LEGISLATIVE COUNCIL

Tuesday 5 September 1989

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

ASSENT TO BILLS

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

Appropriation,
Criminal Law (Sentencing) Act Amendment,
Industrial Conciliation and Arbitration Act Amendment (No. 2),
Land Tax Act Amendment,
Pay-roll Tax Act Amendment,
Prisoners (Interstate Transfer) Act Amendment,
Summary Offences Act Amendment.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following Questions on Notice, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 1, 7, 9 and 10.

SUPREME COURT VISIT TO UK

1. **The Hon. K.T. GRIFFIN** (on notice) asked the Attorney-General: In relation to the recent visit to the United Kingdom by the Supreme Court to hear witnesses in the 1980 Ash Wednesday Bushfire case—

1. *(a)* How many court officials travelled to the United Kingdom?

(b) Who were they?

2. What was the cost of travel, accommodation and other expenses of the court and its officers and assistants?

3. Who paid those costs?

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

1. *(a)* Four.

(b) The Hon. Justice Olsson; Mr C. Lowry—Tipstaffe; Mr T. Stacey—Court Reporter; Ms K. Pascoe—Court Reporter.

2. and 3. All costs for the trip have been met by the parties. ($6 140 has been paid by the Government for daily allowances but this will be reimbursed by the parties.)

ABORIGINAL COMMUNITY YOUTH WORKERS

7. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister of Community Welfare: How many Aboriginal community youth workers are employed in the Adelaide metropolitan area, at what locations are they based, and what are their tenure arrangements?

The Hon. Barbara Wiese, for the **Hon. D.J. HOPGOOD:** The Department for Community Welfare employs under the GME Act the following Aboriginal youth workers:

Neighbourhood Youth Worker. This is a permanent position, currently temporarily filled, located in the Hindley Street Youth Project.

Senior Youth Worker. This is a permanent position with a permanently appointed occupant, located in the Aboriginal and Islander Coordinating Unit.

COMMUNITY WELFARE POSITION

9. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister of Tourism:

1. When will the position of Acting Chief Executive Officer of the Department for Community Welfare, held by Mr Lange Powell for some five months, be confirmed as a permanent position?

2. Who has been appointed to fill the second position of Deputy Chief Executive Officer of the Department for Community Welfare vacated in June by Ms Leah Mann?

3. Has the officer appointed to fill Ms Mann's former position been appointed in an acting capacity and, if so, for how long?

The Hon. BARBARA WIESE: The replies are as follows:

1. Mr Lange Powell has not been acting in the position of Chief Executive Officer.

2. Ms Anne Howe has been appointed to fill the position of Deputy Chief Executive Officer (Executive Director, Operations).

3. Ms Howe has been permanently appointed to the position.

ST PETERS WOMEN'S COMMUNITY HEALTH CENTRE

10. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister of Tourism: Does the Government propose to continue funding the St Peters Women's Community Health Centre in 1989-90 at the same level as in the previous financial year, plus inflation?

The Hon. BARBARA WIESE: It is not clear to what centre the honourable member is referring. The St Peters Community Health Centre will have its funding maintained, plus inflation, in 1989-90.

The St Peters Women's Community Centre is funded on an annual basis and will soon be assessed by the Family and Community Development Grants Advisory Committee for funding for the 1990 grant period. Although it is not possible to pre-empt the committee's decision, it is anticipated that funding will be continued.

PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following interim report by the Parliamentary Standing Committee on Public Works:

Royal Adelaide Hospital—Replacement of linear accelerator No. 2.

The PRESIDENT laid on the table the following erratum amendment to the report by the Parliamentary Standing Committee on Public Works tabled in this Council on 3 August 1989:

Adelaide Entertainment Centre.

AUDITOR-GENERAL'S REPORT

The PRESIDENT laid on the table the Auditor-General's Report for the year ended 30 June 1989.

PAPERS TABLED

The following papers were laid on the table:

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

Lotteries Commission of S.A.—Report, 1988-89.
Department of the Premier and Cabinet—Report, 1988-89.
South Australian Housing Trust—Financial and Statutory Reports, 1988-89.
State Bank of S.A.—Report, 1988-89.
Regulations under the following Acts—
Boating Act 1974—Fees.
Country Fires Act 1989—General.
Workers Rehabilitation and Compensation Act 1986—Volunteer Firefighters.

By the Minister of Tourism (Hon. Barbara Wiese)—
Forestry Act 1950—Variation of proclamation: Second Valley Forest Reserve.
Regulations under the following Acts—
Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986—Grants.
Chiropractors Act 1979—Registration Fees.
Drugs Act 1908—Hydroquinone and Ivermectin.
Fisheries Act 1982—
Licence Fees.
Southern Zone Rock Lobster Fishery—Licence Transferability.
Medical Practitioners Act 1983—Fees.
Metropolitan Milk Supply Act 1946—Licence Fees.
S.A. Health Commission Act 1976—Compensable Patient Fees.

By the Minister of Local Government (Hon. Anne Levy)—
S.A. Local Government Grants Commission—Report, 1989.
Highways Act 1926—Departmental Properties Leased, 1988-89.
Clean Air Act 1984—Regulations—Backyard Burning.
Motor Vehicles Act 1959—Regulations—Photographs on Licences.

MINISTERIAL STATEMENT: DOMESTIC AIRLINES DISPUTE

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a ministerial statement concerning the domestic airlines dispute.

Leave granted.

The Hon. BARBARA WIESE: One of the ironies of the current situation is that it has highlighted to everyone the enormous contribution that travel and tourism makes to the economic livelihood of this country. It has done so in a way that the industry could not have achieved through any normal means. It is to be greatly regretted, however, that the catalyst for this increased awareness of the travel sector has been an industrial dispute with the ramifications that we are now witnessing.

The economic impact of this dispute will be felt by Australia for many years to come. Indeed, it is possibly through the longer term tarnishing of Australia's image and reputation as a reliable tourist destination, rather than the day-to-day income losses as aircraft lie idle around the nation, that we will ultimately judge the extent of the damage that has been done. It is the loss of corporate traffic that is being felt most acutely by South Australia's tourism and hospitality businesses.

Members interjecting:

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

The Hon. BARBARA WIESE: The adverse impact on individual operations, and particularly the high standard business hotels and convention venues, remains severe, and, as the business segment is the highest value part of the State's tourist markets, the aggregate income loss to South Australia is substantial.

It is still premature, however, to talk about job losses which can be attributed to the dispute. Advice to me late last week, following checks by Tourism SA, the Australian Hotels Association and the Adelaide Convention and Tourism Authority amongst the hotel, restaurant, attraction and ground transport operators, was that staff are being asked to take holiday leave and that stand-downs and retrenchments will be delayed until the last possible moment.

In recognition of the seriousness of the present situation, Tourism SA has developed an 'action plan' of short and long-term initiatives to minimise the damage that is taking place now, as well as that which will carry forward into the future.

The main components of this action plan are as follows: provision of a weekly updated status report to key industry leaders; fortnightly meetings with the industry to consider offsetting co-operative marketing tactics; weekly discussions with the Adelaide Convention and Tourism Authority and the Adelaide Convention Centre to plan steps to assist conference organisers in going ahead with their functions; direct mail campaigns directed to overseas and interstate travel agencies to provide accurate information on existing air and alternative ground transport availability; the appointment of officers in the S.A. Travel Centres Interstate to provide intending travellers with assistance regarding travel arrangements, and media advertisements to advise travellers of this service; liaison with the Australian Tourism Commission regarding appropriate overseas 'marketing recovery' campaigns in which South Australia can participate following the resolution of the dispute; and extended interstate advertising activities to ensure that South Australia reclaims 'deferred' domestic travel demand.

As yet there is no suggestion that we should attempt to charter aircraft as some of the more remote States have been forced to do on behalf of their much more inaccessible tourist regions. However, the dialogue that we have set up with the industry will enable this option to be considered, amongst the other plans which are progressively advanced, as the situation demands. Fortunately, South Australia's geographic position is such that interstate road and rail travel is still a feasible option for many travellers—unlike the more remote centres of Tasmania, Western Australia, Northern Territory and North Queensland. It is evident that coach, hire car and rail operations to and from Adelaide are at maximum capacity.

The deregulation of South Australia's intrastate air services a decade ago has meant that, unlike other States, our regional services are unaffected and some interstate operations by regional carriers have been scheduled, for example, Kendell Airlines flies to Melbourne via Mount Gambier, and Lloyd flies to Alice Springs from Adelaide. Also, there is now additional capacity available to Adelaide from Qantas, the foreign internationals and the RAAF, and the domestic airlines are now moving to charter overseas aircraft and crews to recommence a stop-gap interstate service.

I want to stress that the Government will do whatever it can to reduce further the exposure of the State's tourism operators in the losses arising from the pilots' dispute. Obviously there are issues of fundamental national importance which are bound up in this dispute. The dispute is an unforgivable hijack of Australia's major export earning industry and, by their actions, the pilots are jeopardising the future of every Australian. I urge them to return to the negotiating table to achieve a quick and lasting resolution of this devastating strike.

QUESTIONS

ADELAIDE CHILDREN'S HOSPITAL

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 the Adelaide Children's Hospital.

Leave granted.

The Hon. M.B. CAMERON: I refer to the minutes of a meeting of the Children's Hospital Staff Society held on 26 July and the section covering the Chief Executive Officer's report. In part the report states:

> Re the 1989-90 budget, we have major financial problems. Task force strategies have been relaxed, which may lead to problems. It was noted that at chiefs of services meetings they would consider all strategies that would enable the hospital to maximise the funds we have and justify the services.
>
> The public expectation is that the best would be provided. Although there may be savings with the amalgamation [and here they are referring to the merger of the Children's Hospital with the Queen Victoria Hospital] eventually, but we would not save one cent this year. He made the comment the hospital's level of activity was too high for the funding available.
>
> Several members expressed the opinion that the hospital should not reduce its activity to meet a budget, as the public expected the best available service. In addition it was difficult to predict the changing demands (for example, respiratory syncytial virus [RSV]). Mr Gould added that we cannot hope to get extra money unless we come up with clear proposals. We must contain costs while we work up the case.

I note that the preliminary budget allocation for the Adelaide Children's Hospital, as set out in the Health Commission's blue book, is $57 million for 1989-90, compared with the $55.9 million that the hospital received last year. In real terms this year's allocation of $57 million is worth only about $53 million when inflation is taken into account. So, at this stage and on the preliminary figures, the hospital is being asked to take a cut of nearly $3 million, or a reduction of more than 5 per cent on last year's budget.

Of course, the Health Commission says it will provide the Children's Hospital, as it will all other public hospitals, with additional funds during the year to cover things such as wage increases, superannuation payments and terminal leave. But the great problem here is the hospital often cannot estimate what these extra costs will be and cannot be sure that all these costs will be matched with funds at the end of the day.

As pointed out in the staff society minutes, the Children's Hospital has had an enormous increase in activity during the past year. For example, there was a 4 per cent increase in the number of patients admitted last financial year. The number of occupied bed days for public patients in the hospital rose by more than 3 000, or 7 per cent last financial year, and outpatients increased by 5 per cent during the year. These increased pressures, however, had to be met with less staff, as the staff/patient ratio fell from 7.94 in 1987-88 to 7.42 in 1988-89. In other words, the hospital was expected to handle workloads which rose by up to 7 per cent with 6.5 per cent less staff.

I must say I have a sense of *deja vu* about raising the issue of the Children's Hospital's budget as on 15 November last in this Chamber it was the Opposition that revealed that the Children's Hospital was facing a budget overrun of $3.9 million.

Will the Minister indicate the extent of the 'major financial problems' again facing the Adelaide Children's Hospital, and indicate what measures are being taken to address the problems? Will he give an assurance to the public of South Australia that these measures will not include a reduction in activity levels or services that people have grown to expect from the Adelaide Children's Hospital?

Finally, will the Minister indicate whether a review of the preliminary budget allocation to the Adelaide Children's Hospital for 1989-90 is now under way, given the 'major financial problems' which have now surfaced in this report?

The Hon. BARBARA WIESE: I will refer those questions to my colleague, the Minister of Health, in another place and bring back a reply.

Hon. J.R. CORNWALL

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 Dr John Cornwall.

Leave granted.

The Hon. L.H. DAVIS: On 11 August 1988 I asked the Attorney-General to comment on the circumstances surrounding the Hon. Dr John Cornwall's sudden disappearance as a Minister from the Bannon Cabinet on Thursday 4 August. On that day, the Premier had issued the following press statement:

> Dr Cornwall considered that, if the high standards of ministerial propriety were to be maintained, he should step down from the Ministry. I commend him for his attitude.

On that same day in another place the Premier said, 'I did not force Dr Cornwall to resign.' However, at that time Dr Cornwall made quite clear publicly on more than one occasion that he had been told to quit the Cabinet, and the Attorney-General, in answer to my question on 11 August as to whether Dr Cornwall jumped or was pushed, said, 'As I understand the position, the Hon. Dr Cornwall tendered his resignation to the Premier.'

I think even honourable members opposite would know that on the weekend a book titled *Just for the Record: the Political Recollections of John Cornwall* was launched with some considerable publicity. I have had the opportunity of reading it. It is a very good read. It is colourful and well-written and, in fact, exposes—

The Hon. C.J. Sumner: Accurate?

The Hon. L.H. DAVIS: Well, that is for the reader to judge.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Just as the book is colourful it exposes many of the colourless Ministers in the Bannon Government. In this very well-written book, Dr John Cornwall, the former Minister, has made quite clear what in fact did happen. I will quote from pages 194 and 195, just in case the Attorney-General has not had the opportunity to read it himself. This relates to Wednesday 3 August. Dr Cornwall says:

> My first opportunity to speak to him came at about 11.15 a.m. after he consulted with Chris Sumner.

So the Attorney-General is right in the thick of it, up to his neck. At the top of page 195 Dr Cornwall says:

> Quite simply he asked for my resignation [that is, the Premier asked for his resignation]. Just as simply I refused to go.

Then further down page 195, relating to later on that day, Thursday 3 August, Dr Cornwall records:

> Bannon rang me at home in the early evening to ask me to reconsider my position. I again refused but agreed that the matter should go to my peers in Cabinet.

He then goes on to say:

> In fact I made only three telephone calls. Chris Sumner was non-committal.

That was—

The Hon. R.I. Lucas: The summary of his whole political career.

The Hon. L.H. DAVIS: That is right; that was the colourless Attorney-General supporting his ministerial colleague. In the next paragraph Dr Cornwall says:

By agreement—

The Hon. Barbara Wiese: You're not reading on.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: If members want me to read on, I will. Gavin Keneally was in favour of his staying on. He got two phone calls, one from Lynn Arnold and one from Terry Hemmings, spontaneously pledging their support. Dr Cornwall states:

By agreement I wasn't present when Cabinet met at 8.30 a.m. on Thursday 4 August. It continued to meet after the 9.15 a.m. Executive Council meeting. By 10.15 a.m., Bannon informed me that Cabinet had agreed to indemnify me for my damages and costs but that I must resign.

This is a clear recollection from Dr Cornwall of the circumstances surrounding his controversial dismissal. It again highlights the inconsistency between the statements made by the Premier and the Attorney-General about this matter. My questions to the Minister, as the Leader of the Government in his place, are three-fold: first, does the Attorney-General agree with Dr John Cornwall's account of his dismissal as set out in his recently released book? Secondly, will the Minister now admit that both he and the Premier seriously misled the Parliament and the public over the sacking of the Hon. Dr Cornwall and, thirdly, why did both the Premier, and the Attorney-General, as Leader of the Government in the Legislative Council, deny the truth—that in fact Dr John Cornwall was sacked, and did not resign?

The Hon. C.J. SUMNER: Unlike the honourable member, I have not had the opportunity to read the—

Members interjecting:

The Hon. C.J. SUMNER: I have not read the Hon. Dr Cornwall's treatise. The honourable member assures me that it is a good read and I look forward to reading it when the appropriate time arises. I understand that the Hon. Mr Davis—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis: Why did you ask me to read on if you had not read it?

The Hon. C.J. SUMNER: So that the honourable member could tell us what was going on.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. C.J. SUMNER: I have not read Dr Cornwall's book; certainly, I have heard of some of the things that are in Dr Cornwall's book and certainly I have read press reports about Dr Cornwall's book.

The Hon. L.H. Davis: You haven't read it at all.

The Hon. C.J. SUMNER: No, I have not read Dr Cornwall's book. That is the fact of the matter. There have been discussions about the book.

The Hon. L.H. Davis: You'd better hurry; it's going quickly.

The Hon. C.J. SUMNER: It may well be going very quickly. I will get a copy of it when time permits and read it. However, I have not read Dr Cornwall's book. Certainly I am familiar with some of the statements he makes in the book and indeed I have read some of the press material on it. I understand that the Hon. Mr Davis and the Hon. Mr Lucas recently accepted the invitation to go to the launch and were in a state of considerable excitement at the prospect of Dr Cornwall's book.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Hon. Mr Davis has read quotes to the Council about my responses in August 1988. If I have taken it, down correctly (I do not have it in front of me), I said, 'As I understand it, Dr Cornwall tendered his resignation to the Premier.' That is still my understanding of the situation, even from the selective quotes from the Hon. Mr Davis in the Chamber this afternoon. Dr Cornwall apparently said that he would place himself at the mercy of his peers in Cabinet. That is what he did and, as I understand it, he tendered his resignation to the Premier.

The Hon. L.H. Davis: Where did you stand on it?

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It seems rather odd that members opposite are quoting from Dr Cornwall's book in an endeavour to attack something that I said in this Chamber. It seems extraordinary that, from the Opposition's point of view, the previously discredited witness has now become the credible historian.

The Hon. L.H. Davis: I didn't call him a discredited witness.

The Hon. C.J. SUMNER: No, the Hon. Mr Davis did not call him a discredited witness, but it is interesting to note—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I said that members opposite have now come from calling Dr Cornwall the discredited witness to calling him the credible historian.

Members interjecting:

The Hon. C.J. SUMNER: I am not.

The PRESIDENT: Order! The honourable member's question was asked in silence; I hope the answer receives the same courtesy.

The Hon. C.J. SUMNER: The Hon. Mr Davis's stance is somewhat strange when one recalls that he has spent most of his political career in Opposition abusing Dr Cornwall in the most extraordinary terms, calling him for just about everything possible. What I am saying is quite accurate. Having attempted over many years to discredit Dr Cornwall, members opposite are now quoting from his book in an attempt to discredit the Premier and me. Indeed, if the honourable member would like me to, I could go through, chapter and verse, what the Hon. Mr Davis and other members opposite have said about the Hon. Dr Cornwall, but I am not sure that that would add to the situation to any great extent. Members opposite are fully aware of the sorts of criticism that they made over many years. Members opposite, over many years, condemned Dr Cornwall in the roundest of terms and in the most abusive language.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That is the fact of the matter. Now they come into this place quoting Dr Cornwall and attempting to criticise—

The Hon. L.H. Davis: You can admire and respect an adversary—

The Hon. C.J. SUMNER: If you think that this is admiring and respecting an adversary—

The Hon. Mr Davis interjecting:

The Hon. C.J. SUMNER: Well you interjected. On 28 March 1984, after referring to a certain incident, the Hon. Mr Davis 'highlighted the Minister's fundamental instability under pressure' and said:

He is a well known bully in the sense that he attacks without compunction, without thought, shooting from the hip, but so often the biggest bullies are the biggest whingeing, whimpering whiffers and, of course, one can well describe the Minister in that sense. Whilst he loves dishing it out, he simply cannot take it.

Does that indicate respect for the Hon. Dr Cornwall?

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: If you think that that indicates respect for Dr Cornwall, you are a totally two-faced and disgusting individual.

Members interjecting:

The PRESIDENT: Order! It is virtually impossible to hear anything. I cannot pick any individual member out. I appeal to the Chamber for order, and let the Attorney-General answer the question in the silence he deserves.

The Hon. C.J. SUMNER: Had these interjections not occurred I would not have gone into this matter, but the Hon. Mr Davis is now promoting himself as a respecter of Dr Cornwall. The fact is that he spent years—parliamentary debate after parliamentary debate—denigrating Dr Cornwall, abusing him and trying to run down his achievements.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: On 29 March 1984 the Hon. Mr Davis said that Dr Cornwall had been a lap dog of the Federal Minister for Health. Another quote: 'He is not only shifty; he is also untruthful.' This is what the Hon. Mr Davis is saying. Frankly, I do not think there is any point in pursuing that course of action. It is totally hypocritical for members opposite to come into this Chamber and claim they are great respecters of Dr Cornwall.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Hon. Mr Davis said by way of interjection that we can respect Dr Cornwall.

The Hon. L.H. Davis: I said you can respect an adversary, even though you attack him.

The Hon. C.J. SUMNER: In those terms is that the respect you have for Dr Cornwall, that he is shifty and a known bully? Are they terms of respect? Of course they are not. He says Dr Cornwall is shifty and untruthful.

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation and there are too many interjections.

The Hon. C.J. SUMNER: They are the terms that the Hon. Mr Davis used, and clearly they are not terms which indicate respect from the honourable member or members opposite for Dr Cornwall. They spent years denigrating him.

The Hon. R.I. Lucas: Now you're taking it up.

The Hon. C.J. SUMNER: I am not taking it up.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. C.J. SUMNER: I am not taking it up. I am merely trying to point out to this Chamber the hypocrisy of members opposite who come in with Dr Cornwall's book in their hand, championing everything he says as accurate.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Yes, and I'm responding.

The PRESIDENT: Order! The Hon. Mr Davis will come to order. Repetitive interjections are not needed.

The Hon. C.J. SUMNER: They say what Dr Cornwall writes is an accurate reflection of the events that took place some time ago. I point out the hypocrisy of members opposite. I would have thought that was clear from the few quotes—and they are very few of the very many—that were used by members opposite to denigrate the Hon. Dr Cornwall. Of course, what they wanted was to remove him from politics and they saw his resignation as a feather in their caps.

I do not have any reason to resile from this statement I made which was 'As I understand it, Dr Cornwall tendered his resignation to the Premier', and the parts of the book that the Hon. Mr Davis has read out tend to support that.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about his involvement in what Dr John Cornwall has called a clever and cruel plan to intimidate and pressure a former member of this Council to vote in support of the Roxby Downs indenture.

Leave granted.

The Hon. R.I. LUCAS: That was just the subject heading! In November 1981—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: They are not even listening to my question.

The PRESIDENT: If there were not so many interjections, we might hear it.

The Hon. R.I. LUCAS: In November 1981, a former member of this Council, Norm Foster, first indicated publicly that he might go against ALP policy and support the former Liberal Government's Roxby Downs indenture. According to the just published book by Dr John Cornwall, this statement by Mr Foster provoked the following response within the parliamentary Labor Party—and I note the Left, in particular, Ms Pickles, listening to this with interest,

Members interjecting:

The Hon. R.I. LUCAS: And Mr Weatherill. You went down and asked for a copy because you were too mean to buy it!

The Hon. G. Weatherill: I did buy it.

The PRESIDENT: Order! There are too many interjections.

The Hon. R.I. LUCAS: The response was as follows:

> There were a number of senior members in the shadow Cabinet who began to see Foster as our potential saviour on Roxby Downs. With an election due within months, his crossing the floor would have no practical effect on his parliamentary future. It would allow the Bill to pass and very effectively get the Labor Opposition off the hook.

The indenture Bill came on for a second reading debate in this Chamber on 16 June 1982. On that evening, before giving his second reading speech, Mr Foster informed the then Leader of the Opposition, Mr Bannon, that he would in fact follow Party policy and oppose the Bill. Within five minutes of beginning his speech—and *Hansard* records this—Mr Foster indicated this position to the Council; that is, he would vote against the Bill and with the Labor Party members. However, as the *Hansard* record shows and as Liberal Party members in this Chamber who were there on this occasion confirm, the present Attorney-General (Mr Sumner) and Dr Cornwall then proceeded to insult and intimidate Mr Foster by constant interjection.

The Hon. M.B. Cameron: I recall it well.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The honourable member recalls it well.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: These were his colleagues, too, Mr President—his supposed colleagues.

The Hon. R.J. Ritson: He got death threats from members of the Labor Party.

The Hon. R.I. LUCAS: The Hon. Dr Ritson interjects that death threats were made against his family.

Members interjecting:

The Hon. R.I. LUCAS: You deny that? Your despicable performance—

The PRESIDENT: Order! The Hon. Mr Lucas will address the Chair.

Members interjecting:

The Hon. R.I. LUCAS: You ought to cringe, too.

The PRESIDENT: Order! The Hon. Mr Lucas will address the Chair.

The Hon. R.I. LUCAS: Thank you, Mr President. Mr Sumner keeps interjecting.

The PRESIDENT: The honourable member does not have to answer him.

The Hon. R.I. LUCAS: The Attorney-General told Mr Foster to stay away from Caucus while Dr Cornwall questioned Mr Foster's mental capacity. Members should look at the *Hansard*. They—that is, the Attorney-General and the former Minister—did this, I emphasise, after Mr Foster had indicated publicly that he would oppose the indenture: and he had also told his parliamentary Leader that he would oppose the indenture. Mr Foster was so shattered by this behaviour, and by a telephone threat to his wife on the same evening, that overnight he had a change of mind and the following morning resigned from the ALP and supported the indenture.

The Attorney-General and Dr Cornwall maintained at the time that they had not put any pressure on Mr Foster. In the *News* of 17 June 1982, Dr Cornwall was reported as saying:

> He has been under a lot of pressure from a lot of people, but not from his colleagues.

However, Dr Cornwall, in his book—

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: I wouldn't interject if I were you, Minister.

The PRESIDENT: Order! It is not for the honourable member to say who interjects and who does not.

The Hon. R.I. LUCAS: No-one should interject.

The PRESIDENT: And you should not respond to them. You should address the Chair.

The Hon. R.I. LUCAS: I am just a bit wary. I don't want her to speak to me as she speaks to her Leader, the Attorney-General, in this Chamber.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Dr Cornwall, in his book, has now given the complete lie to all this. I quote his admission on his behalf and that of the Attorney-General:

> By prearrangement I played the role of agent provocateur with considerable help from Chris Sumner. With John Bannon's knowledge and support, we—

that is, Sumner, Bannon and Cornwall—

> had resolved to goad Foster whenever possible. The plan was clever and cruel. Ostensibly, our anger was because of our contempt for a colleague who was wavering on the hard line anti-uranium policy.
>
> In fact, we [Sumner, Bannon and Cornwall] had carefully calculated that, the more public scorn and ridicule we heaped on Foster, the more we would reinforce the chances of his defection. We reasoned that it would be easier for him to repudiate enemies than friends.

In view of Dr Cornwall's admission, I ask the Attorney-General:

1. What discussions did he have at the time with the present Premier about a plan to intimidate and pressure Mr Foster into supporting the indenture Bill, and was it the present Premier or the Attorney who initiated those discussions?

2. Will the Attorney confirm, as Dr Cornwall now admits, that, on the evening of 16 June 1982, before Mr Foster spoke on the second reading of the indenture Bill, Mr Bannon made him aware of Mr Foster's intention to oppose the Bill, thus putting in jeopardy their conspiracy to have it passed by Parliament?

The Hon. G. Weatherill: You've been watching too many movies!

The Hon. R.I. LUCAS: I would have thought that, as a 'Lefty', George, you would have been appalled at the behaviour of this Attorney.

3. In view of the personal trauma and anguish that Mr Foster and his family went through because of this 'cruel' plan of the Attorney-General, the now Premier and the Minister, will the Attorney-General now make a public apology to Mr Foster and his family?

The Hon. C.J. SUMNER: The answer to the last question is 'No.' There is, clearly, no case for any apology to Mr Foster. Members are aware of the circumstances of the events of that evening. Most of it, in any event, is on the public record in one form or another. It is interesting to note that the Hon. Mr Lucas now indicates that what Dr Cornwall has said in his book gives the complete lie to what he thought at the time. All I can say, in following up what I said in answer to the last question, is that members opposite, having attempted over many years to completely discredit Dr Cornwall in every possible sense of the word, are now quoting from his book as an authoritative statement on not just that event but, apparently, every other event in the history of the Bannon Government.

I do not want to go through again the comments of members opposite about Dr Cornwall over the last few years while he was in Parliament, particularly while he was a Minister. They are on public record. They amounted to a severe condemnation of Dr Cornwall not only in his role as Minister of Health but also as an individual, as is clearly evidenced by the material to which I have already referred.

The Hon. Mr Lucas has read out sections of the book. I have seen some press statements on this matter in the *Advertiser*. From the press reports that I have seen and from the material that the Hon. Mr Lucas has read out, all I wish to say is that the recollections are inaccurate in significant respects. Certainly as Dr Cornwall has outlined them in his book is not my recollection of the events of that evening and, indeed, the events preceding that evening.

It is worth noting that Mr Foster, who has also been referred to by the Hon. Mr Lucas, when he had a summary of these allegations put to him apparently by the *Advertiser*, is reported on 4 September as follows: 'Mr Foster said that Dr Cornwall's claim was "absolute rubbish."' It is also worth noting that last night on the *7.30 Report* Mr Foster was again quoted as saying that he would not be reading Dr Cornwall's book unless he could buy it for 20 cents. That is the opinion of one of the actors in the matter. With respect to the matters raised by the Hon. Mr Lucas, I have given my response.

AUTOMOTIVE INDUSTRY

The Hon. T. CROTHERS: Has the Minister of Local Government an answer to a question which I asked in this place on 10 August in respect of the automotive industry?

The Hon. ANNE LEVY: Yes. My colleague, the Minister of Employment and Further Education has advised me that the production by GMH of the Lexcen motor car on behalf of Toyota has already impacted on the company's employment and production levels at Elizabeth. Lexcen production currently equates to about 10 per cent of the company's daily output of 400 cars or 40 units.

Recruitment of extra personnel to achieve this increased production peaked in June 1989. The current production

level of 400 cars per day is expected to continue until the end of 1989. Accordingly, the company's labour force at Elizabeth is expected to be stable until December 1989 with recruitment of labour over this period likely to cover attrition only. GMH, however, is confident of an expanding market in the outlook beyond 1989. It advises that should market predictions hold up, production will be progressively increased during the first six months of 1990 and will create additional job opportunities at the Elizabeth plant. This could be as much as an additional 400 jobs. The increase in production in 1990 is due to continued investment in new facilities and equipment at Elizabeth and is part of the ongoing program to make the Elizabeth plant world-competitive.

The recovery in the local car industry has provided the linchpin for the broader pick-up in manufacturing employment growth over the last two years in South Australia. Australian Bureau of Statistics data show that in the four quarters to February 1989, compared with the four quarters to February 1988, growth in employment in South Australia's manufacturing industry (of 4.8 per cent) exceeded growth in all industries in South Australia (3.9 per cent) and also exceeded the national growth in manufacturing employment (3.1 per cent); in the four quarters to February 1989, almost half (47.2 per cent) of the persons employed in manufacturing were in the metals industries—cars, appliances, farm and industrial machinery and basic metal products.

This exemplary record of employment growth attests to the fact that Commonwealth and State Government policies of micro-economic reform aimed at producing a viable, export-oriented manufacturing capacity are having real and tangible benefits for all South Australians.

There are no illusions regarding the long-term nature of this reform process as over 25 years of neglect at the hands of indifferent Federal Liberal/National Party industry policies have given Labor a huge and intractable problem to deal with in the form of an over-protected, inward-looking manufacturing base. Continued progress in revitalising our manufacturing industries along the lines of GMH's initiatives is vital to building a secure future for all South Australians.

Members interjecting:

The Hon. ANNE LEVY: They don't like the answer, Mr President.

REMM PROJECT

The Hon. I. GILFILLAN: I seek leave to make a brief statement before asking the Attorney-General, representing the Government, a question about the State Bank's investment in the Remm project.

Leave granted.

The Hon. I. GILFILLAN: It is appropriate to note that the State Bank is a public bank in which all of us are shareholders. The State Government is the only shareholder in the establishment, so I believe it is proper that we should take an interest in the fate, prosperity or otherwise of the State Bank.

It has been generally mooted that the State Bank is almost beyond reproach and a very successful banking enterprise. It has been brought to my notice that other aspects must be taken into consideration with many of the good features for which the bank has been responsible in the State. Its involvement with Remm is a cause for concern, and I should like to identify for honourable members the extent of exposure of the State Bank in developmental projects in Adelaide's central business district.

The developers, Remm, currently have a $500 million loan with the State Bank. The bank is now moving into an investment of $250 million in the East End Market, having split with its previous partner, Emmett, and it will now have to compete with Emmett in an area which is already over-supplied in the east side of Adelaide. It has approximately $54 million involved in the Henry Waymouth Street Centre through Hooker, and everyone is aware of Hooker's precarious position. Through the Beneficial Finance Corporation, which is wholly owned by the State Bank, there is a further $100 million in the Grenfell Australia Centre, with potential substantial losses there. In fact, close to $1 billion of the State Bank's funds are exposed to serious risk in development in Adelaide.

The position with Remm has particular features of concern. The bank has no pre-commitment to offloading any of the risk at this stage. There is nothing in the offing to offload any of the financing obligations for this project. Therefore, it is almost certain that the $500 million now on loan, with a return of approximately 21 per cent, will need to be converted into equity. I am advised that such ventures are lucky if they return more than 8 per cent. Therefore, down the track there is an almost certain enormous drop in the income to the State Bank on the $500 million involved. The amount would be approximately $50 million a year. This poses some quite profound questions about the probity and astuteness of the decisions by the upper management of the bank in relation to the placement of what essentially are our funds.

In view of the State Bank's $500 million loan to the so-called Myer project, (which is being managed by Remm) and, as I am advised, the likely outcome of this $500 million being converted to equity and therefore a decrease from the 21 per cent to the 8 per cent return, can the Attorney-General say whether the Government believes that it was foolhardy of the State Bank to have exposed $500 million without any pre-commitment from other sources to take up equity or debt in the project? Does the Government recognise that the likely outcome will result in a loss of revenue for the bank of approximately $50 million per year?

Why does the Government believe that it has been impossible to interest other investors in the project? I should add that Remm's other major development in Brisbane has been unable to attract a buyer even at a price of $100 million less than valuation, so Remm's track record in developing and then offloading these projects is lamentable. In view of what has happened in Brisbane, it is a very dire prospect for the South Australian bank's investment. Finally, does the Government know whether the State Bank attempted to obtain any prior commitment from other investors, or did it decide to go it alone?

The Hon. C.J. SUMNER: It seems that it is now the turn of the Australian Democrats to knock the State Bank, which is a very successful South Australian enterprise. In fact, it is the only bank with its head office in South Australia, and that came about as a result of a merger.

Members interjecting:

The Hon. C.J. SUMNER: Members opposite apparently do not want the State Bank to operate.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: They would rather sell it off. We have had the Liberal season for attacking the State Bank and now apparently it is the turn of the Democrats. The fact is that, over the past few years since the merger of the Savings Bank and the State Bank and its new structure, the bank has been successful in financial terms and in terms of the economy of South Australia, the development of the

State and of the community and cultural life of South Australia. I would have thought that they were all factors the Hon. Mr Gilfillan would support. However, he has now come into this Chamber and apparently made a whole lot of assertions about the State Bank, but has ignored the fact of the successful record of the State Bank over the past few years.

The Hon. I. Gilfillan: Shouldn't they be criticised?

The Hon. C.J. SUMNER: No, you can criticise, but you referred to serious risk and massive losses.

The Hon. I. Gilfillan: Indeed!

The Hon. C.J. SUMNER: The honourable member says 'Indeed'.

The Hon. I. Gilfillan: Potential massive losses.

The Hon. C.J. SUMNER: The honourable member now refers to 'potential massive losses'. Apparently, the honourable member now suggests that there should not be investment by the State Bank and that it should not invest in South Australia. He has made a lot of assertions.

The Hon. I. Gilfillan: No other bank in Australia would have done what they did with Remm.

The Hon. C.J. SUMNER: He says that no other bank would have done what the State Bank did with Remm—that is his assertion. He referred to serious risks, but one does not know on what basis he made that assertion. He is quite happy to come into this Chamber and use that terminology with respect to the State Bank, despite the bank's creditable record.

The Hon. I. Gilfillan: With the National Safety Council and Equiticorp—yes, they've a great record.

The Hon. C.J. SUMNER: The fact is that overall the State Bank has been very successful. As with any other banks, some losses have occurred. If a bank operates aggressively in the private sector—and it does so with no interference from the Government—then obviously, with that sort of charter, there will be bad debts. The fact is that the bank's ratio of bad debts is no worse than that of private sector banks. I would have thought that it was obvious that its more aggressive and entrepreneurial approach to banking has achieved real benefits for the State of South Australia. I do not suggest that the honourable member is not entitled to ask questions, but in his explanation he proffered a whole lot of opinions and made a whole lot of assertions which clearly are potentially damaging to the bank without, as far as I can ascertain, any substance to back those statements. However, I will certainly refer the honourable member's questions to the appropriate Minister and bring back a reply.

CREDIT REPORTING

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

Leave granted.

The Hon. K.T. GRIFFIN: The Federal Minister for Consumer Affairs has introduced legislation to amend the Federal Privacy Act. The objective is to prevent a credit reporting agency from disclosing information on an individual's credit information file unless it is given to a credit provider in relation to an application for credit or in two other limited areas. I have a number of representations made to me by the business community suggesting that, because of the limited definition of 'credit provider', a wide range of persons with legitimate access at present to credit information will be denied it, with the consequence that a significant number of Australians will be denied access to goods and services because they appear to be a credit risk but there will be no way of checking if they are.

I have been told that some retailers who presently rent goods with an opportunity for the consumer to buy the rented goods at some time in the future will not be allowed access to credit information and as a result the retailers are likely to deny access of goods to a large number of customers because they cannot check the risk. Some Government agencies such as Telecom and ETSA will no longer be allowed access, which also can mean either a denial of service or, more likely, payment of security deposits. The real estate industry, which has used credit information facilities for over 20 years to check on prospective tenants of rental accommodation, will be refused access.

There are a number of other major problems with the legislation which, it is claimed, will result in thousands of people being denied access to goods and services which, if they have a good credit record, they could otherwise expect access to. This can also reflect in loss of jobs where providers of goods and services will no longer be able to check the risk to which they may expose themselves.

The Federal Bill is a reaction to a proposal for the introduction of 'positive reporting' in respect of citizens' affairs, a proposal which has caused concern publicly. However, the Bolkus Bill goes far beyond protection against the sort of fair credit reporting which is embodied in the South Australian Fair Trading Act and restricts significantly reasonable access to information. The Bill is radical and controversial and, when enacted, I believe will most likely require complementary legislation in each State and Territory. My questions to the Attorney-General are:

1. Does the Attorney-General intend to introduce complementary legislation in South Australia and, if yes, when?

2. Does the Attorney-General support the Federal Bill even though there are provisions in our Fair Trading Act dealing with fair credit reporting which seem to be uncontroversial?

The Hon. C.J. SUMNER: The answer to the first question is that obviously no decision has been made in relation to that matter because it is still the subject of consideration and discussion between State and Federal Government. Indeed, the final position of the State Government on the Bill has not yet been determined.

With respect to the Commonwealth Bill, certainly the State Government does have some concerns with it. It has been the subject of discussion by Scocam at a meeting on 28 July that I was unable to attend. Some other Ministers expressed opposition. I have received the representations from industry groups about the Bill and am certainly taking those into account in considering the State Government's response. The matter is the subject of discussion and consideration of submissions. The State Government's position will be announced as soon as that is practicable. Suffice to say at this stage that the South Australian Government believes that some major concerns with the Federal Bill need to be addressed. Indeed, some have already been addressed by the Federal Minister, Senator Bolkus. He has already indicated that the legislation will be changed to some extent.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 August. Page 600.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill, which seeks to do four things. It seeks to allow penalty interest to be imposed on a practitioner who deposits trust funds outside the approved trust funds. Under the provisions of the Legal Practitioners Act there has been an arrangement between the Law Society in particular and the banks with respect to the payment of interest on trust accounts, and there is a procedure which allows the formation of what is called a combined trust account by banks upon which interest is paid and that is applied to the guarantee fund as well as to legal aid. Some practitioners have apparently been depositing trust moneys outside those approved trust funds and there has been no basis upon which the interest loss can be recovered. This Bill allows that to occur.

The second aspect of the Bill is that it gives a right of appearance in courts to legal practitioners employed by community legal centres. A number of these centres have sprung up over the last two or three years and they provide a valuable service to local communities at a cost very much less than the private profession or, for that matter, the Legal Services Commission. They are essentially community based. They comprise persons who have a commitment to the community and who are prepared to provide a service which otherwise would not be available to a particular community.

One of the concerns has been that lawyers who are employed by community legal centres are unable to appear in courts, and that adds costs to the services which they provide because they are required then to engage lawyers or deal through the Legal Services Commission. The Bill proposes that those lawyers employed by community legal centres be entitled to practise in the courts in the course of that employment. In some instances practitioners who have been employed by those centres have retained the right of private practice as a means by which they also can appear but the provision in the Bill overcomes the present difficulties.

The third area addressed in the Bill relates to information about payments required to be authorised by the Attorney-General from the guarantee fund. The Attorney-General authorises certain payments from that fund and, apparently, there is an inadequacy, or at least an uncertainty, in the Legal Practitioners Act, as to the information which the Attorney-General can require about a proposed payment and an explanation for it. It seems to me to be appropriate that the Attorney-General, who must authorise the payment, should be able to require information about the nature of the payment and its object. This Bill remedies that situation.

The fourth area to which the Bill directs attention is section 77 of the principal Act, which, until now, has been construed not to allow the Legal Practitioners Complaints Committee to provide information to the Attorney-General about a particular practitioner where unprofessional conduct may be established. There is also uncertainty as to the information which can be provided to the Attorney-General, where there is *prima facie* evidence of the commission of an offence by a legal practitioner. Again, it seems to me that the Attorney-General ought to have the appropriate power to require information and for the Legal Practitioners Complaints Committee to be able to forward that information to the Attorney-General. So four matters are included.

I understand that the Law Society is comfortable with the various provisions, and in that event I certainly do not wish to raise any objection to any of the provisions in the Bill. I had a discussion again this morning with the President of the Law Society, who has been away and who said that he had not had an opportunity to consider the Bill. He said he understood that there had been negotiations with the Attorney-General on it and that, if it conformed to the arrangement which had been reached with the Attorney-General—and I understand that it does—he would have no objection to it. If, however, the Law Society raises some matter later, during consideration of the Bill, that can be pursued before the Bill passes both Houses. It is in that context, therefore, that the Opposition supports this Bill.

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

STAMP DUTIES ACT AMENDMENT BILL (No. 3)

In Committee.

Clauses 1 to 6 passed.

Clause 7—'Concessional rates of duty in respect of the purchase of a first home, etc..'

The Hon. L.H. DAVIS: I move:

Page 2, lines 40 and 41—Leave out paragraph *(a)*.

I make the point in my contribution that the amendments proposed by the Government to the Stamp Duties Act take effect from 9 August, but they take effect in such a way that they will disadvantage someone who has purchased a home or property and entered into that agreement before 9 August, even though the settlement may take place after that date. The Liberal Party believes that it is equitable to ensure that the benefit of this reduction in stamp duties payable is given to all people who have entered into a property transaction which will be settled on or after 9 August. I accept that, when transfers are lodged with the Stamp Duties Office for assessment, along with the transfer of property, that time is almost invariably close to settlement. However, situations will arise in which people will undoubtedly be disadvantaged because they entered into the agreement before 9 August although settlement took place after that date.

I put it to the Attorney that it is logical to take the view of the Opposition, as set out in our amendment, that the property does not pass until the time of settlement and that the stamp duty becomes payable only at the time of settlement. Is the Attorney-General aware of any examples where the agreement, together with the transfer, has been lodged with the Stamp Duties Office, where stamp duty has actually been paid at that point, but where subsequently the settlement has fallen through? I am not aware of any examples, and I have spoken to solicitors who have not seen any examples, either. In other words, the payment of tax stamp duties and settlement can be very much contemporaneous events. In some cases, the stamp duties may be paid immediately before settlement.

The point that I wish to develop in justifying the amendment is that, because stamp duties are not payable until settlement takes place, it seems manifestly unfair to lock people into paying higher stamp duties on agreements entered into sometimes weeks and even months before 9 August and yet the settlement takes place after that date. Surely the stamp duties should be deemed to be valued as close as possible to the time of settlement.

So, there is this dilemma and an element of unfairness in the situation proposed in the Bill. I accept that, whichever proposition prevails, there will always be some administrative difficulty in adjusting rates in this way. I hope that for the small amount of money involved in the Opposition's proposal the Government will accept our amendment. We believe that it is equitable and a fairer way of dealing with this adjustment in the stamp duties schedule than is the case in the Bill as it now stands.

The Hon. C.J. SUMNER: The Government's proposal is that from 9 August 1989 the stamp duty concessions for first home buyers will be raised from $50 000 to $80 000: that is, the first $80 000 of the purchase price will be exempt from stamp duty. The increased concession will apply to all applications received in the Stamps Office on or after 9 August 1989. Administrative arrangements are in place in the Stamps Office to ensure that first home buyers receive the benefit of the concession prior to promulgation of the legislation. There must be a cut off at some point and inevitably wherever the line is drawn some people will fall outside. Letters have already been received from people who would have qualified if the date had been a week earlier, for example. On or after 9 August was chosen as the cut off because it enabled the concession to apply immediately without the need for significant administrative resources to identify persons eligible for refunds.

When the concession was increased in 1985 from $40 000 to $50 000 it applied to contracts entered into on or after 1 December 1982 in relation to conveyances lodged on or after 5 August 1985. This induced a degree of willingness by certain parties to redraw and/or alter dates to bring themselves within the provision. If the amendment proposed by the Hon. Mr Davis proceeds, problems still existing are, first, that a group of people will still be just outside the cut-off date; and, secondly, because of varying settlement periods those persons having a long settlement will benefit over those with the more traditional four to six week settlements.

Thirdly, of greatest concern is the ability of those taxpayers with access to good legal advice to restructure their transaction to ensure that lodgment for registration does not occur until after 9 August 1989. Fourthly, there will be an administrative burden in respect of identifying additional eligible persons and in the processing of refund applications; and, finally, the legitimate cases will cost about an additional $100 000. Accordingly, the Government cannot accept the honourable member's amendment.

The Hon. L.H. DAVIS: I invite the Attorney to respond to the question that I asked earlier. Is he aware of examples where stamp duties are paid on property transactions entered into and settlement does not subsequently proceed and, if so, what happens to the stamp duties so paid? Are they refundable?

The Hon. C.J. SUMNER: The situation as outlined by the honourable member is possible. It would appear from section 106 of the Stamp Duties Act that there could be a refund of stamp duties, but I am advised that it rarely happens.

The Hon. L.H. DAVIS: I thank the Attorney for his response, which confirms my view of the situation, and this may well be of interest to the Hon. Ian Gilfillan. If stamp duties are paid when the agreement and transfer documents are lodged with the Stamps Office and then subsequently—perhaps within a day or two—the settlement falls over, the stamp duties can be refundable. The argument that I am developing is quite simple: stamp duties are paid on the settlement date. It is based on settlement taking place, even though the stamp duties are assessed prior to the settlement. The stamp duties are paid either contemporaneously with settlement or very close to it.

The Hon. C.J. Sumner: That is not right. That does not happen.

The Hon. L.H. DAVIS: I am saying that the general proposition is that stamp duties are invariably paid very close to the point of settlement. Advice I have taken on this matter indicates that is the situation. In the rare cases where stamp duties have been paid and subsequently settlement falls over, there is provision in the Act for stamp duties to be repaid. In other words, that legitimises the Opposition's amendment. We argue that the payment of stamp duties is triggered at the point of settlement. As stamp duties are paid at the point of settlement the assessment of stamp duties should therefore take into account the settlement date.

Our amendment recognises that, even though the agreement may have been entered into on a 60-day or 90-day contract ahead of 9 August, those people who entered into the agreement are entitled to the benefit of the subsequent reduction if the settlement date is on or after 9 August. It is a simple proposition, of equity based on the facts which determine when stamp duties are payable and, we would argue, the level at which they are payable.

The Hon. I. GILFILLAN: The Democrats, not expert in this field, will follow the Government's deliberation on the amendment. There would be a way for someone in the situation outlined by the Hon. Mr Davis to cancel their previous arrangement, and re-date it satisfactorily.

The Hon. L.H. Davis: We can't do that.

The Hon. I. GILFILLAN: Perhaps what I am suggesting is illegal. The Democrats oppose the amendment.

The Committee divided on the amendment:

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

Noes (10)—The Hons T. Crothers, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller), G. Weatherill and Barbara Wiese.

Pair—Aye—The Hon. R.J. Ritson. No—The Hon. M.J. Elliott.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (8 to 10) and title passed.

Bill read a third time and passed.

EQUAL OPPORTUNITY ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 23 August. Page 535.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading. The Bill is in almost identical form to the Bill which was introduced in March 1989, just before the Easter break. As a result of the other business before the Parliament towards the end of that session, the matter was not concluded and has now been reintroduced. It differs in one significant respect only from the earlier Bill, and that is in respect of voluntary workers to whom the provisions of the Act were extended by the earlier Bill. They are now described as 'unpaid workers'. I will deal in more detail with that concept later during my second reading contribution.

I said when I began my second reading contribution in the last session that this Bill had not really been the subject of consultation, except in 1984 and 1985. At that time, a committee of public servants had been established to look at the concept of intellectual impairment being included in the equal opportunity legislation as a basis for making discrimination on the ground of that impairment unlawful. I believe the committee of public servants had not really consulted as widely as it should have, but in 1985 it reported on intellectual disability.

In March of this year the Bill was introduced into Parliament, but the Bill itself had not been the subject of wide consultation and many of the persons and groups to which the Bill was referred by me became aware of its contents only because it was referred by the Liberal Party. The Bill does not deal only with intellectual impairment or intellectual disability but with a number of other matters, some of which are controversial. It is unfortunate that those matters were not dealt with separately from the issue of intellectual impairment.

The issue to which most attention has been directed is the fact that intellectual impairment has been put into the same category as physical impairment, yet the disabilities are quite different, and those who experience those disabilities have different needs because of the different nature of the disabilities. The New South Wales equal opportunity legislation makes a specific reference to intellectual disability in a division of its own, separate from physical disability or physical impairment. Victoria, on the other hand, in its equal opportunity legislation combines the two disabilities in the one division. In all of the groups with which I have had discussions on this Bill there is a general view that there ought to be a separate division dealing with intellectual disability. That is a view which I and the Liberal Party support, and one which has much to commend it.

Unfortunately, the nature of the Bill before us does not lend itself to substantial redrafting to achieve that objective. In that circumstance, we are not proposing to object to the drafting in this Bill, but I give a commitment that a Liberal Government will review the legislation with a view to providing for a separate division specifically focussed on intellectual disability.

In April of this year, I indicated that as Attorney-General I had had an interest in and responsibility for the area of disability, and that that commenced in 1980 when the Attorney-General was given ministerial responsibility for the International Year of Disabled Persons. As a result of that responsibility and building on the very valuable work of the late Sir Charles Bright and his committee on the law and persons with handicaps, the Handicapped Persons Equal Opportunity Act was introduced and became law as part of the initiatives of the International Year of Disabled Persons. The International Year provided a significant focus on not only physical impairment but also intellectual disability and, as a result of the recommendations of the second report of the late Sir Charles Bright's committee, the Liberal Administration established the Intellectually Disabled Services Council, which was given a primary and direct responsibility for advocacy on behalf of intellectually disabled persons, with a direct responsibility to the Minister of Health.

That was the basic recommendation of the late Sir Charles Bright, who was of the view that the model which is now embodied in the Bill before us was inappropriate because it might act to restrict rights rather than to enhance the rights of intellectually disabled persons, and would not necesarily eliminate discrimination. He believed that that model would not give the emphasis which was needed for people with intellectual handicap. He preferred the focus to be on advocacy. He believed that, on an objective view, the focus ought to be on the higher level of legal rights, and believed that in consequence of that conclusion it was important that a Minister such as the Attorney-General should have responsibility also for ensuring that the legal rights of intellectually disabled people were enhanced and maintained.

He was of the view that it was inappropriate for the responsibility for development of policy and enhancement of rights to be with a service-providing agency such as health or community welfare. He believed that the rights could be best dealt with by the establishment of a separate and independent statutory body, and that it would have the primary responsibiltiy for the recognition of those rights. The Liberal Administration established the Intellectually Disabled Services Council as a separate statutory body, but it was not as independent as Sir Charles Bright had wished, because it was incorporated under the South Australian Health Commission Act, although not responsible to the Health Commission for policy and advocacy responsibilities.

That was all changed, of course, when Dr Cornwall became Minister of Health and made it just another incorporated health unit responsible to the South Australian Health Commission. Although the Intellectually Disabled Services Council does some important work, the objectives which the Liberal Administration had set for it were dissipated by the changed relationship which the council had as an incorporated health unit with the Minister of Health of the day. Sir Charles Bright saw the need to provide protection from exploitation and discrimination for those who suffered impairment, both physical and intellectual, and his work was the basis of a much broader community awareness of a wide range of disabilities and the need to focus on ability rather than disability.

As a result of the passing of the Handicapped Persons Equal Opportunity Act and, subsequently, its successor, the Equal Opportunity Act, those persons who experienced physical impairment had an opportunity to have inequities and discrimination redressed, but the concern of those who were the families of intellectually disabled people or the supporters of those persons or organisations which provided facilities for them was that intellectually disabled persons did not get a fair deal.

Their principal criticism was of Government agencies, particularly in the area of education, where special provisions needed to be made for persons with intellectual disability if they were to develop to their full potential within our community. The resources needed for those persons involve support persons in classes and outside and a range of other support services to enable them to develop to their full potential.

Those organisations and the supporters of intellectually disabled persons had, and still have, significant criticisms of the provision of Government services. They are not so concerned about the private sector because they see that the principal source of resources and the principal provider of facilities is the Government, whether Commonwealth or State.

In employment, significant and valuable work was done by the private sector in the placement of intellectually disabled persons in their able-bodied work force. The experience has been that intellectually disabled persons who have jobs in the work force, paid at adult rates, are generally more loyal and conscientious and, in many respects, more efficient than their able-bodied counterparts. That is because they are excited about full-time employment, they feel that they are appreciated, and there is a sense of achievement which boosts their confidence.

Private sector agencies have been instrumental in finding positions for those intellectually disabled persons with the necessary skills required in the private sector. In fact, one of the agencies spoke to me in April, when there was the possibility that this Bill would not pass during that session, and expressed relief that it would not pass because there was a view that it might be detrimental to the interests of intellectually disabled people who had better prospects of getting work if there was no legal obligation and the employers provided the employment of their own free will. On the

other hand, other agencies and support groups believe that it is important to have something recognised in law to provide protection for intellectually disabled people, and there is the conflict.

As I indicated, the Opposition is prepared to support the embodiment of the equal opportunity provisions relating to intellectual disability in the Bill as they are at present, but it would want to review them with a view to ensuring that they are working satisfactorily when we are in government.

The Bill deals not only with intellectual impairment but also with a range of other matters. It extends the Act to include voluntary workers, now to be described as unpaid workers as opposed to remunerated employees. It deals with discrimination by certain associations on the grounds of marital status or pregnancy as well as sex and the expulsion of members from those associations.

The previous Bill required authorities or bodies which confer qualifications or authorisations to practise a profession or carry on a trade or occupation to inform themselves properly on overseas authorisations or qualifications of applicants for positions so that they will not be guilty of discrimination on the ground of race. That was referred to in the previous second reading speech, but it is not in the current second reading speech. That issue can be addressed in the Committee stages.

The Bill deals with a range of other matters, including some statute revision matters—7½ pages—which deal with gender-neutral language. There are some specific issues that I want to raise. Rather than raise them in Committee, I will deal with them now so that the Attorney-General is on notice and may be able to address them in his reply. The first relates to clause 4. A judge or magistrate is not presently in the definition of 'employee'. There is a good reason for that. Judges and magistrates are independent constitutionally. Even during the course of the consideration of the occupational health, safety and welfare legislation, but more particularly the workers compensation legislation, they were not included. In fact, they were specifically excluded because of the need to ensure that they are not only seen to be, but actually are, independent of the executive arm of government.

There is no explanation in the second reading speech why judges and magistrates are now to be included in the definition of 'employee'. I should like some clarification of what brings the Government to the point of saying that they should now be included. The Government must recognise that, if they are included, there is a serious impinging of the executive arm of government on the judiciary, because the Commissioner for Equal Opportunity—an officer of the executive arm of government—will be able to investigate an alleged breach of the Act involving judges or magistrates.

The legislation will then allow the tribunal to hear action taken on behalf of one judicial officer against the Government as the statutory employer according to the provisions of the Bill. That opens up a Pandora's box. I suppose it means that the tribunal can issue summonses against other judicial officers to require the production of documents and papers. It may be that it will require other judges or magistrates to give evidence before the tribunal by action taken under summons. I have grave concerns about such a proposition because I would see that as intervention in the judiciary by the executive arm of government. Therefore, in the light of what I regard as a constitutionally undesirable proposition, I am proposing that we maintain the *status quo* in relation to judges and magistrates.

Clause 4 also deals with unpaid workers. In the February Bill they were referred to as voluntary workers. Various volunteer groups were concerned about that description. As a result, I understand that the Attorney-General considered that 'unpaid workers' is a more appropriate definition. However, I suggest that that does not deal with the issue. Voluntary workers are referred to in section 87 in the part that deals with sexual harassment. It is proposed that all unpaid workers are to be subject to all the provisions of the Equal Opportunity Act.

In relation to an 'employer', an unpaid worker is a person who performs services for an organisation. It means not that there must be any consideration but rather that, if someone performs services for an organisation, he or she will be an unpaid worker. For the purposes of the Act, 'employment' is to include unpaid work. Quite obviously, this will extend to organisations such as St John Ambulance, the Country Fire Service, Meals on Wheels, Resthaven, and so on. The Commissioner says that it is designed to apply to those organisations that treat their volunteers poorly. However, I understand that the rationale behind it is to deal with work experience students.

The problems associated with the St John Ambulance service where paid employees send volunteers to Coventry is not a very pretty picture, and I do not think that situation would be covered by this provision. It is unfortunate that, where there are volunteers in services like that, apart from the concept of equal opportunity, full recognition is not given to the valuable service that they do perform.

The Country Fire Service expressed some concern about the physical impairment aspect and said that the nature of duties requires that active firefighters be of a suitable physical standard. The Country Fire Service raised the question whether there is sufficient latitude for that organisation to make a choice between volunteers. In a letter to the Attorney-General in June the volunteer centre focused upon unpaid workers. In relation to the inclusion of voluntary worker in the definition of 'employee' it stated:

> While many factors relating to paid and voluntary staff are common, placing the two together needs to be further considered. The relationship of paid staff and to volunteers to agency management is not identical.

I agree with that observation. I had discussions with the South Australian Council of Social Service and, as all members know, that agency represents a number of social service and community welfare organisations. The Executive Officer said that his organisation has difficulty with the inclusion of either 'voluntary workers' or 'unpaid workers' beyond the present provision relating to sexual harassment. The Executive Officer did say that the inclusion of 'unpaid workers' could create significant problems for his member organisations in not accepting some volunteers. These organisations can extend from the very large organisation to the small organisation and from those organisations that employ a large number of paid employees and a large number of volunteer workers to those that rely almost solely on volunteer workers.

I am told by SACOSS that the charitable and religious organisations with which his organisation deals, and of which it is representative, receive many offers of help from many people who are not acceptable. They may be unsuitable by virtue of their temperament, ability, attitude or personal characteristics. If the Equal Opportunity Act is applied to them, they will be given the opportunity, if rejected as volunteers or unpaid workers, to add costs to the already limited budgets of these organisations and to absorb already limited time in sorting out or, in some cases, fighting a complaint. I understand that youth shelters must refuse to accept voluntary assistance from some people, because it is believed that for a variety of reasons they are unsuitable.

Some are even regarded as deviants who turn up at various organisations, particularly youth shelters, and offer themselves for work in such facilities. If they are rejected, one can envisage a situation where they may well seek to take advantage of the Equal Opportunity Act to challenge their rejection as volunteers or as unpaid workers. They can be very troublesome, and very scarce resources can be devoted to something which I suggest is quite unnecessary in the context of voluntary and unpaid work. I suppose that the same sort of problem could be experienced in women's shelters where a range of voluntary workers offered themselves for service.

There are real concerns about extending the legislation to include unpaid workers and to treat them as employees. There are many hidden consequences which, perhaps as a result of lack of consultation, the Government has not even thought about. That demonstrates another good reason why a Bill such as this should be given the widest possible circulation. Consultation should be undertaken and feedback obtained about important issues like the inclusion of 'unpaid workers'.

The other area that can create some problems in respect of volunteers relates to where church and other charitable organisations will not be able to decline to take as a voluntary worker someone who is a deviant—a homosexual, a lesbian, or someone who might be living in a *de facto* relationship—where such status is contrary to the objectives and principles of that organisation. Organisations should be able to pick and choose volunteers according to their own needs and judgment of who might be a suitable person to provide a particular voluntary service, without having to worry about a Government agency like the Commission for Equal Opportunity or the Equal Opportunity Tribunal breathing down their necks and providing a forum for disenchanted volunteers to harass them. For that reason, I believe that this provision should be amended so that it relates only to work experience students which, as I said earlier, I understand to be the objective of this amendment.

Clause 4 also deals with the definition of 'intellectual impairment' as meaning:

> ... permanent or temporary loss or imperfect development of mental faculties (except where attributable to mental illness) resulting in reduced intellectual capacity.

There is concern, particularly by employer groups, about the inclusion of the description 'temporary loss of mental faculties'.

That has particular relevance to workers rehabilitation and compensation legislation and also to occupational safety, health and welfare legislation. It is also particularly relevant in the definition of physical impairment because that is now to include the total or partial loss of any part of the body and temporary impairment. The temporary impairment, as I say, brings the legislation into conflict with industrial legislation which ought to deal principally with temporary impairment. Usually that temporary impairment is as a result of an accident and most likely at work or even on the road. It is in those circumstances that the relationship between this Bill, the Workers Rehabilitation and Compensation Act and the Occupational Safety, Health and Welfare Act ought to be very carefully examined. There are conflicts and no employer should be put into the position of facing what the Government from time to time describes as double jeopardy.

I draw attention to the fact that the provisions which relate to coaching in sport, as one of the many services covered by the Act, is to be extended to umpiring. As a matter of policy and principle, I have no difficulty with that.

In respect of clause 5, there is a redefining of discrimination. At first view it seems to substitute the present definition which has the criterion of a person being treated less favourably than others to a criterion of a person being treated unfavourably. Now, in ordinary circumstances 'unfavourably' is much more subjective than 'less favourably' but, if one looks carefully at the provision in clause 5, 'unfavourably' does not have the normal meaning because by virtue of the clause it is defined, for the purposes of redrafting other provisions of the Act, to cover similar circumstances to those which discrimination presently encompasses. So it would be appropriate for the Attorney-General to give some indication whether my interpretation of the clause is correct and, if it is, the matter need not be taken further. If it is not, we will need to give further consideration to the clause in the Committee stages.

Clause 9 amends section 12 of the principal Act. Section 12 deals with the provision of advice, assistance and research by the Commissioner. I have always regarded this as a particularly important provision. The Commissioner has an educative role as much as an enforcement role. The importance of this sort of legislation is that persons such as the Commissioner for Equal Opportunity are to be required to take initiatives which educate as much as punish. Can the Attorney-General outline later the extent of the Commissioner's activities under the existing section 12?

Clause 13 deals with a change in emphasis in relation to pregnant women in employment. At present, a decision is taken to dismiss a woman from employment on the basis of her pregnancy, where there is no other position vacant in which it would be reasonable for the woman to undertake work within her level of skills without endangering herself, the unborn child or other persons. Such an assessment is to be made where, in her present position, she is likely to create a situation of danger for herself, the unborn child or some other person, or is unable to react adequately to a situation of emergency. At present the employer is required to consider whether there is any other position vacant where it is reasonable for this woman to undertake work within her level of skills.

That is to be amended to relate more to a situation in which there is no other work that the employer could reasonably be expected to offer the woman. This is to apply in the same circumstances where, because of her pregnancy, she cannot perform her work adequately without endangering herself, the unborn child or other persons or is unable to react adequately to a situation of emergency. In those circumstances the Bill seeks to reverse the onus upon an employer and to provide that unlawful discrimination has occurred if, in those circumstances, there is other work available but it is not offered to that woman.

The employer groups have raised this matter with the Government. The Government response has been that the courts have always had to determine what is reasonable or unreasonable, there is nothing of particular concern in the way in which the onus has been reversed, and there is nothing onerous upon an employer in the consideration of work available rather than position vacant. The employers raise the concern that there may be doubt where a transfer to other duties is required by an employer but the employee does not wish to undertake those duties, or disputes that the duties are genuinely required. It may be that such a provision in the Bill results in a conflict with an industrial award, whether State or Federal, or it conflicts with some other decision of the Industrial Court or Industrial Commission. In his reply, I would like the Attorney-General to explore the extent to which there could be conflicts between the provision which is sought to be included in the Bill and

industrial matters generally, and whether it is appropriate to ensure that there is no conflict by providing that the clause will not apply where it would result in a breach of an industrial award or decision of the Industrial Court or Commission.

I should remind the Council that there is a recognition of the potential for conflict between the provisions of the principal Act and decisions of the Industrial Court or Commission in respect of wrongful dismissal.

There is an accommodation in the principal Act between the two areas. Because of the nature of the change proposed by the Government in clause 13, it could well be appropriate to ensure by express words that an employer is not put in the invidious position of breaching one to honour the other.

Clause 14 relates to discrimination in various organisations which have both male and female members. It amends section 35 of the principal Act, which provides:

> ... it shall be unlawful for an association that has both male and female members to discriminate—
>
> *(a)* against an applicant for membership on the ground of his sex—
>
> (i) by refusing or failing to admit him to membership, or to a particular class of membership, of the association;
>
> or
>
> (ii) in the terms on which he is, or may be, admitted to membership, or a particular class of membership;
>
> or
>
> *(b)* against a member of the association on the ground of his sex—
>
> (i) by refusing or failing to provide a particular service or benefit to that member;
>
> or
>
> (ii) in the terms on which a particular service or benefit is provided to that member.

The Bill seeks to extend that prohibition from the area of sex to marital status or pregnancy. That may be innocuous enough but I think there are hidden agendas, particularly in relation to an organisation which presently gives some preference in its membership to married persons, and that may occur in, for example, membership fees. Some organisations provide a membership fee for married couples which is less than the single membership fee for two individuals.

I see nothing wrong with providing what may be regarded as a concessional membership fee for husband and wife membership. After all, the cost of servicing members must be lower where you have joint membership as opposed to two separate memberships. Of course, there is the area of health benefits where concessions are provided for married couples and families.

However, this clause provides that that will be no longer available. I regard that as highly undesirable and, in fact, I go so far as to say that it is objectionable. If organisations wish to recognise marriage and provide some benefits for married couples, I think they should be free to do so and should not be told by a Government officer and the law that they are not entitled to recognise the special relationship of marriage.

At this point I should disclose that the Commissioner for Equal Opportunity took up this point with the Liberal Party in South Australia. The Liberal Party has a membership fee structure which provides a reduced subscription rate for a married couple. After a great deal of discussion, the Commissioner for Equal Opportunity finally conceded that the Liberal Party's membership structure 'does not at present contravene the State or Commonwealth equal opportunity legislation which I administer'. The Liberal Party's membership fee structure has been in force for about 19 years. It seems quite outrageous that this amendment will once and for all remove the right of either the Liberal Party or any other organisation—

The Hon. J.F. Stefani: And ethnic groups.

The Hon. K.T. GRIFFIN: —and ethnic groups to recognise joint or married membership. They place a great deal of emphasis on the status of marriage and give it special recognition. In that context I indicate very strong opposition to this clause.

Clause 15 seeks to prevent trade unions and employer bodies discriminating on the ground of sexuality and it seeks to insert a new section 35a. It will apply to an association registered under Part IX of the Industrial Conciliation and Arbitration Act, an association registered under the Industrial Relations Act 1988 of the Commonwealth and any other association formed to promote the interests of employers or employees. I am not quite sure of the significance of that last category because it was not included in the Bill that was introduced in February this year. Perhaps the Government has found some associations which represent interests of employers or employees which do not come under either State or Federal industrial legislation. I would like an indication from the Attorney-General in respect of what associations are encompassed by that broad description. I point out that I do not think that the State can bind Federal associations, so in that context I question the constitutional validity of at least part of this provision.

Clause 15 provides that it is unlawful for an association of the type to which I have referred to discriminate against an applicant for membership on the ground of sexuality. Of course, that means that no choice can be made particularly in relation to homosexuals. When the Equal Opportunity Act was before us in 1984 I expressed very strong personal opposition to the inclusion of sexuality in the legislation. It creates a lot of undesirable consequences and it denies individuals who have a strong personal, religious or moral objection to homosexuality and lesbianism from exercising a choice as to whether or not they will associate with them, provide them with work or with goods and services. I think that in the controversial area of sexuality and sexual preference the right of choice should be retained. While one can argue that this clause is merely an extension of what was included in the 1984 legislation, I retain personal opposition to it, as do a number of my Liberal Party parliamentary colleagues and, accordingly, this clause will be opposed.

Clause 19 deals with the deletion of the reference to physical impairment and extension of impairment to both physical and intellectual disabilities. I have indicated that the Liberal Party prefers to see the impairments—physical and intellectual—kept separate, but because of the extent of drafting work which is required is not proposing to amend this Bill.

Clause 20 deals with the criteria for establishing discrimination on the ground of impairment. This occurs if a person treats another unfavourably because of the other person's impairment—past or presumed. Apart from the reference to 'unfavourably', the new ingredient is the inclusion of 'past impairment'. I believe it relates to past injuries, whether or not they are work related, although the second reading speech does not address this matter. The difficulty is that by including a past impairment this clause focuses vividly on the problems confronting employers in the employment of persons with pre-existing work injuries.

On the one hand, if they employ such persons, they are liable for costs; that is, the first week's wage under WorkCover if the injury recurs. On the other hand, if they do not employ the person, they face prosecution under the Equal Opportunity Act. I propose to delete the reference to a past impairment. I wish to know how the Government

proposes to resolve the conflict without placing employers in an invidious position.

Clause 20 *(d)* seeks to include a provision which is in a similar context to the existing section 83, but the emphasis is different. Presently, discrimination on the ground of physical impairment is not unlawful if, in consequence of the impairment, the person requires special assistance or equipment that cannot reasonably be provided. However, the Bill provides that there will be discrimination if, in the circumstances where it is unreasonable to do so, the discriminator fails to provide special assistance or equipment required by a person in consequence of a person's impairment.

Until now, the prevailing view is that employers in particular have not been obliged by law to spend large sums of money or provide extensive assistance or equipment for these purposes. The amendment introduces a level of uncertainty as to the burden which could be placed on small employers in particular. Employer groups have raised a concern about the clause because of the uncertainty of it and the reverse onus: it is now unlawful if something does not occur, rather than the reverse position.

As I said earlier in my speech, the groups which provide support to disabled persons are more concerned about Government services and facilities than with the private sector. For that reason, I raise the question about the significance of and the need for this clause in so far as it relates to the private sector. As a matter of policy, I should say that it is my view—and that of the Liberal Party—that individuals should not have to pick up the cost of providing assistance or equipment that really should be borne by Governments for the community at large. The community at large desires to have—and quite properly so—these people employed or educated or other services provided to them, but it is unreasonable that, virtually by the luck of the draw, persons are required to spend sums of money to provide special assistance or equipment when they are operating in the private sector.

This clause also can have some implications for the workers compensation area, particularly for rehabilitation. Does this clause now require employers to provide facilities which previously could have been provided by the workers compensation scheme under its rehabilitation provisions? It also raises questions under occupational health, safety and welfare, and this issue may need further exploration during the Committee stage. I alert the Attorney-General to the fact that it is to be raised.

Clause 32 deals with exemptions for sporting activities for the physically and mentally impaired. It changes the emphasis of the present section 81 but, except for the provision that a person not having the physical or mental attributes necessary to participate may be excluded, I see no difficulty.

'Mental', arguably, does not cover 'intellectual'. I would like the Attorney-General to explore the distinction between mental attributes and intellectual attributes. One must recognise that the extension to the legislation deals with intellectual impairment and I would have thought that for the sake of consistency alone, but also because of the substantive questions involved, 'intellectual' attributes has more appropriateness than 'mental' attributes.

Clause 38 is important because it amends section 93, which deals with the making of complaints. A significant change introduced by this clause relates to representative complaints. A person aggrieved by the Act, on behalf of himself or herself and any other person aggrieved by the Act, may complain about an alleged breach of the Act. I am concerned about representative complaints where they can tend towards class actions. However, in the context of this legislation I suggest that there could be support for the provision, but only in certain circumstances, which need to be clarified. It is my view that any other person who is aggrieved, who is being represented, must consent to the representative action and, either by the statute or by written agreement, must agree to be bound by the decisions made by the Commissioner or the tribunal.

It would be outrageous for a representative complaint to be made where persons who are represented either have not consented to the representative action or are not bound by the decisions made. Probably an amendment is required to ensure that that occurs, but I would like the Attorney-General to give some further consideration to it. The representation is vague: the obligations and responsibilities are not specified.

Clause 39 allows the Commissioner to apply to the tribunal with the approval of the Minister, for approval to investigate a matter where it appears that there may have been a contravention of the Act. I have some concern about the way in which that may operate. The investigative powers are not defined. It may be that it is intended that the Commissioner act as a delegate of the tribunal. In those circumstances, I would strongly oppose that action because the tribunal must deal only with quasi-judicial matters. It must be only an arbitrator and not an investigator, prosecutor and judge.

Members may remember that we had a debate about this, I think in 1984, because it was then sought to give the tribunal powers to conduct investigations with the assistance of the Commissioner in circumstances which would have compromised the judicial or quasi-judicial powers and functions of the tribunal. I repeat my concern about this clause. I would like the Attorney-General to indicate what is intended for the Commissioner; what powers are intended to be exercised; what the consequences of an investigation are and what course of action the Commissioner can pursue.

Clause 41 refers to section 95 of the principal Act, which sets out the procedures which the Commissioner must follow in dealing with a complaint. One provision is that, where the Commissioner has declined to recognise a complaint as one on which action should be taken, no further action may be taken. But there is an amendment that, where the Commissioner has declined to recognise a complaint and decided to take no further action, the complainant within six months of being notified of the Commissioner's decision may require the Commissioner to refer the complaint to the tribunal.

I suggest that six months is too long. One must recognise that, probably, the complaint has been under investigation for quite a number of months, and if the Commissioner decides to take no further action I would have thought that about two or three months is adequate time within which the complainant should be required to notify the Commissioner, in the circumstances referred to in that section, to refer the complaint to the tribunal.

The remainder of the Bill deals with issues which are essentially to bring the language to a gender neutral position. I raise only one other matter. One organisation has suggested that, by the extension of the legislation to intellectual disability, there may be some problems in the area of sheltered workshops or supported employment units. That organisation—and I do not think it is appropriate to identify it—says that all such units have:

> in South Australia waiting lists of people with an intellectual disability and acceptance into such employment is usually on (1) order of registration or (2) priority of service need which, of course, may mean that a person with a higher support need may be given employment training opportunity ahead of a person who may be more capable of handling the work vacancy but requires less support for themselves and, in turn, less support for the entire

family. In this situation it could mean that a male could be given a work opportunity ahead of a female or *vice versa*, which would appear to me [the author of the letter] to be a possible breach of the Act.

Some special circumstances apply to sheltered workshops and the application of the Equal Opportunity Act to physical and intellectual impairment, and the issue to which I have just referred needs to be examined. They are the principal areas of concern in the Bill. They require careful consideration by the Government at this stage of the proceedings and they will most probably result in amendments in Committee.

I reiterate what I said at the beginning: the Opposition is prepared to support the second reading of this Bill, particularly the concept of equal opportunity for intellectually impaired persons. It is in that context that we will facilitate consideration of this Bill.

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

MARALINGA TJARUTJA LAND RIGHTS ACT

Consideration of the House of Assembly's resolution:

That, pursuant to section 43 (12) of the Maralinga Tjarutja Land Rights Act 1968, this House resolves that section 43 of the Act shall continue in operation for a further five years.

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

That the resolution be agreed to.

The committee, which has now been meeting for some time and has achieved valuable results, should be congratulated on the work it has performed since the Maralinga Tjarutja Land Rights Act was proclaimed and the handover of the titles to the traditional owners in 1984. The committee has supported the Ministers in performing their responsibilities under the Act.

The committee has enabled matters that relate to the Act and the well-being of the Maralinga people to be considered and actioned in a bipartisan way. The committee has enabled matters that affect the Maralinga people to be reported directly to Parliament.

One of the most important aspects of the committee's work has been its direct, face-to-face contact with the traditional owners of the lands, service providers, administrative and support agencies and, where necessary, directly with Ministers to question the operation of particular departments in relation to the lands.

The committee has reported each year to the Parliament on its activities. It has been instrumental in oversighting the operation of two of the most innovative Acts of Parliament ever proclaimed, namely, the Pitjantjatjara Land Rights Act 1981 and the Maralinga Tjarutja Land Rights Act 1984. In the case of Maralinga, at the time of the handover of titles, there was no settlement or community on the lands. There were no community structures or services apart from a couple of roads put in by mining companies. In addition, many of the people who wished to move back onto the lands to resume a traditional life style had, until then, experienced over 30 years of cultural and social upheaval bordering on destruction in settlements such as Yalata. The transition back to a traditional life, adapting to new cultural laws and authorities, has been extremely complicated and confusing; however, despite this it has been executed successfully. The committee has therefore served the traditional people at a key point in their long history. The Maralinga people have expressed their wish that the committee should continue. They trust the committee and always warmly welcome the committee onto their lands.

Some of the major issues that will require consideration over the next five years are: more people moving onto the lands; the provision of essential services, particularly water supplies; the development of community self-management and control; the clean up of nuclear wastes from the atomic test sites and surrounding areas; and compensation claims in respect to the British nuclear testing program. In addition, the overlap of the Woomera Prohibited Area and the Maralinga lands will have to be considered.

For all those reasons, I have great pleasure in recommending to the Council that the committee continues.

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

SOIL CONSERVATION AND LAND CARE BILL

Second reading.

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

That this Bill be now read a second time.

Soil conservation and land care is of paramount importance to the future productivity of the agricultural and horticultural industry of this State. 'The State of the Environment Report for South Australia,' prepared by the Environmental Protection Council of South Australia, recognised that although the 'dust bowl' conditions of the 1930s have been largely eliminated through improved farm management practices, land degradation remains a major concern. Sustainable methods of agriculture need to be advanced and adopted more widely. The Bill seeks to strengthen community involvement in soil conservation and land care and to introduce a forward planning concept based on the need for land to be used within its capability.

The intention of this Bill is to replace the Soil Conservation Act 1939. Over 50 years ago the need to protect the soil resources of the State was recognised and culminated in the preparation of that Act. Today, evidence indicates that land degradation is still occuring in the form of water and wind erosion, dryland salinity, soil acidification, water repellance, overclearance and decline in soil structure. Recent estimates indicate that land degradation is costing South Australia in the order of $80 million in forgone production annually. For some forms of land this loss is incremental as often affected land cannot be rehabilitated without a great deal of time and expense.

Forms of degradation such as wind and water erosion can cause, even in minor form, a great loss of soil nutrients, organic matter and pasture seed which the soil takes many years to regain. Increases in soil salinity, acidity and mass movement are difficult to reverse and have long-term effect on our agricultural resource base which contributes over $2 billion to the State's economy annually. Consequently our approach has been to develop a forward looking planning process to prevent these losses in the future.

The Soil Conservation Act emphasised the need to manage the severe wind and water erosion which occurred in the 1930s, and has, given its scope, been to a large extent relatively successful. However, there is a widespread recognition today that soil conservation should not be restricted to managing only those effects. Rather, the whole community has recognised the principle that land resources, including soil, water and vegetation are interdependent and must be managed in an integrated manner. To this end, it is recognised that soil conservation is dependent on sound land management based on ensuring that land is not used beyond its capability.

Proposals for the new legislation have been the subject of considerable public debate since 1983 when the Advisory Committee on Soil Conservation was requested by the Minister of Agriculture to develop guidelines for the revision of the Act. A number of discussion papers were distributed by the Advisory Committee for comment before the Government released a Green Paper earlier this year. It is on the basis of six years of consultation that the Bill was developed. Further consultation was had with the United Farmers and Stockowners, Advisory Board of Agriculture, Conservation Council, Australian Conservation Foundation, Nature Conservation Society, the Wilderness Society and the Advisory Committee on Soil Conservation in the final stages of drafting the Bill.

A major finding of the consultation process is that the landholder has the prime responsibility for soil conservation and land care and is in the prime position to implement measures necessary to conserve and rehabilitate this vital resource. Education rather than regulation has been identified as the most effective approach in having landholders recognise their responsibility for the care of the land. Despite this finding, it is recognised that ultimately the Government, on behalf of the wider community, has a role to ensure the land is managed within its capability.

Beneficiaries of sound land management include not only the immediate owner but also adjacent and often distant neighbours and future generations.

The objects of the Bill have been developed knowing that the land is the major important resource we have and that each generation only occupies the land for a relatively short period. Briefly, the objectives of the Bill are to determine how well we are managing the resource, to involve the community in the issues of soil conservation and land care, and motivate them to take action, provide mechanisms for better planning of land use activities so we do not exceed the capacity of the land to sustain continued use and to provide, as a last resort, measures to enforce better management of land.

Community recognition of the need for sound land management is shown by the renewed interest in the formation of more soil conservation boards and community land care groups. For many years there were only seven District Soil Conservation Boards covering the wind and water erosion risk areas of the State. There are now 14 District Soil Conservation Boards with a further two in the process of being formed. Negotiations are also underway for the formation of a further seven such boards. In addition, in excess of 60 applications for funding under the National Soil Conservation Program have been received from community land care groups.

The National Soil Conservation Strategy establishes nationally agreed policies and priority actions for the prevention and control of land degradation and for the rehabilitation of affected areas, so that Australia's economic prosperity can be sustained. Its overall aim is to conserve Australia's soil resources so that further soil loss and land degradation are prevented and that economic and environmental utility is sustained. This strategy recognises the need to:

- integrate conservation and development and emphasise their interdependence and common grounds;
- retain options for future use;
- focus on causes as well as symptoms;
- accumulate knowledge for future applications; and
- educate the community about the interdependence of sustainable development and conservation.

It also recognises that:

- the nation's lands must be used within their capability;
- the individual land user and the Australian community have a responsibility for preventing and mitigating land degradation;
- land resources, including soil, water, flora and fauna are interdependent and must be managed in an integrated way; and
- land management practices should maintain or improve soil qualities.

These principles were informally endorsed in late July by all Ministers in Australia at the Soil Conservation Council meeting in Darwin and each State and Territory agreed to pursue a land capability planning approach as a matter of high priority. South Australia has escalated its program and will attract further Commonwealth support.

To ensure that the principles of the National Soil Conservation Strategy are adopted there is a need to provide an organisational framework which supports community and individual aspirations to conserve our land resource. This Bill provides that framework.

This Bill clearly identifies that the land and its soil, vegetation and water constitute the State's most important natural resource and that their conservation is crucial to the welfare of all people of the State. In order to effectively prevent or minimise further degradation and rehabilitate degraded land, community involvement is essential. To achieve this requirement this Bill introduces a four tiered system comprising the Minister, a soil conservation council, community based soil conservation boards and local committees.

The Minister of Agriculture will be responsible for the administration of the new Act. The major land users who need to be influenced are people involved in the production of agricultural products. To achieve any effective changes will require integration of farming practices with sustainable land uses. To this end, the Minister, under the terms of the Bill, will cause all land identified by the council to be assessed to determine land use, land capability and areas of degraded land. This information will be utilised by boards in the preparation of district plans and individual property plans.

The Bill requires the Minister to establish a soil conservation and land care fund comprised of grants, gifts or loans, fines imposed by boards and any other money made available. The purpose of this fund is to provide a mechanism whereby corporate sponsorship can be sought and used to promote, research or undertake community based soil conservation or land care activities. The fund will only be used for soil conservation and land care activities.

The Soil Conservation Council will replace the Advisory Committee on Soil Conservation and provide a wider community and Government input into the monitoring and management of land resources. The council will advise the Minister on all policies that should govern the administration of the Act. It will also develop integrated strategies for the conservation and rehabilitation of land, including the dissemination of information on the state of land resources and the promotion of community awareness and involvement. The proposed membership of the council caused much comment on the release of the Green Paper. Most of the views expressed have been incorporated and it now contains a balance between active land managers, skills in science and conservation, a representative from the soil conservation boards, a representative of the Pastoral Board and public servants from the Departments of Agriculture, Environment and Planning, and Engineering and Water Supply.

Soil conservation boards will be established. The formation of the boards recognises the need for landholders to

take responsibility for land management practices designed to conserve land resources. Boards will have three year terms and will be appointed by the Minister. The functions of a board are to instil in the community an awareness of soil conservation and land management issues and cooperatively develop programs which introduce management practices ensuring the use of land within its capability. To enable this to occur, boards will oversee the preparation of district plans and three year management programs.

The concept of district plans has been introduced to allow the whole community to examine and have an input into the establishment of district management standards. These plans are broad scale, aimed at helping landholders and the wider community understand their district. They will define land classes in the district and determine the land degradation problems associated with each land class and its cause, extent and severity. The preparation of these plans will include the development of criteria for managing each land class within its capability and set minimum standards for land management within the district, particularly in reference to severe climatic events such as drought or flood. These plans will be produced and provided for public comment prior to approval by the Soil Conservation Council. Obviously, as new innovations or techniques are developed the plans will be modified and the Bill allows for a three year review and an update of the plans if required.

Boards will have the responsibility of encouraging landholders to prepare property plans which cover individual properties and are based on land capability. Where significant land degradation problems exist or could occur, the board can make a soil conservation order. The order can either require certain actions or works to be undertaken or the preparation of a property plan.

The appointment of a Soil Conservator is included in the Bill as in the current Act. This person, a public servant, has the powers of a soil conservation board where one does not exist. The person also has a monitoring role on the activities of the boards and if, in the Conservator's opinion, a board has not taken appropriate action, the board can be directed to do so. If the board does not act then the Conservator can override the board and take action. The Conservator can also take independent action in urgent cases. This mechanism ensures that land can be managed appropriately.

The Bill allows the boards to form committees to bring groups of landholders together with a common interest or problem. Currently, community land care groups are forming across the State due to the encouragement given by the provision of Commonwealth grants. In order to provide a framework for them to operate in and to address significant land degradation issues they have been encouraged to become affiliated with district soil conservation boards. Under the Bill these groups are likely to become special issue committees under the auspices of a board.

The Pastoral Land Management and Conservation Bill has already introduced the concept of property planning for the pastoral regions of the State, as well as recognising the need for Government to accept responsibility for planning and the administration of pastoral leases. In order to ensure that the two Acts complement each other, a number of provisions have been included in this Bill for that purpose. Decisions of the Pastoral Board will prevail where conflict arises between decisions made by a soil conservation board and the Pastoral Board. The Bill recognises the intention of Government to secure community input into and acceptance of responsibility for land management throughout the State, including pastoral land. Boards established in pastoral regions will be required to seek and consider the advice of the Pastoral Board prior to taking action under this Bill. This will allow the Pastoral Board to ensure land in the pastoral regions is managed within its capability. If the Pastoral Board is concerned, it can advise the relevant board of its concerns and, if no action is taken, take action under its own legislation. A board is required to keep the Pastoral Board informed of all soil conservation orders that it proposes to make. It should be noted that nothing in this Bill will prevent the Pastoral Board from taking independent action in relation to pastoral land if it chooses to do so.

The central object of both Bills is to ensure land is used within its capability and that degraded land is rehabilitated. The provisions contained in this Bill and the Pastoral Land Management and Conservation Bill are complementary. Land degradation problems within the pastoral regions and the need to secure community support is no different to that applying elsewhere in the State. Both Bills recognise the dual requirements of providing a framework for community involvement and the need for Government to ensure management practices conserve or rehabilitate the land resource.

The Pastoral Land Management and Conservation Bill recognises the existence of plans or guidelines established by a soil conservation authority. The Bill now before you allows for the Pastoral Board to provide advice and for that advice to be considered in the preparation and approval of either a district plan or a property plan. Similarly the Pastoral Board or a pastoral lessee is required to consult with the relevant soil conservation authority in the preparation of a property plan. This Bill once again, as its predecessor the Soil Conservation Act did in 1939, places South Australia in a nationally pre-eminent position in soil conservation and land care by adopting the major aims and principles of the National Soil Conservation Strategy endorsed by the Australian Soil Conservation Council. The community has shown its widespread concern about land degradation and is now prepared to accept its responsibility to redress current problems. This Bill provides a new direction and leadership for this community upsurge in land care. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 provides necessary definitions. The definition of 'degradation' makes it clear that degradation of land means degradation of soil, water, vegetation or other natural resources of the land. The definition of 'rehabilitation' of degraded land is the same as in the Pastoral Land Management and Conservation Bill.

Clause 4 binds the Crown.

Clause 5 provides that this Act does not derogate from the operation of the Mining Act or the Petroleum Act. This is identical to the provision in the Pastoral Land Management and Conservation Act.

Clause 6 sets out the objects of the Act, the first of which are to recognise the vital importance to the State of its land resource and to recognise that all sections of the community must work together to prevent or minimise degradation of that resource and to rehabilitate land that is already degraded. It is also one of the Act's primary objects to ensure that land is used within its capability and to provide the necessary systems for implementing and ultimately enforcing that principle of land use. Involvement of the community in the administration of the Act and in conservation programs generally is another important object of the Act.

Clause 7 obliges all persons and bodies involved in the administration of the Act to adhere to and seek to further the objects of the Act.

Clause 8 sets out a general duty for all owners of land (including, of course, the Crown) to take all reasonable steps to prevent degradation of the land. This is similar to the duty imposed on all landowners by the repealed Act.

Clause 9 requires the Minister to set up a Soil Conservation and Land Care Fund into which will be paid fines imposed under the Act and grants made for the purposes of the fund. The fund must be applied for the purposes of land conservation or rehabilitation programs.

Clause 10 gives the Minister the normal power of delegation.

Clause 11 provides for the appointment of authorised officers.

Clause 12 gives the Minister the power to acquire land compulsorily for the purposes of the Act.

Clause 13 empowers the Minister to carry out land conservation or rehabilitation works on land with the agreement of the landowner, or to give the landowner financial assistance to carry out such works.

Clause 14 establishes the Soil Conservation Council, comprised of 12 members to be appointed by the Governor. The Chairperson of the council cannot be a Public Service employee. Four members will come from the landholder area, one from the education field, one from the conservation groups, one from the Pastoral Board, one from the soil conservation boards and three from various interested Government departments. At least two members must be women and two men. Deputies may be appointed if needed.

Clause 15 sets out the usual conditions of office. Appointment will be for a term of three years.

Clause 16 provides for the payment of allowances and expenses.

Clause 17 deals with procedure at meetings. The person presiding at any meeting has a casting vote as well as a deliberative vote.

Clause 18 provides for declaration of interests by members of the council. A member will only be able to take part in the discussion of a matter in which he or she has an interest if the council so requests. A member who has an interest in a matter cannot vote on the matter.

Clause 19 sets out the functions of the council. Its primary function is to advise the Minister on the administration of the Act and the policies that should govern that administration. The council is to monitor and evaluate the condition of the land of the State and advise the Minister on all trends and implications of land degradation. The council must play an educative role in the community. The council must monitor the operation of the Act and report any problems to the Minister.

Clause 20 gives the council the power to delegate its powers, except for its function of advising on policy.

Clause 21 requires the council to give an annual report to the Minister and also a special report at the end of the year 1995 when this Act will have been in operation for five years. This special report must contain a full review and evaluation of the effectiveness of this Act in achieving its objectives. Recommendations for change should also be included. The annual reports and special report will be laid before Parliament by the Minister.

Clause 22 provides for the establishment by the Minister of soil conservation districts and soil conservation boards for each district. The Minister may dissolve a board and make provision for the disposal of its property. The Minister cannot establish or dissolve a board except upon the recommendation of the council. Before the council makes any such recommendation, it must consult with landowners within the district and all local councils concerned.

Clause 23 constitutes soil conservation boards as bodies corporate.

Clause 24 provides that a board will have up to seven members to be appointed by the Minister. One member will come from local councils concerned in the area and the others will be residents of the district that have, in the council's opinion, suitable knowledge and experience. The membership should represent the major land uses within the district, three at least must be from the rural area, and at least one member must be a woman and one a man.

Clauses 25, 26, 27 and 28 provide for conditions of appointment, allowances and expenses, procedure at board meetings and conflict of interest in the same manner as applies to the council.

Clause 29 sets out a board's functions. A board is expected to promote the use of land within its capability throughout its district. It must develop or support programs for the conservation and rehabilitation of land within its district. It also takes responsibility for implementing and enforcing the Act within its district. A board may, with the Minister's approval, employ staff and acquire and dispose of property. Staff of the board will not be Public Service employees.

Clause 30 empowers a board to delegate its powers (except the making and enforcing of soil conservation orders, which must be on the decision of the board itself).

Clause 31 provides for annual reports by boards.

Clause 32 continues the present Public Service position of Soil Conservator in existence. Any future appointee must have had experience in the field of soil conservation or land management.

Clause 33 provides that the Soil Conservator is responsible for the implementation of the Act in those parts of the State that are not covered by a soil conservation district. For this purpose the Conservator has all the powers and duties of a soil conservation board.

Clause 34 makes it clear that this Part of the Act does not derogate from the operation of the Pastoral Act 1936 or prevent the Pastoral Board from taking action under that Act in relation to land. If conflict should ever arise between the terms of a notice issued by the Pastoral Board and a soil conservation order made by a board, the Pastoral Board notice will prevail. A board must always consult with the Pastoral Board before taking any action in relation to pastoral land.

Clause 35 requires the Minister to cause such land as the council from time to time recommends to be assessed. An assessment will determine land classes, land capability, the preferred uses for each class of land and the condition of land. Assessments will be furnished to the council and the boards.

Clause 36 requires each board to prepare a plan of its district and a program for its proposed activities over the ensuing three year period. The plan and first three year program must be completed within five years of the commencement of the Act. The plan must identify all the land classes within the district, the capability and preferred uses of the land, the actual use of the land, degraded land and the causes of and remedies for that degradation and the optimum land management practices for each class of land. District plans and three year programs are to be submitted to the council for approval. These plans and programs are to be available for inspection by members of the public at the Conservator's office.

Clause 37 provides that an owner of land may submit a property plan to the soil conservation board for the district in which the land lies. Boards are required to encourage

this voluntary submission of property plans by all landowners except for land within urban areas. The board may promote the submission of a plan in relation to urban land that is seriously degraded or is likely to become seriously degraded. A board may revoke an approved property plan if it is no longer appropriate.

Clause 38 empowers a board to make soil conservation orders where land in its district is, or is likely to be, degraded, or where activities on land in its district have caused or are likely to cause degradation of other land (whether that other land is inside the district or not). An order can also be made where particular action taken in relation to land in its district would prevent or minimise degradation of other land, wherever situated, or where failure to implement an approved property plan on land in the district has led to or could lead to degradation of other land, wherever situated. Soil conservation orders can require a landowner to take specific action or to desist or refrain from taking specific action. An order can also require a landowner to make good damage caused to other land by his or her activities. A property plan may be required if none exists. Subclause (5) requires a board to try to get the landowner's cooperation before it proceeds to make a soil conservation order.

Clause 39 provides for the approval, variation and revocation of property plans that are submitted pursuant to a soil conservation order.

Clause 40 empowers the Soil Conservator to make soil conservation orders if a board fails to do so. This power cannot be exercised against a pastoral lessee. In the event of conflict between an order made by a board and one made by the Conservator, the latter will prevail.

Clause 41 requires the Conservator to have a register of soil conservation orders established and maintained.

Clause 42 empowers a board to impose a fine of not more than $10 000 on the owner of land who fails, without reasonable excuse, to comply with a soil conservation order. The board may also cause such work to be carried out on the relevant land as is necessary for compliance with the order. Costs of carrying out such work are recoverable from the landowner and are, until paid, on a charge on the land of the landowner. Fines paid to a board must be paid into the Soil Conservation and Land Care Fund.

Clause 43 provides that the Conservator must cause soil conservation orders to be noted on all relevant certificates of title, Crown leases, etc. An order is binding on all successors in title to the land.

Clause 44 provides that a person whose land suffers damage as a result of the non-compliance with a soil conservation order by some other person may recover damages from that other person. If a soil conservation order requiring damage to land to be made good is not complied with, the owner of the damaged land can recover the cost of making good the damage from the person the subject of the order.

Clause 45 enables a landowner to have an approved property plan noted on all relevant certificates of title, Crown leases, etc. If this is done, the plan is binding on all successors in title to the land.

Clause 46 repeats a provision contained in the repealed Act empowering the Minister to prohibit certain stock movements for specified periods of time for the purpose of preventing soil erosion. The Pastoral Board will recommend such action if it relates to pastoral land. Action under this section in relation to any other land can only be taken on the recommendation of the board, or boards, whose districts will be affected. An offence against this section carries a division 7 fine.

Clause 47 establishes a three member appeal tribunal, headed by a District Court judge.

Clause 48 provides that the judge is to decide questions of law arising before the tribunal.

Clause 49 sets out the usual provisions relating to the powers and procedures of the tribunal. These provisions are substantially the same as, for example, those pertaining to appeal proceedings before the Pastoral Land Tribunal. It should be noted that there is no power to call for income tax returns, bank statements or other banking records even though they are relevant to the proceedings.

Clause 50 sets out the principles that must govern the determination of appeals. The tribunal is not bound by the rules of evidence, but must act according to equity and good conscience. The objects of the Act must be adhered to.

Clause 51 gives a right of appeal to a landowner against revocation of approved property plans, the making of soil conservation orders and the imposition of fines by a board or the Conservator. The appeal lies to the tribunal which must review the decision that is the subject of the appeal.

Clause 52 provides that decisions will stand notwithstanding an appeal, unless the tribunal, on application by the landowner, suspends the decision.

Clause 53 gives authorised officers, members of the council, board members and the Minister the power to enter and inspect land for the purposes of this Act. Persons authorised pursuant to the Act to carry out work on land on behalf of a board may enter and stay on the land for that purpose. Seven days notice of entry must be given to the owner of the land except where it is not practicable to do so, or where an offence has been committed, or a soil conservation order or approved property plan has not been complied with. Offences relating to misconduct on the part of authorised officers are provided. Persons exercising a power of entry must give evidence of their authority if required to do so.

Clause 54 sets out the usual offences of hindering, assaulting, etc., a person acting in the exercise of powers under the Act. All these offences carry a division 7 fine.

Clause 55 provides personal immunity for persons engaged in the administration of the Act.

Clause 56 provides for the manner in which notices under the Act may be served.

Clause 57 provides that offences against the Act are summary offences, and provides a defence of 'no negligence'.

Clause 58 provides power to make regulations.

Division I of the schedule repeals the Soil Conservation Act 1939.

Division II of the schedule provides some necessary transitional provisions. Existing districts, boards and local committees will be preserved. The present Soil Conservator will continue in office. Soil conservation orders under the repealed Act will continue to be enforced under that Act (but the new council will handle the enforcement).

The Hon. PETER DUNN secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 4)

In Committee.

Clause 1 passed.

New clause 1a—'Commencement.'

The Hon. ANNE LEVY: 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.

I have moved this amendment, which inserts a commencement day, because it is felt that it is probably desirable after proclamation to have some lead time to disseminate infor-

mation on the new roles and responsibilities of the police. This can be done by means of having such a delayed date after assent to the Bill; that will allow the necessary lead time before the Bill comes into operation.

The Hon. PETER DUNN: I am disappointed that this has only just turned up, not that this makes much difference. The Opposition agrees with what the Minister says, namely, that it allows for an education process to take place.

The Hon. I. Gilfillan interjecting:

The Hon. PETER DUNN: That is the point. I only saw it 10 minutes ago. I hope the Government does not complain if I drop a Bill on the table later on. All hell would break loose as it did last week with the Pastoral Bill.

The Hon. Anne Levy interjecting:

The Hon. PETER DUNN: Not mine. You might have got yours. The honourable member has not even got his yet.

New clause inserted.

Clause 2—'Insurance premiums to be paid on applications for registration.'

The Hon. PETER DUNN: I move:

Page 1, after line 16—Insert paragraph as follows:

(aa) by inserting after paragraph *(a)* of subsection (2) the following paragraph:

(ab) in the case of an offence (other than an offence referred to in paragraph *(a)*) where the person driving the motor vehicle is the opwner or an owner of the vehicle—

(i) a division 9 fine, but not less than the maximum of a division 11 fine;

and

(ii) disqualification from holding or obtaining a driver's licence for a period of not less than three months and not more than 12 months;;.

This amendment, which was floated in the Lower House, gives the Minister some time to look at its effect, which is, as I read it, to make the owner/operator liable to penalties that are similar to those that apply at the moment. If an owner/operator willing and knowingly drives an unregistered vehicle after, I presume, the 30 day period, he is liable to a division 9 fine but not less than the maximum of a division 11 fine, and is disqualified from holding or obtaining a driver's licence for a period of not less than three months and not more than 12 months.

I understand that the Bill allows for the courts to determine that. The problem I foresee is that people will try to get 13 months instead of a year because they will register their vehicle on 1 July and are not likely to register it again until 13 months later, allowing for those 30 days. That will cause a problem with third party insurance because, to a degree, third party insurance becomes negated after 30 days. Large numbers of people in the State neglect to register their vehicles within 30 days. They drive unregistered vehicles with no third party insurance, which can be devastating for a family if it is involved in an accident where a claim is to be made with nothing to claim on.

I move this amendment in that light. It still allows for determination by the courts. If an employee is ordered to go out in an unregistered vehicle and he gets caught, the courts can determine just what the fine ought to be. They may look upon that leniently or severely.

The Hon. ANNE LEVY: The Government opposes this amendment. It does deal with some of the problems experienced under the present provisions since it will remove the minimum penalty for cases where a driver is not the owner of a vehicle and is found driving it uninsured, as would be the case where the vehicle is a work vehicle or borrowed. However, Mr Dunn's amendment would leave the situation where there is a minimum penalty laid down in the legislation for an owner. The Government is opposed to having a minimum penalty in the legislation. It is felt that it is better to leave it to the discretion of the court to decide what is appropriate in the particular circumstances.

One can imagine situations, for example, where the notice for renewal of registration and insurance does not arrive in the mail for whatever reason, and to impose a minimum penalty on that owner who then drives his or her car, so that they must lose their licence for three months, might seem a bit extreme. The Government would certainly not suggest that no penalty is appropriate, but it is better for the courts to decide the appropriate penalty. They are the proper body to take account of all the circumstances in which the offence occurred and to determine the penalty which they deem to be appropriate, rather than have to apply what might seem in some circumstances an exorbitant penalty.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. More than 12 months ago I was involved in quite an active concern expressed by many people that innocent people were getting lumbered with penalties that were quite excessive for the offence of oversight. As the Minister mentioned, many of them claimed that they were unaware of the expiry of their registration and therefore of their insurance.

It is important that the insurance cover is in place. At that time I argued for an extension to the period of grace, and 30 days is certainly a step in that direction. I will not argue now whether in fact it is the optimum time but it is certainly worthy of support. I congratulate the Government in respect of this initiative even if it is somewhat belated. It acknowledges the very big need in this State for recognition of the problem. I am also persuaded, for virtually the same reason, that the flexibility in respect of the penalty is desirable.

There are many other offences in respect of motor vehicles where people's lives are put at risk through carelessness, recklessness and downright malicious behaviour on the roads. It is unfortunate that we presently provide a severe minimum penalty for what may well be a small lapse of memory or some inefficiency in the Motor Vehicles Department. I believe that the department should send out reminder notices to the owners of motor vehicles. On balance, the Democrats believe that the Bill is a step in the right direction. I do not support the Hon. Peter Dunn's argument in support of his amendment that there could be some exploitation of the situation whereby a driver could receive 13 month's registration but pay for only 12 months. If history shows that there has been a blow-out, I believe that Parliament would be sympathetic to an amendment to curb it. At this stage the Democrats oppose the amendment.

The Hon. PETER DUNN: How many unregistered vehicles were detected last year?

The Hon. ANNE LEVY: I am informed that each year about 600 vehicles are detected which are either unregistered or uninsured or both. However, the majority are unregistered rather than uninsured because of the operation of the grace period.

The Hon. PETER DUNN: What percentage is detected each year? I am sure the insurance industry has some idea of the number.

The Hon. ANNE LEVY: We have no information or even a guesstimate on this. Apparently there are no reliable figures.

The Hon. PETER DUNN: In answer to a question in another place, the Minister said:

The fact that the Motor Registration Division attempts to notify all drivers when their registration is due is a courtesy, but the obligation is always on the owner of the vehicle to ensure that the vehicle is registered.

Is that correct?

The Hon. ANNE LEVY: Yes.

The Hon. PETER DUNN: It would be rather grim if the department did not send out any notification. I think it is a very funny way of doing business given that drivers are forced by law to register their vehicles. If the Government wants my money to entitle me to drive on its roads, it should send me notification that my registration has run out. The obligation to respond to that is quite a different matter. I register up to seven vehicles each year and as yet I have not encountered a problem, but people have complained to me that they have not received notification from the department. I point out that the country divisions of the department have been excellent when I have contacted them to discuss a constituent's problem. They have dealt with the problem immediately, and I suppose that is a result of computerisation. I find it very unusual that the department is not obliged to notify drivers that their registration has run out.

The Hon. ANNE LEVY: It has always been the case that the obligation is on the owner to keep his or her vehicle registered if they want to drive it on the roads. It would not be practical to use any other system. There may be a large number of people who for one reason or another do not want to drive their vehicles on the roads and they are quite happy to keep them unregistered. However, it has always been the case that the obligation is on the owner to keep his or her vehicle registered. The law says that they must do so. I am sure that in 99 cases out of 100 the notification from the department that the registration is about to expire does arrive and serves to jog one's memory. However, that is a courtesy and not a legal obligation.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

PAPERS TABLED

The Hon. BARBARA WIESE (Minister of Tourism): I table the following papers:

Estimates of Payments 1989-90.
Estimates of Receipts 1989-90.
Budget Speech 1989-90.
Financial Statement 1989-90.
The Budget and its Impact on Women 1989-90.
Economic Conditions and the Budget 1989-90.
Capital Works Program 1989-90.
The Budget and the Social Justice Strategy 1989-90.

ADJOURNMENT

At 5.43 p.m. the Council adjourned until Wednesday 6 September at 2.15 p.m.