medical problem and that some illegality was involved we called the police immediately. Correctional officers are not police officers, and when some illegality is suspected, involving a prisoner, someone visiting the prison, or someone working in the prison, it is for the police to determine what occurred. I am sure that the investigations will be thorough: I have no reason to believe that police investigations will be anything other than that. In due course, the police will present a report on those investigations, and I have no reason to believe that the investigations will not be as thorough as they always are.

PRIVATE PSYCHIATRIC HOSPITALS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about the categorisation of private psychiatric hospitals.

Leave granted.

The Hon. J.C. BURDETT: Some time ago I asked a question in this place about the categorisation of the East Terrace private psychiatric hospital and received a very sympathetic reply from the Minister. As I said at that time, all psychiatric private hospitals were originally categorised as category C, but the Fullarton private psychiatric hospital was very quickly upgraded to category B. I asked the Minister to make representations to his Federal colleague about this matter, and the Minister gave a sympathetic reply. I am informed that the Minister made representations to the Federal Minister but so far requests have not been complied with. As I raised the matter some time ago, will the Minister, who has co-operated so well in the past in this matter, take up the issue once again with his Federal colleague and ascertain why it has taken so long to resolve the problem?

The Hon. J.R. CORNWALL: Yes.

MAGISTRATES

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about magistrates.

Leave granted.

The Hon. K.T. GRIFFIN: An article in the *Advertiser* of 11 October stated that Mr Brown, SM, had heard a case involving a charge of trespassing at Roxby Downs on 30 August. The defendant read a prepared statement in which she told the court that the fact that her having trespassed was a crime was truly outrageous in the face of crimes committed by the uranium industry and condoned by Governments and legal structures. She made additional comments about that industry and her own position.

The newspaper report carried an indication that Mr Brown said that he agreed entirely with the protester's claim. I find that somewhat surprising. Although magistrates may well have their personal views on matters that come before them, it is their duty to administer the law as enacted by Parliament, putting their personal views to one side. The penalty imposed by the magistrate in this instance was $40: for trespassing under the Police Offences Act the maximum penalty is a fine of $2 000 and six months imprisonment. The Attorney-General has power under the Magistrates Act (which we passed earlier this year) to undertake an investigation in respect of any magistrate either on his own motion or at the request of the Chief Justice.

The Chief Justice has ultimate responsibility for the supervision of the Magistracy. In the context of the magistrate making personal comments in relation to statements made by persons appearing before him, it may well be that he has allowed those personal views to impinge upon the decision to impose a fine of $40. In the circumstances, will the Attorney-General appeal against the low fine which appears to have been imposed? Secondly, will he be taking action under section 11 of the Magistrates Act to investigate, or will he be referring the matter to the Chief Justice under the Magistrates Act?

The Hon. C.J. SUMNER: The honourable member seems to have forgotten, since being in Opposition (and perhaps he did not understand the principles involved when he was in Government), that the principle is quite clear. This Government gave effect to that principle in introducing into this Parliament the Magistrates Act: a provision that was heralded by the Judiciary as putting into correct legal form the status of the Judiciary and, in particular, the Magistracy in this State: that is, the Magistracy as independent of the executive arm of Government. I repeat to the honourable member that the exercise of a magistrate's discretion or judicial function is not a matter in which the Government can interfere.

The Hon. K.T. Griffin: You have a power under the Act to appeal to the Chief Justice.

The Hon. C.J. SUMNER: The Hon. Mr Griffin seems to think that it is appropriate for the Government to interfere in the actions of a magistrate. If that is his view, I am quite happy to stand here and completely repudiate it, because it is completely contrary to our system of justice where the Judiciary—now including the Magistracy as a result of the actions of this Government—is independent of the executive arm of Government. They are independent of the executive arm of Government in relation to their judicial decision-

making and now they are independent of the executive arm of Government, also in relation to the administration of the Magistracy.

The Chief Magistrate, subject to the control and direction of the Chief Justice of the Supreme Court of South Australia, has responsibility for the administration of the Magistracy. With respect to individual judicial decisions and the exercise of discretion given to magistrates under Acts of Parliament, that is a matter for the magistrate himself or herself. Those principles need to be very firmly borne in mind when considering the question that the honourable member has asked. I would think that this would be even more obvious to him in the light of certain events currently receiving some attention in the national press. The honourable member seems to think that the Government should have some power to interfere with the exercise of a magistrate's—

The Hon. K.T. Griffin: I did not say that at all: I asked if you were going to refer it to the Chief Justice.

The Hon. C.J. SUMNER: The honourable member said that I had power under the Magistrates Act to carry out certain investigations.

The Hon. K.T. Griffin: You do!

The PRESIDENT: Order!

The Hon. C.J. SUMNER: But that is in relation to misbehaviour of a magistrate and not in relation to what a magistrate might do in his court in the exercise of his discretion when considering a case. The honourable member may have views about the appropriateness or otherwise of the magistrate's alleged statement. When asked about this matter last week following the honourable member's comments to the newspapers I said that the Judiciary is independent and that the administration of the Magistracy is a matter for the Chief Magistrate under the control and direction of the Chief Justice of South Australia. I further said that if I received a complaint I would refer the matter to the Chief Justice. I will still do that.

The Hon. K.T. Griffin: That is all I asked.

The Hon. C.J. SUMNER: If the honourable member wishes to lodge an official complaint with me then I will refer that—

The Hon. K.T. Griffin: I wouldn't bother.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Then it appears that this is a stunt.

The Hon. K.T. Griffin: I said that I wouldn't bother lodging an appeal because the Attorney said he wasn't going to do anything: now he says he is!

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That is not true. I said in response to press inquiries, and I have said again today, that if I receive a complaint I will refer it to the Chief Justice. I have already said that he is responsible for the administration of the Magistracy. That is what I said last week and what I say again today. However, I have no intention as Attorney-General— and the Government has no intention— of interfering with the exercise of a magistrate's discretion.

Whether an appeal should be lodged in such matters is usually considered initially by the police. I will ascertain whether or not they have put any view on this topic to the Crown Solicitor. I suppose, ultimately, it would be a matter for the Attorney-General to determine whether or not an appeal should be lodged. As the honourable member knows, justices appeals are generally lodged by the Crown Solicitor on instructions of the police: that is the situation. Of course, unless it is a matter of some significance, the Attorney-General does not personally intervene in deciding whether an appeal should be lodged.

I am not suggesting that he cannot interfere, because he can, and he does have that responsibility. However, all I am saying to the honourable member is that in the case of an appeal against the decision of a justice it is the police who forward the file to the office of the Crown Solicitor, who then provides advice as to whether an appeal is appropriate. I will ascertain what are the views of the police on this particular penalty. That is the situation. I will consider the situation so far as an appeal is concerned from the material that the police have and any views that they hold on this matter. If the honourable member feels that the magistrate's behaviour has been such as to warrant an inquiry, and if he wishes to write to me in that vein, then I will send that complaint to the Chief Justice, who has responsibility under the legislation for the administration of the Magistracy.

WATER CONSERVATION

The Hon. M.S. FELEPPA: Does the Minister of Health have an answer to the question on water conservation I asked on 14 August?

The Hon. J.R. CORNWALL: I have consulted with my colleagues the Ministers of Housing and Construction and Water Resources on the matters raised by the honourable member. The Minister of Housing and Construction informs me that the South Australian Housing Trust does not provide rainwater tanks to new housing in the metropolitan area (including Salisbury, Gawler and Noarlunga) because of the availability of an adequate and assured water supply, the massive Government expenditure on filtration of that water supply and the comparatively high cost of water from rainwater tanks (variously estimated to be three to six times the cost of mains water because of the capital cost and limited life of the tanks). However, existing metropolitan houses with rainwater tanks do have the tanks replaced as they become unserviceable.

In country areas, both quantity and quality of mains supply, where it is available, are much less assured and rainwater tanks are provided in all instances. Double flush toilet cisterns are currently being fitted to all newly constructed houses of Trust design and are also used for replacement of unserviceable cisterns in existing houses. The Trust has instituted this programme, notwithstanding a modest capital penalty, to encourage awareness of the need for water conservation.

With regard to the honourable member's three specific questions of the Minister of Water Resources, my Ministerial colleague advises as follows:

1. Yes.

2. All cistern manufacturers have submitted either dual flush cisterns or conversion equipment for approval for sale in South Australia. Consultation to promote this concept is therefore considered unnecessary.

3. In January this year instructions were issued within the Engineering and Water Supply Department that, with the exception of urinals, dual flush toilet cisterns are to be installed whenever existing cisterns in Engineering and Water Supply Department buildings are replaced, and in all new buildings constructed by the Department. The Engineering and Water Supply Department has no authority to require the installation of dual flush cisterns in public buildings which it does not own.

The Engineering and Water Supply Department is continuing to monitor the market forces influencing the installation of dual flush cisterns and provides appropriate information as part of its publicity campaign to save water.

MURRAY RIVER

The Hon. K.L. MILNE: Has the Attorney-General a reply to a question I asked on 28 August concerning the Murray River?

The Hon. C.J. SUMNER: The unauthorised removal of trees along the river banks and roadsides is an offence under the following legislation:

(a) The Vegetation Clearance Control Regulations under the South Australian Planning Act which prescribe heavy penalties for the unauthorised removal of native vegetation.

(b) Section 38 of the Water Resources Act requires a permit of works to be obtained before any vegetation is removed from the defined watercourse of the Murray River. Again, strong penalties are provided.

(c) Controls on the removal of roadside vegetation under the Local Government Act.

The Government has viewed the destruction of native vegetation as an urgent priority through its action in implementing the Vegetation Clearance Control Regulations in May 1983. Furthermore, an inter-departmental committee is currently investigating the impact of the firewood industry on vegetation. The requirement for a public education programme is also being considered by relevant departments.

WORKERS COMPENSATION

The Hon. K.L. MILNE: Has the Attorney-General a reply to a question I asked on 13 September concerning workers compensation?

The Hon. C.J. SUMNER: The Minister of Labour supports the gradual introduction by the Commonwealth Government of a nationwide system of accident compensation. Federal initiatives in this area have not had the effect of slowing down the processes of formulating new workers compensation legislation for South Australia. This exercise is of necessity a time consuming one, requiring extensive consultation and careful and detailed consideration of what is a most complex matter.

As part of this exercise, discussions will be held with the Federal Government on the impact on Federal tax revenue of any changed system of workers compensation in this State. It is not envisaged that these discussions will lead to any delays in the introduction of remedial legislation in this area.

VALUATION OF PROPERTIES

The Hon. ANNE LEVY: Has the Minister of Health a reply to a question I asked on 16 August concerning the valuation of properties?

The Hon. J.R. CORNWALL: My colleague, the Minister of Lands, informs me that the property referred to by the honourable member was destroyed by fire on 2 August 1984. Although the Valuer-General is prepared to value the land at 2 August 1984, it is understood that the owners advised that the property would be restored and improved before 30 June 1985, at which time the valuation would be reviewed.

Water and sewerage rates are based on valuations that are in force as at 1 July of the year in which the rates apply. This is a statutory obligation under the Waterworks Act and Sewerage Act. Structural or other alterations that may affect the value of a property are only reflected in the rates in the financial year following the alterations.

Around 1 000 individual fires occurred in the Adelaide metropolitan area during 1983-84 which potentially could have reduced the value and, consequently, the rate of the properties affected. No reduction in rates has been granted to any of these properties part-way through the year. An exception to this rule was made in 1982-83 when a general rate reduction was granted to all properties affected by the Ash Wednesday bushfire.

To introduce pro rata adjustments to rates, legislative amendments would be required. Pro rata adjustment will also disadvantage a great many ratepayers, as structural improvements, including new development, will be reflected by immediate rate increases. Under current legislation the increases only operate from the following financial year.

In the present situation the provision of a value from 2 August can have no bearing on the 1984-85 water and sewerage rates of the property in question. Council rates are based on the valuation as at the date of declaration of the rate, namely, 23 July 1984.

ADOPTED PERSONS CONTACT LIST

The Hon. ANNE LEVY: Has the Minister of Health a reply to a question I asked on 23 August concerning the adopted persons contact list?

The Hon. J. R. CORNWALL: My colleague, the Minister of Community Welfare, has provided me with the following replies to the two specific questions asked by the honourable member:

(1) 10 284 persons could potentially put their names on the Adopted Persons Contact Register. Of these, approximately 6 000 are under the age of 18 years and would need the permission of their adoptive parents to include their names.

(2) Pamphlets are available outlining the process required to put one's name on the register through all departmental locations and other adoption agencies. Considerable publicity is also given through organisations such as Jigsaw and Australian Relinquishing Mothers Association (ARMS).

FINANCIAL INSTITUTIONS DUTY

The Hon. R.C. DeGARIS: Has the Attorney-General a reply to a question I asked on 12 September concerning FID?

The Hon. C.J. SUMNER: When FID was introduced it was difficult to estimate with confidence the likely yield, since the reaction of corporate bodies and the public was impossible to predict. However, the aim of the Government, as announced in the Treasurer's 1983-84 Budget speech, was to secure an extra $16 million per annum from the combination of FID and the abolition of certain stamp duties.

As the Hon. Mr DeGaris points out, gross revenues from FID for the first six months have been about $13.5 million, or $27 million in full year terms. The net effect of the introduction of FID at 0.04 per cent and the abolition of some stamp duties (at a cost of $8 million per annum) has, therefore, been about $19 million in a full year—only $3 million above the Government's stated requirement. Had a rate of 0.03 per cent been applied, the net yield would have been about $12.25 million, some $3.75 million below the target set by the Government.

It is now clear that the Government's estimates of the full year return from FID were conservative. It is equally clear that the net return from FID at the rate of 0.03 per cent would have been quite inadequate to meet the Government's budgetary needs.

ROXBY DOWNS PROTEST

The Hon. R.C. DeGARIS: Has the Attorney-General a reply to a question I asked on 18 September concerning the Roxby Downs protest?

The Hon. C.J. SUMNER: The only individuals known by the Government to have taken part in the Roxby Downs protest were those who were arrested. The Government does not require these individuals to identify organisations of which they are members. I refer the honourable member to the answer I gave to the Question on Notice of 19 September 1984 (pages 945-950, *Hansard*) which *inter alia* identifies that the majority of individuals arrested were from interstate.

BOATING FEES

The Hon. M.B. CAMERON: Has the Minister of Agriculture a reply to a question I asked on 11 September concerning boating fees?

The Hon. FRANK BLEVINS: My colleague, the Minister of Marine (Hon. Roy Abbott), advises that it was clearly stated that unless boating fees were increased it was estimated that costs would exceed revenue by $198 000 in 1984-85 and $224 000 in 1985-86—not that revenue would exceed costs by those amounts as stated by the honourable member.

With the application of the increased fees it is expected that at the end of 1985-86 there may be a small surplus in the account estimated at $14 000. The above information was provided to His Excellency the Governor as required under the Act.

PRISON OFFICERS

The Hon. M.B. CAMERON: Has the Minister of Correctional Services a reply to a question I asked on 21 August concerning prison officers?

The Hon. FRANK BLEVINS: I have referred the questions relating to bomb threats made against prison officers to the Minister of Emergency Services, who has discussed the matter with the Commissioner of Police. The Commissioner has advised that because of the strong possibility of 'copy cat' activity it is essential from the police point of view that further publicity be kept to an absolute minimum. In particular, the Commissioner has requested that any reference to letter bombs or to devices or contents of devices be avoided so as not to lead to public comment or speculation.

QUESTIONS ON NOTICE

HEALTH COMMISSION OFFICES

The Hon. J.C. BURDETT (on notice) asked the Minister of Health:

1. From July 1984 until the current date, what offices have been created, abolished or reclassified in the South Australian Health Commission and what is the date of the creation, abolition and reclassification in each instance?
2. Which offices have fallen vacant during this period?
3. Which offices, whenever falling vacant, have been filled?

The Hon. J.R. CORNWALL: As the replies to these questions are purely statistical, I seek leave to have them inserted in *Hansard* without my reading them.

Leave granted.

Office Statistics

Positions Abolished: Nil.

Positions Reclassified:

Central Office

New Classification	Position	Location	Previous Classification	Date Effective
CO2	Trainee Finance Officer	Finance Branch	CO1	30.7.84
AO2	Project Officer	ISD—Statistics	AO1	21.8.84
CO4	Implementation Officer	Computing Services	CO3	16.7.84 to 15.7.85
CO3	Admin. Assistant	Computing Services	CO2	16.7.84 to 8.10.84

Positions Created:

Classification	Position	Location	Date Created	Current Status
CO1	Clerk	Port Pirie Environmental Health Office	1.8.84	Filled (to 30.10.84)

Positions Fallen Vacant:

Central Office

Classification	Position	Location	Date Vacated	Current Status
AO1	Finance Officer	Central Sector	1.7.84	Acting
CO2	Steno-Secretary	Southern Sector	10.9.84	Vacant

Classification	Position	Location	Date Vacated	Current Status
AO1	Finance Officer	Western Sector	18.7.84	Acting
MO8	Director Health Programmes	Western Sector	August	Vacant
CO1	Clerical Officer	Accounting Services	6.7.84	Vacant
CS3	Senior Systems Analyst	Computing Services	28.7.84	Vacant
CS3	Computing Systems Officer	Computing Systems	2.8.84	Vacant
CS4	Senior Systems Analyst	Computing Systems	27.7.84	Vacant
AO1	Research Officer	ISD Research	15.8.84	Vacant
		Public Health		
CO6	Clerk	P.H. Admin. Services	2.7.84	Filled
CO2	Clerk	P.H. Admin. Services	24.9.84	Vacant
CO1	Clerk	P.H. Admin. Services	24.9.84	Vacant
CO1	Clerk	P.H. Admin. Services	27.7.84	Filled
IH1	Health Surveyor	Health Surveying	24.8.84	Filled

HEALTH COMMISSION OFFICE REDECORATION

The Hon. J.C. BURDETT (on notice) asked the Minister of Health:

1. Has any redecoration been undertaken in the office of the Chairman of the South Australian Health Commission, or is any redecoration proposed?

2. If so—

(a) What redecoration has or is being undertaken?

(b) What is the nature and cost of each and every item in that redecoration?

The Hon. J.R. CORNWALL: Work is at present being carried out on the eighth floor of the Westpac Building, which is occupied by the Chairman, Deputy Chairman and senior officers of the South Australian Health Commission, together with their clerical and administrative support staff. The work is associated with the erection of new partitioning and other refurbishment necessary to create additional accommodation and storage facilities on the floor, and to overcome a number of longstanding problems. The revised floor layout has been designed to enable better use to be made of the area in the vicinity of the Chairman's and Deputy Chairman's offices; to overcome the confidentiality problems that arise out of the current lack of adequate and appropriate visitors waiting facilities and the inadequate acoustic and visual privacy in the area; to provide a lockable store room for the work groups located on the eighth floor; and to facilitate increased utilisation of the eighth floor conference room. The work is being carried out by the Public Buildings Department and its estimates of costs are:

		$
Partition alterations		17 300
Electrical		3 500
Mechanical		1 200
Joinery		3 500
Painting and refinishing new and existing walls and partitions		3 500
		29 000
Design and supervision	16 per cent	4 650
Contingencies	10 per cent	3 000
		$36 650

When completed, the work undertaken will enable movable wall panels currently in use on the eighth floor to be redeployed to other areas where they are needed within the building. The release of these panels to other floors will result in a $9 000 saving to the Health Commission. Existing furniture will largely be retained and cleaned or polished if necessary. The cost of such work is estimated to be $2 000. Apart from replacing the old and dilapidated tables in the conference room, new furniture and equipment will be limited mainly to that required for the additional staff and functions to be accommodated on the floor.

TENOSYNOVITIS

The Hon. J.C. BURDETT (on notice) asked the Minister of Health:

1. How many cases of tenosynovitis have been diagnosed among staff of the South Australian Health Commission?

2. Has any survey been undertaken or is any intended of the extent of tenosynovitis in the South Australian Health Commission or any other department or statutory authority?

The Hon. J.R. CORNWALL: In the last 12 months, of a group of 43 word processing operators in the Central Office of the South Australian Health Commission, nine have reported repetition strain injuries including tenosynovitis and, of these, eight have sought medical attention. The Occupational Health and Epidemiology Branches of the South Australian Health Commission conducted a survey of repetition strain symptoms throughout the South Australian public sector in 1983. A report 'Repetition Strain Symptoms and Working Conditions among Keyboard Workers engaged in Data Entry or Word Processing in the South Australian Public Service' was released in May 1984. A total of 456 keyboard operators, randomly selected from those engaged in data entry or word processing in the South Australian Public Service, were interviewed by one of three medical practitioners as part of this survey.

NON-TRADITIONAL TRADE COURSES

The Hon. ANNE LEVY (on notice) asked the Minister of Agriculture:

1. How many young women and how many young men are enrolled in 1984 in non-traditional trade-based courses in TAFE?

2. How many of the young women and how many of the young men so enrolled are receiving—

(a) no financial allowance at all;

(b) a pre-apprenticeship allowance;

(c) a training allowance;

(d) a TEAS allowance;

(e) any other allowance?

3. Are the total numbers down on those of 1983, and, if there is a decline, can it be attributed to the confusion regarding the range and level of available allowances?

The Hon. FRANK BLEVINS: The replies are as follows:

1. Non traditional trade-based courses are interpreted as those courses that cover vocations which are declared and have an indenture term but which are not in the building, metal, electrical, automotive fields. The following courses fit this definition and show male/female participation rates:

	Male	Female
Leather and Allied Trades	15	5
Commercial cookery	29	19
Meat industries	13	—
Hairdressing	1	26
Gardener/Greenkeeper	25	7
Total	83	57

These figures relate to full-time pre-vocational students and exclude apprentices.

2. I am unable to provide information in relation to allowances as no records are kept on this matter; students deal directly with the Commonwealth department providing the allowance.

3. A number of the above courses are new to TAFE for 1984 and several have a mid year intake. It is therefore not possible to answer this question at this time.

PORT PIRIE SUBDIVISION

The Hon. J.C. BURDETT (on notice) asked the Minister of Health: Does the Minister approve of the South Australian Housing Trust proceeding with the subdivision of unserviced land in Anzac and Broadway Roads, Port Pirie, into 22 allotments, notwithstanding the high lead level readings?

The Hon. J.R. CORNWALL: The decisions concerning public housing within Port Pirie were endorsed by Cabinet on 19 December 1983. These decisions were taken on the basis of the information available at that time. Since then, there has been extensive sampling of the soil within the Port Pirie area. Decisions may be modified as further data becomes available.

FAMILY DAY CARE SCHEMES

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

1. How many Family Day Care Schemes are operating in South Australia and what is the location of each scheme?

2. Which community welfare regions are not serviced by the scheme?

3. How many caregivers are registered with each scheme?

4. In respect to each scheme is there a waiting list for care givers and, if so, what is the extent of the list?

5. What was the total subsidy allocated to each scheme in the last financial year?

The Hon. J.R. CORNWALL: As the replies to these questions involve various tables, I seek leave to have the answers inserted in *Hansard* without my reading them.

Leave granted.

Family Day Care Scheme Information

1. 21 metropolitan schemes 13 country schemes.

Metropolitan Schemes

Adelaide Hills	Campbelltown	Marion
Enfield	Ingle Farm	Mitcham
Glenelg	Meadows Urban	Morphett Vale
Unley	Modbury	Woodville
Noarlunga	Parks Area	Thebarton
Port Adelaide	Salisbury	
Norwood	Elizabeth	

Country Schemes

Berri	Clare	Gawler
Nuriootpa	Mount Gambier	Murray Bridge
Naracoorte	Port Pirie	Port Augusta
Whyalla	Ceduna	Port Lincoln

2. All regions are serviced by Family Day Care Schemes.

3.—

Campbelltown (65)	Norwood (18)	Noarlunga (83)
Naracoorte (8)	Enfield (86)	Gawler (43)
Elizabeth (69)	Mount Gambier (30)	Marion (109)
Port Pirie (20)	Mitcham (89)	Berri (26)
Modbury (75)	Morphett Vale (56)	The Parks (53)
Murray Bridge (25)	Salisbury (67)	Port Augusta (13)
Thebarton (49)	Nuriootpa (12)	Woodville (65)
Unley (31)	Whyalla (77)	Clare (15)
Port Adelaide (55)	Adelaide Hills (54)	Meadows (69)
Ingle Farm (72)		

(Figures taken from *Quarterly Data Review Statistics*, April/June 1984.)

4. There is a total of 321 caregivers on the combined waiting list of all schemes.

5. Subsidies 1983-84

Scheme	$
Adelaide Hills	20 998
Campbelltown/Unley	41 748
Elizabeth	46 133
Enfield	103 660
Gawler (inc. Clare and Nuriootpa)	9 594
Ingle Farm	17 926
Marion/Glenelg	60 530
Meadows	10 700
Mitcham/Norwood/Unley	51 849
Modbury/Tea Tree Gully	20 626
Morphett Vale	19 202
Noarlunga	53 640
Parks	46 542
Port Adelaide	26 103
Port Augusta/Port Pirie	3 927
Salisbury	32 646
Southern Country	32 533
Thebarton	29 947
Whyalla	52 699
Woodville	21 863
	$702 866

GOVERNMENT EMPLOYEES

The Hon. L.H. DAVIS (on notice) asked the Attorney-General:

1. How many persons employed on contract on a full-time or part-time basis by the South Australian Government were not categorised as public servants—

(a) as at 30 June 1984;

(b) as at 30 June 1983;

(c) as at 30 June 1982?

2. How many of these employees were employed—

(a) as Ministerial staff;

(b) by Departments of Government—

(i) as at 30 June 1984;

(ii) as at 30 June 1983;

(iii) as at 30 June 1982?

3. What number of contracted employees were employed by—

(a) each Minister of the Government;

(b) each Department of the Government;

as at—

(c) 30 June 1984;

(d) 30 June 1983;

(e) 30 June 1982?

The Hon. C.J. SUMNER: Under section 8 of the Public Service Act the appointment of persons employed on contract

and not categorised as public servants is proclaimed in the *Government Gazette*. This statutory requirement fulfils the need for a public record to be maintained on the appointment of these employees. The statistics on employment in departments which are collected and published each year in the annual report of the Public Service Board group employees into the major categories of employment, with other categories included under 'Other'. This 'Other' group includes statutory appointees, casuals, Ministerial employees, electorate secretaries, and persons employed under some special schemes. To produce the particular details requested for 1982, 1983 and 1984, would require considerable work by departments, the expense of which is not considered to be justified.

SOUTH AUSTRALIAN ABORIGINAL EDUCATION CONSULTATIVE COMMITTEE

The Hon. R.I. LUCAS (on notice) asked the Minister of Agriculture:

1. Why is the Chairman of the South Australian Aboriginal Education Consultative Committee paid a fee or salary of $35 565 per annum when Chairmen of similar advisory committees are not paid such sums?

2. Does the Chairman have any responsibilities other than chairing this committee?

3. How many times during each of the past five financial years has this committee met?

4. When was the present Chairman appointed?

5. Who made the appointment?

6. Were there any other applications for the position?

The Hon. FRANK BLEVINS: The replies are as follows:

1. and 2. The Chairperson of the South Australian Aboriginal Consultative Committee is also the Executive Officer of the committee. His responsibilities include representing the committee at activities relevant to the committee, working with appropriate officers responsible for Aboriginal education programmes, liaising with the Minister of Education on behalf of the committee, representing the committee on statutory, national and state bodies and to promote public awareness about the education needs of Aborigines.

3. This committee on an average meets about four or five times a year—but the Chairperson holds executive meetings prior to each of the main committee meetings.

4., 5. and 6. The present Chairperson was appointed to the position on 16 January 1984. The appointment was made by the Minister of Education and there were several applications for the position.

WAITING LISTS

The Hon. R. J. RITSON (on notice) asked the Minister of Health:

1. What is the length of waiting lists for elective surgery in each surgical discipline in each of the metropolitan teaching hospitals?

2. Which particular procedures have waiting lists exceeding twelve months?

3. Will the Minister assure the House that waiting times for elective procedures in general, and the lengthier waiting lists in particular, will not significantly lengthen?

The Hon. J.R. CORNWALL: The replies are as follows:

1. The hospitals have advised the number of people on each waiting list (Flinders Medical Centre and Queen Elizabeth Hospital advise that this information is not available at this stage). I seek leave to have a table detailing the number of persons on waiting lists inserted in *Hansard* without my reading it.

Leave granted.

NUMBER OF PERSONS ON WAITING LISTS

Surgical Discipline	Adelaide Children's Hospital	Queen Victoria Hospital	Royal Adelaide Hospital
General Surgery	78	—	281
Vascular Surgery	—	—	35
Ophthalmology	—	—	258
Neurosurgery	—	—	39
Orthopaedics	63	—	467
ENT	253	—	215
Plastic	68	—	248
Cardio-Thoracic	—	—	99
Urology	—	—	113
Gynaecology	—	32	66
Cranio-Facial	n.a.	—	n.a.

n.a. = not available

The Hon. J.R. CORNWALL: The hospitals have provided information on the maximum time for which any patient has been listed in each of the major surgical disciplines. I seek leave to insert in *Hansard* without my reading it a table detailing the maximum waiting times in each of the teaching hospitals.

Leave granted.

MAXIMUM WAITING TIMES (WEEKS)

Surgical Discipline	Adelaide Children's Hospital	Flinders Medical Centre	Queen Elizabeth Hospital*	Queen Victoria Hospital	Royal Adelaide Hospital
General Surgery	4	24	5	—	52
Vascular Surgery	—	52	52	—	12
Ophthalmology	—	7	52	—	104
Neurosurgery	—	4	4	—	26
Orthopaedics	4	24	36	—	104
ENT	10	32	52	—	156
Plastic	10	16	6	—	390
Cardio-Thoracic	—	—	4	—	104
Urology	—	52	52	—	52
Gynaecology	—	—	4	5	52
Cranio-Facial	20	—	—	—	n.a.

*Queen Elizabeth Hospital have also advised average waiting times; these differ significantly for vascular surgery (30 weeks); ophthalmology (20 weeks); orthopaedics (20 weeks); ENT (24 weeks); and urology (30 weeks).
n.a. = not available.

The Hon. J.R. CORNWALL: Priority for admission is determined on an individual case basis by the responsible clinician. The longer waiting times reflect the non-urgent nature of the condition. For example, the longest waiting time in any of the hospitals is in plastic surgery at the Royal Adelaide Hospital. This time of 390 weeks relates to a patient who sought the removal of tattoos. Patients sometimes change girlfriends; they want the names changed, so we do not rush into it.

As an indication of the level of activity in relation to these lists, the Plastic Surgery Clinic list from the RAH shows that in August 1983 half of those listed had been

added in the past 12 months. The same situation applied in respect of the July 1984 listing.

2. Procedures for which at least one patient has been listed for more than 12 months at the Royal Adelaide Hospital were:

Haemorrhoidectomy
Herniorrhaphy
Removal of perianal warts
Insertion of testicular prosthesis
Repair of carpal tunnel
Varicose veins
Wedge resection of ingrowing toenail
Removal of cataracts
Excision of ectopia
Excision of papilloma of eyelid
Putti platt
Harrington Rods
Replacing of humerus
Removal of screws from ankles, metal from hips, etc
Total knee replacement
Arthroscopy
Resection of patella
Bone graft
Removal of olecronon bursa and spike
Repair of deformed right hallux
Arthroplasty feet and hands
Charnley hip replacement
Amputation of toe
Removal of bone spike from old fractured leg
Plating of femur and tibia
Resection ulnar regrowth
Tympanoplasty
Tonsillectomy
Mastoidectomy
Septorhinoplasty
Rhinoplasty
Nasal polypectomy
Electro cautery of nose
Laryngoplasty
Cautery of turbinates
Microlaryngoscopy
Removal inmpacted canine
Full dental clearance
Excision of leukoplacic area
Extractions of teeth
Removal of tattoos
Abdominoplasty
Breast augmentation
Apronectomy
Excision of scars
Breast reduction
Abdominal lipectomy
Shaving of rhinophyma
Set back prominent ears
Correction of ptosis of eye
Reduction of upper arms
Cosmetic rhinoplasty
Coronary artery graft
Repair ventricular septal defect
Repair of tetralogy
D & C laproscopy
Tubal implantation

This information has only recently become available and the Royal Adelaide Hospital is in the process of contacting patients who have been on waiting lists for over 12 months to see whether they are still seeking surgery.

The Hon. R.J. Ritson: Or alive.

The Hon. J.R. CORNWALL: Quite right. This is not new; as the Hon. Dr Ritson would know, it has been going on for decades. However, we are going to change it. Some of the procedures I have mentioned have not been performed due to cancellations by patients (apparently, they got sick of waiting). At the Queen Elizabeth Hospital, the only procedures with patients listed more than 12 months ago are cystoscopies and some cosmetic surgical procedures. No other metropolitan teaching hospital reports elective surgical procedures with waiting lists in excess of 12 months.

3. I do not expect waiting lists to lengthen. With regard to those patients listed for lengthy periods, it has already been noted that revision of the lists may remove some of the longest listed names. Information on waiting times for elective surgery is not readily available from the major public hospitals on a consistent basis.

There is no common system for recording and reporting, or for defining elective procedures as semi-urgent or non-urgent. To overcome these deficiencies, and to ensure that any increase in waiting times is known and can be monitored, the Commission is establishing a Waiting List Task Force. Its terms of reference are as follows:

1. Review numbers of patients awaiting, by specialty and period since listed for admission at RAH, TQEH, FMC.
2. Review arrangements for the administration of in-patient waiting lists at the major metropolitan hospitals, and make recommendations.
3. Review policies and procedures for determination of priorities for 'cold' admissions and make recommendations.
4. Recommend and introduce appropriate information systems and reports to allow waiting lists to be kept under review at all relevant levels, i.e. clinical unit, division, Hospital Board and Health Commission.
5. Make recommendations to optimise effective management of waiting lists.
6. Recommend arrangements to ensure waiting lists are kept under review.
7. Report before 29 March 1985.

ECONOMIC PLANNING

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. Are any Ministerial or departmental officers currently engaged in the formulation of a 'Ten Year Economic Strategy for South Australia' or some other long-term economic planning development for South Australia?

2. If there is such an intention, does the Government intend releasing such a document for public comment prior to the next election?

The Hon. C.J. SUMNER: While no document is currently being prepared for public comment prior to the next election, the Government's long term economic planning continues to receive Ministerial and departmental attention.

BUDGET PAPERS

Adjourned debate on motion of Hon. C.J. Sumner:

That the Council take note of the papers relating to the Estimates of Receipts and Payments, 1984-85.

(Continued from 12 September. Page 771.)

The Hon. M.B. CAMERON (Leader of the Opposition): I intend to make a major speech on this motion and not on the introduction of the Appropriation Bills in order to facilitate the passage of the Budget through the Council.

The consideration of the 1984-85 Budget presented by the Government enables us to consider many vital matters, from general economic strategy to the most specific details of a Government programme. It provides us, too, with an opportunity to review performance across the various portfolios. It has been accepted that in the Committee stages of the Budget Bills the intricate questioning and probing of each clause or line has not been necessary. Members have been fortunate to have details of the Estimates Committees available to them to avoid any need for this.

At the outset of my address I give a warning. I regret that the Minister of Health is not present to hear this; nevertheless, I believe it is necessary to say this so he understands exactly what is coming. The Opposition has been so appalled by the incompetent performance of the Minister of Health during the Estimates Committees that it sees no alternative other than to open up the appropriate Health lines to the most rigorous and persistent questioning. The Minister of Health consistently failed to answer questions during the Estimates Committee hearing. He was abusive, disruptive, politically self-seeking and filibustering. On one straightforward question he took more than an hour to reply—an hour deliberately used to avoid giving any honest or proper answer. Such behaviour by a Minister wilfully undermines a Committee of the Parliament, particularly the Estimates Committee, which we all rely on. To use the Minister's own words in a recent exchange in this Chamber: 'It is impossible to conclude that that . . . could possibly occur unless there was incompetence or connivance.' They are the Minister's words, not mine.

Like all members on this side I followed with interest the majority of the Committee sessions. Most Ministers were fair in their answers. Even if one does not agree with them, they were polite and responsible in the way they handled the forum of the Committee. This unfortunately could not be said of the Minister of Health who in an entire day's questioning answered very few questions, most of them poorly. He dragged questions on and, by so wasting time, undermined the Committee and eroded the potentially important value of its work.

The Liberal Party rejects this behaviour by the Minister. As an Opposition, we have a right and duty to know and analyse the detail of the Budget. Such details have been denied us by the Minister, who would belittle and attack anyone who dares question him. The health system is not the Hon. Dr Cornwall's—not the Minister of Health's—it belongs to the people of South Australia. On their behalf we have a duty to monitor it. The Hon. Dr Cornwall seeks to prevent us from carrying out this task. One can only conclude that, as in the case of the infamous Party political opinion poll, the Minister has something to hide. His tactics of meaningless verbosity in responding to questions will not work. We will assess the health component of the Budget line by line, and we will probe and question until answers are finally given that are meaningful and temperate. If the Minister continues his filibuster approach when we are in Committee, he will force a delay in the passage of the Budget; such a delay will have been caused by him, and him alone.

When sensible questions about waiting lists were asked, the Minister used phrases like:

> The member . . . has been recklessly irresponsible; . . . I have to go over this again slowly for the member's benefit; . . . (The honourable member is) maliciously mischievous; . . . He either cannot or does not wish to understand but I will go through it once again slowly; . . . I think to let the honourable member loose without a minder, however, would be very dangerous . . . In view of the total lack of understanding that he has displayed . . . ; He was maliciously mendacious; . . . I do not intend to expedite or in any way assist a member who chooses to use false figures to denigrate an excellent service . . .

and that was not the case if one reads the question. He also said:

> My only real regret in life—

and this is a real regret of the Minister's

> is that there is a plaque on it with Mrs Adamson's name on it instead of mine . . .

We all know how he feels about that. One only has to tell him that a plaque will be put on and he will open anything. He also said:

> This scurrilous campaign that is being conducted by a small number of recklessly irresponsible, faceless men . . .

After the Minister was pulled up for criticising the former Government for not acting on a report which was not finally produced until it went out of office, he retorted:

> I would be able to respond better without the very rude objections of the little Aussie battleaxe.

That was a member of another place, a very reasonable member, a former Minister of Health. It was absolutely disgraceful. The Minister went on and on, referring to 'reckless irresponsibility' and a 'scurrilous document'. He reeled off phrases such as 'grossly unethical', 'irresponsible individuals at the Queen Elizabeth Hospital', 'furfies', 'scuttlebutt' and 'the gross inaccuracies'. He said:

> I do not play to the politics of the gutter like some members of the Opposition . . . You have got the dregs today. The enforcer has arrived!

Having just said:

> I make absolutely no apology for taking up an hour of the Committee's time—

he went on—

> We have a Standing Order where I come from which forbids undue prolixity or tedious repetition; so I do not think that I will take up any further time.

He had only just spent an hour in not answering a question. He then said:

> The member for Coles is a very unpleasant lady . . . That may have been the way that the member for Coles operated when she used to pontificate from heights of great ignorance.

One could go on and on, but I believe that I have been able to highlight the contemptous and ill-informed way in which the Minister treated this Committee. His failure to perform has left the Opposition with no alternative. If he answers the questions when they are put to him, in a reasonable manner, I can tell the Attorney-General that there will be no problem, but if he performs as he did during the Estimates Committee there will be a problem.

Another area on which I wish to focus some attention today is that of the Archives of the South Australian Public Library. As a private citizen, I have had cause to visit the Archives on several occasions in search of some historical material of interest to me.

On a recent trip to the Archives to inspect some material I entered a room with an officer of the Archives. While we were in there the fire door behind us fell shut and a look of some considerable concern came over the officer's face. I soon established the reason: the officer was concerned that the Archives' fire precautions might have been activated. The officer explained that when a fire is detected attendants have only 15 seconds to evacuate the Archives before the doors are sealed and carbon dioxide is automatically pumped into the area. As a result the oxygen is evacuated and the temperature plunges. Although this may be an efficient method of fighting a fire it is not the only way. I predict 100 per cent casualties amongst the staff of the Archives if ever the system was activated.

After discussion with an interstate library expert I have learned that there are far more acceptable ways of protecting the State's valuable historical records. One is a gas that will not cause this very dramatic drop in temperature. The present system in the Archives should be changed. If a fire

broke out and staff in the Archives were unable to escape in the few seconds available to them, they would suffer the possibility of asphyxiation from lack of oxygen. Additionally, the dramatic loss of temperature—up to 40 degrees drop within 15 seconds—would cause light globes to blow, plunging the often confined areas of the Archives into darkness. This would complicate the efforts of the staff to get out because not only would they have no oxygen and be in the process of being asphyxiated but they also would have no light; they would be in absolute, total darkness, and the doors and exits would be closed and very hard to find.

The loss of temperature would also cause, I am told, all glass plates, including old photographic plates, to be cracked immediately. It is clear that the results of the so-called fire protection system could be disastrous: lives and records could actually be lost. Steps should be taken and the necessary funds reallocated from other areas to ensure that a new and safe fire control system is introduced in the Archives.

Another problem in relation to the Archives that I have observed whilst attempting to retrieve historical information has been the severe shortage of trained staff who are able to assist in the retrieval of data. As the State approaches its 150th birthday there is growing interest in family and early South Australian history. As a result, one could expect that even greater demands will be placed on the State Archives.

I know from my own observations that the staff available are dedicated and hard working, but lack of resources will severely restrict their capacity to service inquiries that they receive. There is, for example, only one card index system, and this means that at times it is very difficult for people to get access to the catalogues of information stored in the Archives.

If we are intent on promoting public interest in our State's past, we should ensure that adequate resources are available for the task. Regrettably, this Budget fails to provide the necessary resources and, if the Governments says that I am asking for additional funds, I am not; I am asking for reallocation of some funds. One area would be in not changing all the speed signs in the State from 110 km/h to 100 km/h. That would certainly provide sufficient funds for what I am suggesting.

Coming to the Budget as a whole, this Budget sets the scene for yet another State taxation grab. The number of State taxes and charges that have increased under this Government now races toward 200, a truly extraordinary feat for a Premier who promised no such increases during his term of office.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: I will read the quote. One wonders how the Premier feels when his election promise not to increase taxes or charges echoes through the slender corridors of his conscience.

The Hon. C.J. Sumner: Where did he say that?

The Hon. M.B. CAMERON: You wait; I will give the honourable member the page if he likes, and a copy of it, because he has obviously forgotten. It is a statistical fact that during the term of this Government—23 costly months—over six State taxes and charges have on average risen each month. That is, more than one (in fact, almost two) States taxes or charges have risen, week in and week out, during this Government's term. That is not a record of which any Government should be proud.

This weekly imposition affects us all from the unemployed, the pensioner, the family, the small business, to the large enterprises. In his policy speech, the Premier said:

> The ALP . . . will not introduce new taxes nor increase existing levels of taxes during our term of office . . . Unlike the Liberals we will not allow State charges—like transport fares, electricity and hospital charges—to be used as a form of backdoor taxation.

Since the election, eight taxes have been increased or introduced and a mammoth 148 State charges have risen. So many State Government taxes and charges have risen under the Bannon Government that the only person who is not worse off is:

> A non-smoking person who rents a home but not from the Housing Trust; never goes to hospital; uses neither electricity nor water; has no rubbish; doesn't bet; doesn't own a car; doesn't die; doesn't go to a physiotherapist; doesn't fish; doesn't use public transport; doesn't buy Government publications; doesn't have a pet; is not a teacher; doesn't own stock or lease pastoral land; doesn't buy property; doesn't commit a road traffic offence; doesn't register a birth, death, marriage or name change, or want a copy; doesn't own a gun; doesn't hunt; doesn't camp in national parks; doesn't use gas; doesn't go to court; doesn't store explosives; doesn't sell secondhand goods; doesn't own a boat; doesn't do a TAFE course; and doesn't go to a hairdresser, dentist, doctor or chiropractor.

And if people think they can drown their sorrows or seek solace with a psychiatrist, they are wrong. These costs have gone up too! Since the Budget was introduced into another place by the Premier just over six weeks ago, another 10 State taxes and charges have risen.

A firm's capacity to employ and a self-employed person's potential to expand are directly related to the costs which they face. In relative terms, wages and material costs have held the line but Government taxes and charges have dramatically outpaced inflation. I defy the Attorney-General to deny that. As a result, jobs are under attack. The Bannon Government's taxes and charges hike has made it that much harder to employ. Profits have fallen and our job situation has become mainland Australia's worst.

This year's Budget estimates that State taxes will leap to $766.8 million for 1984-85, producing a 39.7 per cent growth in two years. Compare that with an average annual rate of inflation of less than 10 per cent in those two years! It represents nothing but a savage attack on many thousands of ordinary South Australians. This high tax conclusion is drawn not only by the Opposition: similar views are held by the Centre for South Australian Economic Studies. In its latest report, the Centre criticises what it describes as the State Government's 'creative accounting'. Specifically, the report opposes the attempts by this Government to use borrowings to hide the true nature of the economy. Under this arrangement, funds are borrowed to balance the cash position on the Consolidated Account. Borrowings are not cheap. They result in substantial burdens on future taxpayers in order that interest and repayment commitments are met. In other words, short term cosmetic political actions will lead to a need to increase State receipts (and therefore taxation).

The Auditor-General shares the concern of the Centre for South Australian Economic Studies. Indeed, in his most recent annual report, he cited his worries about uses made of the South Australian Financing Authority. The Auditor-General stated:

> Three factors need to be watched carefully in using these funds (SAFA) for public purposes:
>
> 1. That the funds so used are channelled through the Consolidated Account, so that prior Parliamentary scrutiny of their intended use and effect on the State Budget can be made.
> 2. That those funds are not used as a device to expand the capital works programme in order to avoid difficult decisions with respect to project priorities.
> 3. Their use does not accelerate the growth of the net impact of debt servicing costs on the Consolidated Account and on Taxation.

It is this latter point which will cause the already poor record of this Government in regard to State taxation to deteriorate. Last year there was a 21 per cent increase in taxation (over twice inflation) and a 15.5 per cent rise is anticipated this year. To quote from the Centre:

Apart from growth in State taxes . . . Government business undertakings are continuing to raise their prices far more rapidly than prices in general.

Growing interest bills will lead to even greater pressure for increased State taxes and charges. The Government is manipulating our financial affairs in a way that will burden us significantly over the coming year. In 1983-84, funds from statutory authorities, including the South Australian Financing Authority, exceeded estimates by $6.5 million. Use of these borrowings (and they are borrowings which will have to be paid for) enabled a cosmetic reduction in the Budget for the year just ended from $8.1 million to $1.6 million.

In this Budget the Government plans to employ the same technique—using the additional borrowings from statutory authorities—to reduce the deficit on Consolidated Account for 30 June 1985 from $14.67 million to a balanced position. In two years—to the end of 1985—$21.2 million in additional funds from statutory authorities will be employed to support a growing public sector. This big spending Government refuses to take the hard decisions necessary, preferring instead no restraint. The long term cost is concerning. Additional taxes cannot be avoided if this continues.

In the meantime, short term taxation would be even higher without these borrowings, because the Government only ever acts on the revenue side. Expenses are never trimmed or contained. This Government's record highlights the regrettable hypocrisy it has displayed in handling our State's affairs.

In its economic policy 'South Australia's Economic Future—Stage 1', in which it describes the policies of the former Tonkin Government, the Government states:

There has not been anything like this in South Australia since the days of the Great Depression.

It goes on to talk of 'cosmetic transfers' to 'mask the real Budget deficit'. The integrity of this Government is now under serious question. It has used statutory authorities to finance an economic strategy that is so cosmetic it would do a lipstick manufacturer proud. In this Budget nothing is done to improve South Australia's competitive position compared with other States.

Last year, this Government introduced the first new tax in South Australia in a decade—the financial institutions duty. FID is higher in South Australia than in any other State where it operates. Victoria reduced the level of FID, but not this Government—it has ignored pleas for change. It leaves us in an impossible position from the point of view of competition. In 1984-85 the Government will grab $28.5 million in FID. So, $40 million has been taken from South Australians in one broken promise. That promise was made quite clearly by the Government prior to the last election.

One could go on and on outlining the many areas in which the Government has failed to meet its promises and has pioneered an economic strategy aimed solely at raising taxes and never restraining expenditure. Already, however, these deficiencies have been highlighted in another place and I know that my colleagues will raise their own special concerns during the Budget debate. I suppose that the Opposition should be quietly grateful for the reputation which Premier Bannon and his Government have gained as the high tax Premier and the high tax Government, for this will ensure our success at the next election. However, our concern lies not entirely with our own political fortunes but with the future of our State, and it would be irresponsible of us not to draw to the attention of the public the severe deterioration in our economic position which will ultimately result from three years of Bannon Budget bungling. The Government must stop the growth of the public sector and contain its costs so that we have no more record tax and charge increases, and so that the State can get back to a reasonable competitive position—a position which we held for so long and which led to the introduction of so much industry to South Australia, much of which, unfortunately, has now left this State. It will be our task after the election to try to get it back.

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

The Hon. M.B. CAMERON: Madam Acting President, I draw your attention to the state of the Council.

A quorum having been formed:

ANTI DISCRIMINATION BILL

Adjourned debate on second reading.

(Continued from 23 August. Page 505.)

The Hon. K.T. GRIFFIN: This Bill seeks to bring together in one piece of legislation the law relating to discrimination on the grounds of sex, marital status, pregnancy, physical impairment, race and a new ground of sexuality being described as the condition of being heterosexual, bisexual, homosexual or transexual. To a significant extent the Bill follows the form of the Sex Discrimination Act, 1975, and the Handicapped Persons Equal Opportunity Act, 1981, with some major changes in so far as it affects the area of sex discrimination. The Bill also repeals the inadequate Racial Discrimination Act which provided for racial discrimination to be a statutory offence and not to be dealt with as though it was unlawful resulting in awards of damages against a person who discriminates on the grounds of race. Discrimination on the grounds of sexuality is not presently embodied in the law in South Australia.

The discrimination to which the Bill addresses itself is in the areas of employment, provision of goods and services, accommodation and education. It should be remembered that Mr David Tonkin, M.P., as he then was, introduced a private member's Bill in the House of Assembly in the mid 1970s designed to focus upon the question of sex discrimination and as a result of that initiative the Dunstan Government introduced the Bill which finally led to the Sex Discrimination Act, 1975. It was the Liberal Government which in 1981 introduced the Handicapped Persons Equal Opportunity Act relating to discrimination on the grounds of physical impairment. So the Liberal Party has an established interest in preventing discrimination and has demonstrated a concern to ensure equality of opportunity is recognised and practised within our society.

What surprises me about this Bill is that prior to the introduction of the Bill and notwithstanding this Government's two years in office it had not consulted widely with all those who are likely to be affected by the Bill. It did, it is true, establish a working party which presented a report but that working party did not consult widely. Then, many who wished to be involved in considering any equal opportunity legislation were informed that the report was confidential and was not available publicly even though belatedly copies became available. Some had been promised consultation, such as the Royal South Australian Bowling Association Incorporated in November 1983, but no consultation occurred. The Commissioner for Equal Opportunity, in a letter to that Association in November 1983, promised copies of any proposed amendments for examination and comment prior to their submission to Parliament, and verbal assurances of the same import were given in that same month by the Attorney-General's Office, but that did not occur.

Many organisations, employer groups, the disabled, clubs and others only became aware of the contents of the Bill

when the Liberal party forwarded it to them after the Government had introduced it. Since the introduction of the Bill there has been a scramble by various groups within a relatively short period of time to make submissions to the Government on areas of concern and to consult with the Government. This is a most unsatisfactory way of dealing with such wide ranging changes in the law. There are a number of aspects of the Bill which require attention. I will not deal with them all at this second reading stage: some will be dealt with more conveniently at the Committee stages.

The Title: The Liberal Party has always been of the view that the emphasis in social legislation of the sort that is before us ought to be on education and conciliation rather than on confrontation, but it recognises that ultimately there may be no option but to confront, although confrontation must always be regarded as a measure of last resort. The Liberal Party finds it surprising that the Government should introduce a Bill which has a negative rather than a positive title. The title of 'Anti Discrimination' suggests that the emphasis is on dealing with acts of discrimination rather than preventing acts of discrimination and does not focus effectively on promoting equal opportunity. Accordingly, the Liberal Party will be moving to amend the title of the Bill from the negative emphasis of 'Anti Discrimination' to the positive emphasis of promoting equal opportunity under the title 'Equal Opportunity Bill'.

The Liberal Party will also be moving to amend the long title, again to place the emphasis on education and conciliation and on equal opportunity, rather than on the negative anti-discrimination connotation. The long title which we will be seeking to incorporate is:

An Act to promote equality of opportunity between the citizens of this State; to prevent certain kinds of discrimination based on sex, marital status, pregnancy, physical impairment or race and to facilitate participation of citizens in the economic and social life of the community; to provide for the resolution of acts of discrimination; and to deal with other related matters.

Before dealing with the acts of discrimination which are encompassed by the Bill, I want to deal with the Commissioner for Equal Opportunity and then the Anti Discrimination Tribunal.

The Commissioner: The Commissioner is to be appointed by the Governor for five years, is to be responsible to the Minister for the administration of the Act, and is subject to the general control and direction of the Minister. This is supported. The responsibilities of the Commissioner are specified in clause 10 of the Bill and the powers are included in clauses 88, 89, 90 and 91. Section 8 (2) of the Handicapped Persons Equal Opportunity Act, 1981, places a further obligation upon the Commissioner as follows:

(2) The Commissioner shall—

(a) if requested to do so by a handicapped person—

(i) inform and advise him of the benefits, assistance or support that may be available to him in respect of his physical impairment;

(ii) assist him to gain access to any such benefits, assistance or support;

or

(iii) assist him, to the extent the Commissioner thinks desirable, to resolve any problem faced by him as a result of his physical impairment in relation to his participation, or attempts to participate, in the economic or social life of the community;

(b) publish advisory documents as to the benefits, assistance and support available to handicapped persons;

(c) institute, promote or assist in research and the collection of data relating to handicapped persons, the problems faced by such persons as a result of their impairments, and the ways in which those problems may be resolved,

and may do anything else necessary or expedient to assist handicapped persons to participate in the economic and social life of the community.

Although under clause 10 of the Bill the Commissioner may furnish advice on any matter within the purview of the Act, there is no obligation placed upon the Commissioner to give information as in the Handicapped Persons Equal Opportunity Act. To that extent, handicapped persons will be less well off under this Bill than under the Handicapped Persons Equal Opportunity Act. Handicapped persons are in a unique position in respect of discrimination and I am of the view that section 8 (2) of the Handicapped Persons Equal Opportunity Act ought to be inserted in the Bill before us so that the Commissioner has a positive obligation to give assistance to handicapped persons. That function is clearly related to equal opportunity.

In relation to the Commissioner's power to give advice, but not an obligation to give advice, there is a provision in the Handicapped Persons Equal Opportunity Act (section 8 (1)) for the Commissioner to furnish advice in writing. In conjunction with that there is also a provision in that Act (section 57) allowing a defence where that written advice has been given and the respondent has relied upon that advice. There are a number of safeguards introduced to allow the Commissioner to vary or revoke that advice.

The reason for that provision being included in the Handicapped Persons Equal Opportunity Act was that social legislation is difficult to interpret and all those who are likely to be affected by it ought to be in a position where they have a reasonable level of certainty about what may be regarded as within or without the law before taking any particular steps which may result in liability if they make the wrong decisions. Employers, particularly, asked for this provision rather than having to take a decision as to what they thought was right and within the law only to find that later they were sued.

As part of the educative process and conciliation process I believe that it is important for the Commissioner to have this power and to exercise the responsibility given by it to ensure that there is a greater level of certainty in the application of the law than presently exists. We have to admit that many of the concepts of discrimination referred to in this Bill are subject to more than one interpretation. It seems to me that if those likely to be affected by the law are placed in the position of having to take the decision and then run the risk of litigation where there is a grey area it adds only to antagonism towards the legislation and the administration of it as well as to the costs, and that is contrary to the concept of positive promotion of equal opportunity.

Anti-Discrimination Tribunal: The major difficulty which the Government has obviously experienced with a Tribunal to deal with all aspects of discrimination is that of the membership and how that membership is to be determined.

It should be remembered that under clause 87 the Tribunal has wide powers to make orders that a respondent refrain from acting in contravention of the Act, that the respondent act with a view to 'eliminating future contravention of this Act or redressing circumstances that have arisen from contravention of this Act', and to pay the complainant damages for loss or damage (including injury to feelings) suffered as a consequence of the discrimination. In effect, unlimited damages may be awarded by the Tribunal—a power possessed only by the Supreme Court of South Australia in the judicial system. By way of aside I mention at this point that the District Court, for example, has a jurisdiction limited to $60 000 for injuries from accident cases and $40 000 in all other cases.

The Tribunal is not bound by the rules of evidence. It must act according to equity, good conscience and the substantial merits of the case. That means that it can 'inform itself on any matter in such manner as it thinks fit'. Again, this is a wide power which, admittedly, exists under the present Sex Discrimination Act and Handicapped Persons

Equal Opportunity Act, but which is nevertheless potentially a source of injustice.

There is a right of appeal to the Supreme Court of South Australia, but not on all aspects of the case—the appeal right is limited. In this context, therefore, it is important to consider the structure of the new Anti Discrimination Tribunal. The Tribunal is to comprise one of three people: a Presiding Officer or Deputy Presiding Officer; and two persons chosen from a panel of 12 persons nominated by the Minister and established by the Governor.

The Presiding Officer and Deputy Presiding Officers are persons who are appointed for terms not exceeding three years and are to hold judicial office under the Local and District Criminal Courts Act or be legal practitioners of not less than seven years standing, which is the minimum qualification for appointment to the Local and District Criminal Court.

The panel of 12 persons is to hold office for a term not exceeding three years, and according to clause 17 (2) the members are to be selected keeping in mind certain characteristics. Subclause (2) provides:

(2) In selecting nominees for appointment to the panel, the Minister shall ensure that each nominee has expertise that would be of value to the Tribunal in dealing with the various classes of discrimination to which this Act applies and shall have regard to—

(a) the experience;
(b) the knowledge;
(c) the sensitivity;
and
(d) the enthusiasm and personal commitment,

of those who come under consideration.

Provision is made for more than one tribunal to sit at the same time to hear and determine separate proceedings. The selection of persons to sit on a particular tribunal is to be made by the Presiding Officer or Deputy Presiding Officer who is to preside over a particular tribunal and, according to clause 20 (2), in selecting members from the panel, the Presiding Officer or Deputy Presiding Officer 'shall endeavour to select those members who have expertise that is relevant to the subject matter of the proceedings'. I see a number of problems with the Tribunal:

1. Appointment for terms up to three years allows a Government to juggle appointments, not only in the first period of appointment but also in subsequent periods. This gives a Government a significant power to influence decisions where there may be appointments for short periods, and the appointee feels that appointment depends upon performance. Short-term appointments militate against independence which ought to characterise all judicial or quasi-judicial bodies. Therefore (in accordance with statements I made both in Government and in Opposition in respect of the appointment of boards and tribunals), I will move that except for the first period of appointment, the terms of office be fixed periods of three years. I recognise that in respect of the first period of appointment it may be necessary to appoint the members for differing periods of office to ensure that there is a staggered retirement and reappointment of officers to enable continuity of appointment, if necessary.
2. The Presiding Officer and Deputy Presiding Officers are not accountable to anyone. They should be accountable to the Senior Judge of the Local and District Criminal Court. In Government the Liberal Party brought a number of tribunals under his direct responsibility to ensure that they were run in an administratively efficient manner and were accountable. If the Tribunal members are not so accountable it is possible that they will act irresponsibly. Responsibility to the Senior Judge will also ensure that the administrative services are directly the responsibility of the Courts Department. In addition, this would provide an effective mechanism for ensuring no bias in the selection of a tribunal from a panel of members, to which I refer in paragraph 4 which follows.
3. Clause 17 (2), relating to the characteristics which should be sought in members of the panel, establishes the potential for bias from the outset. The provision is vague to the extent that the 'experience', 'knowledge' and 'sensitivity' required is not identified. The more objectionable and subjective characteristic is that of 'enthusiasm and personal commitment'. The object of the anti discrimination laws must be to ensure that justice is done to all parties. That is compromised seriously by this provision. Surely, the objective is to have a panel of people who are reasonable and have a balanced outlook on all matters likely to come before them. Therefore, I will be moving to delete clause 17 (2).
4. In the selection of two members from the panel clause 20 (2) raises several problems. The first is that the selection is left to one person—the Presiding Officer or Deputy Presiding Officer. There is no roster or random selection to ensure that bias and personal (and subjective) preference is eliminated, and that is undesirable. This selection ought to be made by the Senior Judge as far as possible on a roster basis, and I will be moving accordingly.

The second problem is that those who sit on a particular tribunal have to have 'expertise that is relevant to the subject matter of the proceedings'. I do not believe that it is necessary to have an Aboriginal or person of other ethnic background necessarily sitting on a tribunal dealing with race discrimination, or to have at least one woman or one man on a tribunal dealing with sex discrimination, or a person with a physical handicap on a tribunal dealing with discrimination against a handicapped person.

It helps, and in the Handicapped Persons Equal Opportunity Act there was a specific reference to a person with experience of physical impairment to sit on that Tribunal. However, where the Tribunal is to deal with a variety of areas of discrimination there ought not to be a distinction between members of the panel as to suitability. A good 'mix' of persons on the panel should be adequate.

Yesterday, I received a copy of a submission by employer groups to the Attorney-General on the Bill. They suggest that there be three tribunals and I am attracted to that. As I have said earlier, I appreciate the difficulties which arise if only one Tribunal is to be established to deal with all discrimination under the Bill, sitting in panels. In the light of this, I would like the Attorney-General to consider moving to three identifiable panels. However, if he is not prepared to do that, I will move a further amendment to clause 20 (2) to remove the requirement that, for a particular Tribunal, the members selected from the panel should have 'expertise' related to the subject of the proceedings that that Tribunal will be hearing.

5. In addition, I believe it would be helpful to the proper conduct of the proceedings if the Senior Judge could promulgate rules as he can in relation to the Local and District Criminal Court. Those rules could be made after consultation with the Presiding Officer and would be subject to disallowance under the Subordinate Legislation Act. I will therefore move an amendment to allow this.

I have already indicated that the tribunal has wide jurisdiction and powers but I want to focus on several of them. It

has the power to conduct an inquiry upon the application of the Minister or the Commissioner to determine whether a person has contravened or is contravening the Act.

The Sex Discrimination Act allows the Sex Discrimination Board to do this of its own motion and it did this in the inquiry into the Police Force without any consultation with anybody. That was a totally unnecessary and, as it turned out, unproductive exercise by the then Sex Discrimination Board costing many tens of thousands of dollars and committing substantial police and other resources which could have been better expended in police activities.

It was as a result of this that the Liberal Government was proposing to limit this power of the Sex Discrimination Board to the application of the Minister and the Commissioner by way of compromise. In the Handicapped Persons Equal Opportunity Act the power of inquiry was limited to those occasions where it was on the application of the Minister.

We now have a Tribunal with a much wider area of responsibility. The concerns which I expressed in introducing the Handicapped Persons Equal Opportunity Act about the tribunal's power to undertake a general inquiry are equally applicable now. In undertaking an inquiry, it is acting as investigator as well as judge, making a decision on whether or not the complaint was justified and what orders ought to be made as a consequence of the investigation. It is totally inconsistent in our system for one body to be both inquisitor and judge. The Liberal Party was prepared to tolerate it by way of compromise under the Sex Discrimination Act and the Handicapped Persons Equal Opportunity Act Tribunal, but with the wide scope of the responsibility of the Anti Discrimination Tribunal established by this Bill the Liberal Party will oppose the Tribunal being anything other than a quasi-judicial Tribunal.

The Commissioner has wide powers to act upon a complaint, and that is where the responsibility for investigation should lie. It is interesting to note that under the Federal Act, the Human Rights Commission may make inquiries, but no orders, and then application may be made to the Federal Court to enforce a determination of the commission if the court is satisfied that the respondent has committed an act that is unlawful. The true functions of inquiry and then making orders have been separated in the Federal legislation.

The Tribunal may entertain a complaint by a person who alleges a contravention of the Act with that person being assisted before the Tribunal by the Commissioner for Equal Opportunity. This means that that person is funded completely by the Government in prosecuting a complaint. That is the present position before the Sex Discrimination Board and the Handicapped Persons Discrimination Tribunal. However, this Bill provides for the Tribunal to entertain a complaint also by a 'person or persons who are included in a class of persons alleging contravention, and by a trade union on behalf of any of the first two mentioned persons', that is, the person alleging contravention and a person alleging contravention in respect of a class.

Class actions are introduced, a concept which the Liberal Party has opposed for the past five years because of the breadth of such actions and because, in isolation from other States, class actions place a significant burden on South Australian employers and others affected by the Bill. It is correct that the Federal Sex Discrimination Act, however, allows class actions but that can be no justification *per se* for including them in the South Australian legislation. Introduction of class actions into this Bill may well be the thin end of the wedge and herald the introduction into other areas of our law. There is already provision for representative actions and a test case is available, and that ought to be adequate and is adequate in the context of this Bill. In their submission to the Attorney-General, employer groups make other valid comments, as follows:

> With regard to class actions in the equal opportunity area, it is submitted that this is the wrong area to test this form of action in Australia. Class actions are a relatively new phenomenon in Australia, and overseas they have primarily been used in cases that relate to product liability, externalities and the effect on groups of identified individuals with regard to pollution, etc. Their inclusion in this jurisdiction directly implies that the current legislation is totally ineffective against checking widespread discrimination, and it directly implies that we are experiencing discrimination of such a magnitude that a class action would be the only expedient form of processing the complaints.
>
> Our organisations can see no benefit flowing from the inclusion of class actions within this jurisdiction, although we can perceive many difficulties flowing from its inclusion.

The Liberal Party will therefore oppose class actions.

In relation to trade unions it is important to recognise that this Bill is not about industrial relations; it is about discrimination. To allow unions in will undoubtedly cloud the real principle of equal opportunity with industrial issues. Already a person who alleges a contravention of the Act is allowed to take action supported by the Commissioner for Equal Opportunity at State expense. There is no reason at all to allow trade unions to become involved in proceedings. They can still give support, but ought not, in effect, to become the complainants. Trade unions, in any event, are among the greatest discriminators of any group in the community in the way in which they endeavour formally or informally to maintain closed shop arrangements excluding persons from work. In the area of physical impairment particularly trade unions raise greater barriers to employment than many other groups or persons within the community. It is for these reasons that the Liberal Party will oppose this provision in the Bill.

There is one other area which is relevant and that is in respect of the time within which proceedings may be instituted by a complainant. Under the present Acts proceedings must be instituted within six months of the unlawful act of discrimination. This Bill extends that to 12 months. That is, in my view, too long, and will create difficulties in gathering evidence of an allegation of discrimination.

I am proposing that where the discrimination results in dismissal the time for action be 21 days which brings it in line with the Industrial Conciliation and Arbitration Act provisions dealing with unlawful dismissal. It is unwise to leave an action based on dismissal for a long period of time because of the inability to establish the facts the longer the elapsed period is. Generally, for other acts of discrimination the time limit should be six months but where there is a series of acts amounting to discrimination when taken as a whole, provided action is taken within six months of the last act relied upon, I am proposing that the Tribunal should be able to take into consideration other acts in the period of six months preceding the act complained of. In effect, this means a series of acts over a period within the first six months of a 12-month period may be the basis for a complaint.

Discrimination: The formula for identifying discrimination is similar in each of the references to sex, marital status, pregnancy, race, physical impairment and sexuality. It follows largely the form established in the 1975 Sex Discrimination Act and the 1981 Handicapped Persons Equal Opportunity Act as well as the Federal Act. Obviously, the most controversial area is that of sexuality which is defined as 'heterosexuality, homosexuality, bisexuality or transexuality'. This is to be a matter of conscience for members of the Liberal Party. 'Transexual' means a person of one sex who assumes characteristics of the other sex, and 'sexuality' means the condition of being a transexual.

It has not previously been unlawful to exercise a personal preference against homosexuals, bisexuals and transexuals

in the areas of employment, education, superannuation, accommodation, and the provision of goods and services. Obviously, this Bill raises important questions as to the extent to which Parliament should legislate to change social and personal attitudes and to seek to prevent individuals or groups of individuals from making their choices in their dealings or associations with other human beings. Obviously, the law cannot compel everyone to be nice to each other. It can set the scene if that is the scene which society generally regards as an acceptable one.

It is important to note that there has been no widespread community call for this provision to be incorporated in the law, and there has been no public debate about it. The only reference to the reason for it being in the Bill is in five lines in the second reading speech, where the Attorney-General says:

> It has been recommended that discrimination on the grounds of sexual preference (sexuality) should be made unlawful. There have been requests by individuals and organisations for such an amendment also, and the Bill accordingly includes a person's sexuality as one of the grounds of unlawful discrimination.

One would have expected with such a substantive enlargement of the anti discrimination law the Government would have provided a much more comprehensive argument for it to be included, identifying the individuals and organisations which have sought the amendment. None of the arguments for or against incorporating it in the law of South Australia has been canvassed, and that is totally unacceptable. There was not even reference to it in the working party's report, which the Attorney-General has suggested is the basis for this legislation.

Perhaps the Labor Government was hoping that it would not attract any attention and would slip through. Perhaps it was hoping that there would be no public debate about it on an area which is undoubtedly controversial. Perhaps it was hoping that few if any people other than homosexuals, bisexuals or transexuals would address the issues.

The community ought to be reminded that there is presently nothing in the law which prevents individuals from making a decision based on genuinely held beliefs or moral conviction against, for example, employing a homosexual, transexual, or bisexual whether it be in retailing, the education system or in other areas. Some in the community will have no difficulty with employment of such persons because they have no strong views against the characteristics of sexual preference.

Others will employ so long as that homosexuality, bisexuality or transexuality is not obvious or flaunted, that is, it is discreet. Others, however, and perhaps they are a majority, or most certainly, a substantial minority, object to homosexuality, bisexuality or transexuality either on religious or other conscientiously held bases and find that behaviour morally unacceptable and abhorrent. What this Bill does is to deny the rights of those persons in that last category from exercising their rights to make a choice and compels them, under pain of proceedings before the Tribunal and a substantial award of damages, to submit.

The fact that the provision is in the Bill (although not in the present law) and I may move to delete it may be misconstrued by some for their own personal or political ends, but I believe I have a duty to take this course. It should be made clear that what I wish to do is to leave this area as it stands at the present time, namely, retain the *status quo*. That is not withdrawing any rights or privileges previously conferred. It means not extending the so-called anti discrimination law to homosexuals, bisexuals or transexuals.

The following are a number of arguments against leaving sexuality in the Bill:

1. By this Bill, homosexuality, bisexuality and transexuality are elevated to a status equal with that of heterosexuality and that elevation endorses in the law morally unacceptable behaviour, and would offend a substantial proportion of our community.
2. The rights and freedoms of individuals are to be protected so far as they do not impinge on the rights and freedoms of others, but to the extent that they do impinge a balance must be achieved—for example, the right of a homosexual, bisexual or transexual to choose to display and practise that sexuality is balanced against the right of other citizens to choose according to strongly held convictions not to work with them, or to employ them.
3. There is no public call for homosexuality, bisexuality and transexuality to be recognised, and there has been no community debate on it.
4. The Bill does not respect the rights of people who have strong moral or religious objections to the acceptability of the values that are given status by their inclusion in the Bill nor are those people given any rights to act on their personal moral convictions.
5. If sexuality is to be included in the Bill, why does not the Bill also include discrimination on the grounds of intellectual disability, discrimination against the aged, discrimination on the basis of religion, and a variety of other more pressing and appropriate areas of concern?
6. Inclusion of sexuality will create major concerns within the educational community on the basis that the law would then regard this behaviour as 'normal' and would require educational authorities to treat it as such to the detriment of children and the concern of many parents.

If, however, sexuality is retained in the Bill there are two other major concerns. The first is that under clause 10 (1) of the Bill the Commissioner shall:

> . . . foster and encourage amongst members of the public positive, informed and unpredjudiced attitudes with a view to eliminating discrimination on the grounds of sex, sexuality, marital status, pregnancy, race or physical impairment.

That places upon the Commissioner for Equal Opportunity a responsibility to positively promote bisexuality, homosexuality and transexuality as normal and acceptable choices on the same basis as heterosexuality.

The other concern is in relation to clause 47 of the Bill, which provides exemptions for certain religious orders and educational or other institutions administered by a religious order or body. It is narrow. The Roman Catholic denomination will probably be able to live with the narrow clause 47, although in my dicussions with members of that denomination they indicated that they would prefer to see the Commonwealth sections 37 and 38 rather than the South Australian provision. There are differences between the two, making the Commonwealth provisions somewhat wider. Other denominations will not be comfortable with clause 47. In respect of educational institutions run by a religious order or body, they are established for the purpose of providing an alternative system of education based upon religious beliefs and moral principles and ought to have the right to refuse employment or other involvement by persons who detract from those principles or moral positions. Yet, according to clause 47, those bodies may not be able to establish beyond doubt a religious doctrine or practice specifically opposed to homosexuality, transsexuality or bisexuality.

In addition, in the educational arena there are schools established, not by religious orders or bodies, but by groups of individuals seeking to provide a system of education based upon religious or moral principles and beliefs.

Obviously, they will not be encompassed by clause 47; nor will those educational institutions that are established by Act of Parliament or under the Associations Incorporation Act, yet which are supported by the churches.

But an even more important point to make is that in education generally there will be widespread concern across the State system and independent system about homosexual, bisexual or transsexual persons teaching students. Some parents will not object to that fact alone, but where there is an attempt to proselytise, or where homosexuality, bisexuality or transsexuality characteristics cease to be discreet, that will be of even greater concern. Others will object to the very fact of a teacher being homosexual, transsexual or bisexual, but will not have the financial resources to remove their children from the State school system to take advantage of the insulation from these sexual preferences which certainly the independent school system, so far as it is run by religious orders or bodies, is likely to be able to achieve.

The South Australian Independent Schools Board Incorporated, in a submission seeking wider exemptions, says:

To legislate for preferences, and then to require educational institutions to not discriminate on behalf of that preference when employing, could be seen to interfere with the general education philosophy of a school based on the generally widely accepted mores of school communities in particular and the wider community in general.

As the current State Act—

I think that should be 'Bill'—

stands, schools with connections to a church which has well stated beliefs of a universal nature and proclaimed in this way, seem to be reasonably accounted for. The replacement of section 47 by the Commonwealth Act 37, 38 would be even more reasonable.

However, there are schools which have a Judaeo-Christian ethos, whose supporting churches do not have such well-stated, widely embracing statements, yet have an educational philosophy or policy encompassing those same truths. It would seem reasonable, therefore, that all schools should be exempted on the basis of their belief or educational policy and philosophy.

As the schools are dependent upon the 'market-place' for the students, parents (and students) are able to choose whether to attend the schools because of the particular educational policy and philosophy of that school. It would seem only reasonable to add a clause involving the 'stated educational policy and philosophy' somewhere in the State Act—

that is, the State Bill—

or if the Commonwealth Act is accepted (which would be our preference), added to the sections stated above.

It is for all these reasons that I take the view that discrimination on the ground of sexuality ought not to be included in this legislation.

Some may argue that there is no real need for concern because decisions can be taken without reference to personal objection to homosexual, bisexual or transsexual behaviour. However, it is a sad state of the law if devices have to be found to get around it. But it is clear that in the light of recent decisions and of clause 5 (2), even if such objection were only part of the reason for a decision, that is sufficient basis to complain to the Commissioner for Equal Opportunity and then to the Anti-Discrimination Tribunal.

In relation to marital status, the only point that I wish to make is that in the context of the *in vitro* fertilisation and artificial insemination by donor programmes the Liberal Party will be endeavouring to exempt them from the operation of this Bill. That position has been foreshadowed in relation to the Family Relationships Act Amendment Bill in so far as it relates to the present Sex Discrimination Act because, in administering those procedures, regard must be had for the interests of children, and that necessarily involves examination of the quality and stability of prospective parental relationships, unimpeded by equal opportunity legislation.

The Liberal Party supports the specific reference to discrimination on the grounds of a woman's pregnancy. In 1982 I indicated that the then Liberal Government was of the view that pregnancy was encompassed by the Sex Discrimination Act, and that has been established by decision of the Board. But we were prepared to put that question beyond doubt by appropriate amendment.

Therefore, we support the provisions in the Bill. However, I draw attention to a particular problem which we addressed in Government. We sought to take into account in certain jobs that there may be added risks to the pregnant woman and the unborn child, and that safety requirements may be compromised.

This is particularly necessary because of the obligation placed upon employers by the general law and Statute law, particularly the safety, health and welfare legislation, to ensure a safe system of work. Increasing evidence is available that in some occupations there is danger to an employee and to an unborn child, for example, from the operation of VDUs, and there is also legal precedent indicating that claims on behalf of children for injury sustained prior to birth can be established. This places additional burdens upon employers, and puts them in a situation of conflict between an obligation placed upon them in relation to a safe system of work on the one hand, and, on the other hand, equal opportunity legislation.

For these reasons, provided that independent medical evidence is available, the Liberal Party is of the view that the Bill ought to allow an employer to take some action in relation to a pregnant woman if she is not able to perform adequately, and without endangering herself, the unborn child or other persons, the work genuinely and reasonably required for the employment or position in question or would not be able to respond adequately to situations of emergency that should reasonably be anticipated in connection with the employment or position in question.

Discrimination by Employers: The title of this Division in each part of the Bill is wrong and demonstrates an attitude of antagonism and confrontation rather than education and conciliation in respect of discrimination. 'Discrimination by employers' clearly identifies this as the attitude of the Government. The Liberal Party will be moving an amendment to change the heading to 'Discrimination in employment'. That is the accurate emphasis to be placed on this Division.

'Employee' has been widened to include a person who is the holder of a public or statutory office, and in those circumstances the Crown is the employer. This is included for the first time and includes not only positions such as the Auditor-General, the Ombudsman, the Valuer-General, but also judges. I raise some questions about this to ascertain how wide the Government wants to extend this. I hold the view that the Judiciary should not, even for the purposes of this Bill, be described as employees when they are not. I wonder whether the Attorney-General has discussed this with the judges, and whether it is intended to include judges in this definition.

In respect of discrimination by employers, the Bill extends to employer/employee relationships and those of principal/commission agent, principal/contract workers, and partnerships. In relation to employment, clause 28 provides:

28. (1) It is unlawful for an employer to discriminate against a person—

(a) in determining who should be offered employment;

or

(b) in the terms on which he offers employment.

(2) It is unlawful for an employer to discriminate against an employee–

(a) by denying him access, or limiting his access, to opportunities for promotion, transfer or training, or to any other benefits connected with employment;

(b) by dismissing him;

or

(c) by subjecting him to any other detriment.

'Detriment' is defined in clause 4 to include 'humiliation or denigration'. That definition appears for the first time in this sort of legislation. This seems rather subjective and, in any event, that sort of 'detriment' may have nothing to do with discrimination even though the clause is drafted on the basis of discrimination on the grounds of sex. To humiliate or denigrate (or defame) an employee is not to be encouraged in normal employer/employee relations, but I think it is dangerous to give an employee a right to sue for unlimited damages on the basis of humiliation or denigration which may occur as a result of a justifiable confrontation of an employee by an employer. It is safer to leave the matter to be construed by the tribunal or the courts, and therefore I propose deleting that definition.

Discrimination in partnerships is covered by clause 31 as follows:

(1) It is unlawful for a firm consisting of one or more members, or for one or more persons promoting the formation of a firm, to discriminate against a person—

(a) in determining who should be offered a position as partner in the firm;

or

(b) in the terms on which that person is offered a position as partner in the firm.

(2) It is unlawful for a firm consisting of two or more partners to discriminate against a partner—

(a) by denying him access, or limiting his access, to any benefit arising from membership of the firm;

(b) by expelling him from the firm;

or

(c) by subjecting him to any other detriment.

This is similar to the section in the Handicapped Persons Equal Opportunity Act. The Sex Discrimination Act deals only with discrimination by a firm of six or more partners. This is a difficult area, and I have given further thought to it in the light of the wide range of grounds of discrimination now included in this Bill. It must be recognised that a partnership is a free-will decision by two or more people to join together to carry out a joint business enterprise, where each partner has a joint and several liability for the debts of the partnership. It requires goodwill as well as compatibility.

With the benefit of hindsight I think that the proper position is that subclause (1), relating to the formation of a partnership, should apply to larger partnerships (and probably six or more partners is a reasonable point at which to apply it), and subclause (2), which applies to dealings with partners, after the partnership has been established, should apply to all partnerships of whatever size. Although there may be some criticism for changing one's mind, I think there is good sense in the change and therefore I will propose this change at the appropriate time.

In clause 49, dealing with discrimination by an employer against a person on the ground of race, such discrimination includes segregating that person from persons of other races. Employer groups say that some of their members have had to segregate different ethnic groups in the work place but they have all been happy in that segregation. Probably this is more significant where employees are working together on the factory floor, for example, a processing line. It is difficult to promote that sort of segregation but, nevertheless, it is a problem which should be addressed. I raise the issue in as sensitive a way as possible.

Maybe the solution is to rely on the power for the tribunal to exempt in established cases or by adding an exception where it is by agreement of the employees and in the interests of industrial harmony and, perhaps, approved by the Commissioner. I certainly do not want to perpetuate any separation. It is a matter which, at this stage, I raise with a request for the Attorney-General to comment on the appropriate solution.

In relation to employment, liabilities are imposed upon employers for the acts of their employees and agents. Clause 85, which is not in either the Sex Discrimination Act, 1975, or the Handicapped Persons Equal Opportunity Act is relevant, but in respect of sexual harassment clause 82 subclauses (6), (7) and (8) are relevant. I will refer to the liability of employers in respect of sexual harassment later.

It is important for employers to exercise a responsibility to ensure as far as possible that an employee does not discriminate against another contrary to the law, but clause 85 creates yet another liability for employers. The scope is uncertain and, in medium to large organisations where there are many employees, what is the responsibility of employers? Is it merely to circulate memoranda periodically outlining the law, or should the employer, for example, hold regular seminars?

It is not fair on employers or principals to place such a heavy burden upon them in an area of human and social relationships. My preference is to delete clause 85. But if that is not possible an alternative may be to place a liability on employers and principals if they knew of an act of discrimination but did not take reasonable steps to redress it and prevent a recurrence.

Discrimination in Associations: This is an area to which I have already referred. Apparently, there had been some consultation with the golfing associations about the specific provisions of the Bill, but there has been no real consultation since November 1983 with the bowling associations. This has been a major area of difficulty but it appears that those difficulties have been resolved particularly in respect of golfing with the inclusion of clause 33 (2). Clause 33 comes into effect one year after the Bill comes into operation.

The only difficulty in relation to the bowling associations is that it would be unwise to make the change in the middle of a season. It would be desirable to have the provisions come into effect at the beginning of the season, say, in 1986, and we will be moving an amendment to endeavour to achieve that in relation to discrimination on the ground of sex only because of the long established practices of the bowling associations in this area. That amendment would not compromise the principle, which we will support, but will assist in a satisfactory change from the present practices of those associations to the practices envisaged by this legislation. The proposed amendment will create less disruption.

The Hon. Anne Levy: When does the bowling season start?

The Hon. K.T. GRIFFIN: If the bowling season commences in October and if the Bill is proclaimed to come into effect not until the end of this year, because of the provisions under clause 33 the one year period will not expire until December 1985.

The Hon. Anne Levy: That is the maximum period. There is nothing to stop them starting earlier.

The Hon. K.T. GRIFFIN: The Hon. Anne Levy can have her say later. I believe it would facilitate the proper and smooth implementation of this clause if it came into effect at the beginning of the season. So far as the discrimination on the ground of physical impairment is concerned it is already unlawful for associations to discriminate and I see no need to suspend that provision in clause 33 for a year. In respect of race discrimination, I am not aware of any reason to suspend this provision for a year. Accordingly, in respect of physical impairment and race, I am proposing that the non-discrimination provisions come into effect from the date of commencement of the Bill.

Discrimination in Education: In respect of discrimination in education there are two areas of concern. In relation to race, clause 56 would appear to require, for example, the Aboriginal Community College, as a college run by an educational authority, not to discriminate against persons of

other races in terms of admission. I doubt whether that was ever envisaged.

In addition, it may be that this clause will also not allow discrimination in respect of small ethnic schools which provide language, culture and history education to persons of particular ethnic groups on, say, Saturday mornings and other occasions on a part time basis outside the formal school structure. This is an area which may cause concern and I would like the Attorney-General to address some consideration to that particular point. The other matter relates to sex discrimination and is raised by the Independent Schools Board in relation to clause 35 as it applies to co-educational schools. It says:

> Most co-educational schools attempt to have a 50/50 boys/girls enrolment procedure. This is necessary to ensure adequate social inter-relationship between members of each sex and at the same time ensure that numbers are sufficient to allow the widest possible educational offerings. Schools try to ensure that, as a minimum, the balance of any one sex does not fall below 40 per cent of the total. Tolerances for co-educational schools, as provided for single sex schools, should be allowed as in 35 (3).
>
> Co-educational schools also try to balance the staff with respect to sex, but not necessarily to the same ratio as the students. It would seem reasonable to allow some exemption in this matter. Section 35 (3) may not provide adequate protection for schools having boarding facilities which are single sex in context. This is particularly important where a school has become co-educational in the day school, and the boarding faculty is traditionally available only to one sex. Some inclusion in 35 (3) with exemption for school boarding facilities is needed. A subclause similar to section 34 (1) and (2), appropriately worded, from the Commonwealth Sex Discrimination Act No. 4, 1984, would seem reasonable.

The reference to section 35 (3) in that quotation should really refer to clause 35 (3). These comments have merit and I would appreciate comment from the Attorney-General on them before preparing the appropriate amendments to deal with them.

Discrimination in the Provision of Services: If sexuality is eliminated from the Bill, the definition provides no difficulty, but if it is not eliminated there will be difficulties with paragraphs *(a), (b), (e)* and *(f)* of the definition in clause (4) of services to which the Bill applies. Those services are:

(a) Access to and use of any place that members of the public are permitted to enter.
(b) Services provided by an employment agency.
(e) Entertainment, recreation and refreshment.
(f) Services provided by an introduction agency.

Discrimination in Accommodation: The Bill makes it unlawful to discriminate on the grounds covered by the Bill in the provision of 'accommodation', which is not defined. In relation to sex, marital status, pregnancy and sexuality there is an exception in clause 37 (3) as follows:

> (3) This section does not apply to discrimination in relation to the provision of accommodation if—
>
> *(a)* the person who provides, or proposes to provide, the accommodation, or a near relative of his, resides, and intends to continue to reside, on the premises;
>
> and
>
> *(b)* accommodation is provided on the premises for no more than two persons apart from that person and his family.

In the present Sex Discrimination Act, paragraph *(b)* refers to six persons. I see no reason to reduce the number from six to two and propose that it be retained at six. There is also a consequential problem in relation to sexuality if that provision remains in the Bill.

Discrimination in relation to Superannuation: There are many problems in this area because there has been some, but inadequate, consultation between superannuation fund managers and the Government. The difficulties arise in the areas of sex, marital status and pregnancy. A lot of the substance is to be left to regulation; the provisions will not come into effect in relation to existing funds for a period of two years after a proclamation is made bringing the relevant sections into operation (six months for new funds); the provisions will apply to all funds where a greater number of members (who are still employees) reside in South Australia than in any other single State or Territory. The second reading explanation says in relation to the time delay mechanism:

> There is also the additional advantage of enabling this State closely to monitor developments in the Commonwealth sphere in relation to superannuation matters, which are currently exempted by the Federal Sex Discrimination Act, 1984.
>
> In particular, I understand that the Federal Government intends shortly to refer the whole matter of discrimination in superannuation schemes to the Human Rights Commission. The work of that Commission will be crucial to developments in South Australia, and the manner of implementing the relevant provisions of this Bill should permit adjustments to be made with minimum inconvenience both to those responsible for administering superannuation schemes and to contributors to, or members of, such schemes.

Obviously, superannuation funds should not embody any discriminatory aspects, although distinctions may be drawn between males and females, and able bodied persons and disabled persons, as to benefits based upon age and actuarial experience. But if we are going to control, and make provisions unlawful, Parliament really ought to know the detail of where we are going.

Ideally, clause 39 relating to employer-subsidised schemes ought to be deleted, leaving in the general principle of no discrimination in all other sorts of funds, with amendments to the Act being proposed when the Government and associations have clearer provisions after full consultation and the Human Rights Commission has reported. In any event, insurance and superannuation are subject to Federal legislation and the risk is that unilateral action in South Australia, and that is what could well occur, will create confusion where a scheme extends in any respect across the borders of South Australia.

However, while that is most appropriate, in terms of the responsibility of Parliament, deletion may be misconstrued. There is a real concern on the part of the Liberal Party to ensure equality of opportunity in relation to superannuation funds. So an alternative which would affirm the principle that we do not support discrimination in the provision of superannuation and in the context of superannuation but ensure that Parliament controls what is to be the law is to provide that clause 39 comes into operation two years after a resolution is passed by both Houses of Parliament rather than by proclamation. While that may be unusual, nevertheless it is an appropriate mechanism for ensuring that the detail of any proposals are fully debated by the Parliament before the vague provisions of clause 39 are brought into effect.

There are some other difficulties with the various clauses relating to superannuation as follows:

1. Clause 46 proposes that actuarial data be made available to an assured person by the assurer or the manager of a superannuation fund. That is totally unrealistic. The proponents of such a provision are ignorant of the data which assurers use in calculating benefits and even if it were available to each assured person it would, to a large number, mean little. This is an unwieldy and inappropriate requirement. An alternative is to require that information to be available on request.
2. In calculating benefits or rates of contribution, assurers have regard not only to actuarial data but to a variety of other material which is relevant. This was recognised in both the Sex Discrimination Act, 1975, and the Handicapped Persons Equal Opportunity Act, 1981, but has been excluded from this Bill. That position ought to be restored.

These are only two problems. There are others to which I will refer at the Committee stages in relation to some dif-

ficulties, particularly with medical inspections of pregnant women for insurance purposes.

Sexual harassment: Section 82 of the Bill deals with sexual harassment. Certainly, we want to ensure that sexual harassment is outlawed, and we are conscious of the need to ensure that the provision in the Bill operates justly and fairly. Of course, it is an area where a great deal more education needs to be undertaken and this is where the Equal Opportunities Commissioner has a positive responsibility to work in conjunction with employer groups to heighten the awareness of this problem and to take positive steps to prevent it from occurring. Employer groups, in fact, have suggested a tripartite committee of employer groups, unions and the Government to act in an advisory capacity to the Government and the Commissioner on this educative role and in the operation of the legislation. That is to be commended.

There is a difficulty with the provision in the Bill in that the act of harassment is unlawful *per se* and, therefore, actionable while not necessarily being an act of discrimination. The employer is liable for the acts of an employee in circumstances where the employer may not be able to do more than warn the employee guilty of the harassment, if the act is known to the employer.

The most difficult aspect of the Bill, however, is in relation to the harassment in itself being unlawful and liability not being dependent on any discrimination being established. To some extent that depends on what one defines as 'discrimination'.

Section 28 of the Federal Act refers to the sexual harassment as being conduct which would 'disadvantage the other person in any way in connection with the other person's employment or work or possible employment or possible work'. That is different from 'discrimination' and may be a suitable alternative.

The Liberal Government's proposals in 1982 were to link the sexual harassment to discrimination but I recognise that that may be too narrow in the sense that where a woman is subjected to sexual harassment in employment she may not speak out against it and complain for fear of losing her job altogether. There may be no question about loss of promotion, but only the keeping of her job. In that context she still suffers a disadvantage but is not necessarily discriminated against in the context of the Bill, and that disadvantage in that context should be included in 'discrimination'.

The employer groups (that is, Chamber of Commerce and Industry, Retail Traders Association and Metal Trades Industry Association) suggest that because the Federal and State provisions are to be administered by the State Commissioner for Equal Opportunity it would be appropriate to have identical provisions in both Acts and review the operation in, say, 12 months. I am attracted to that proposal but I would want to ensure that in adopting the Federal provision we ensure that 'disadvantage' in that provision is not limited to 'discrimination' under this Bill. It needs to be wider to ensure that not only is discrimination as defined in the Bill covered where promotion or other benefits are denied but also where an employee, the subject of harassment, fears reprisals or unfavourable treatment in the normal course of employment if she protests or even takes action to prevent such harassment.

The other difficulty with clause 82 is the liability of employers to provide a sexual harassment free workplace. There is no difficulty where the employer is the person who is sexually harassing. Where it is an employee who harasses the onus which is placed on the employer may become a heavy one, and is unclear. I understand that it may be intended only to require the employer to put out a brochure on sexual harassment and the standards expected in his or her workplace to deter such harassment, but if that is all that is intended the clause is not necessarily limited to that course of action and can be construed as placing a heavier onus on the employer. There should be a positive obligation on the employer to take such steps as are reasonable and practicable to ensure a workplace free of sexual harassment, but without imposing a sanction on the employer for a breach of the obligation unless the employer knew of, but took no steps to prevent, sexual harassment.

Intellectual disability: The second report by the Bright Committee on the law and persons with intellectual handicaps focuses on discrimination against intellectually handicapped persons and recommends the establishment of a statutory authority independent of the Health Commission under a Minister who is not, at least in the main, a service provider. That statutory authority was recommended to co-ordinate services for intellectually handicapped persons in South Australia, set standards for care and training and provide those Government services which are not readily provided by other organisations. The report states:

> Its objects should be broad and reflect an emphasis on the dignity and self respect of intellectually handicapped persons and their individual rights to as normal and unrestricted life as possible . . . The proposed statutory authority should be responsible to the Attorney-General, who should have a special responsibility for ensuring the rights of physically and intellectually handicapped persons to a decent life. The needs of such persons are not readily met by a health, welfare or education approach alone and there is a need for a Minister to be able to cut across Ministerial boundaries and maintain a global perspective of those needs. It is hoped that an Attorney-General would bring to such a portfolio a concern for due process and advocacy of individual rights—an approach which tends to be absent from traditional service orientation. This special responsibility of the Attorney-General is a natural progression from his role as Minister for 1981, the International Year of Disabled Persons. There should be a watchdog agency to foster advocacy, to provide an advice and information service for parents of intellectually handicapped persons, to facilitate representation, to criticise services, to make recommendations to the Minister on policy matters and to investigate alleged discrimination on the basis of intellectual impairment. That agency could be a separate agency or the Commissioner of Equal Opportunity.

The Liberal Government followed this recommendation by establishing the Intellectually Disabled Services Council under the South Australian Health Commission Act but with a different structure from that of the usual incorporated body under the Health Commission Act in that it had a greater responsibility for policy development, establishing priorities and making funding proposals with a direct line to the Minister. The Liberal Government envisaged this body assuming the responsibility for all those areas which the Bright Report suggested should be the role and responsibility of a separate statutory authority, particularly in the area of discrimination.

Regrettably, it is not fulfilling that role nor is the Attorney-General undertaking the advocacy and watchdog roles envisaged by the Bright Committee. I give the commitment that on the return of the Liberal Government we will pursue actively mechanisms for ensuring that discrimination against persons with intellectual disability is eliminated and that the Intellectually Disabled Services Council is given the task which we set for it. In the meantime, the Attorney-General should tell us what his Government proposes in response to the requests to include intellectual disability in the Anti Discrimination Bill in a more positive way than it is included now.

Appeals: Clause 94 provides for an appeal to the Supreme Court. Subclause (4) limits the rights of the appellant by providing that the appeal shall not be conducted as a rehearing. That very much limits the right of appeal, and in the circumstances where the Tribunal has power to award unlimited damages and to make wide ranging orders and is not bound by rules of evidence I take very strong exception

to the considerable limitations on the power of the Supreme Court to review the decision taken by the Tribunal. Accordingly, I will be moving amendments which will expand the right of appeal to ensure that justice is done, and that the Supreme Court has the overriding power to supervise it.

There are, as I said at the beginning of this speech, a number of other matters which are, in the context of the Bill, of a relatively minor nature, and I will be addressing remarks on these during the Committee stage. I support the second reading of the Bill.

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

ADJOURNMENT

At 5.17 p.m. the Council adjourned until Wednesday 17 October at 2.15 p.m.