LEGISLATIVE COUNCIL

Tuesday 4 April 1989

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

ASSENT TO BILLS

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

Arthur Hardy Sanctuary (Alteration of Boundary),
Holidays Act Amendment (No. 2),
Motor Vehicles Act Amendment (No. 2),
Stamp Duties Act Amendment,
Superannuation Act Amendment.

DEATH OF SIR ARTHUR RYMILL

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

That the Legislative Council express its deep regret at the death of the Hon. Sir Arthur Rymill, former member of the Legislative Council, and place on record its appreciation of his meritorious public service, and that, as a mark of respect to his memory, the sitting of the Council be suspended until the ringing of the bells.

It is with regret that we note the passing of Sir Arthur Campbell Rymill, an outstanding South Australian. As members would be aware, Sir Arthur was a member of the Legislative Council from 3 March 1956 until 11 July 1975. Arthur Rymill was born at North Adelaide on 8 December 1907. He was educated at Queen's School, St Peter's College and the University of Adelaide. He completed his legal studies in 1928 and was admitted to the South Australian bar in 1930.

Arthur Rymill served with the A.I.F. during World War II. Sir Arthur was Chairman of the Bank of Adelaide from 1952 to 1979; Chairman of Adelaide and Wallaroo Fertilizers Limited; Chairman of Bennett and Fisher Limited; and Chairman of Advertiser Newspapers Limited. He was a director of Australian Mutual Provident Society, South Australian Brewings Holdings Limited, Adelaide Steamship Company, Wills Holdings, Executor Trustee and Agency Company, and other companies.

Sir Arthur was President of the National Trust of South Australia from 1955 to 1960, Vice-President of the Australian Elizabethan Theatre Trust from 1954 to 1963, and Vice-President of the Adelaide Children's Hospital from 1954 to 1963. He was President of the LCL, as it then was, from 1953 to 1955 and a member of the Adelaide Club. Sir Arthur was Lord Mayor of Adelaide from 1950 to 1954 and was knighted in 1954.

In 1934 Arthur Rymill married Margaret Cudmore. Sir Arthur is survived by his widow, Lady Rymill, and two daughters, Mrs Rosemary de Meyrick and Mrs Annabel Caffrey.

Sir Arthur had a long, distinguished and varied career, involving significant contributions to State Government, local government and business. He was a committed South Australian. He was heavily involved in South Australian charities, sports and the arts.

I ask the Legislative Council to join me in extending sincere sympathy to the family of Sir Arthur Rymill.

The Hon. M.B. CAMERON (Leader of the Opposition): In seconding this motion. I wish, on behalf of the Opposition, to express sympathy to Lady Rymill and Sir Arthur's two daughters, Rosemary and Annabel.

Sir Arthur was a member of this Council for 20 years and his service has been well noted by the Attorney-General. I believe there are only two members now present, the Hon. John Burdett and myself, who were members of the Council during the time that Sir Arthur served this Parliament. In that time, one particular facet of Sir Arthur that showed clearly was his commitment to an Upper House, the Legislative Council, and his desire to see it survive as a separate institution of Parliament. He was always very vigorous in his defence of it. He was also President during the changes that took place in terms of the franchise and the way in which this Council was elected.

Sir Arthur had great skill on the violin. Those who were present at what we called prorogation dinners will remember that he often entertained at night after the dinners. I often think it is a pity that we have not continued that tradition, so that I could perhaps entertain people with a similar but perhaps slightly louder instrument.

Sir Arthur was an outstanding South Australian. He played a very large part in ensuring that capital was available for domestic gas supplies to South Australia.

Sir Arthur was an outstanding member of this Council, and I am sure that we all feel sad that he has now passed away. He was always proud of his farm in the Hills and of his ability to raise fat lambs. He used to come in very excited whenever he sold his produce and would let us know how well he had done.

I found Sir Arthur a very helpful member when I first arrived in this Council. I have much pleasure in seconding the motion.

Motion carried by members standing in their places in silence.

[*Sitting suspended from 2.23 p.m. to 2.40 p.m.*]

POLICE COMPLAINTS AUTHORITY

The PRESIDENT laid on the table the report of the Police Complaints Authority, 1987-88.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):
- Motor Fuel Licensing Board—Report, 1988.
- Planning Act 1982: Crown Development Report—Gilles Plains Secure Centre.
- Supreme Court Act 1935—
  - Rules of Court—Supreme Court—
    - Admission Rules.
    - Costs and Interest.
- Regulations under the following Acts:
  - Lottery and Gaming Act 1936—Licences.
  - Metropolitan Taxi-Cab Act 1956—Standby Licences.
  - Road Traffic Act 1961—
    - Reversible Lane Flow (Amendment).
    - Elliston and Stirling Hospitals.
  - Workers Rehabilitation and Compensation Act 1986—Disclosure of Information.
- Roseworthy Agricultural College Act 1973—By-laws—Trespass and Traffic.

By the Attorney-General, on behalf of the Minister of Local Government (Hon. Barbara Wiese):
- Local Government Finance Authority Act 1983—Regulations—
  - Hamley Bridge Memorial Hospital Inc.
  - Lerwin Nursing Home.

Corporation By-laws—
Port Adelaide: No. 4—Garbage Bins.
Port Lincoln: No. 5—Street Hawkers and Traders.
No. 9—Nuisances.
No. 11—Garbage Containers.
No. 13—Keeping of Poultry.
No. 14—Keeping of Bees.
No. 17—Traffic.
No. 18—Parklands.
No. 20—Rubbish Depots.

MINISTERIAL STATEMENT: Mr T.G. CAMERON

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: A series of questions concerning Mr Cameron was asked in April last year and then in February this year by Opposition members, including the Leader of the Opposition in another place, the Deputy Leader of the Opposition, the member for Mitcham, the member for Light and the member for Alexandra, and in this Chamber by the Hon. Mr Cameron, the Hon. Mr Griffin and the Hon. Mr Davis. The Government undertook to have inquiries made and referred the matter to the Commissioner for Consumer Affairs (Mr C. Neave) for investigation.

The Commissioner asked for a report from his officers in respect of these matters and I seek leave, Madam President, to table that report dated 16 March 1989, together with the Commissioner's minute to the Minister of Consumer Affairs of the same date.

Leave granted.

The Hon. C.J. SUMNER: The Commissioner has concluded that based on the advice that he has received from the senior legal officer of the Department of Public and Consumer Affairs and the report made by the officer of the department in charge of the investigation it has not been established that Mr Cameron at any stage contravened the Builders Licensing Act 1967 as alleged. From the evidence, he concludes that building work was carried out for Mr Cameron rather than by him.

The Commissioner also refers to section 26 (3) of the Act. That section provides that proceedings for an offence under the Act may only be commenced within two years after the offence was committed. Accordingly, it is no longer possible to prosecute for any building offence which may have been committed between 1976 and 1983. The report of 16 March 1989 was then referred to the Crown Solicitor for an opinion in respect of the issues raised in the investigation. The Crown Solicitor has advised:

(1) The evidence is not sufficient to justify a prosecution of Mr Cameron for being an unlicensed builder.

(2) That the time limit for bringing a prosecution for being an unlicensed builder covered under section 21 (3) of the Builders Licensing Act 1967 was two years from the date of the offence (section 26 (3) of that Act). That time has now expired. For that reason alone, no prosecution action could now be taken in respect of the allegations.

(3) The evidence would not support a prosecution in that there was no admissible evidence whatsoever that Mr Cameron had made any threats or had conveyed any threats to inspectors of the Builders Licensing Board. There was no record of these matters being reported at the time the threats were allegedly made.

(4) That the time limit for bringing a prosecution in respect of an alleged threat to an inspector, covered under section 22 (2) of the Act, had expired. For that reason alone, no prosecution action could now be taken in respect of the allegation.

(5) That, in respect of other allegations made against Mr Cameron, those allegations either do not involve the criminal law or there is no evidence which would justify any action.

(6) The report raises some suspicion that other persons may have committed offences. However, all these possible offences are now well out of time and the Crown Solicitor does not recommend any further investigation in respect of these possible offences.

MINISTERIAL STATEMENT: NATIONAL SAFETY COUNCIL OF AUSTRALIA

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement about the National Safety Council of Australia and the State Bank.

Leave granted.

The Hon. C.J. SUMNER: On Thursday 23 March 1989, the Victorian Division of the National Safety Council of Australia was placed in receivership following allegations of serious fraud on the part of the Chief Executive of the organisation. The State Bank of South Australia was one of 21 financial institutions which had lent money to the National Safety Council of Australia. The bank's loans are now at risk as a result of the organisation being placed in receivership.

The Chairman of the board and the Managing Director of the State Bank have appropriately responded to questions which have been raised about the bank's commercial dealings with the NSCA. However, I am concerned that statements made by some members opposite suggest that in this case and in general the Government, and in particular the Treasurer, should have the power to control and direct the bank in its operations. This is not provided for in the legislation passed by this Parliament to establish the State Bank. Indeed, such a power would be quite wrong in principle.

The Government has an obligation to maintain the bank's commercial independence in the interests of its clients and the State. In creating the State Bank of South Australia this Parliament guaranteed its independence and gave it broad powers of operation. I would remind members that this principle was previously supported on a bipartisan basis. Indeed, at the time of the establishment of the State Bank the Opposition was insistent that the bank and its director should be free of instruction or conditions. In the words of the Leader of the Opposition, the bank and its board members should be free from 'riding instructions' from the Government.

To give this Government or any future Government the power to direct the bank in lending policies or to look into the files and provide information on the financial affairs of individuals or corporate clients would be quite wrong and would undermine confidence in the bank. The State Bank of South Australia Act is quite explicit in setting out the role of the Treasurer in relation to the administration of the State Bank. Section 14 of the Act gives the board of the State Bank full power to transact any business of the bank. Under section 15 of the Act, the Treasurer's powers extend only to consulting with the board. The same section requires the board only to report to the Treasurer on any proposals the Treasurer may make. It precludes the Treasurer from issuing directions to the board of the State Bank.

In this context, the Premier has asked the board of the bank for an assurance that its lending policies in relation

to the National Safety Council of Australia followed normal banking procedures and that the necessary checks and safeguards were undertaken. As the Premier has previously stated, he has received and accepted that assurance.

Madam President, I remind honourable members that losses on loans are an inevitable part of banking, but as long as the State Bank's procedures follow appropriate banking practice and the performance of the bank remains profitable there is no cause for alarm over individual cases. I point out to all members that the State Bank's management of its loan losses is generally better than other comparable financial institutions.

Last financial year the State Bank group posted an operating profit of $69 million—a 33 per cent increase on the previous year. Its profit in the first six months of this financial year stands at $50 million. The State Bank group's assets are valued at $11 billion and it is the seventh largest banking institution in the nation and one of the most successful. Since it commenced operations in 1984, the State Bank has brought tangible benefits to South Australia through its promotion of development and through the many services it offers South Australians. The Government will continue to support the State Bank in its development of South Australia. I hope that members opposite will join us in doing so and will return to their previous bipartisan support of the principle that the Government should not control the bank's operations.

MINISTERIAL STATEMENT: AGE DISCRIMINATION

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement about age discrimination.

Leave granted.

The Hon. C.J. SUMNER: I give notice to members of the Government's intention to introduce legislation to amend the Equal Opportunity Act 1984 to make discrimination on the basis of age unlawful. Legislation is being drafted in this regard but, because of the complexity of the issue, it will not be ready for introduction in the current session. It is, however, the Government's intention to introduce amending legislation in the August session and to have that legislation in force by the end of the year, thereby giving appropriate protection from discrimination based on age. The Government's action follows a report to the Minister of Employment and Further Education by a task force set up in late 1987 to examine the issue of age discrimination.

The task force was made up of Ms Jo Tiddy, Commissioner for Equal Opportunity; Dr Adam Graycar, Commissioner for the Ageing; and Mr Glen Edwards, Director of the Office of Employment and Training. It found evidence of discrimination, particularly in employment, retirement practices, and the provision of goods and services, accommodation and education. The task force has recommended that legislation be drafted to amend the Equal Opportunity Act 1984 to make such discrimination unlawful.

It has, however, identified issues which will mean that the legislation will differ significantly from the private member's Bill currently before the Council, which the Government has opposed because it contains significant loopholes that would allow perpetuation of barriers which already exist, and because it has not been related to all Government legislation.

A significant difference will be that the Government's legislation will recognise areas where we support age-related provisions, particularly the protection of minors, the legal driving age, the age of consent, and the legal drinking age. Some 158 such age-related provisions are identified in existing legislation, and the Government intends that exemptions will be provided on an initial two year basis but that each administering agency will have to show cause for a continued exemption after that.

The task force has already consulted widely and will now commence talks with groups such as employers, unions, service and accommodation providers in drafting legislation. I look forward to members' cooperation in a speedy consideration of this matter when it comes before the Council.

QUESTIONS

HOSPITAL BUDGETS

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about hospital budgets.

Leave granted.

The Hon. M.B. CAMERON: Members will no doubt have read recent media reports of the difficulties our public hospitals are having staying within budget this financial year. Earlier this year, on a visit to Modbury Hospital, I was told of that hospital's efforts to try to overcome a projected $300 000 deficit. Back in January, I was advised that the Royal Adelaide was struggling to contain a $500 000 overrun, and recent media reports clearly show that that figure was grossly under-estimated by me and the people who contacted me. In fact, the Royal Adelaide Hospital is now battling to contain a $2 million overrun.

In recent days, 28 beds have been closed at the hospital, and the long-term effects can only result in an extension of the already unacceptably high waiting list figures at that hospital. Recently, on a visit to the Queen Elizabeth Hospital, I was advised of that hospital's problems in containing its budget and the possible need to close beds later this week. I understand that that may have now occurred. I was also advised that it urgently needs to spend up to $8 million in order to replace worn-out and ageing equipment. Such information was provided to me by every public hospital in this State.

It is becoming clear to many people that, as a result of continued reductions in real terms funding, many of the State's public hospitals are facing enormous odds in trying to stay within budget. It appears, too, that the situation will only get worse, because South Australia obtained a raw deal from the new Medicare agreement recently signed in Canberra. My questions to the Minister are: will the Minister provide details of the final budget allocations or projected allocations in real terms to 30 June 1989 of Adelaide's major public hospitals? Will he detail which hospitals have, or are in danger of, over-running their budget for 1988-89, the amount of the over-run or the projected over-run for each of the hospitals? In order to come in on budget, what measures are each of the hospitals being asked to take or have they taken, such as ward closures, restrictions on theatre usage, etc?

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

POWER STATIONS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General, as Leader

of the Government in the Council, a question about power stations.

Leave granted.

The Hon. L.H. DAVIS: On page 13 of the *Australian* of Monday 3 April an article noted that the State Energy Commission of Western Australia (which is the equivalent of the Electricity Trust of South Australia) is conducting a nation-wide search for parties interested in building a new power station. The article states:

> The changes bear the hallmarks of the aggressive style of the former Minister for Economic Development and Trade and now the Deputy Premier, Mr Parker. The power station project is one of two power stations being considered.

The article further states:

> It is highly likely that the private sector will be directly involved in both projects in the form of equity participation and what would amount to a big break with tradition.

So, there we have it. A State Labor Government in Western Australia is actively pushing for private sector participation in building at least one new power station.

The annual report of the Electricity Trust of South Australia for the year ended 30 June 1988, tabled just a few months ago, outlines on page 21 future planning for power generation in South Australia, as follows:

> Current plans for meeting increased demand in future years include the following construction program:
>
> 1990—500 MW opportunity interconnection with the eastern States;
>
> 1996—a northern power station 250 MW;
>
> 2001—possible lignite power station, unit 1.

I understand that a new power station requires six to eight years in the planning. My question to the Minister is: following the lead of the Dowling Labor Government in Western Australia, will the Bannon Labor Government encourage or allow the Electricity Trust of South Australia to seek private sector participation in respect of both the northern power station planned for 1996, and the lignite power station planned for 2001? If not, why not?

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

MALVASO CASE

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

Leave granted.

The Hon. K.T. GRIFFIN: The Attorney-General was quoted in the *Advertiser* on Saturday as saying the Full Court's decision in the Malvaso case vindicated the Crown's position. This is not true, because the Crown's appeal to the Full Court was only against the length of the sentence imposed on Malvaso and not the trial judge's decision to suspend the sentence. This point was made clear in the judgment of the Chief Justice when he said:

> The prosecution, consistent with its neutral attitude resulting from its deal with Malvaso, did not make suspension of the sentence a ground of complaint on appeal.

So, rather than vindicate the Crown's position, the judgment in fact raises further serious questions about such deals.

Although the Attorney-General said in a press statement on 16 December last year that criticisms of the Crown making any such deals 'could undermine the Crown's and police's capacity to enter into arrangements which see persons convicted of serious crime', the Chief Justice said last Friday that 'any deal entered into by investigating or prosecuting authorities with an offender can have only a limited impact upon the ultimate decision of the court'. What the Full Court's decision means is that the reliance the Government says it places on such so-called 'plea bargain' deals is far greater than the Full Court is prepared to accept.

If the Attorney-General maintains his views about the importance of these deals as expressed on 16 December he must now be concerned that the Full Court decision will jeopardise future drug investigations. My question to the Attorney-General is: does the Attorney-General believe that the result of the Malvaso case last week will undermine the capacity of the police and the National Crime Authority to enter into so-called plea bargain arrangements to deal with serious drug crimes, as has been suggested by him and, if so, what action does the Government intend to take?

The Hon. C.J. SUMNER: The answer is 'No'. The reality is that the decision of the Full Supreme Court in this matter has completely vindicated the Crown position and the Crown's conduct of this case. It has also completely put paid to the criticisms, particularly those that emanated from the Hon. Mr Griffin, who attempted for a long time to undermine the Crown's efforts in this matter.

The honourable member has continually criticised and attempted to undermine the Crown and the Attorney-General in this matter. They were your tactics during all of last year, as you well know. In particular, they were your tactics towards the end of last year. You were attempting to criticise the Crown and the Attorney-General in this matter, not by a direct allegation, but by smear, innuendo and rumour mongering.

The Hon. K.T. Griffin: That is a lie.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I know what you and the Leader of the Opposition in another place were up to, and you know what you were up to. You were up to an attempt to smear the Attorney-General.

The Hon. K.T. Griffin: That's a lie.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: You engaged in rumour. Ask the media.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order! I ask the Hon. Mr Griffin to withdraw the unparliamentary language which I heard clearly as part of his interjections.

The Hon. K.T. GRIFFIN: I will not withdraw it, Madam. It is false, and I will seek leave to make a personal explanation at the end of the Attorney-General's response. I will withdraw the words 'it is a lie', but I assert that it is false.

Members interjecting:

The PRESIDENT: There is a long parliamentary tradition that the word 'lie' is regarded as unparliamentary.

The Hon. C.J. SUMNER: The reality, whatever the Hon. Mr Griffin says, is that he has been critical of the Crown's conduct in this case.

The Hon. K.T. Griffin: I was being critical of you.

The Hon. C.J. SUMNER: Why? Why have you been critical of me? Tell me!

The Hon. K.T. Griffin: I was critical of you because we wanted to get the facts.

The Hon. C.J. SUMNER: You cannot answer.

The Hon. K.T. Griffin: You wouldn't answer the questions.

The Hon. C.J. SUMNER: I answered all the questions.

The Hon. K.T. Griffin: No, you didn't.

The Hon. C.J. SUMNER: Why were you being critical of me? What have I done wrong in this matter?

The Hon. K.T. Griffin: Because you wouldn't answer the questions.

The Hon. C.J. SUMNER: What questions?

The Hon. K.T. Griffin: We will talk about that later.

The Hon. C.J. SUMNER: The honourable member has obviously been caught. He is now suggesting that he was critical of me. I want to know why he was critical of me in this matter. We are now getting to the truth.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That is rubbish. I answered questions about the matter at every point involved in the case. For you to suggest that I didn't is, you know, playing with the truth. The Hon. Mr Griffin now says—I can't work out what it is exactly—that he is not critical of the Crown in this matter. Is that the position?

The Hon. K.T. Griffin: I am critical of you.

The Hon. C.J. SUMNER: The Hon. Mr Griffin has answered and said that he is critical of me because I wouldn't answer. I ask him why he is critical of me, but he has no answer to that question.

The Hon. K.T. Griffin: Well, you haven't answered the questions.

The Hon. C.J. SUMNER: I have answered the questions in the Parliament. I have answered all the questions frankly. At one stage I challenged the honourable member to a debate, and he would not come near me. He knows that.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I was quite happy to go on State-wide television with you, the Hon. Mr Olsen, or anyone else.

The PRESIDENT: Order! I ask the Attorney to address his remarks through the Chair.

The Hon. C.J. SUMNER: I asked the Hon. Mr Griffin and the Hon. Mr Olsen to appear on television with me, where they could have debated all these allegations, and where they could have—had they wanted to—put up or shut up on any criticisms of my behaviour in this matter. The reality is that they could not put up. They put nothing up, yet he still comes into this Chamber—and this is the astonishing thing about it—saying that he is critical of me in this matter. That is astonishing. He still has not got one skerrick of evidence to suggest any room for criticism. Throughout this matter, the Hon. Mr Griffin has attempted to undermine the position of the Attorney-General. That is clear. Also, he has been critical—and is on the record as being critical—of the Crown's decision in the matter. When the initial judgment came out from Justice Olsson, you were on television. You gave a press conference, in which you bucketed the Crown. I saw it.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I saw it. You were critical of the Crown having entered into a so-called deal with Malvaso to get the tape.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: You were critical.

The PRESIDENT: I would ask the Attorney-General to address his remarks through the Chair—

The Hon. K.T. Griffin: He is very sensitive about it.

The PRESIDENT: —and I ask the Hon. Mr Griffin to cease interjecting.

The Hon. C.J. SUMNER: What I am sensitive about is the Hon. Mr Griffin's continuing the tactics that he started in this matter last year. Those tactics involved the Hon. Mr Griffin, Mr Olsen and most members opposite who were involved in the conspiracy undermining, or attempting to undermine, the position of Attorney-General in this State—with absolutely not one skerrick of evidence to do so. He now comes in and says that he was not critical of the Crown's decision in relation to the Moyse case. Clearly, when the Olsson judgment came out, he had down there in the court a runner who sprinted back to him with the decision, and he held immediately a press conference in which he criticised the Crown decision.

They are the facts. What I am now saying to him, and what is also clear, is that the Crown's behaviour in this matter has been completely vindicated by the decision of the Full Supreme Court, and the rumour mongering and scurrilous smears that were being perpetrated by the Hon. Mr Griffin about my role in this matter have been shown for what they were—absolutely false, unsubstantiated, and designed to undermine the position of Attorney-General and me personally in this State.

The reality is that Mr David QC had the conduct of that prosecution. He recommended to me that the Crown should stand mute on the question of sentence with respect to Malvaso if Malvaso handed over the tape he had of a conversation between Moyse and Mr X, and that was agreed to. Whether, that was decisive or not, one obviously cannot say, but Mr David considered that to be vital evidence in the case against Moyse and, of course, after that was produced Moyse pleaded guilty. I believe that the Crown authorities deserve to be congratulated for their handling of the matter because it meant that a crook policeman—Moyse—was put behind bars for 20 years. The Hon. Mr Griffin's criticism obviously implies that he would not have done the deal; he would have run the risk that Moyse would get off.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Why are you critical, then? Why are you not congratulating the Crown for the result? If you had any gumption, you would come out and congratulate Mr David, Mr Smith, Mr Rofe and the Solicitor-General (Mr Doyle), the people who advised me in this matter. The reality is that, with respect to all the decisions taken in this case, I acted on the advice of either the independent prosecutor handling the case before the court (Mr David) or the Crown Law officers in the form of the Crown Prosecutor or the Solicitor-General. That is what occurred with respect to the appeal. The decision in the Malvaso case was appealed, and the terms of the appeal were agreed on the advice that I received from the Crown Law officers.

So, as I have said, the answer to the honourable member's question is 'No'. Clearly, there still can be discussions between prosecution and defence about particular issues. It is also clear, however, that the ultimate decision in relation to sentence rests with the court. It is also clear in this case, as the Chief Justice's judgment makes abundantly plain, that the Crown's only undertaking in relation to this matter was to stand mute at the sentencing stage, and that is what it did. For that reason, the vital evidence that was needed in the case against Moyse was obtained.

I repeat that the Supreme Court's decision vindicates the Crown's position. I believe that the Crown officers involved deserve to be congratulated, and that the criticism that has been made of Mr David QC for his handling of this matter should now be withdrawn by the Opposition and that the Opposition should now recognise that the end result of this saga has been exceptionally good as far as law enforcement and the public interest in this State are concerned.

UNDERGROUND WATER

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Water Resources, a question about South-East groundwater.

Leave granted.

The Hon. M.J. ELLIOTT: There has been for some time concern about the quality of the underground water in the South-East. In particular, it is already known that the levels of nitrates in the underground water are well above World Health Organisation standards in certain places. There are, in fact, two aquifers in the South-East: one is an unconfined aquifer into which rainwater can penetrate immediately and carry substances. There is a second, deeper aquifer which gets its water from outside the State (perhaps from as far away as the Grampians) and is not subject to localised pollution. Maps have been prepared showing nitrates, E.coli and similar organisms, but the maps are not highly accurate because not nearly sufficient drill holes have been put down at this time.

I understand that the Mount Gambier town supply is at this stage still considered below World Health Organisation standards, that is, safe, although it is heavily chlorinated—probably more than most people would expect from looking at the clarity of the water. Mount Gambier water has both aquifers entering the lake, so there is a blending. Apparently enough of the lower aquifer gets in to guarantee that the water is considered safe at this time, although there are moving in the general direction of the lake large plumes of underground water which could be a cause for concern some time in the future.

The concern about the unconfined aquifer is, first, that any farmers who draw their water supplies from that aquifer would be at immediate risk, because they could be getting their total supply from there. There is also concern about what may find its way into the lake in future. As an example, the Woods and Forests Department has at the moment 100 tonnes of copper chrome arsenate sludge which it is not quite sure what to do with. One recommendation, which I cannot repeat at this stage, was, in fact, highly dangerous and of concern. There is also the risk of insecticides, oils or any other of a number of substances which could be spilt and penetrate that aquifer.

I ask the Minister the following questions: first, what testing has been done for substances other than nitrates and bacteria? Secondly, will the Government release all the reports that it has on these matters at this time? Thirdly, what work is planned over what time scale to examine other possible pollution besides nitrates and bacteria?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

SENTENCE APPEAL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about an appeal against sentence.

Leave granted.

The Hon. DIANA LAIDLAW: On 8 March last I asked the Attorney-General whether he would consider lodging an appeal against the sentence handed down the previous day in the Children's Court in relation to a 15-year-old youth convicted of causing death by dangerous driving. The youth had received a nine month gaol sentence with a five year disqualification of licence. He had previous convictions and, at the time of the evening hit and run incident, was the subject of a bail agreement which required him to abide by a strict curfew to operate daily between the hours of 8 p.m. and 9 a.m. The car he had been driving at the time was a stolen vehicle which he subsequently set alight.

I understand that if an appeal is to be lodged the Attorney-General would be required to do so within 28 days of the sentence being determined. That 28 days is up today, yet I understand that no move has been made by the Attorney-General to appeal this matter. Will the Attorney explain why no appeal has been lodged in this case (of course, he would recognise that there have been widespread calls for such an appeal to be lodged, not only from me in this place)? Secondly, will the Attorney also explain why he earlier rejected an application by the police, based on their assessment of the gravity of the youth's actions, that the charges against the youth be heard in an adult court and not the Children's Court?

Thirdly, since the 28 days has elapsed with no appeal being lodged, as I understand, will the Attorney-General require the Crown Solicitor or Crown Prosecutor to return the file to the police, who, I understand, wish to assess the potential to charge the youth's stepmother with being an accessory after the fact?

The Hon. C.J. SUMNER: I have dealt with this matter. I understand that a reply is on its way to the honourable member and that the family members have been or should be notified shortly of the decision in this matter.

The Crown Prosecutor's clear advice was that an appeal would not be successful. The individual concerned was a juvenile and he was given a custodial sentence of nine months. Taking into account all the circumstances and the fact that there was a custodial sentence, the Crown Prosecutor's clear advice was that an appeal would not be successful.

The question whether the matter should have been dealt with in the adult court is not for the police. The police refer files to me for consideration of this particular issue on a regular basis. The police files in this matter are assessed by the Crown Prosecutor, who makes a recommendation to me whether an application should be made for a case to be conducted in the adult court. Again, the Crown Prosecutor's clear advice was that this was not a case in which such an application would be successful. Therefore, no such application was made.

My recollection is that that decision was taken by an acting Attorney-General at the time that I was away, but that is not of any great significance. The reality is that the Crown Prosecutor must assess these matters and make recommendations. He did that. In any event, it would only have meant a trial in an adult court, and the sentencing procedure, given the youth of this person, would still have been in accordance with the Children's Protection and Young Offenders Act. The matter has been referred to me, and the Crown Prosecutor's clear advice was that an appeal would not be justified and no appeal would be lodged.

The Hon. Diana Laidlaw: Virtually it is a licence to do anything you like.

The Hon. C.J. SUMNER: The honourable member interjects. It is not a licence to do what you like. The reality—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: I understand that the charge was causing death by dangerous driving. The youth was 15 and a custodial sentence was awarded. The honourable member will know that it is not in every case of causing death by dangerous driving that a custodial sentence is imposed, despite the fact that the Government promoted amendments to the legislation in this regard, with respect to adults at any rate, which increased the penalties significantly for causing death or bodily injury by dangerous driving. Those penalties were increased by Parliament, and in appropriate cases custodial sentences are imposed by the court. However, it is by no means certain that in every case of causing death by dangerous driving a custodial sentence will be imposed. In this particular case a custodial sen-

tence—imprisonment or detention—was imposed, so there is a custodial sentence in this matter.

One can argue whether it is adequate or not. The maximum under the Children's Protection and Young Offenders Act is two years. In this case a custodial sentence was imposed by the court. My advice clearly was that an appeal would not be successful and that is the decision that has been taken.

HYPERBARIC UNIT

The Hon. R.J. RITSON: I seek leave to make a brief explanation before directing a question to the Minister representing the Minister of Health on the subject of the National Safety Council's hyperbaric unit at the Royal Adelaide Hospital.

Leave granted.

The Hon. R.J. RITSON: In 1984, following some lobbying by myself on behalf of police, commercial and recreational divers, the Government announced its commitment for adequate recompression facilities at the Royal Adelaide Hospital. In fact, I was a member of the ministerial advisory committee which started to plan those services, and I played a part in the recruitment of the director of the hyperbaric unit at the RAH, Lieutenant Commander Des Gorman, who left the Royal Australian Navy to take over the unit.

The South Australian Government leased the chamber for $25 000 a year from the National Safety Council (Victorian Division) with a merchant banker holding security over the chamber. The hospital has since substantially upgraded the chamber with expensive medical monitoring equipment of its own. The NSC, with extraordinary generosity, paid the salaries of Dr Gorman and two chamber operator technicians and a clerical assistant.

This unit has become vital to the health of many South Australians. In 1988, approximately 500 divers were examined and 80 diver treatments and 1 200 medical treatments were carried out. In particular, developmental work on the treatment of burns has reduced the death rate of a certain class of burn from 20 per cent to 4 per cent.

Since the collapse of the NSC, the Royal Adelaide Hospital has agreed to employ its director and the two chamber operators, but not the clerical assistant, on a three-month contract until the end of the financial year. The point of extreme concern is that there is no assurance that that arrangement will continue. These people are extremely highly qualified. The director is consultant to Gulf State Oil Wells and Holland Commercial Diving Operations and he is a consultant in the Far East. He is eminently employable at the drop of a hat.

There is a world shortage of operators in these areas. They are vital to oil wells and other major industrial projects. I do not know of their intentions, because I have not spoken to them, but I have heard on the grapevine and from people who are concerned that they would be surprised if these people could be retained in South Australia on a three-month contract.

The consequences of the loss of this unit would go far beyond the consequences to the sick people who are treated in it. For example, under present industrial safety and health laws, upgraded by this Government, the Star Force divers would be unable to operate without the legally required back-up. The abalone industry would also be in difficulty. The maintenance divers for the Marine and Harbors Department would be unable to operate legally without this back-up.

The Government has an urgent and important obligation to ensure that this service continues. The service is threatened whilst these experts are retained on a three-month contract within the budget of the Royal Adelaide Hospital.

Will the Minister give an immediate assurance that the present team running the hyperbaric unit will be taken on to the Government's payroll? The Government really had a freebie for years. It basked in the generosity of the National Safety Council. As we know, that generosity was excessive and the music had to stop.

Will the Minister ensure the employment by the Government of those people in the hyperbaric unit and will it ensure a budget line so that the Royal Adelaide Hospital does not have to absorb the extra expense within its own budget, but ensure separate additional provision for the continuation of that unit?

The Hon. C.J. SUMNER: That matter must be considered by the Minister of Health. He has secured a position in light of the uncertainty created by the National Safety Council collapse. I cannot be more specific. The whole matter will be considered, presumably before the budget is drawn up, and decisions will be made.

SURGICAL WAITING LISTS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General representing the Minister of Health a question on surgical waiting lists.

Leave granted.

The Hon. J.C. BURDETT: The Government has stated that it has a computerised system for collating hospital waiting lists, with the former Minister of Health, Dr Cornwall, telling the Parliament in October 1987 that this system would allow figures to be made public every six months. Despite this, the most recent waiting list figures do not go beyond July 1988—they are more than nine months old. In that time the Opposition has been informed that the Royal Adelaide Hospital waiting list now includes 2 133 people—a 41 per cent rise on the latest publicly available figures.

The Modbury Hospital list at the end of November was 710—an increase of 16 per cent in just four months. How many people were on surgical waiting lists for Adelaide public hospitals at the end of March 1989 and how many contained in that total have been waiting longer than three months, six months, 12 months, 18 months, two years and three years for surgery?

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

ROYAL ADELAIDE HOSPITAL

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Health, a question on the Royal Adelaide Hospital.

Leave granted.

The Hon. J.C. IRWIN: An article in the latest issue of the publication *Australian Dr Weekly* refers to the activities of a company called Aushealth, which is involved in attracting wealthy patients from Asian countries to Adelaide for medical treatment and surgery. The article states that Aushealth hopes to complete 50 operations for heart, eye, plastic and neurosurgery this year, with patients attending the Royal Adelaide, Flinders Medical Centre and Calvary Hospital.

Last July, when the former Minister of Health announced the Government's intentions to sell South Australia's medical capabilities to wealthy people from Asia, he said that South Australians would not be disadvantaged because there was no waiting time for the services they were seeking. However, the Opposition has received representations from people who have been waiting up to two years for orthopaedic surgery, and others who have been waiting some months for heart bypass surgery—a problem which will be made worse by the bed closures at the Royal Adelaide.

Following the closure of half the orthopaedic ward Q3 at the Royal Adelaide Hospital and half of the high dependency ward S4 with a loss of 28 beds, does the Government intend to reassess its policy of attracting patients from other countries for treatment at the Royal Adelaide? How many overseas patients have so far received treatment since this scheme was implemented last year and are any further patients to be treated while those beds are closed and public patients are waiting, in some cases up to two years, for elective surgery at the hospital?

The Hon. C.J. SUMNER: I will refer the honourable member's question to my colleague and bring back a reply.

ETHNIC ORGANISATIONS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question on funding cuts to ethnic organisations.

Leave granted.

The Hon. J.F. STEFANI: Recently, I received correspondence from Ethnic Broadcasters and information from the Multicultural Arts Trust on the question of funding descrimination against them. Station EBI has been refused funding from the Department of the Arts because it managed to raise funds for the cost of future equipment through a public appeal, which the Minister launched, and because through the generosity of its listeners it has been able to build and own its premises freehold. On 12 December 1988 the Premier and Minister for the Arts announced that $20 000 had been allocated to Station 5UV, which is a public broadcaster and its licence is held by the Adelaide University. The building that it occupies is also owned by the Adelaide University.

I further refer to the funding commitment which the Premier, through the Department of the Arts, had made when the Multicultural Arts Trust was established. The Arts Department was to provide a grant of $20 000 for 1987-88 and another $20 000 was to be made available for 1988-89. To date, the amount received by the Multicultural Arts Trust is only $27 000, yet the trust itself has raised more than $500 000 to promote and stage a number of most successful activities, including the Multicultural Arts Festival. Members of the ethnic community are thoroughly upset at the shabby treatment that they have been receiving from the Government and have expressed their concerns, and I quote 'as to what is happening behind the scenes.' My questions to the Minister are:

1. Will the Minister ensure that the Premier and Treasurer keeps his commitment as the Minister for the Arts and allocates the amount of $13 000 still owing to the Multicultural Arts Trust?

2. Will the Minister investigate and report to this Chamber the method of assessment and criteria adopted by the Public Radio Advisory Committee when they deal with grant applications?

The Hon. C.J. SUMNER: An important point to note is that the ethnic communities are certainly not receiving shabby treatment from this Government. I have reiterated on numerous occasions in this place, and it may not be necessary to do it again although one sometimes wonders whether it has entered into the thinking of the Hon. Mr Stefani, that the reality is that in his Party there is no such thing as multiculturalism any more and that policy is being espoused quite openly.

The Hon. J.F. Stefani: We are talking about money—answer the question. You cannot answer the question.

The Hon. C.J. SUMNER: You come in here, but you should get your own house in order.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: You ought to get your own house in order.

The PRESIDENT: Order! I ask the Attorney-General to address his comments through the Chair and I ask the Hon. Mr Stefani to cease interjecting as he has asked his question.

The Hon. C.J. SUMNER: Members opposite must get their act together on multiculturalism and ethnic issues. The reality is that the Federal Opposition, the Federal Liberal Party through Mr Howard, has jettisoned the issue. The policy has been dumped. The Hon. Mr Stefani is critical of State Government funding decisions, yet he only has to examine his own Federal Party's platform. If a Liberal Government were to be elected at the Federal level there would be a holocaust as far as funding is concerned in this area, as his Party has quite openly espoused and stated that there ought not to be funding for multiculturalists.

The Hon. J.F. Stefani: That's not true.

The Hon. C.J. SUMNER: Well, it is true—you read the policy. There might be some funding for specific purposes, but as a concept multiculturalism is written out of the policy. If you read it you will see that Mr Howard did so deliberately. I think that you ought to get that straight and get your own house in order.

With respect to the commitment to the Multicultural Arts Trust, at the time of its inception the Government made a considerable commitment—that is the reality. A significant commitment was made by both the Ethnic Affairs Commission and the Department for the Arts. Rather than coming into the Chamber and being critical about it, one would have anticipated that the Hon. Mr Stefani might have congratulated the Government for supporting this initiative. But no, he insists on being critical. The reality is that a commitment was made by the Government to enable the trust to get under way. I will refer the details of the honourable member's question on that point to the Minister for the Arts and bring back a reply.

With respect to ethnic broadcasters, as the honourable member knows an advisory committee advises the Government about grants to public broadcasters. Again, he has asked specific questions with respect to the criteria for funding in that area. I have been involved with EBI since 1975 in various respects, and I can say that there has been significant governmental support by both the Federal Government—now through SBS—and at critical times by the State Government. At those times the State Government supported ethnic broadcasters in this State, although broadcasting is generally considered to be a Federal responsibility.

On a number of occasions—and I believe at critical times—the State Government has stepped in to ensure that EBI was able to continue as a viable broadcasting body. I acknowledge that EBI is one of the success stories of ethnic minority community activity in this State—it has done an exceptionally fine job. I will bring back replies to the questions asked by the honourable member about the criteria for grants relating to public broadcasting.

RURAL ASSISTANCE BRANCH

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General a question about the investment of Rural Assistance Branch funds.

Leave granted.

The Hon. PETER DUNN: Following the drought in 1977, considerable funds were lent under the Federal-State agreement to the State of South Australia for the assistance of those persons who required farm build-up assistance. I understand that this agreement was for a period of approximately 30 years which, it is reasonable to assume, would terminate in the year 2007. Most of the funds lent to the rural community have been paid back. I believe it is also reasonable to assume that the Rural Assistance Branch holds those funds today. So, my question is: how much of the rural assistance funds lent under this agreement have been invested in SAFA or any other organisation within or outside this State?

The Hon. C.J. SUMNER: I will take that question on notice, seek the information and bring back a reply.

REPLIES TO QUESTIONS

The Hon. C.J. SUMNER: I seek leave to have the following answers to questions inserted in *Hansard.*

Leave granted.

WAR CRIMES

In reply to the **Hon. J.F. STEFANI** (8 November 1988).

The Hon. C.J. SUMNER: The Commonwealth Government established a Special Investigations Unit which has been in operation since May 1987. Under the direction of Mr R.F. Greenwood QC, the unit has responsibility for investigating allegations that persons who are now citizens or residents of Australia committed serious crimes in the course of World War II. Mr Greenwood, on 23 July 1987, brought to my attention the establishment of the unit and the fact that a number of residents of South Australia would be the subject of investigations by the unit. I understand that since then a number of inquiries have been carried out in South Australia by officers of the unit under Mr Greenwood's direction. Those inquiries have been of a preliminary nature in respect of possible breaches of the Commonwealth War Crimes Act, which was passed by Parliament on 21 December 1988.

I am advised that, following coming into force of the Act, investigations by the unit will continue beyond the preliminary stage and will involve, where appropriate, interviews of persons against whom allegations have been made. I am further advised that the inquiries that have been carried out, and the inquiries proposed, have been and will be appropriate in the circumstances and carried out in a fit and proper manner. In respect of the references to inquiries made 'by officers from the Federal Department of Social Security' I am also informed that such inquiries have certainly not been conducted on behalf of the unit.

EQUITICORP INTERNATIONAL GROUP

In reply to the **Hon. J.F. STEFANI** (14 February).

The Hon. C.J. SUMNER: The Premier has provided the following answer:

In accordance with standard banking practice, full details of the commercial dealings of the State Bank with an individual client cannot be made available. However, I am advised that it is possible to say that the amount at risk is considerably less than the $100 million which has been quoted in the press. It is relevant also that the bank's directors and external auditors consider that the bank's provisions against bad debts are sufficient to cover any losses which may occur. Whether such losses materialise is a matter yet to be determined.

CONTRACT INTERPRETER SERVICE

In reply to the **Hon. J.F. STEFANI** (23 February).

The Hon. C.J. SUMNER: The replies are as follows:

1. The status of contract interpreters with regard to workers compensation insurance is that at present they are covered under the State Government Workers Compensation Scheme on persons employed by the Department of Public and Consumer Affairs.

2. An agreement for engagement of casual interpreters and translators is being prepared jointly by the Department of Personnel and Industrial Relations, Crown Law Office and the South Australian Ethnic Affairs Commission. Until the agreement is finalised, the commission has been advised by the Department of Personnel and Industrial Relations not to enter into contract with any new casual interpreters. It is hoped that the new agreement will be finalised before the end of the financial year. Persons who have applied to join the casual interpreter and translators panel have been informed in writing that they will be considered as soon as possible.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

In light of the fact that this matter has been dealt with in another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill is concerned with a number of measures which are designed to improve the ability of the Industrial Commission to regulate the conditions of employment of the workforce and to facilitate the general operation of the Act.

In particular this Bill provides for the expansion in the jurisdiction of the Industrial Commission to settle collective disputes of an industrial nature involving so-called independent contractors. This general issue has been raised on previous occasions before this Parliament. However, the approach adopted in this Bill is significantly different, in that emphasis has been placed on only intervening in the contractual relationships between the contracting parties where it is clearly in the public interest to do so. Specifically the Bill provides for the commission to intervene where there is a dispute or a threatened dispute involving a number of contractors that is akin to an industrial dispute and where it is in the public interest that the commission intervene. In addition, under the new Division IV it is proposed that the commission will also be empowered to amend or void grossly unfair contracts that exploit individuals who are vulnerable because of their lack of bargaining power.

At present there are only restricted avenues available to resolve disputes involving such sole contractors. The general

inquiry power under section 25 *(b)* of the Act has been used on past occasions in relation to collective disputes involving a number of sole contractors. However, that power was not designed for the purpose of settling such collective disputes and can only be activated with considerable delay. As a mechanism it is also quite inappropriate for the resolution of disputes involving individual unfair contracts for service that are essentially of a labour only nature and which are grossly unfair. At present the Industrial Commission and the Department of Labour inspectorate are powerless to intervene in such individual contractual situations even though they are clearly of an industrial nature and involve gross exploitation. The exploitation of minors under such contractual relationships is a particular area of concern which the proposed provision seeks to remedy.

Under the Bill a new Division IV is proposed which will enable the commission to call a voluntary or a compulsory conference of disputing parties where the delivery of goods or services is threatened within an industry. An example of where this power would have been of use is in relation to disputes involving owner drivers in the ready mixed concrete industry. This industry has in the past been the scene of a number of protracted disputes which have seriously dislocated the building industry. In the most recent dispute, in late 1985, major building work was held up and thousands of building workers were under threat of being stood down as a result of a three week dispute involving owner drivers and the ready mixed concrete companies. Disputes in this industry have in the past been settled by the Industrial Commission but only after protracted stoppages have forced the parties as a measure of last resort to seek the commission's assistance.

The provisions contained in this Bill accordingly formalise what is already to some degree occurring in practice. Importantly, the provisions contained under this Bill will enable the commission to intervene at an early stage in a collective dispute and attempt to resolve the issues by conciliation. The commission would be specifically empowered to make recommendations in settlement of such collective disputes. It is expected that such recommendations would have suasive value without the need for formal orders to be handed down binding the parties to observe the conditions of settlement.

The proposed provisions would thus operate in a discretionary way and would only apply where the contractual relationships had broken down and a dispute of an industrial nature had occurred or was threatened. This expanded jurisdiction will only apply in relation to collective disputes involving contractors who are essentially sole operators and who are engaged on a basis little removed from the relationship that exists between an employer and employee. The provisions are thus not only discretionary in operation but are restricted in application to a certain class of sole contractor and are totally directed to settling collective disputes that threaten the flow of goods and services to the community.

The Bill also contains provisions which will enable the Industrial Commission for the first time to regulate the employment condition of all outworkers.

As the current Act stands outworkers who are engaged on a contract for services basis fall outside the jurisdiction of the Industrial Commission. The case for the regulation of their conditions of employment is a compelling one. As a group outworkers are particularly vulnerable to exploitation given their social isolation, their often migrant non-English speaking background and their lack of protection under the current industrial law.

Examples of exploitation abound, including the non-payment for work completed, extremely low pay for long hours of work and lack of compensation for costs incurred. Without legislative change of the nature proposed in this Bill no avenue of satisfactory redress exists for these workers.

The provisions contained in the Bill relating to outworkers are purposely broad. The proposed provisions seek to provide the commission with a general jurisdiction to cover outworkers. The actual setting of employment conditions and/or the coverage of particular classes of outworkers would, however, only follow the formal hearing of appropriate award applications before the commission and a proper consideration of the merits of each case. As a further safeguard a provision is contained in the Bill which would enable certain classes of outworkers to be excluded by regulation from the commission's jurisdiction, where that was considered appropriate.

In addition to these various provisions that are designed to enlarge the basic jurisdiction of the Industrial Commission the Bill contains various other provisions which seek to improve the operation of the current Act.

In line with the Federal Industrial Relations Act the Bill proposes that workers who have been underpaid by their employers can claim up to six years backpay in lieu of the limitation of three years under the current Act. It should be pointed out that this remedy is currently available to workers through the civil courts but is rarely availed of because of the costly nature of such a recovery process. The central point that needs to be emphasised in support of this change is that workers cannot avail themselves of these provisions unless they have been underpaid and in that sense even six years is a limitation on their rights.

A provision is contained in this Bill which would enable the Industrial Court to award a penalty on moneys owing to a worker who has been underpaid where the employer concerned had no reasonable grounds to dispute the claim for underpayment and should not have put the worker to the trouble and cost of pursuing a recovery action through the Industrial Court. This provision is designed to act as a deterrent against that small minority of employers who refuse to meet their obligations even in the face of clear evidence that they have underpaid a worker. These extra penalties would not apply where there was any reasonable doubt about the appropriate rate to be paid. To assist in the settlement of industrial disputes by encouraging the direct parties involved to keep technical legal points to a minimum the Bill seeks to place restrictions on the parties' rights of representation by legal practitioners.

This restriction only applies to those conferences called under the Act where the commission seeks to use its powers of conciliation to settle disputes and will not apply once a formal hearing has commenced.

To facilitate the policing of awards by Department of Labour inspectors a provision is contained in the Bill that would enable inspectors to require employers to undertake the detailed calculations of award wage underpayments.

Without this power and in the absence of employer cooperation, inspectors of the Department of Labour are forced to undertake these time consuming calculations and this can and has placed a heavy workload on scarce departmental resources.

It is considered a much more efficient use of departmental resources for the employer to undertake this work, once the fact of an underpayment has been acknowledged by the employer or has been confirmed on a review by the Industrial Court and for the inspector to then check that the work has been properly carried out. To a great degree this procedure is already standard practice but legislative support

for this approach is required to put its legality beyond doubt and to enable inspectors to enforce employer compliance in those few cases where this might prove necessary.

A further provision of the Bill seeks to enable workers on long service leave to avail themselves of their accrued sick leave entitlements should they be incapacitated by a serious illness lasting more than seven calendar days. Currently sick leave can be utilised if a worker falls sick on annual leave but not on long service leave.

Such a provision would not add to the total costs of sick leave as any sick leave taken on long service leave would simply reduce outstanding credits available to cover future periods of sickness.

Importantly, access to sick leave credits on the basis proposed would enable accrued long service leave to be used for the purpose it was intended for. The other proposed amendments to section 80 contained in the Bill seek to clarify existing entitlements.

The Bill seeks to amend section 153 to enable consent agreements reached on the payment of wages in non-cash forms as part of the 4 per cent second tier wage round or other wage negotiations to be given proper legal recognition. Currently such agreements do not have a proper legal standing and the amendment seeks to ensure that such agreements are binding.

The Bill seeks to remedy problems that have arisen in isolated instances in the past where certain employers, who have been found to have underpaid their workers by the Industrial Court or who have been ordered to pay compensation under section 31, have been tardy in paying the amounts involved.

To act as a deterrent against these delays in payment by this small minority of employers the Bill proposes an amendment to section 154 to provide for the payment of penalty interest where such delays occur.

Other amendments contained in the Bill are of a technical nature or seek to align certain provisions contained under the State Act with those contained under the Federal Industrial Relations Act. In particular the amendments relating to the protection of unionists against discriminatory acts by their employers has been based on similar provisions under the Federal Industrial Relations Act and are directed to the tightening up of existing provisions under the current Act which already provide for some, albeit inadequate, measure of protection.

In conclusion, this Bill is primarily concerned with matters relating to the extension of the State Industrial Commission's jurisdiction to settle industrial disputes in the public interest and to prevent the exploitation of certain vulnerable sections of the workforce.

The Bill contains a number of important social reforms and I accordingly commend it to the House and seek leave to insert into *Hansard* the Parliamentary Counsel's detailed explanations of its clauses.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides for several amendments to the definitions used in the principal Act. The definition of 'employee' is to be altered to include 'outworkers' (see clause 4); the definition of 'industrial matter' is to be altered to recast paragraphs *(d)*, *(e)* and *(f)*; and a new subsection is to be included to ensure that for the purposes of the Act, the performance of work includes the provision of services.

Clause 4 relates to outworkers. Under the new provisions, an outworker will be a person who, for the purposes of a trade or business of another, performs certain work in, about or from a private residence, or in, about or from some other prescribed premises (not being business or commercial premises). In addition, the definition will extend to situations where a person is working for a body corporate in circumstances similar to those described above, or is engaged or employed to organise outworkers or to distribute work to, or collect work from, outworkers. It is proposed that Part VI of the Act, and any relevant award or industrial agreement, will only apply to outworkers who are brought under the operation of the Act by virtue of the new provisions to such extent as may be determined by award or industrial agreement made after the commencement of the new section.

Clause 5 amends section 15 of the principal Act in two respects. The time within which a claim or application may be made under section 15 (1) *(d)* is to be extended to six years. It is also proposed to include a new subsection that will enable the court in proceedings under section 15 (1) *(d)* to impose a penalty in cases where the defendant has acted unreasonably in requiring the claimant to institute the proceedings.

Clause 6 provides that an intervenor may be represented before the court by a legal practitioner or agent.

Clause 7 recasts section 25 (2) of the principal Act to provide expressly that the commission must have regard to the objects of the Act.

Clause 8 amends section 25a of the principal Act to provide that an award of general application may be made subject to any limitation stated in the award.

Clause 9 relates to the manner in which a person may be summoned to attend a compulsory conference. It is proposed to delete the provision that allows a person to be summoned by telegram and include a provision that allows a person to be summoned by telex, facsimile machine or other similar means of telecommunication.

Clause 10 amends section 31 of the principal Act in two respects. It is intended to repeal subsection (5) and to allow the President to authorise a stipendiary magistrate to preside at a conference under this section where the parties are located in a remote area.

Clause 11 relates to the representation of parties in proceedings before the commission. New subsection (1a) of section 34 will provide that a legal practitioner may only appear at certain conferences before the commission by leave of the commission. Leave will be granted in prescribed circumstances. Leave will not be required in relation to a legal practitioner who is an officer or employee of one of the key industrial relations organisations or who is an officer or employee of a registered association that represents employers or employees.

Clause 12 proposes a new Division relating to the jurisdiction of the commission to make orders with respect to contracts of carriage and contracts of service (as defined by new section 37). Under new section 38, the commission will have limited power to intervene in disputes arising under contracts of carriage or contracts of service. The commission will exercise this special jurisdiction on its own initiative, or on the application of the Minister, the United Trades and Labor Council or an appropriate registered association representing interested parties. It is proposed that the commission be empowered to call a conference of the parties to attempt to settle the particular dispute by conciliation or agreement. The commission will be empowered to make recommendations at the conference for the settlement of the dispute. New section 39 will empower the commission to review any contract of carriage or service contract that is grossly unfair and contrary to the public interest.

Clause 13 amends section 44 of the principal Act to give the United Trades and Labor Council a right of intervention in proceedings before the court or commission that are likely

to affect the interests of a registered association that is affiliated with the council.

Clause 14 corrects an error in section 48 of the Act (the error having occurred on the reprinting of the Act in 1987).

Clause 15 relates to the powers of an inspector where the inspector has reason to believe that an employer has underpaid an employee. New section 50a will allow an inspector to require the employer to calculate (or recalculate) an amount due to the employee and to provide an appropriate certificate setting out the calculation. The employer will be able to apply to the court for a review of the inspector's actions.

Clause 16 will allow a legal practitioner who is employed by a registered association that represents employers or employees to be a member of a conciliation committee.

Clause 17 relates to the jurisdiction of conciliation committees. New section 69 (8) will provide that a committee must, in the exercise of its jurisdiction, always seek to promote the objects of the Act.

Clause 18 relates to sick leave entitlements under section 80 of the principal Act. It is proposed to provide that a person will be entitled to claim sick leave if he or she is sick for seven or more consecutive days while on long service leave (a similar entitlement presently exists after three consecutive days when an employee is on annual leave). Subsection (3) is to be amended to clarify that sick leave accrues during an employee's first year of service on a week-by-week basis. New subsection (4c) will ensure that the provisions of the section do not affect awards or industrial agreements that confer more favourable entitlements than the terms and conditions provided by the section.

Clause 19 inserts a right of appeal under section 96 of the principal Act in relation to any order made under new section 39.

Clause 20 sets out the persons who are entitled to appeal against an order under new section 39.

Clause 21 amends section 108 so as to allow industrial agreements to be entered into for any length of time (instead of the present case of up to two years). An agreement may provide that different parts of the agreement are to operate for different lengths of time.

Clause 22 relates to the approval of industrial agreements under section 108a of the principal Act.

The commission will be given the discretion not to approve an agreement if it is contrary to the objects of the Act or if a registered association that has 'coverage' in the area, and a proper interest in the matter, is not a party to the agreement.

Clause 23 makes amendments to section 146b of the principal Act in relation to the commission having regard to practices and procedures of the Commonwealth commission and to allow key industrial relations organisations to apply for declarations under the section.

Clause 24 amends section 153 to allow various authorisations to be given to employers so that they may pay their employees otherwise than by cash.

Clause 25 recasts subsections (3) and (4) of section 154. In particular, new subsection (3) *(c)* will empower a court in certain circumstances to award penalty interest against a person who has failed to comply with an order under section 15 (1) *(d)* or 31 of the principal Act.

Clause 26 amends section 156 of the principal Act. It will be unlawful for an employer to threaten to take action against an employee in the cases described by the section. It will also be unlawful to alter detrimentally the position of an employee in those cases. The period in relation to which subsection (2) may operate is to be altered from two months to six months.

Clause 27 amends section 157 in a manner consistent with the amendments to section 156. The provision also revises the cases in relation to which the section will operate.

Clause 28 recasts section 158 of the principal Act to provide a degree of consistency with section 157.

Clause 29 extends the operation of section 159 (which requires employers bound by awards to keep certain records) to employers bound by industrial agreements. New subsection (7) will require an employer, subject to any award or industrial agreement, to provide certain information on a payslip to each employee.

Clause 30 repeals the Industrial Code, 1967. This proposal is linked to the inclusion of all 'outworkers' under the Industrial Conciliation and Arbitration Act.

Clause 31 and the schedule revise the penalties under the principal Act and introduces various penalties that are set out in section 28a of the Acts Interpretation Act 1915.

The Hon. J.F. STEFANI secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 March. Page 2488.)

The Hon. J.F. STEFANI: The Government Bill before us is proposing substantial amendments to the structure of the Occupational Health and Safety Commission by increasing the size of the commission from 10 to 12 members and replacing the current full-time Chairman's position with a part-time presiding officer. It also seeks to transfer (by legislation) the two full-time positions previously held by the Chairman and the Deputy Chairman who were serving on the commission to the office of Chief Executive Officer and Deputy Chief Executive Officer respectively. These two appointments have been created to manage and supervise a total staff of nine people working as the secretariat of the commission and employed in the Public Service.

It is of some interest to note that under the proposed amendment the Chief Executive Officer will be able to serve the balance of his original four year appointment in the newly created position as an EO-2 officer, whilst his deputy, who is already employed as a public servant, will be graded to serve as an AO-4 officer. I am further informed that, of the nine people presently employed on the commission's staff, four are employed as senior officers with AO-1 grading.

Whilst the Opposition has no difficulty with the separation of the Chief Executive Officer of the secretariat from the role of Chairman of the commission, it is certainly opposed to any provision contained in any Act of Parliament which provides for the automatic continuance of employment or appointment to a position. We further consider that, whilst the classification and the appointment of an EO-2 Chief Executive Officer may be appropriate in the circumstances, the appointment to this position should be for a term which does not exceed four years and should be via the commission which is acting as the board. In any event, we believe that the full-time Chairman's position has been made redundant by the proposed amendments and that the newly created position must, under the Public Service rules, be subject to normal open advertising procedures, to allow people, including the present Chairman, who may have the necessary experience and qualifications, to apply.

The Liberal Party is totally opposed to unnecessary and automatic expansions of Government bureaucracies, and in this context to the automatic appointment of a Deputy Chief Executive Officer AO-4, who is only required to attend to the internal administration of the commission which already has four AO-1 senior officers capable of acting as deputies in the absence of the Chief Executive Officer. This appointment is considered wasteful and totally unnecessary, and is opposed.

If in the future the commission determines that its secretariat requires a Deputy Chief Executive Officer to assist with the administration of nine people, I suggest that, in view of the amendments to the Act, it may decide to appoint a person to this position, which would be reclassified to reflect the downgrading of the position as brought about by the amendments.

The Opposition is fully aware from the Minister's second reading explanation in another place that, in explaining to the expansion of the membership of the commission, the Minister stated:

> These changes have been proposed as a result of representations from the major Parties represented on the commission and are seen as necessary in order to achieve a greater degree of effectiveness in the commission's operations.

It is equally important to note that two major employer associations represented on the commission have expressed the expectation of improved management and performance from the commission and they have said that this may only be possible if employers are given a fair opportunity to contribute to safety policies and initiatives.

It is obvious from the above statements and comments that all has not been working well at the commission and it is true to say that the independence and impartiality of the commission, which was to work as a tripartite body and which the Hon. Chris Sumner said in the debate on the Bill in this Chamber in November 1986 should be:

> . . . completely impartial and removed from disagreements and disputes; if that commission is to overview the delivery of services and other aspects of occupational health and safety, it is necessary for it to operate at arms length from matters upon which it will be called to review

unfortunately has not been possible because of the narrow and biased approach adopted by some of the members serving on the commission. The problems which have emerged since the commission was established are most certainly related to the interpretation of the functions and powers of the commission as described in clause 14 of the Bill, and the position and interpretation taken by some of the commission's staff in relation to the tripartite position and role which the commission, because of its composition, must endorse and must practise as a 'three-way partner' when it has to deal with matters before it.

It is perfectly proper to further assume that, because of the lack of appropriate Government or Government agencies, representation in the decisions taken by the commission, such absence of participation may have affected the commission's relationship with other Government departments and agencies. It is for all these reasons that, for the commission to operate effectively, it must review and identify problems which exist and arise from the relationship it has not established with other Government departments and employer communities.

In addition, because WorkCover, as the sole insurer, will be undertaking extensive rehabilitation programs, it will be important for the commission to consider carefully rationalisation of reporting procedures to Government agencies in order to avoid unnecessary duplication and costs. It is with the background of these factors that careful consideration should be given by the Minister when nominating the person to serve on the commission as provided for in clause 8 *(f)* of the Bill. He has the opportunity of doing this, as the amendments provide for an increase in the number of representatives to serve on the commission and the appointment of a new membership to the commission.

The Minister has the responsibility to act without fear or favour in formulating a workable tripartite approach to establish the basis of appropriate representation on the commission so that, through its secretariat, it may develop the confidence and respect as well as the long term important relationships with Government departments and employers' communities. Accordingly, the Opposition will oppose part of clause 9 as indicated in the amendment circulated, and otherwise generally supports the Bill.

Bill read a second time.

LAW OF PROPERTY ACT AMENDMENT BILL

In Committee.

(Continued from 15 February. Page 1915.)

New clause 1a.

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

Page 1, after line 11—Insert new clause as follows:

1a. This Act will come into operation on a day to be fixed by proclamation.

This amendment inserts a proclamation clause. This will enable the commencement of the Act to be delayed until it has been given adequate publicity.

The Hon. K.T. GRIFFIN: I support the amendment, which arose out of issues that I raised during the second reading debate, particularly because of the significance of the amendments relating to execution and attestation of other instruments. It is important that there be an adequate publicity program, particularly among lawyers and accountants, but also among real estate agents and brokers, because they, too, may be affected in some way by this legislation. It is important to have an appropriate educational program for such a change in the law.

New clause inserted.

Clause 2—'Power to contract, etc., in separate capacities.'

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

Page 1, lines 13 to 20—Leave out this clause.

The amendment will delete the proposed new section 40 of the Law of Property Act. Since this matter was last before the Committee, officers from my office have had many discussions with Mr B. Walrut, a legal practitioner with considerable interest in this area of law, who had previously provided the Hon. Mr Griffin with a lengthy paper on the problems he perceived with the original amendment to section 40.

A revision of those amendments provided to the Hon. Mr Griffin and Mr Walrut went some way towards meeting the concerns that had been raised. However, further discussions with Mr Walrut made clear that there remained several practical problems with section 40, even in amended form. The nature of the problems still to be addressed and the highly specialised nature of this particular area of the law have resulted in my decision not to proceed to amend section 40 at this stage.

I have therefore written to the President of the Law Society seeking the society's views on the need for any amendments to section 40 and asking for consideration of the form and extent of any amendments. When I have received advice from the Law Society, the need for fresh amendments to section 40 of the Law of Property Act will be considered again. Meanwhile, there does not seem to be any good reason for delaying the passage of the major part

of these amendments to the Law of Property Act which deal with the delivery of deeds.

The Hon. K.T. GRIFFIN: I support what the Attorney-General has said in respect of this clause. It is clear that section 40 of the Act is a complex provision. It has been the subject of discussion and amendment in other States and also the subject of recommendations by the Law Reform Committee of South Australia. It is appropriate to try to get it right, rather than going half way towards that objective.

The reference to the Law Society will ensure that the property committee and others within the profession who may be interested in the operation of section 40, particularly in the commercial area of practice, will have an opportunity to consider in some depth the propositions for amendment, as well as the policy questions which arise in the area of persons being able to contract with themselves, as well as with others.

I therefore accept the commitment which the Attorney-General has given that this matter will be pursued and will not be left completely on the back burner. I would hope that during the next session there will be an opportunity to have in place a provision which meets the concerns of practising lawyers in respect of the application of section 40 of this Act.

Clause negatived.

Clause 3—'Substitution of ss. 41 and 41aa.'

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

Page 21, line 15—Leave out 'an indenture of deed' and insert 'an indenture or deed'.

This amendment corrects a typographical error.

The Hon. K.T. GRIFFIN: I support the amendment.

Amendment carried; clause as amended passed.

Clause 4—'Retrospectivity and transitional provision.'

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

Page 3, lines 29 and 30—Leave out subclause (1).

The Hon. K.T. Griffin: I support the amendment.

Amendment carried.

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

Page 3, line 32—Leave out 'deeds or other'.

This amendment in deleting the words 'deeds or other', takes cognizance of the definition of 'instrument' in section 7 of the principal Act. It is a technical matter.

The Hon. K.T. GRIFFIN: I support the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 March. Page 2487.)

The Hon. K.T. GRIFFIN: My interest in this Bill focuses upon clause 5, which seeks to insert a new section 64a dealing with immunity from liability of an owner of land, the commission, control board or other person. The circumstances in which this immunity is granted include where the owner of land, the commission, control board or any other person destroys an animal or plant, captures and removes an animal from land, takes any action that is a prescribed measure for the control of animals or, after an animal has been removed from land, sells or otherwise disposes of the animal. In those circumstances, the particular body or individual is not subject to any criminal or civil liability in relation to that action.

The immunity extends to anyone who acts on behalf of the owner, the commission or the control board. My concern with this is that it appears particularly wide and may well have unforeseen ramifications. For example, if a person takes action to trap a particular animal on land—and this may be a licensee, invitee or trespasser who ventures on to that land—and in some way is injured as a result of setting that trap, under the terms of this proposed section the owner, for example, who may well be acting in accordance with the provisions of the Act in seeking to trap that particular animal, is not subject to any criminal or civil liability.

I have some difficulty accepting that the owner in those circumstances should be given immunity. It also arises in the context of taking prescribed action, for example, to destroy particular pest plants or other plants. In circumstances where a spray may be applied to a particular plant in accordance with the provisions of the Act and, for example, the wind blows the spray on to a neighbour's property or a watercourse becomes polluted, it seems to me that, even if it is not intended that the person taking that action should be given immunity from liability, the fact is that this proposed section could be used to provide that immunity from liability.

I understand that what is sought to be achieved is some measure of protection for persons who, for example, might take and destroy a particular animal in accordance with the provisions of the Act, and provided it is done in accordance with the Act it is intended that immunity be available. The difficulty I see is that circumstances might arise which will have the unintended consequence of granting liability for any criminal or civil action. It is a fine point but, I think, a relevant and practical one, because it does at least open the way to an argument that a person who might otherwise be expected to have some liability for an act which causes injury or loss to a neighbour, for example, whether it is downstream or whether it is as a result of wind pollution or someone coming on to the land and being injured as a result, that position ought to be significantly explored.

So, there are problems with this particular provision. I think the Bill ought not to be passed in its present form, and I ask the Attorney-General in conjunction with his legal advisers to look closely at it to ensure that there is no unintended consequence which will give immunity in the circumstances to which I have referred. Subject to that, I raise no other objection to the Bill.

Bill read a second time.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 2287.)

The Hon. K.T. GRIFFIN: Mr Acting President, I draw attention to the state of the Council.

A quorum having been formed:

The Hon. PETER DUNN: The Opposition agrees with the intent of this Bill. There are a couple of small things we wish to query but, fundamentally, the Bill is something which the Government has telegraphed for quite some time now. It has talked about it and I have read articles (in various papers) dealing with photographs on licences. What the Bill really does is bring us into more modern times. I notice that as far back as 2 December 1987 the Minister of Transport (Hon. Gavin Keneally) was stating that he had

plans to introduce drivers licences bearing the holder's photograph and that the matter would be put to State Cabinet next year. The matter has been around for quite a long time, and most people have accepted it. I have not received much information from members of the public saying that they do not want this. The public appear to have accepted that photographs on licences are part and parcel of today's modern society. It is an attempt to stop people cheating with regard to their licences.

The Motor Vehicles Act had a bearing on this. We established that there were people who had licences in several States. They sometimes change their names. A photograph on a licence will make it more difficult to do that. I contend that the photograph on the licence can be a bit of an imposition. In Adelaide you can get your photograph taken and have it put on your licence and it is not much of an impediment; but out in the bush—I was at Coober Pedy at half past six this morning—it is more difficult. The Bill makes some provision for that. It allows people to have a photograph endorsed before it is put on the licence.

I understand that the licences will be colour coded. There is no mention of that in the Bill. However, in his second reading speech, the Minister suggested that there would be different colours for different classes of licence. For instance, a full licence will be blue. I do not know whether that would be two blues. I should have thought that two blues would be very suitable—the Sturt colours.

The probationary licence will be red—I do not know the significance of that—and the learner's permit will be yellow. Unfortunately, that is not in the legislation, but I think that it should have been. It indicates that the Government likes to manipulate things by regulation rather than by putting them in legislation which the Parliament can review on a regular basis.

I assume that the licence will be in the form of a plastic card—like a credit card. I have seen the Queensland licences and they are quite suitable. On the licence will be the identification of the driver, his address, postcode, the class of licence, the licence number, his date of birth, and the expiry date of the licence. Having a photograph on it is just about the full bit for identification.

I am often alarmed at the photographs I see on passports. I have never been able to determine whether the person holding a passport bears a likeness to the passport photograph. Unless the technique is more sophisticated than it was a few years ago, this will not be good enough. For example, a male can grow a beard or wear a wig. A female can put on make-up and change her looks dramatically. However, I still think that the system is suitable.

It has been suggested that on the back of the licence we should put most things which are on licences now—for example, whether one is prepared to donate livers, kidneys, or whatever, blood grouping and any other general instructions. That is suitable. With today's horrific numbers of road accidents, such things must be of great help to St John Ambulance and others who are rescuing and assisting people after accidents.

The Bill does not address the question of change of address or name. For instance, if a woman marries and wishes to change her name, there is no information on how that should be done. Will the Minister explain how that will be done? Will it be the responsibility of the person owning the licence to do it immediately? Will there be a time limit? How will it be done? I think that the present licence has a tear-off slip which the owner can fill in and send to the licensing division of the Motor Registration Department. Under the new system I do not know what will happen. If a woman forfeits her licence because she has changed her name, legitimately she will be without a licence.

There have been questions about the manufacture of these licences. Some of the information will be virtually certified, particularly photographs. By whom will that be done? Is it intended that the Motor Registration Department will manufacture these licences? Will they be manufactured by contractors? Will it be done by tender? I hope that the Minister can provide answers to those questions.

In his second reading explanation the Minister said that security would be high. That is a hope on the part of the Government. I note that the Democrats have an amendment which limits the use of the licence for identification and other purposes. Government departments or private individuals may wish to use it as a form of reference so that they may know a person's name, his whereabouts or other information about him. That is not in the Bill, but much was said about it in the second reading explanation. That is to be regretted. I think that the amendments proposed by the Democrats have some merit. I should like to be assured that the licence can be used only for the purpose for which it is issued. There will be instances when publicans, for instance, will wish to determine the age of a person. I believe that the Democrats' amendment will forbid the use of the licence for that purpose. That may not be a good idea because the person himself may wish to use the licence as a form of identification. I hope that the individual will be able to do what he likes with the licence in that regard. I assume that there will be a duplicate or a photocopy of the licence kept by the department. If so, I hope that access to that information will be restricted, as it should be and as it is today.

In order to obtain a licence, a driver will have to attend personally at specified places to be identified as being the person on the photograph. I understand that if a person lives more than 80 kilometres from a Motor Registration Department—I am familiar with the divisions at Port Lincoln, Whyalla and Port Pirie as well as Adelaide—he will be able to supply a certified photograph. I suggest that that should be made relatively easy. If a JP signs the photograph, that is fair and reasonable. However, I suggest that a police officer—I am thinking of places like Leigh Creek and Coober Pedy where there are police officers—should be able to certify photographs, because some people might find it difficult to get to a JP. They are very scarce in the bush. There are not many of them out there. I hope that such people will be able to certify photographs.

Probationary licences or permits will be issued for a period of 12 months. If a person has a full licence and for some reason has lost the licence as a result of driving while drunk or for some other misdemeanour, what happens to the remainder of the ordinary licence? Does it become part of the probationary licence or does that person get a credit for the remainder of the five years? Also, with a probationary licence, is it taken out for 12 months or for five years? Those questions need to be answered.

One of the provisions I find difficult to understand is that if a licence holder is instructing a person with a learner's permit or P-plate they must, when sitting next to the learner, carry their own licence. Everyone else has 48 hours to produce a licence if requested by a police officer to do so. The same applies on motor bikes, as is made clear in the Bill. I do not believe that this provision is necessary. Quite often people will say 'Come with me', and off you go. On the farm, you may want to drive to the next property or to fix up some machinery and you may want to give your son a little instruction. To have to drive back home and pick up your licence so that you can sit in the left-hand seat

seems fairly ridiculous. When I was learning to fly, instructors were not required to carry a licence with them at such a time, and they do not do so when giving me biennial tests. Anyone instructing must be able to produce a licence within a certain period, but it is not necessary that it be instantaneous. My amendment removes that provision from the Bill and puts it back to the 48-hour period.

What happens to the change in information on the licences? Having been upgraded from a L-plate to a P-plate or from one class of licence to another, maybe just to drive an articulated bus or an omnibus, for instance, I presume the licence must be taken back to the department and reissued. How is that done? Does one send in the old card or is a new one issued beforehand? Does a form come with the card when it is originally issued, and so on? Some questions are still not answered. Is one able to go into the office and be issued with a licence without delay? A provision exists for those over 70 years of age to renew annually. That is fair and reasonable. Those people are currently tested by instructors or persons qualified and such licences are renewed for 12 months. Is that licence re-endorsed or re-issued?

The Bill makes no mention of the method of issuing licences, how it will be financed or how often photographs will be renewed. We all change, with some people ageing for the better. How often does the Minister expect the photographs on licences to be changed? It will cost a bit of money each time one has a photograph taken and put on a licence. I support the Bill, and most people agree with putting photographs on the licence. Some of my questions should be answered before the Bill is passed. I have referred to the amendment I intended to move. I support the Bill.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

SUPPLY BILL (No. 1)

Adjourned debate on second reading.

(Continued from 15 March. Page 2419.)

The Hon. DIANA LAIDLAW: In speaking to this Bill, I will make general remarks about the Home and Community Care (HACC) program, in particular the component of domiciliary care which, with the Royal District Nursing Society and Meals on Wheels, was incorporated for funding purposes under the HACC program in 1984. In the budget of that year the Federal Government announced with considerable publicity that there would be a new home-based care program called HACC. From that time and after the fanfare with which that announcement was made heightened expectations were aroused in the community about the benefits that would flow from this program in terms of addressing the home-based care needs of the frail aged, younger disabled people and their care givers.

This program is important to South Australia as it provides vital services to the vulnerable groups to which I have referred. All members would be aware that South Australia is the 'oldest' State in the nation in that we have the highest proportion of people aged 60 years and over. I seek leave to incorporate in *Hansard* a table in statistical form which notes the number and percentages of people in South Australia aged 50 years and over, 65 years and over, 75 years and over, 85 years and over, and compares it with the Australian population in such age groups.

Leave granted.

AGE GROUPS

Age	1986			2001 (Series D)		
	S.A. Pop.	% Total S.A. Pop.	% Total Aust Pop	S.A. Pop.	% Total S.A. Pop.	% Total Aust. Pop.
50 years and over	349 089	25.9	24.3	470 000	29.8	27.1
65 years and over	155 750	11.6	10.5	216 000	13.7	11.7
75 years and over	59 589	4.4	4.0	101 100	6.4	5.3
85 years and over	12 521	0.9	0.8	22 800	1.4	1.2

The Hon. DIANA LAIDLAW: With the current ageing of the South Australian population, it is hardly surprising that the HACC program was received with such enthusiasm. Demand has also increased because of a number of factors associated with the introduction of HACC. I refer to decisions made by the Federal Government in relation to the care of the aged which have generally been introduced under the heading of normalisation. Under this program bed numbers in nursing homes have been frozen in this State, funding has been limited for recurrent costs and staffing hours in nursing homes and hostels, and people generally are being encouraged to live at home for as long and as independently as possible.

While I support the noble goals of normalisation, I argue most strenuously—as do my colleagues—that living at home with dignity and peace of mind for an elderly or disabled person is absolutely impossible unless they are guaranteed the provision of regular support services within the home that meet specific needs, not only in relation to home cleaning services but also a range of personal health needs.

Initial difficulties in the establishment of the HACC program related mainly to administrative matters, the planning of services and working out needs within the community in metropolitan and country areas. Many of those issues are behind us but there is concern about funding the HACC program in relation to domiciliary care, Meals on Wheels and the Royal District Nursing Society.

In the budget for the financial year 1988-89 the South Australian Government made no provision for expansion funding. This is the root of many of the problems and grievances that staff who work in the HACC programs are finding when trying to meet the needs of frail, aged and disabled persons and their care givers. It is difficult to find out funding levels and the division of funds between Federal and State Governments, but I am led to believe that the $20 million provided from Federal sources this year has not been matched by State funds. That is the basis of concerns expressed to me by senior people in domiciliary care. In my view and the view of many people who have responsibility for the care of the aged—not only in institutions but in the provision of home services—it is hypocritical of the State Government to establish task forces on the aged and talk about age discrimination, legislation and the like because, when it comes to basic care of elderly people,

the State Government is not providing the funds necessary to attend to their basic needs.

I understand that as part of the 1984 agreement between the State and Commonwealth Governments regarding the funding of domiciliary care there must be a review of the services provided in this State. I was interested to note in the *Advertiser* of 25 March that the Government has appointed Dr Anna Yateman from the Flinders University of South Australia to undertake such a review. Its terms of reference will be as follows: first, to examine the operation, service delivery and organisation of domiciliary care services throughout South Australia; secondly, to report on the extent of the unmet need for home and personal support services for the frail, aged and younger disabled members of the community; and, thirdly, to make recommendations which will improve home and personal support services in the community for frail, aged people with disabilities and their care providers.

I have no doubt that Dr Yateman, in pursuing her independent study, will be inundated with concerns from the community about the unmet needs of this program. There are many, and they are acknowledged. I note that the northern metropolitan domiciliary care service has recently established a program which has appointed three volunteers to collect information and complaints on consumer concerns about domiciliary care services and HACC programs in general. Mr Harry Hirst, aged 70, of Salisbury East, is to represent aged people; Mr Michael Woolley, aged 48, of Prospect, is to represent the disabled; and Mr Trevor Parrott of Highbury will represent the carers of intellectually and physically disabled people.

The aim of this consumer advocacy program is to provide services to keep people in the community, to ensure that they have a channel in which to direct their concerns and that the services which they seek and need endeavour to meet those concerns. So, I am heartened to see this new committee structure which has been set up under domiciliary care in the northern suburbs. I understand that across the State domiciliary care is having great difficulty maintaining its existing programs. I also understand that three weeks ago eastern domiciliary care cut its home cleaning services from 1½ hours per client per fortnight to 1½ hours per client per month. If any honourable member would care to think about how a person could possibly keep the bathroom, laundry and toilet, etc. clean by being provided 1½ hours cleaning services per month, the mind boggles. It is most unfortunate that these vulnerable and elderly people, many of whom have arthritis and cannot bend, those in wheelchairs or who do not have good eyesight, are being offered only 1½ hours per month for basic cleaning. Other regions are continuing to endeavour to provide 1½ hours home cleaning services per fortnight.

I understand that it is refusing to meet referrals from doctors and hospitals. The latest example of a person being refused services was brought to my attention last week. That case involved a woman who has had two hip replacement operations. She is in a wheelchair and she has been diagnosed as having cancer. At the present time her husband is in hospital. For good reason, both her doctor and the hospital which she attended recommended that she receive home help services. However, because Domiciliary Care within her region is seeking to ration the limited funds until the end of the year (and, therefore, it is maintaining only existing services and not taking on new clients), she was refused those services. Her doctor, and later the woman concerned, contacted me in some desperation in an attempt to obtain assistance in home cleaning.

From speaking with staff in other regions, I understand that Domiciliary Care is now, as a matter of deliberate policy, not advertising the range of programs which it would normally offer. Further, it is not informing clients of the full range of its services. It is loath to heighten the expectations of its clients, because it knows that it just could not meet those expectations.

In summary, because of the shortage of State funds, Domiciliary Care has three alternatives under which it can operate: first, it cuts back its services; secondly, it refuses services; or, thirdly, as a matter of deliberate policy, it does not advertise, or inform clients, of those services so that it does not raise expectations about the availability thereof.

In passing, I should note that there is a very long waiting list in areas such as speech pathology and the like. In recent days I was advised that the board of management of the Elliston hospital is particularly furious that the Federal Government has provided funding as a separate package and with a separate administrative structure to establish the very same services the responsibility for which Domiciliary Care is charged with providing in the Port Lincoln area. In essence, the Federal Government is establishing overlapping services and administrative structures in the Port Lincoln and Eyre Peninsula area, but Domiciliary Care, which is renowned for the excellent quality of its services and the cost effective delivery of those services, has desperately sought additional funds for some years now so that it may expand its programs. It has been denied that funding, but the Federal Government has ignored the advice and recommendations of the local Eyre Peninsula community and has established an entirely new program and recruited new staff.

As any person with any knowledge, experience or interest in country areas of this State would recognise, it is particularly difficult to attract qualified, experienced and caring community workers to country areas. It is beyond belief that the Federal Government has now sought to reproduce domiciliary care services in the Eyre Peninsula area at a time when it could have more effectively provided those same services through the auspices of Domiciliary Care.

Finally, I will relate extracts from a number of letters and telephone calls I received in recent times about Domiciliary Care. Every member will recall the recent 10 day hot spell in Adelaide where temperatures reached 40 degrees. During that time one elderly woman rang me and said, 'I don't wish to be greedy, but I would just love to have a bath three times a week. Two baths don't seem enough during this hot weather.' Domiciliary Care could provide this elderly woman, who was confined to bed, with only two baths per week and all she stated was, 'I just don't want to be greedy. Could I just have three baths per week?' That does not seem to be an unreasonable request. This society should be caring and compassionate towards our elderly people, who come from all sorts of backgrounds and who have served this community in the past. Those people are now being denied those services when they are in need.

In relation to HACC programs, I will mention briefly some of the challenges that Meals on Wheels will face in the next few months and years. I note that this organisation has a new Director (Mr Grant Andrews), but many older people wish that Meals on Wheels would provide services on a seven day a week rather than a five day a week basis as at present. Further, many people have argued to me that they would like a greater variety of services, while others would like a mix of services between those provided at home and those provided in a community centre where they can get out of their home and mix with other people,

either to talk with them, or just to observe activity around them.

Meals on Wheels has an ageing volunteer work force, and this will become an increasingly important problem in relation to the issue of how the Meals on Wheels will be able not only to provide its present five day a week service but also to extend it possibly to seven days a week in the near future.

Essentially, those are the problems that I want to address during this Supply Bill debate. I hope that in the future, through their budgets, Governments will be more compassionate and responsible in providing home-based care services to elderly people than has been the experience with this Government during this financial year. I issue a warning to the Government that, while it continues to starve those home-based care services such as Domiciliary Care and Meals on Wheels of funds to provide for the expanding aged population in this State, it will be quite impossible for it to hide behind such terms and noble expressions as 'normalisation' and 'living in the community with independence for as long as possible'. The Government cannot keep these people in their own home and completely deny them these services or deny them these quality services which ensure that they can live their lives with dignity and peace of mind.

Under the present levels of funding, some people today are able to live with dignity and peace of mind, but an increasing number are being denied basic services and, therefore, are being denied those basic ingredients which we see as essential to quality of life.

The Hon. L.H. DAVIS: In speaking to the Bill, I want to make a few observations about State taxation because, if there is one area where the Labor Government at State level has control of its receipts, of the way in which it taxes the community (that is, in the nature of taxation), and in relation to the intensity of taxation, it is quite clearly in this area of taxation. I seek leave to insert into *Hansard* without my reading it a table of a purely statistical nature which sets out the level of State taxation receipts from 1982-83 to 1988-89.

Leave granted.

STATE TAXATION RECEIPTS

	1982-83 Actual Receipts $1 000	1988-89 Est. Receipts $1 000	Per cent Increase
Property	23.7	63.5	167.9
Gambling	30.3	87.8†	189.8
Motor Vehicles	58.6	111.2	59.8
Payroll Tax	222.8	354.7	59.2
FID	—	41.7	New Tax
Stamp Duties	118.3	301.3	154.7
Business Franchises:			
Gas	2.9	5.9	103.4
Liquor	18.9	39.0	106.3
Petroleum	25.8	76.2	195.3
Tobacco	16.1	50.9	216.1
Fees	4.4	12.3	179.5
Statutory Corporations:			
ETSA	19.1	34.7	81.7
State and Savings Bank*	8.1	19.6	142.0
SGIC		1.2	
	549.1 m	1 199.9 m	118.5

†Includes casino $12.4 m

* Later merged into State Bank of South Australia

The Hon. L.H. DAVIS: This table sets out the actual receipts for the 1982-83 year and compares those receipts from State taxation with the estimated receipts for 1988-89. The table is quite revealing. It indicates that, in this period of six years, State taxation will have increased 118.5 per cent. Tax increases are across the board. Savage increases are in the area of gambling (although that can be explained by the opening of the casino during that time), in property taxes (167.9 per cent), in stamp duties (154.7 per cent) and in fees (179.5 per cent).

The most savage increases have been in the business franchise taxes, involving tobacco (216.1 per cent) and petroleum, (195.3 per cent). These increases are even more illuminating if one takes into account the fact that during the period December 1982 to December 1988 the consumer price index in Adelaide rose only 52.5 per cent. We can see that State taxation receipts have increased by more than double the CPI. Even if one projects ahead and takes into account the CPI at the end of this year, it is certainly true to say that State taxation under the Bannon Government has been increasing at twice the rate of inflation. During that six year period, from December 1982 to December 1988, the population of South Australia increased by only 5.7 per cent, from 1.34 million people to 1.4 million. As I have indicated on more than one occasion, we have the slowest rate of population growth of any mainland Australian capital city, and that has been so for some time.

So, in real terms, whether you are talking about taxpayers or the population of South Australia as a whole, in the six years of the Bannon regime State taxation has increased in real terms by a significant margin. Certainly, taxation has increased in monetary terms more than two-fold.

To give an example of how State taxation can benefit a Government, let us take the example of houses and motor vehicles, because these are commonly the two largest items for people. They are the two largest items that most family units purchase in their lifetime. In December 1982 the average price of a house in the Adelaide metropolitan area was $46 927, and stamp duty under this schedule was $1 088. That stamp duty represented 2.32 per cent of the purchase price. By February 1989 the average price of a house in the Adelaide metropolitan area had more than doubled to $103 829, and the stamp duty had increased to $2 983. As a percentage of the purchase price, the stamp duty had increased by 2.87 per cent.

There has been no movement in the stamp duty rates attaching to the purchase of houses since 1982. In other words, by a passive approach to inflation in general terms, and houses in particular, the Bannon Government is reaping the benefit at the Treasury gate. We can see that the price of houses on average in metropolitan Adelaide has little more than doubled over the six-year period, whereas stamp duties have almost trebled in that same period.

Similarly, with motor vehicles (and I am quoting here a standard Commodore), the recommended retail price as at December 1982 was $10 633. That increased to $20 554 by April 1989. In December 1982 the stamp duty was $368; by April 1989 (on the purchase price of $20 554), the stamp duty had increased to $764. Of course, the registration fee payable had also increased, from $188 in December 1988 to $282 in April 1989. But, it is the stamp duty that has increased by more than double the amount, and the recommended retail price of the car has not quite increased by that amount.

As a percentage of the recommended retail price of the vehicle, stamp duty has increased from 3.46 per cent to 3.72 per cent of the total cost. In the case of both the house and the motor vehicle, the fact that stamp duty levels have been left unaltered over that six-year period under the Bannon Government has meant that Mr and Mrs Average (the people in the mortgage belts of Adelaide in particular) have been savagely affected. Certainly, I accept that the increase

in the price of a house represents a benefit for someone who purchased the house several years ago because they have an improving asset.

It is difficult for them to sustain their mortgage repayments in the face of record mortgage rates. Of course, the housing merry-go-round is going so quickly, with mortgage rates so high, that obviously in many cases people must postpone their purchase of housing. They see money that they could otherwise be investing in bricks and mortar going as dead money through the payment of rent. I want to make the point very strongly that the Bannon Government, despite its frequent denials, remains a high taxing Government, and the table which has been incorporated in *Hansard* clearly demonstrates that. I want to turn now to examine the likely outcome of the budget for 1988-89.

The PRESIDENT: Order! If I could interpose for one moment: under Standing Orders matters must be relevant to the Bill being considered by the Parliament. This is a Supply Bill which deals with the appropriation and spending of money but does not deal with the raising of moneys. It deals with the spending of money in the Public Service of this State. It would be helpful if the honourable member's remarks could be related to the spending of moneys and so be relevant to the Bill before us.

The Hon. L.H. DAVIS: Thank you for your advice, Madam President. I have been speaking on Supply Bills for a number of years and I am familiar with their content. I was engaging in some broader comments as an introduction to my remarks on the Supply Bill, which I will now address. Before doing so I want to make a one paragraph reference, if I may, to the fact that this Supply Bill gives the Government power to appropriate money for the payment of salaries and wages and, of course, that appropriation is made possible by revenue from several sources, one of which is State taxation. I wanted to indicate that at this stage it would seem that the level of State taxation being raised in the current year will come in very close to budget, having benefited from increases in property prices, higher motor vehicle prices and payroll tax, not to mention stamp duty.

I now wish to examine areas of particular interest to me—the arts and tourism. I have been concerned that this Government has not given the priority that is deserved to those two areas. It is quite clear that, as we seek employment opportunities for young people leaving school, increasingly the arts and tourism offer those opportunities. That coincides with an ageing population with more money available on retirement than the previous generation had. It coincides with a shrinking world, with people travelling more not only within their own country but overseas. The very sharp increase in tourists from abroad to Australia is indicative of that. Certainly, Queensland and New South Wales have been the main beneficiaries of that influx of tourists from abroad, but we tend to focus very much on overseas tourists and quite often fail to recognise that they make up only 10 to 15 per cent of all visitors within Australia; that, in fact, the intrastate and interstate markets are the main means of attracting tourists.

In that regard, South Australia has fallen well short of the other States. We lack sophistication in our marketing. Our marketing budget is still the lowest of all mainland States. Indeed, the Tasmanian marketing budget in aggregate is more significant than that of South Australia. We lack sophistication in our marketing in the sense that we have not given priority to selling this State. We lack a logo; we lack a focus, and that has been a point of contention with me for some time. Our signposting also lacks sophistication. Sadly, the Minister is not here, but having had a recent trip to Tasmania I could not fail to be impressed with the sophistication of the signposting, particularly the secondary signposting, which gives people coming into a town the opportunity to see at a glance the main attractions of a particular town.

It is only in the Barossa Valley quite recently that we have seen the introduction of secondary signposting. Tourism South Australia has engaged in much paper shuffling in recent times. There have been many conferences and many papers, and strategic plans have been established. They are all necessary, but the emphasis seems to have been on administration rather than marketing, and the enormous staff turnover in the tourism industry must be a matter of concern. I hope that in future months the State Government will address this matter of tourism more seriously than it has to date.

Finally, dealing with the question of the arts which, I know, is very dear to your heart, Madam President, there has been some spirited public debate in recent times about the position of South Australia within the arts communities of Australia. Quite often there has been the suggestion that South Australia is the arts leader, a pacesetter in the arts. Certainly, in the 1970s when the Dunstan Government was in power, followed by the Tonkin Government in the late 1970s, South Australia had a very high profile in the arts. We were advantaged by the fact that we had the first centre for the performing arts in Australia in the Festival Centre, which, of course, still services the performing arts very well.

The fact is that other States have now moved in the same direction. Brisbane has a magnificent complex by the river; Melbourne has its performing arts complex adjacent to the art gallery; Sydney has always had the benefit of being Australia's premier international city; and Perth is working very hard to develop its reputation in the arts through its festival of arts and through the patronage of many of the entrepreneurs of Western Australia—some of whom, of course, have not fared so well in recent times—and, I might say, with the benefit of many expatriates from South Australia.

South Australia has many advantages in the arts. It has the advantage of the Festival Centre as a focus for the performing arts and it has what I believe is a unique advantage in the North Terrace cultural precinct, with a dozen institutions quite literally within walking distance of each other, from the Botanic Gardens in the east down through to the refurbished railway station and Old Parliament House in the west. But along the way it seems that this State Labor Government has lost its way. It has lost its enthusiasm. It has given up the priority that it had to the arts. It seems to have lost its commitment. Sadly, it seems to have lost its vision. That is illustrated by the fact that the entertainment centre, which was a concrete commitment in the 1985 election, was not built by the promised date of 1988. In fact, we have yet to see it commence.

The Living Arts Centre in North Terrace, just west of Morphett Street bridge, was a firm commitment of the Labor Government. That, again, was a most exciting project, offering a mix of office space, studio accommodation for artists, shops, theatres, which would be appropriate for Fringe Festival performances and performances throughout the year, a home for the Jam Factory, for the Experimental Art Foundation, and so on—quite a unique site. But, despite the promise of 1985, 1989 has opened with nothing to show for it.

We see again a commitment by the Bannon Government in 1985 to give high priority to additional gallery space for the Art Gallery of South Australia—a magnificent art gallery which boasts as fine and complete an Australia collection as any State gallery—but, because of the very limited gallery

space that is available, it can show less of its collection than any other State gallery of Australia.

This Government, to its credit, purchased two buildings, almost directly opposite, in North Terrace, sandwiched between the John Martin retail store complex, including a delightful Italianate style building. The commitment was to refurbish those buildings to provide additional gallery space. That seemed to be the priority, although, during the 1985 election campaign, some commitment had been given to explore the Torrens building on the east of Victoria Square as a priority for this additional gallery space. But the buildings in North Terrace have lain empty. The paintings remain in the basement; they remain unhung.

I am disappointed that this Government, given that the arts represent an important focal point for life in South Australia and an important visitor attraction, has not had the vision, commitment and dedication to make these projects happen. Certainly we live in tough financial times. No-one on this side would deny that for a moment. Of course, those tough times, which the Federal Government is facing, make almost a mockery of the famous phrase uttered by a former Prime Minister, Malcolm Fraser, who said that life was not meant to be easy.

However, cultural life in South Australia has an enormous attraction not only for the people who live here, but for the visitors. Many people from interstate or overseas who visit South Australia for the first time are staggered to find the beauty of Light's grid city. Surrounded by green parklands with its cultural precinct of North Terrace and the beautiful nineteenth century buildings developed in many cases by the wealth from the nineteenth century mining boom, it comes as a surprise and a delight to them. Yet this Government has failed to promote cultural tourism. In fact, this Government does not even have a policy of cultural tourism.

One can examine the main brochure for the promotion of South Australia for potential interstate and international visitors and find no reference whatsoever to the North Terrace cultural precinct. Increasingly, interstate and overseas the quality of cultural life is used as a focus to sell a city as suitable for industrial development or expansion. Many cities in the world with disadvantages have proved that point, Glasgow being one. For many people who had not visited Glasgow, it had a reputation as a seedy city. It has now focused on the quality of living and on the arts and it has successfully incorporated cultural development with economic development. The city of Atlanta in America is another example where there is a conscious effort to meld cultural development with economic development in order to sell quality of life.

I make those remarks believing that expenditure on the arts and tourism should interlock. They should be seen not as separate issues but as intermeshing. There should be a policy of cultural tourism and of promoting the quality of life in South Australia as part of the economic development package. I hope that the Government, in shaping its budget for 1989-90, will give priority to those points.

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

CREDIT UNIONS BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 2415.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill. There are 18 credit unions registered under the Credit Unions Act 1976 and, according to the Attorney-General's second reading explanation, they have total assets of more than $679 million.

In 1985 the Credit Unions Review Committee was established to review the 1976 Act, particularly in view of the deregulation of the financial markets. That deregulation at Federal level created a rapidly changing environment in which all financial institutions had to compete for funds. I understand that in the review the credit unions themselves, as well as their auditors and solicitors, made submissions, which appear to have been taken into consideration.

The Bill represents a significant update of the legislative framework within which credit unions will carry on their activities. It focuses particularly on member and creditor protection by tightening prudential standards and controls. I have not had time to check it since the Bill was introduced, but I have to accept the Attorney-General's comment in his second reading speech that the prudential standards in the Bill are similar to those in States such as New South Wales and Victoria.

I have had some discussions with representatives of the Credit Unions Association who indicate that they have been fully consulted and that in general they support the provisions in the Bill which will provide them with a much better framework within which to operate and, where appropriate, to compete in the marketplace.

They have no objection to me raising a number of issues that need clarification. I say at the outset that this is one area in which there has been extensive consultation by Government with those likely to be affected by the Government's legislation. The Corporate Affairs Commission always appears to consult regularly the industries that it serves and, where legislation is introduced, frequently extensive consultation takes place. Mr Gordon Grieve of the commission has periodically forwarded to me drafts of the Bill as it has been prepared and revised. The Bill was made available at an early stage, so I thank the Minister and the commission for that consideration and for that level of consultation.

The provisions in the Bill include, first, that a credit union must attain 3 per cent reserves within three years of commencement of the new Act and thereafter will be required to appropriate a percentage of assets each year until reserves of 5 per cent are reached. At that point I understand that the intention is that the contribution will be reduced from 2 per cent per year to 1 per cent. Secondly, a credit union will be able to invest its funds in a subsidiary company to the extent of an aggregate amount of 5 per cent of its defined liabilities. Thirdly, the Bill allows for commercial lending but only so that it does not exceed 10 per cent of the total assets of the credit union or 5 per cent of the total assets, plus the amount comprising reserves, whichever is the lesser. Where a commercial loan is $100 000 or more, or .5 per cent of the total assets of a credit union, it must be reported to the new Credit Union Deposit Insurance Board. In addition, such commercial loans will only be allowed to be made where approved by an officer of the particular credit union who has undertaken a course of training for officers expected to deal with commercial loans.

Fourthly, interstate registration of credit unions is allowed, provided they meet the prudential requirements not only in their own State but in the State in which they propose to be registered. Such registration is to occur only with the approval of the Minister. Fifthly, accounts and audit provisions are now similar to those required in respect of a company's accounts, complying with applicable approved accounting standards.

A number of matters are of a technical nature but raise policy questions which must be addressed. It is appropriate that I raise them now so that the Attorney-General can take advice on them and perhaps facilitate the consideration of the Bill by indicating a viewpoint when we get into Committee, having been alerted to what I will raise. I may well raise other matters during the course of the Committee, but those to which I refer now are the ones of more significance.

Clause 6 (4) of the Bill refers to a notice being given by a credit union to the Corporate Affairs Commission as to a contract between a director of a credit union and the credit union in accordance with clause 66, which requires disclosure of interest, or clause 97 (6), under which no person is entitled to inspect or obtain a copy of or extract from a document in which that information has been furnished. I support the obligation upon a director of a credit union interested in a contract or proposed contract with a credit union to declare the interest. I certainly support very strict controls in that respect.

I also support the requirements of clause 97 (6) which requires the credit union to transmit a return that identifies loans made by the credit union during the financial year to any officer of the credit union; to any person, who after making the loan, became an officer of the credit union; to a company or other body corporate in which an officer of the credit union is interested; or to a company or other body corporate in which an officer of the credit union held any interest at the time the loan was made. The difficulty I face is that in other parts of the Bill there is an obligation to disclose a contract in an annual report.

Clause 44 provides that a director is not obliged to report a loan to any of its officers or employees who are members of the credit union to any general meeting of the members of the credit union, although subclause (3) does provide that the rules of a credit union may specifically require such a report to be made. In respect of the lodging of the financial statements and directors' reports in clause 82, an obligation exists to state the names of the directors in office at the date of the report and in respect of each of the directors particulars of any interest of the director in a contract or proposed contract with the credit union.

The difficulty I have is to understand what the limits of disclosure might be and the limits of access of members of the credit union in particular to that information. It seems that if a loan is made to a director that is a contract and the loan must be disclosed to the Corporate Affairs Commission. The contract must be disclosed in the annual report which, of course, is made available to members. I am not sure how the constraint upon access to the information at the Corporate Affairs Commission by searching is to be related to the obligation to include information in an annual report. It may be that there is no inconsistency, but on the face of it it seems that there is. There ought to be some explanation of the way in which the disclosure provisions are to apply within credit unions, both to loans and to other contracts involving officers, particularly directors, and the extent to which that information may be accessible to the members.

As a matter of principle, information about the fact of a loan should be made available to members of a credit union where such a loan is made to a director. Clause 9 deals with a credit union having an obligation to be registered under the Act. Subclause (3) provides:

> This section does not apply to—
> *(a)* a person or body of persons (whether incorporated or unincorporated) exempted by the Minister from the provisions of this section;
> *(b)* a bank;
> or
> *(c)* a building society.

I wonder whether there is any significance in the fact that a friendly society is not referred to. A friendly society is incorporated under its own Friendly Societies Act, but a building society is incorporated under the Building Societies Act, and they all contain similarities. So, I would like an explanation as to why friendly societies are not specifically referred to in this clause. Clause 19 provides that the Corporate Affairs Commission is given power to amend rules of a credit union in three circumstances:

> *(a)* to achieve conformity with any requirement of this Act;
> *(b)* in the interests of the members of the credit union;
> or
> *(c)* in the public interest,

There is a right of appeal against paragraphs *(b)* and *(c)*, but not against paragraph *(a)*. There is no definition of what is in the public interest or what is intended. Discussions with Corporate Affairs Commission officers did not disclose what is envisaged by this provision. Therefore, I would like an explanation, and in particular I would like to know why there is no right of appeal where the commission of its own initiative amends rules on the basis that it is necessary to achieve conformity with any requirement of this Act.

I put to the Attorney-General that there may be a dispute between a credit union and the Corporate Affairs Commission as to whether or not what the Corporate Affairs Commission wants to do by way of amendment of the rules of the credit union is necessary to bring the rules into conformity with any requirement of the Act. In those circumstances there ought to be a right of appeal. There is no harm in making this provision; I do not expect it to be used on many occasions, but I think it ought to be considered.

Clause 22 provides that minors be allowed to be members of a credit union. A minor is a person under the age of 18 years, but a minor is not entitled to exercise a vote at any meeting of a credit union. I would like the Attorney-General to think about the possibility of a minor being able to exercise a vote via a parent or guardian. It is not uncommon for a similar mechanism to be recognised as the way in which a minor can express a view. If it is good enough for a minor to be a member of a credit union and to be bound by the rules of that credit union and the obligations placed upon a member, it is unreasonable to exclude that minor, even by way of parent or guardian, from participating in proceedings of the association.

Clause 40 deals with disclosure statements. Such statements are relevant under clause 39 where a credit union offers security to its members for subscription or purchase, invites its members to subscribe for or purchase securities, or issues securities to its members. In the situation of a company, a disclosure statement identifies, by way of a prospectus, some of the material which would otherwise be required to be available. Clause 40 also provides that an officer of a credit union can give notice that he or she has not consented to the issue of the disclosure statement or has opposed it. Subclause (4) provides that, if the disclosure statement contains false information, such an officer can avoid liability by proving that the disclosure statement was issued without his or her knowledge. Liability can also be avoided if a person when first becoming aware of the issue of the disclosure statement forthwith gives reasonable notice that it was issued without his or her knowledge or that he or she gives reasonable public notice that the disclosure statement was issued without his or her consent forthwith after it was issued, as the case may be.

This principle is reasonable and I am told that it was lifted from the Securities Industries Code. However, two aspects need clarification. First, what is 'reasonable public notice'? Is it notice published in a newspaper which circu-

lates in an area on a weekly or daily basis, or is it something else? Is it notice to each of the members? I would like clarification of what is envisaged by 'reasonable public notice' and whether clearer guidance can be given to officers who find themselves in this difficult position.

The second aspect to which I refer is that, if public notice is to be given by way of advertisement, it would cost money. In such circumstances it would be appropriate to include in the Bill a provision that 'reasonable public notice' shall be given at the cost of the credit union and may be recovered from its funds. That may be an amount certified by the Commissioner for Corporate Affairs or there may be some other mechanism by which the amount can be established. It may be that 'reasonable public notice' could be the subject of guidelines issued by the Commissioner or it could be covered by regulation, but the matter needs to be addressed.

I have already referred to clause 44 as it relates to loans by directors, but this matter needs to be further addressed. I now turn to clause 45, in particular subclause (6) which deals with commercial loans. Commercial loans are defined as those which exceed $100 000 or, if some other amount is prescribed, that amount, or .5 per cent or, if some other percentage is prescribed, that percentage of the total assets of the credit union where in those circumstances the commercial loan must be reported to the board. A commercial loan may also be something less than that amount. If it is less, certain matters must be addressed under the definition of 'commercial loan', as follows: first, the repayment of a commercial loan of under $100 000 is to be secured by registered first mortgage over land on which a dwellinghouse is erected or by a charge over authorised trustee investments and where the amount borrowed does not exceed 85 per cent of the market value of the land or investment subject to the mortgage or charge.

I have no difficulty with that. I think that, in some circumstances, 85 per cent may be too high a percentage, but, generally speaking, it is probably not unreasonable in circumstances where the market is rising. However, I would like some clarification of what the Government believes are the appropriate mechanisms for obtaining information about the market value of the land. I would have expected that, as is the case in the Trustee Act, some reference to a market value fixed by a licensed valuer might be an appropriate additional safeguard for a credit union and, also, for the members.

Clause 46 relates to loans to minors. A minor is entitled to obtain a loan where:

> *(a)* The loan is made jointly to the minor and his or her parent or guardian;
>
> and
>
> *(b)* The minor and his or her parent or guardian are jointly and severally liable on the contract.

This does not address the difficulty with taking security. It seems to me that it may be necessary to address the issue of whether or not a minor, notwithstanding his or her capacity to enter into a contract for a loan from a credit union, is also able to provide security. My recollection is that, ordinarily speaking, if a minor is to own real property, the approval of the Supreme Court would normally be required and, where a mortgage is to be granted over that land, that, too, must be approved by the Supreme Court, so I think that there is a distinction between a 'mortgage' and a 'contract'. It is all very well to give a minor the right to borrow from a credit union, but I think that a mechanism is required which will ensure that any security given is valid security.

Clause 51 deals with certain provisions governing investment. Subclause (2) provides that a credit union is not prevented:

> . . . from applying its funds as it considers appropriate for carrying out its objects—
>
> *(a)* in forming or acquiring a subsidiary;
>
> or
>
> *(b)* in acquiring securities of, making loans to, or guaranteeing liabilities of, a subsidiary of the credit union.

The only question which that raises is the extent of the guarantee. I suggest that, notwithstanding other provisions that limit the extent to which funds of the credit union may be committed in respect of subsidiaries, it is possible that, where a credit union is authorised to guarantee liabilities of a subsidiary, such guarantee may extend beyond the statutory limit on the credit union's involvement in applying funds to a subsidiary of the credit union. I query whether there is a need for such guarantee to be linked more specifically to those provisions which deal specifically with placing limits on a credit union's commitment to a subsidiary or subsidiaries.

I now turn to clause 65, which deals with qualifications of a director and vacation of office. I raise for consideration that in subclause (3) the office of the director becomes vacant in certain circumstances, but it is not specifically provided that it becomes vacant in the event of a director also being a director of a company placed in liquidation, for example. In those circumstances, it seems to me that we should consider whether or not a director is so disqualified. It may also be appropriate to consider including in this clause the sort of provisions which are included in the Companies Code and which relate to disqualification of directors from continuing to hold office if involved in activities in companies that result in insolvency and liquidation of those companies.

Clause 67 (2) prohibits certain dealings and provides:

> . . . anything done by a proprietary company in which an officer of the credit union is a shareholder or director is to be regarded as having been done by the officer.

It may be that the shareholder or director is in fact a trustee and, in those circumstances, I suggest would not be caught by the clause. I think that the inclusion of 'acting as trustee' should be considered. Clause 71 (1) provides:

> An officer of a credit union must at all times act honestly in the exercise of the powers and the discharge of the duties of his or her office.

I agree with that, but I am a little unsure of the relationship of a penalty of a Division 6 fine or, where the offence was committed with intent to deceive or defraud, a Division 4 fine or Division 4 imprisonment. It seems to me that, if one does not act honestly, one must have an intention to deceive or defraud. I therefore think that the reference to 'intention to deceive or defraud' is superfluous in dealing with a determination whether or not an officer has acted honestly.

I think some clarification of clause 73 (2) is needed, because that relates to voting rights. Subclause (2) provides:

> The rules of a credit union may provide for postal voting by members on any question other than one to be determined by special resolution.

It seems to me that those resolutions which are to be special resolutions will probably be of greater significance than those ordinary resolutions on which postal voting may be allowed. Could the Attorney-General indicate the reason why, if a special resolution is to be passed, postal voting should not be required in circumstances where I would have thought it was imperative for the members' views to be received and considered in more significant circumstances than ordinary resolutions?

As a matter of technicality, I raise whether clause 114 is a money clause. I think that that matter needs to be addressed. I see one or two members nodding their heads to indicate that that is the case.

I turn now to clause 120, which relates to certain appeals by a credit union. Subclause (2) relates to a declaration by the board that a credit union is to be subject to supervision or is to be released from supervision, but provides that a declaration of the board is not to be stayed by an appeal under this provision. It seems to me that that ought to be discretionary in the sense that, if a court decides that it is appropriate to stay the decision, it ought to have the discretion to do so. As the Bill is drafted at the moment, it does not appear to provide for any such discretion.

Clause 123 (6) provides for notice in the *Government Gazette* of the appointment of a liquidator. I would like to see that a notice is also inserted in a daily newspaper, because I do not think that many ordinary members of a credit union would read the *Government Gazette*. They may be more likely to read the public notices columns in the newspaper than the *Government Gazette*. It is important that if a liquidator is appointed members know about it and that public notice is given in a medium which they are likely to read.

I raise some questions in relation to foreign credit unions, which are dealt with in Part 9 of the Bill. The question arises whether a credit union which seeks to come into South Australia and carry on business is also required to contribute to the fund and be subject to the jurisdiction of the South Australian board. It is not clear to me that that is the case, so it needs to be clarified.

I have some reservations about interstate trading by credit unions. I suppose in some respects it results from consideration of submissions by building societies about conduct of business interstate where, I recollect, it is not yet a permitted activity. Therefore, I wonder whether the reference to foreign credit unions is likely to extend into other areas such as building societies and friendly societies.

I make a minor point in relation to clause 127 (2), paragraph *(b)*: before registration can occur, there must be a copy of the last audited balance sheet of the credit union. I suppose it is topical, in the light of the Friedrich case, to determine whether it is appropriate to require the last audited balance sheet of a credit union to be certified by the Corporate Affairs Commission of the State of origin, rather than to require certification from two of the directors of the credit union. I do not suppose it is a major issue with the registration of credit unions, but I just flag it as a possible matter for consideration.

Reference is made in clause 131 to foreign credit unions, where documents must be lodged with the Corporate Affairs Commission. This includes a copy of the balance sheet relating to the financial affairs of the foreign credit union. It seems to me that that ought to include an audited balance sheet, rather than just an ordinary balance sheet. It may be that the foreign credit union's place of origin does not require that balance sheet to be audited but, if it is going to carry on business here, it ought to be audited and placed on our register in South Australia.

I am not clear about the intention of clause 135, which relates to the abolition of the doctrine of constructive notice. Perhaps the Attorney-General can give some further clarification of that.

I may raise some other matters during the Committee stage, particularly in relation to some penalties, and the fact that all the offences constituted by the Act are to be summary offences under clause 149. I have sought to put on record all the issues which need to be explored. If they are satisfactorily dealt with, the Liberal Party can ensure that the Bill passes during the current session. I know that the credit unions are anxious for that to happen. With those observations I support the second reading.

Bill read a second time.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 2419.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill which arises out of concerns about the increasing use by defendants of applications to stay proceedings on the grounds that they constitute an abuse of process. Recently, in South Australia the most prominent example was the application by counsel acting for the defendants in the Dr Duncan drowning case: because so much time had elapsed since the death of Dr Duncan they asserted there was an abuse of process. However, there have been other instances interstate and in South Australia which suggest that there ought to be some right of appeal on the part of the Crown. For example, if a magistrate decides that there is an abuse of process and stays the proceedings indefinitely, the Crown should be able to have that reviewed by the Full Supreme Court. Similarly, an accused person who is unsuccessful in such an application should be able to have the matter reviewed by the Full Court.

The Bill does grant rights of appeal. I think on both sides of criminal prosecution those rights of appeal are important and ought to be put beyond doubt.

There is a right for the court to reserve a question relating to an issue antecedent to trial, and that is defined specifically in the Bill. It allows that point to be taken either before the formal part of the proceedings commences, or before the trial is completed. Again, I think that is important.

The only reservation which some lawyers have made to me about this is that it might be a way by which judges will tend to state cases, rather than dealing with the matters as they arise during the course of a trial. I do not think you can govern that and control it. It will be up to the discretion of the various trial judges as to the extent to which they seek to have matters resolved by the Full Court before the trial is completed.

In relation to an abuse of process appeal by the Crown, it has been put to me that it is a bit like a case stated by the court on the application of the Crown after an acquittal has been made. It is different from an appeal against sentence, but in circumstances where it might be compared with a case stated after acquittal there is a view that the Crown ought to be prepared to meet the expense, and I would like the Attorney-General to give some response to that.

The only other issue relates to the redrafting of section 352. Some concern has been expressed about the repeal of all of that section and its re-enactment in different form. I presume that that has been done merely to ensure consistency in drafting, but it has been put to me that in respect of section 352 (1) *(a)* reference to a case stated has been deleted. Also, in paragraph *(b)* the certificate of a judge of the Supreme Court or District Criminal Court certifying that a case is fit for appeal is deleted. That may be adequately covered, but I would like the Attorney-General to address that and, at the same time, to indicate in the redrafted proposed section 352 (1) *(a)* who is to grant the leave to appeal, whether it is the trial judge or the Full Court.

Will he also indicate what the relationship of the last line of proposed subsection (1) might be to the Criminal Law Sentencing Act which allows minimum sentences to be reduced in certain circumstances? What we have in this Bill is a provision that, in certain circumstances, no appeal may be brought against sentence if the sentence is one fixed by law. There needs to be some examination of the extent to which that might override the Criminal Law (Sentencing) Act, which deals with the mitigation of minimum penalties in some circumstances.

Subject to that, the principle of the Bill is supported. We will support the second reading and hope that the matters which I have raised can be clarified by the Attorney-General before the Committee stage of the Bill.

Bill read a second time.

FRIENDLY SOCIETIES ACT AMENDMENT BILL

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

CLEAN AIR ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill introduces amendments to the Clean Air Act 1984 which will give the Minister for Environment and Planning responsibility for managing the release of ozone depleting substances to the atmosphere.

Members will be aware of the global concern for the layer of ozone gas in the upper atmosphere which is a shield for living things on earth from the harmful effects of ultra-violet radiation present in the sunlight. The scientific community has established that certain synthetic chemicals in the broad chemical grouping of chlorofluorocarbons (CFCs) and halons break down this shield, with serious implications for human health and the environment.

To a significant extent this Bill will also address another problem of global concern, that of the earth's warming due to the influence of the so-called greenhouse gases. CFCs are powerful greenhouse gases and it has been estimated (Victorian Draft Options Paper and Policy Statement on Ozone Depleting Substances (Issued: 28 February 1989)) that by the year 2030, CFCs will provide 20 per cent of the warming potential of the total greenhouse gases. Therefore CFCs are worthy of control even if there were no concern about their ozone depleting potential.

This Bill is intended to complement and supplement the Commonwealth Ozone Protection Act 1988.

The objectives of the Commonwealth Act are:

(a) to institute a system of controls on the manufacture, import and export of substances that deplete ozone in the atmosphere, for the purpose of:

(i) giving effect to Australia's obligation under the Convention and the Protocol; and

(ii) further reducing Australia's export of such substances; and

(b) to institute, and to provide for the installation of, specific controls on the manufacture, import, distribution and use of products that contain such substances and use of such substances in their operations.

The convention referred to is the Vienna Convention for the Protection of the Ozone Layer to which Australia became a party in 1987. The protocol referred to is the Montreal Protocol on Substances that Deplete the Ozone Layer, which Australia signed in 1988.

The protocol establishes a requirement to limit the domestic supply of specified CFCs to a tightening program which will freeze supply at the 1986 level with effect from mid-1989. The supply will then be reduced by 20 per cent from 1993 and a further 30 per cent from 1998.

The protocol also requires the supply of halon gases to be frozen at the 1986 level with effect from 1990.

Periodic review of the protocol's control requirements will take place, with the first review scheduled for completion by 1990.

Almost immediately following the signing of the Montreal protocol, new scientific evidence suggested the need to significantly strengthen its control requirement. The Bill currently before this House provides sufficient flexibility to accommodate any changes that may be needed to more rapidly phase out these substances.

The Commonwealth Act provides for a system of licences and tradeable quotas for the production, import and export of scheduled substances and controls on the application of scheduled substances so as to limit, so far as is practicable, the emissions of these substances to the air.

Clearly, it is the Commonwealth Government's role to control the import and export of these substances. Similarly, it is acknowledged that the Commonwealth Government is best positioned to apply quota provisions; although there may be some dispute that these quotas should be traded when the initial recipient of a quota has no need for its share.

The protocol generally has no controls on exports and in fact allows production to be increased by up to 15 per cent under certain circumstances. The Federal Government proposes to freeze exports, then gradually reduce exports of these substances by 5 per cent each year.

The Commonwealth Act prohibits the importation or manufacture of do-it-yourself kits for recharging automotive air-conditioning systems after 31 January 1989 and disposable containers of five kilograms or less of scheduled substances for recharging air-conditioning and refrigeration systems after 30 June 1989.

The manufacture and import of extruded polystyrene packaging and extruded polystyrene insulation produced with a scheduled substance will be banned after 31 December 1989, as will the manufacture or importation of dry cleaning equipment which uses a scheduled substance.

Aerosols are generally recognised to be a major user of CFCs. From 31 December 1989, the manufacture or import of aerosol sprays containing a prescribed substance will be prohibited. There will be some exemptions for essential uses, but these will require a minimal amount of CFC compared with the massive 30 per cent of the total usage of CFCs currently placed in aerosol cans. The protocol requires members to reduce CFC usage by 20 per cent by 1993. The Commonwealth action in its requirement for aerosols alone, appears to meet the protocol by 1990—two years earlier than required. The Commonwealth Act is not, as has been suggested, a weak Act; it more than meets Australia's international commitment.

Clearly, the intent of the protocol is to reduce the release to atmosphere of ozone depleting substances. The Commonwealth Act gives effect to that intent by limiting the availability of those substances. As I have said, this Bill supplements the Commonwealth initiatives, as it will permit the minimisation of the release of these substances to the atmosphere; by encouraging the use of alternative substances; placing controls on the emissions of the substances; adoption of correct disposal procedures; encouraging collection and recycling of the substances; and by ensuring the public are informed which products they purchase are manufactured using, or contain, ozone depleting substances.

As I previously said, this Bill is of global significance and hence should transcend political and State differences. The Government shares the concern of Mr Roper, the Victorian Minister for Environment, that some States have adopted a unilateral approach by introducing legislation in advance of the Commonwealth Act. I support his initiative in preparing a policy paper on ozone protection and his wish for the States to adopt a coordinated approach to the reduction of ozone depleting substances. Such an approach can only benefit Australia, and there is nothing in this Bill that inhibits South Australia from following such a path. In support of this stand, the Department of Environment and Planning is co-sponsoring a national halon conference in Melbourne with the Victorian and New South Wales environment agencies.

The department is also participating in the preparation of a national policy statement on ozone protection, which will be presented to the Environment Ministers' Conference in July of this year.

In presenting this Bill, I am acutely aware of our current dependence on these important chemicals and their use in such diverse products as aerosols, refrigeration, air-conditioning, plastic foams, fire-fighting equipment and cleaning and degreasing products. Members should be aware that although Australia uses less than 2 per cent of the known consumption of these substances, on a *per capita* basis Australians are leading consumers and arguably the world's leading consumers, hence we do have the opportunity to make a significant contribution.

When preparing its Bill, the Commonwealth Government was provided with advice through a working group of the Association of Fluorocarbon Consumers and Manufacturers on which the Department of Environment and Planning was represented. The information provided by this association will assist the Government in arriving at any future decisions, however, being conscious that associations do not tend to be supported by all interests in a particular field, the Government invites representation from local users of these ozone depleting substances.

While it is the Government's wish that the transition away from these substances be as painless as possible for both industry and the consumer, it is clear that this cannot be achieved without commitment, and at a cost. This cost must be borne by those who benefit from the use of these substances.

The current objective of fluorocarbon consumers and manufacturers is to find alternatives that are 'ozone friendly', that is, substances that have a markedly lower ozone depleting potential. Already we have been made aware that ICI and Dupont have some alternatives and I understand these products will be commercially available in Australia by 1991. I would however caution members against unqualified acceptance of new 'quick-fix' chemicals which may not have been adequately tested.

Not all ozone depleting substances will be viewed equally. Some prescribed substances have an ozone depleting potential far greater than others, to an extent of 10:1. It is evident that to achieve the greatest benefit, both the quantity of substance used and its ozone depleting potential must be considered.

I would draw members' attention to the opportunity that this Bill provides for South Australian industry. It has been evident in the past that Australia refers to Sweden for guidance on a variety of issues. In dealing with ozone depleting substances, Sweden has in place a time scale for the replacement of these substances that is considerably shorter than other countries. I draw this to your attention because, in meeting its obligations, Swedish industry will undoubtedly develop alternative substances, control technologies and new procedures which will be in demand and exportable. A similar opportunity exists for South Australian industry.

Government will provide an incentive to industry through its Public Service purchasing programs. Government agencies will be instructed to give preference to products which contain no ozone depleting substances, those that are manufactured without the use of ozone depleting substances and those that do not use these substances in their operation. Where the choice is between two or more ozone depleting substances, preference will be given to the substance with less ozone depleting potential.

Disposal of unwanted ozone depleting substances will be addressed. A disposal facility will be needed in Australia to destroy the unwanted substances so as to prevent their release to the atmosphere. This is a matter that is of concern to all States and the AEC Standing Committee has approved the expenditure of $15 000 to investigate the disposal of used CFCs and halons. I believe it is a matter best addressed nationally through the Australian Environment Council.

A public education program will be undertaken so that the Government's intentions are clear and to ensure that the public is aware of the facts and the need for care and cooperation in ensuring an orderly and rapid phase out of these substances.

I would draw members' attention to the fact that the phenomenon we are addressing did not occur overnight, the possibility was recognised in 1972—it is just that the evidence supplied by the hole in the ozone layer took time to find. The multinational manufacturers of chlorofluorocarbons were therefore not caught entirely unaware by the discovery, hence the development of an 'ozone friendly' alternative by ICI.

Finally, it is proposed that the proclamation of section 30b, which prohibits the manufacture and use of the prescribed substances, be delayed for some months. A delay will allow industry time to identify those activities for which an exemption may be needed, to review their future use of the substances and to apply to the Department of Environment and Planning for the appropriate exemptions.

These amendments also rely on regulations for their effectiveness and preparation of these regulations will need careful consideration and discussion with appropriate bodies. To this end, Department of Environment and Planning officers will be attending a national forum of Government agencies and industrial representatives to consider a uniform national policy for the rapid phase out of ozone depleting substances. I commend the Bill to honourable members.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides for the operation of the Act to be by proclamation.

Clause 3 amends the long title of the Act so that it reflects the provisions to be inserted in the Act for the protection of the ozone layer.

Clause 4 inserts new Part IIIA.

New section 30 provides the necessary definitions. 'Prescribed substance' is any substance that is covered by the Commonwealth Act and any further substance that may be prescribed by the regulations under this Act.

New section 30b prohibits the manufacture, use, storage, sale or disposal of a prescribed substance, or a product containing such a substance, except in accordance with an exemption. The offence carries a division 4 fine ($15 000) for a natural person or a division 1 fine ($60 000) for a body corporate. The section does not apply to the use, storage, retail sale or disposal of certain products (to be prescribed) if purchased before the commencement of the section.

New section 30c provides for the granting of exemptions by the Minister. The holders of Commonwealth licences or exemptions will be granted an exemption to the extent provided by those licences or exemptions. Persons currently conducting an enterprise in which a prescribed substance is manufactured, used, stored, sold or disposed of will also be granted an exemption. Any exemption (including one granted to the holder of a Commonwealth licence or exemption) may be granted for such period, and on such conditions, as the Minister thinks fit. Conditions may be varied, revoked or added to. Reasons must be given in writing for any refusal to grant an exemption. All exemptions (and variations, revocations, etc., thereto) must be published in the *Gazette*. The offence of contravening a condition of an exemption carries the same maximum fines as the principal offence under section 30b.

New section 30d requires the Minister to keep a register of exemptions that may be inspected.

New section 30e gives the Minister the power to revoke an exemption if the holder breaches the Act or a condition of the exemption.

New section 30f gives the Minister the power to remove and dispose of prescribed substances, or products containing prescribed substances, if stored on any premises in contravention of this Act and the occupier of the premises refuses or fails to comply with a notice requiring the removal and disposal of the substance or product in question.

New section 30g empowers the Minister to prohibit the sale or use in this State of products manufactured outside of this State if they are manufactured using a process involving the use of a prescribed substance. Such a prohibition will be by notice in the *Gazette* and may be revoked or varied in the same manner. The offence of contravening such a prohibition also carries a division 4 fine for a natural person and a division 1 fine for a body corporate.

New section 30h provides that products containing prescribed substances must be labelled in accordance with the regulations. No specific penalty is provided, and so the general penalty under the Act will apply.

Clause 5 makes consequential amendments ensuring that the powers of entry and inspection will apply to premises on which an activity to which an exemption under Part IIIA relates is being conducted.

Clause 6 inserts a power for the Supreme Court to grant injunctions for the purpose of preventing breaches of the Act. This provision follows a similar provision in the Commonwealth Act, but has been made of general application to the whole of this Act.

Clause 7 makes necessary consequential amendments to the evidentiary provision in the Act.

The schedule converts all penalties in the Act to divisional penalties, taking any penalty, where necessary, up to the nearest division.

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

ADJOURNMENT

At 6.10 p.m. the Council adjourned until Wednesday 5 April at 2.15 p.m.