LEGISLATIVE COUNCIL

Thursday 22 March 1990

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

TEA TREE GULLY TAFE COLLEGE

The PRESIDENT laid on the table the interim report by the Parliamentary Standing Committee on Public Works on Tea Tree Gully College of TAFE, Stage II.

QUESTIONS

NATIONAL CRIME AUTHORITY

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about the National Crime Authority.

Leave granted.

The Hon. R.I. LUCAS: Today, at the public sitting of the National Crime Authority in Adelaide the presiding member, Mr Gerald Dempsey, made the following comment in a document made available:

> There was no participation by, or consultation with, the South Australian Government or the South Australian Police Force at any stage of the process prior to the delivery of the Authority's report on 21 December 1989.

This unequivocal statement made by Mr Dempsey should be contrasted with an answer given by the Attorney-General in this Chamber on 15 February. This statement relates to an informal dinner the Attorney-General had in Melbourne on 19 July with three members of the NCA, and I quote:

> [I the Attorney-General] took the opportunity to meet informally with Messrs LeGrand, Leckie and Tobin over dinner. We did that. We discussed a number of matters relating to the authority's operations in South Australia. So far as I can recall—and I cannot recall the details of all the discussions—the Operation Ark matter was discussed, and there was an indication that there would be a review of that matter by the Faris authority. As I say, it was not a meeting that was recorded but an informal discussion to discuss aspects of Mr Faris's attitude to the South Australian reference and what the South Australian Government expected out of the NCA with respect to that reference.

Further, on 14 February, the Attorney-General said in the Council:

> The Attorney-General was certainly aware of it by 19 July 1989 but there is a possibility that Mr LeGrand had advised Mr Kelly, the Chief Executive Officer of the Attorney-General's Department, that there was to be a review of the Operation Ark matter earlier in July.

Mr President, there clearly is a conflict between the statements of Mr Dempsey and the Attorney-General on this matter. My questions are:

1. How does the Attorney-General reconcile his statements to the Council on 14 and 15 February with this statement made by Mr Dempsey today?

2. Was the Attorney-General or any officer in his office or department consulted by Mr Dempsey or an officer of the NCA before the release of the NCA statements today?

The Hon. C.J. SUMNER: There is no conflict whatsoever. The honourable member is reading into Mr Dempsey's statement something that is not there. He said that there was not participation by, or consultation with, the South Australian Government or Sapol at any stage of the process prior to the delivery of the authority's report on 21 December 1989.

The words are 'participation and consultation'; that implies some active involvement of the South Australian Government in the deliberations relating to the report and its preparation. As I have said before, that did not occur. The report was prepared by the authority and given to the South Australian Government. The circumstances in which that report was prepared have been fully explained today by Mr Dempsey.

The Hon. R.I. Lucas: What did you do on the 19th, then?

The Hon. C.J. SUMNER: I have dealt with that in this Council on previous occasions. As to the second question, which relates, as I understand it, to Mr Dempsey's statement given today at the public sitting, I was given a copy of that statement through my office yesterday afternoon, and that is the only involvement that I have had with it.

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to National Crime Authority reports.

Leave granted.

The Hon. J.C. IRWIN: Today at a press conference following the public sitting of the NCA, Mr Dempsey responded in the following terms to a question from the Hon. Mr Gilfillan on the public release of NCA reports:

> I accept that comment. Clearly you are quite right. The reports of the authority, generally, are aimed to enable some publication, at least parts of them, and are aimed at enabling Governments to release such information that should be released, while protecting individuals. So I take your general point and agree entirely.

My questions to the Attorney-General are:

1. Will the Attorney-General now agree with the view of the NCA about public release of its reports and, if not, why not?

2. Will the Attorney-General also apply this philosophy to his Government's decision about possible release of various NCA reports and, if not, why not?

The Hon. C.J. SUMNER: I have not seen the transcript of what Mr Dempsey said. I assume that what he said was not said at the public sitting. I do not have a transcript, and I do not know whether anyone else has. If the honourable member has, I would be pleased if he would provide me with a copy of the transcript for my perusal. Obviously, the Government has in this area released what parts of the NCA reports to it that it has been able to release. The June/July 1988 report, which was prepared after the NCA had been in South Australia since a reference of May 1986, did contain, as I recollect it, the usual reference by the NCA to the publication of reports possibly jeopardising law enforcement investigations or affecting the reputation of individuals. Nevertheless, the Government did release the chapter of that report which it felt able to and which did not refer to individuals.

As far as the so-called Operation Ark report is concerned, the Government has been able to release the full official Operation Ark report and has also released the recommendations from the so-called Stewart document. What to do with respect to the rest of the Stewart document is, as I said the day before yesterday, still under consideration by the Government. However, clearly in what Mr Dempsey is asserted to have said through the honourable member's question, the release of documents that may prejudice the reputations of individuals—that is, documents that will prejudice individuals or affect law enforcement agencies—is not supported by the NCA.

I have said before that the Stewart document contained a statement to the effect that the report ought not to be released. As far as the Stewart document is concerned, the present National Crime Authority does not believe that it should be released and it made quite clear to us that that

is its position, while still saying, of course, that the release of the document is a matter for the South Australian Government. However, the authority has advised us that, in its view, the document ought not to be released.

Regarding Mr Dempsey's saying that reports should be released, in so far as that is possible, I agree with him. There is no joy in it for the Government to refuse to release reports when, clearly, they ought to be released—because if we do not release reports we get harassed by members for covering up, secrecy and the like. That is not a particularly pleasant situation for the Government to find itself in and it is not a situation that I particularly relish. However, when it comes down to the final analysis, particularly in the area of police investigations and law enforcement, there are sensitive issues that have to be considered. One is the reputation of individuals, and if the honourable member had read the full statement by Mr Dempsey at his public sitting he would have noted that Mr Dempsey referred very clearly and forcefully to the need to protect the reputation of innocent people. That has to be considered. Secondly, the potential effect on future investigations must also be considered.

I find it a little extraordinary for members opposite, from a fair position of ignorance, to be suggesting that reports which will condemn people in an unwarranted and unjustified fashion and which may destroy reputations should be released. Furthermore, members opposite are saying that the release of reports—

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am pleased that the Hon. Mr Griffin has interjected on behalf of the Opposition to say that what I am saying is not correct.

The Hon. K.T. Griffin: Of course it is not correct, and you know it is not correct.

The Hon. C.J. SUMNER: Let us set out the ground rules quite clearly. The Opposition is quite happy that, with respect to national—

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Let us just get the policy quite clear.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas: What are you hiding?

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

Members interjecting:

The PRESIDENT: Order! The honourable Attorney-General.

The Hon. C.J. SUMNER: We have had a more or less sensible proposition from the Hon. Mr Griffin, to the extent that he says that there ought not to be reports issued that would prejudice the reputation of individuals or be unfair to individuals. Apparently that is the Opposition's proposition. I assume that they would also accede to the proposition that reports that would prejudice law enforcement or ongoing investigations ought not to be released as well—and the Hon. Mr Griffin will agree with that proposition. If they are the guidelines, fine. I agree with those guidelines. I do not have any difficulty with those particular guidelines. The fact of the matter is that in the July 1989 report we used those guidelines and we released that part of the report that we could release. As far as the Ark report is concerned, the problem is getting the report into such a form where it can be released without prejudicing the reputation of individuals named in it. I said yesterday that that is an extremely difficult task; that just happens to be the case. Crown Law officers have been looking at it to see if a report can sensibly be released with the names just deleted.

I am sorry but, as I have previously explained, it is not just a matter of putting a blue pencil through the names. We have heard a perfectly sensible proposition by the Hon. Mr Griffin which, apparently, is the Opposition's policy, but when I assert that as the Opposition's policy I get catcalls, interjections, screaming and yelling from members opposite, and that indicates that they are fairly ignorant of the basic propositions that should operate in this area.

In relation to this point, I agree that, if it is possible to release reports, given the restraints with which the Opposition is apparently prepared to agree, the Government has no objection to doing so. We are not talking about an ordinary area of government; we are talking about a very sensitive area where we have to be careful that we do not, in an unjustified manner, destroy reputations or affect future and ongoing investigations. These are the criteria that the Government will use.

As I said on Tuesday, I will take into account submissions by members on this point. Whether the screaming rabble behind him agree with him, I do not know, but at least today the Hon. Mr Griffin, by way of interjection, has outlined the Opposition's policy (or at least his policy) in relation to this matter.

ENVIRONMENTAL POWERS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about Commonwealth powers over the environment.

Leave granted.

The Hon. K.T. GRIFFIN: On 9 February 1990, Senator Richardson, the Federal Environment Minister, said that he would move at the next ALP national conference to entrench in ALP policy a provision giving the Commonwealth overriding powers on the environment. Earlier this week, Senator Richardson took this issue very much further when he said that the Hawke Government would seek to have a large part of central Victoria's goldfields declared a world heritage area and that the Commonwealth may also seek to control damage by new goldfields in that State. Such a nomination would, of course, result in significant restrictions on land use.

In the context of that announcement, in relation to Victoria this proposal would cover thousands of square kilometres of mines, streets and buildings in towns such as Charlton, Bendigo, Ballarat, Castlemaine, Heathcote, Daylesford, Maryborough, St Arnaud, Stawell, Ararat, Chewton and Maldon. However, the policy proposal of Senator Richardson has much wider ramifications than control over either old goldmines or new goldmines in Victoria. Such a policy proposal would result in a number of areas in all States, and particularly in South Australia, being controlled completely by Canberra. This policy could extend to the old copper mining areas of Burra, Moonta and Kapunda and could also result in Federal Government control over developments such as Roxby Downs.

All these consequences of Senator Richardson's radical policy proposals would have a direct impact on South Australia and our capacity to control our own affairs in relation to significant areas of the State. I should note that this prospect is frightening. Will the Attorney-General and the State Government support Senator Richardson's proposals and, if so, why?

The Hon. C.J. SUMNER: The Government has not considered this matter at this point.

The Hon. K.T. GRIFFIN: I ask a supplementary question. Will the Attorney-General indicate whether this matter has been the subject of consultation between any Minister or officer of the Federal Government and any Minister or officer of the State Government of South Australia?

The Hon. C.J. SUMNER: Frankly, I do not know. I have not had any discussions with Senator Richardson about this particular matter; but the honourable member has once again cast his net through the whole of the Government. I hope that he will be satisfied if I refer his question only to the Minister for Environment and Planning, and bring back a reply.

NATIONAL CRIME AUTHORITY

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to the NCA public hearing.

Leave granted.

The Hon. I. GILFILLAN: I quote from half of the penultimate paragraph on page 4 of the report given by Mr Dempsey this morning, relating to the operations of the NCA in South Australia:

> Other matters have been concluded, and have been the subject of reports to the inter-governmental committee, and thus to the Government of South Australia. Certain other matters are still the subject of investigation, and reports will be provided to the South Australian Government in due course.

Further, on page 6 of the same statement, I quote from the penultimate paragraph as follows:

> The National Crime Authority in South Australia has made extensive use of the hearings powers in the course of its investigations. Indeed, more hearings were held in South Australia over the last year than in the rest of the authority combined. The results of these hearings will become evident in the series of reports which the National Crime Authority will be furnishing the Government of South Australia during the next 12 months.

The first quote says that other matters have been the subject of reports which have gone to the inter-governmental committee and thus to the Government of South Australia. How many reports does Mr Dempsey refer to; have they come to the Government of South Australia; and what does the Government intend to do with those reports?

Referring to the second quote, the intention of this statement to the public this morning was that the results of these hearings—which were more extensive in South Australia than in the whole of the rest of Australia combined—will become evident in the series of reports which the National Crime Authority will be furnishing to the Government of South Australia during the next 12 months. Will the Attorney indicate to whom the results of these hearings will become evident? Will he undertake that the results of these hearings will become evident to the Parliament? Will he undertake that, as these reports become available to the Government over the next 12 months, he will make them available to the Parliament, bearing in mind the criteria that he has mentioned in previous answers? Will the Attorney, representing the Government, honour the undertaking of this public statement by the NCA that the results of these hearings will become evident?

The Hon. C.J. SUMNER: I have said that the Government wants to provide the Parliament with as much information as possible in relation to the activities of the National Crime Authority in South Australia. As to the first series of questions asked by the honourable member, I anticipate covering those matters in the ministerial statement which I intend to give. I have already indicated to the Council that last November I requested of the authority reports on certain matters. Those reports have been received and others have been received through the inter-governmental committee.

The Hon. I. Gilfillan: How many?

The Hon. C.J. SUMNER: I don't have the details with me at the present time.

The Hon. I. Gilfillan: You must have a rough idea.

The Hon. C.J. SUMNER: I will deal with those in the ministerial statement that I have indicated I intend to give, and I will—

An honourable member interjecting:

The Hon. C.J. SUMNER: This has absolutely nothing to do with the Federal election, I can assure you. As I said the other day, it will probably be advantageous to the Government to make statements in relation to these matters before the Federal election.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I have explained that before. If the honourable member wants to keep interjecting in the manner that he has—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —I suppose I shall have to repeat the answers that I have given on previous occasions.

An honourable member interjecting:

The Hon. C.J. SUMNER: That is right, yes, and then they will complain that I have gone on too long in answering the question.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I know. The Hon. Mr Gilfillan is being thwarted in getting an answer by the rudeness of other members opposite. I will deal with the first set of questions asked by the Hon. Mr Gilfillan in my ministerial statement in so far as I am able to provide information on the reports that have been provided to date by the National Crime Authority.

As to future reports, as I said, the Government would want to make as much of those available to the public as is possible. That does not mean that, immediately a report comes to hand, I will walk in here and table it in Parliament. It may be that it is a report which recommends that certain prosecutions be laid. Obviously, if prosecutions are pending and the report refers to evidence collected with a view to prosecution, I cannot report on those. There may be the other sorts of circumstances I have mentioned where the report has to be considered. However, I can assure the honourable member and the Parliament that the Government is anxious to provide as much information as possible on the operations of the NCA in South Australia and that is what I will do in the ministerial statement. Once that ministerial statement has been given, I suggest that members will have the opportunity to consider it and to determine whether or not any further questions or action is required.

LIBERAL ARTS POLICY

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the Liberal arts policy.

Leave granted.

The Hon. CAROLYN PICKLES: The arts contributes more than $60 million annually to the South Australian economy and, directly and indirectly, employs more than 3 000 people. South Australia is justly recognised for its role in the development of the arts, particularly for the world-renowned Festival of Arts. I am sure that some members opposite would have spent the past 2½ weeks attending

many of the Festival and Fringe events, as did many people from overseas and interstate. My question to the Minister is: What effect would the Coalition arts policy have on the arts in South Australia in the unlikely event that it wins the Federal election on Saturday?

The Hon. ANNE LEVY: The statements relating to the Coalition arts policy have been made public and were extensively discussed at a forum called during the Festival of Arts for the purpose of discussing the policies of three different Parties. There was obviously a great deal of concern regarding the policy of the Coalition and the effects that that would have if it were implemented. Its policy, if it were implemented, would certainly constitute a very grave threat to the development of the arts in South Australia. In its Economic Action Plan the Liberal Party announced that it would cut $33 million from the arts portfolio—and I notice there are no cheers from the Opposition benches—in the next financial year. Who is to know how much will come after that?

The Australia Council currently distributes $58 million throughout the country and $2.6 million of that amount is distributed to artists, individuals and groups of artists in South Australia. As mentioned by the Hon. Ms Pickles and as has been mentioned on numerous occasions by the Hon. Mr Davis, we have a $60 million arts industry in this State. One might well ask why the Coalition wants to interfere with what is nationally a $3.8 billion industry. It is a bigger industry than either the beer or insurance industries, as the Hon. Mr Davis reminded us only the other day. There is no way that $33 million worth of cuts could be made without jeopardising the future of nearly every arts institution that receives Federal funding. Apart from anything else, the effect on the film industry would be disastrous. The film industry is trying to establish a stable base.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. ANNE LEVY: The Coalition is planning to cut $20 million from the Australian Film Commission, the Film Finance Corporation and Film Australia, an effect of $20 million which would be disastrous—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —on the film industry in this country. The Coalition's economic policy—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The economic action plan—

Members interjecting:

The Hon. ANNE LEVY: I do not know what plan it is. but it is called the economic action plan.

Members interjecting:

The PRESIDENT: Order! If the honourable Minister addresses the Chair she will do better, and interjections should cease.

The Hon. ANNE LEVY: We also need to consider what the effects of the Coalition's policies will be on the ABC. It has stated in its economic action plan that the ABC will have its budget slashed by $30 million and that it will have to get rid of its orchestras.

The Hon. Barabara Wiese: Mr Davis can't even stay here to—

The Hon. ANNE LEVY: Yes. The Hon. Mr Davis obviously knows very well the effects of the Coalition's arts policy on the arts industry in this State and does not wish to stay here and be embarrassed by having it exposed.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Under the Coalition—

Members interjecting:

The PRESIDENT: Order! There is too much conversation. Order!

The Hon. ANNE LEVY: Under the Coalition's economic action plan as printed and as very eloquently explained in full detail by the member for Mayo at the forum, to which I referred earlier, the future of the Adelaide Symphony Orchestra will be in grave danger, We know that the Coalition plans to do away entirely with the Australia Council. It would abandon the absolutely crucial principle of arm's length funding, which is an accepted practice in the arts in the United States, Canada, New Zealand and even in the United Kingdom. Margaret Thatcher appreciates and upholds the principle of arm's length funding for arts bodies.

The Coalition's arts spokesman, at this particular forum, had problems in realising that if the Australia Council and arm's length funding are abolished the Minister would be responsible for over 10 000 individual grant decisions based on artistic judgment each year, a physical impossibility. There would be a grave danger of introducing political censorship and political patronage in the granting of funds to arts bodies.

Members interjecting:

The PRESIDENT: Order! Order!

The Hon. ANNE LEVY: I am sure many members opposite do not realise that the Australia Council last year made 181 separate grants to South Australian artists and groups, worth a total of $2.7 million. If the Australia Council is abolished and arts funding is cut as indicated in the Coalition's economic plan, the grants—

Members interjecting:

The Hon. ANNE LEVY: —to individuals in this State could be expected to drop by a quarter of a million dollars a year. I wonder whether many people in this State would rest content in the knowledge that their grants applications were being decided by an Eastern States Minister.

We must not forget the achievements of the Hawke Government in the Arts. The Hawke Government established the National Film and Sound Archive, The National Science and Technology Centre, The National Maritime Museum, (which will open in Sydney later this year), and the National Museum of Australia (which is expected to open in time for the centenary of federation in 2001).

The Hawke Government has increased funding for the Australia Council by 82 per cent since it took office, and employment in the arts has increased by 21 per cent in the past five years. The Hawke Government's record of funding the arts is unequalled in the cultural history of Australia, and it reflects that Government's belief that the opportunity for artistic expression and appreciation is the birthright of every Australian.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The honourable Minister has the floor.

The Hon. ANNE LEVY: Despite the interjections from the shadow Minister for the Arts, I am not aware that I have broken any of out Standing Orders.

Members interjecting:

The PRESIDENT: Order! There is too much conversation. Order!

The Hon. ANNE LEVY: The members on the Opposition benches—

Members interjecting:

The PRESIDENT: Order! Order!

The Hon. ANNE LEVY: Opposition members do not like what I have said, but they have not in any way contradicted the statements I have made regarding—

Members interjecting:

The PRESIDENT: Order! There is too much conversation.

The Hon. ANNE LEVY: —the effect on the arts industry in this State should the Coalition's arts policy be put in place. It would be nothing short of disastrous. Thankfully, the Coalition is not likely to have the chance to put it into effect.

SALISBURY COUNCIL

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the Salisbury council.

Leave granted.

The Hon. J.C. BURDETT: A letter was recently letterboxed in those areas in the Salisbury council district that are also in the Federal electorate of Makin. The letter is on what appears to be the City of Salisbury letterhead, and states:

Dear Salisbury Resident,

As you would be aware, there is a federal election on 24 March. Some of us at Salisbury council believe that the election outcome will be important to us all in the seat of Makin. We have had the unique opportunity of working with the two major Party candidates. Daryl Hicks, the Liberal candidate, was on the Salisbury council. He is there no longer.

Peter Duncan, the Labor member for our area, has worked with us since the Federal seat of Makin was created. Whenever we have sought Mr Duncan's assistance, he has given it unconditionally. He has worked for us willingly in Canberra, dealing with bureaucrats to get many additional grants for Salisbury. Because he gets things done, at all levels of Government, he's a valuable contact.

Peter Duncan has the ability, experience and expertise to sort out problems for individuals. We have referred many ratepayers to him for his assistance on matters outside council's responsibility.

Often he has the answers at his fingertips. We are sure you will know of his hard work in the local area. We see him at dozens of functions. He seems to be out most nights of the week and at weekends at our citizenship ceremonies, community meetings and special events. He's there, whether or not there's an election around the corner.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: The letter continues:

As we said, we have worked with both these candidates. We think that, in comparison with Peter Duncan, Daryl Hicks is far too inexperienced at a time when we are facing the uncertainties of the 1990s. We think that when we have such a good member of Parliament as Peter Duncan, we should re-elect him.

That letter is signed by the Mayor and three councillors in the Salisbury area.

An honourable member: Who is the local Mayor?

The Hon. J.C. BURDETT: The Mayor is Her Worship Mrs Pat St Clair-Dixon. First, I will mention that Mr Daryl Hicks did not continue on the Salisbury council, precisely because he intended to seek election federally.

The Hon. R.J. Ritson: He did not want to politicise local government.

The Hon. J.C. BURDETT: Exactly, which this letter is doing. The Liberal Makin campaign office and the secretariat of the Liberal Party have been flooded with phone calls of protest about this letter. I answered a lot of them, one after another. Sometimes I had three phone calls banked up waiting for me to answer them. The people were irate and angry that local government had been politicised and that their Mayor and councillors—three of them—had been using their council positions to try to influence votes in a Federal election.

The Hon. R.J. Ritson: What about ratepayers' money?

The Hon. J.C. BURDETT: Ratepayers' money was mentioned, but we do not know whether ratepayers' money was used.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: It certainly appears to have been written under a City of Salisbury letterhead, and that was one of the complaints. At least one letter from a resident of Salisbury has been sent to the Minister. It was dated today, so she will not have received it. However, a great number of people are extremely annoyed about this politicisation of local government. My questions are:

1. Does the Minister think it appropriate for a letter like this pertaining to a Federal election to be sent on a council letterhead?

2. Does the Minister think it appropriate for a mayor and councillors to use their position to influence voters in a Federal election?

The Hon. ANNE LEVY: I received the correspondence to which the honourable member refers only at 1.55 this afternoon. It looks as if I have not received it yet. I suggest perhaps that the clock in this Chamber has been de-daylight saved over-enthusiastically. So, I have only had time to have a brief perusal of the correspondence. Certainly, I have not had time to make official inquiries. However, I do understand that the letterhead which has been used is not an official council letterhead. I have been told that it is not an official council letterhead.

The Hon. J.C. Burdett: Can I have a look at it?

The Hon. ANNE LEVY: Yes, I have a copy of it here. As I understand it, it is a letterhead which is provided for the use of council members when they are corresponding with their ratepayers—that is the purpose of that letterhead.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis: In other words, they are in their official capacity responding to ratepayers?

The PRESIDENT: Order!

The Hon. ANNE LEVY: I stress that I will have to look further into this matter, but at this stage—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —I am given to understand that it is not a council letterhead and that it—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —cannot be taken as an opinion of the council of the City of Salisbury. It is signed by individual members of Salisbury council, writing in their individual capacity, and there is no suggestion that it is a letter from the City of Salisbury itself. I will certainly make further inquiries. I am sure that the honourable member will appreciate that in an hour and five minutes it has not been possible to investigate this matter in detail. However, I would like to take this opportunity of heartily endorsing the sentiments of the letter which has been sent out.

ADELAIDE CHILDREN'S HOSPITAL

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about the Adelaide Children's Hospital.

Leave granted.

The Hon. M.B. CAMERON: As members of this Chamber would be aware, I am no longer the Opposition spokesman on health, and I have attempted not to leap into the arena and make statements in relation to health. However, I must be grateful to the Hon. Barbara Wiese for resurrecting my very keen interest in this area yesterday, when she used the words 'rabid rubbish' in relation to matters that have been peddled over previous months in relation to the problems in our health system. The word 'rabid' does bring to mind all sorts of things.

The Hon. M.J. Elliott interjecting:

The Hon. M.B. CAMERON: Just relax, Mr Elliott. Therefore, on behalf of the Adelaide Children's Hospital, I am taking up a problem that now exists. I have been told that there are severe staffing shortages in the hospital's theatre recovery section, resulting in several instances where children's lives have been put at risk.

In a recent incident, a child who was recovering from surgery in that section and who was linked up to an oximeter—a device that measures the oxygen saturation of haemoglobin—came within seconds of a respiratory arrest, simply due to inexperienced nursing surveillance. The patient was under the care of an agency nurse who was unaware of the tell-tale signs of distress in the patient. Fortunately, a permanent nurse who had come in noticed that the device was not functioning properly, identified the problem and was immediately able to take action to restore oxygen levels to the patient.

The Hon. R.J. Ritson: Do they have agency nurses in recovery?

The Hon. M.B. CAMERON: Precisely—on a basis, sometimes, of four agency nurses to only one permanent nurse. This then prevented the most serious and possible fatal incident occurring. I am advised that during the past six months there has been a freeze on replacing permanent staff who leave the hospital. This has resulted in increasing use of agency staff. Nurses have been overworked and overstressed and, as a result of the shortages, they often go without meal breaks. I am told that they 'live in fear of a death occurring in the recovery ward at any time'.

Because of the permanent staff freeze, I am told that it is not now uncommon for there to be three or four agency staff—that is, outside staff, untrained in this area—for every regular staff member. Nurses tell me that for a highly specialised nursing area such as theatre recovery (and I am sure the Hon. Dr Ritson would know about this), where patients are often unconscious and require constant surveillance, this ratio is absolutely ludicrous and dangerous. I am told that nurses often have to do the work of orderlies due to the shortage in the numbers of orderlies.

Doctors tell me that there is, on average, a half-hour delay to operations undertaken at night at the hospital when an existing patient is in the recovery section. Surgeons essentially must wait until that patient is stable enough to be transferred to a general ward before they can begin an operation. This is due simply to insufficient nursing numbers—that is, inexperienced nurses. Nurses tell me that numerous incidents have occurred where patients' lives have been put at risk and that potential hazard forms have been lodged with nursing administration, detailing instances in the past six months where children's lives have been put in danger.

I have a copy of one of these hazard forms that have been put into the administration and I shall read briefly from it. I do not want to give any names, because that would be quite inappropriate. This was in February 1990. It states:

> I feel the care of the patients in recovery today was not as good as it usually is and should always be. We had four agency staff in recovery who had not worked in paediatric recovery for any substantial time before. Their help was invaluable and appreciated. However, I believe that the potential for problems are enormous.
>
> The airway management skills of these people are limited. The orientation to the area inefficient due to work load and lack of full-time staff available. There was limited support available from full-time staff if they got into trouble. The checking for the day was not completed until after the morning list was over. This includes the resuscitation trolley and defibrillator, again due to work load and limited staffing. I feel recovery was an unsafe area today for the patients. The potential for problems was enormous.

My questions to the Minister are:

1. Will the Minister of Health investigate claims by Adelaide Children's Hospital staff that staff freezes and policies of using high levels of agency nurses at the hospital are endangering the safety of patients (who, I might point out, are children) in the theatre recovery area?

2. Will the Minister investigate and report back to the Parliament on the number of potential hazard incident forms that have been lodged with the Adelaide Children's Hospital administration in the past six months from which forms it is apparent that patients' lives have been put at risk?

The Hon. BARBARA WIESE: It is very nice to see the Hon. Mr Cameron making a comeback here in the Parliament. However, the issues that he raises are obviously very serious and I will be very pleased to refer his allegations and his questions to my colleague in another place and bring back a reply.

DIMINISHED RESPONSIBILITY

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Attorney-General a question about diminished responsibility.

Leave granted.

The Hon. M.S. FELEPPA: Earlier this month, when sentencing a woman who has diminished responsibility, Justice Olsson said—and this is in one of the few articles published by the media, an article headed 'Woman jailed three years on stab count' in the *Advertiser* on Friday 9 March 1990:

> . . . some cases cry aloud, in the community interest, for the provision of some special facilities or other arrangements of a semi-secure nature in which proper supervision and management can be effected.

In her state of mind, she could not be classified as insane. Justice Olsson considered her legally responsible, even though her diminished responsibility was admitted by the court. He felt he was obliged to send her to gaol for three years as he had no alternative, even though he considered gaol totally inappropriate as it does not have facilities nor the ability to deal with such persons. Our sympathy should be with a person who suffers in this way under the justice system and with the judge who faces such a dilemma. A woman such as this is a community liability and a community responsibility. My question is as follows: Can community resources be committed to provide facilities for people who are not insane but who are of diminished responsibility so that they can be managed rather than punished and dealt with humanely, and where, if possible, psychological or medical rehabilitation can be attempted?

The Hon. C.J. SUMNER: This is a complex issue and one of considerable importance to the community. The honourable member has drawn to my attention a case, recently reported by the media, in which a judge regretted the fact that he could not order treatment for an offender who, while not legally insane, suffered from a mental disability which contributed to the offence in question. There

are three issues here. The first is the operation of the criminal law. This involves such questions as the legal definition of insanity, the definition and rights of persons found not fit to plead, whether the law should recognise a defence of diminished responsibility and what the consequences of that would be, and what should happen to those found not guilty by reason of mental disability. These are all difficult and complex issues which have no simple easy answers.

In response to the reported case, an officer in my department has prepared a paper which is now being considered by the Minister of Health. The paper examines the recommendations made by the Mitchell Committee as well as the recent discussion papers issued by the Victorian Law Reform Commission and the Western Australian Law Reform Commission. So, we are examining those issues.

The second set of issues are social injustice issues. Here we are dealing with how society should deal with and help those unfortunate enough to suffer from mental disabilities when the condition of that person contributes to the commission of a criminal offence—one which may be very serious indeed. These issues will be addressed in the course of the legal review just mentioned, and I will involve the Social Justice Unit at the appropriate stage.

The third set of issues revolves around the allocation of resources. When the legal and social justice implications have been worked out to the stage of a proposal for reform, the question of resources can be examined by Government.

BOTTLE DEPOSITS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, reperesenting the Minister for Environment and Planning, a question about bottle deposits.

Leave granted.

The Hon. M.J. ELLIOTT: With the number of sitting days in this parliamentary session rapidly declining, the time in which to amend South Australia's bottle deposit laws is disappearing. The Government has given no indication as to how the container legislation will be amended to overcome the constitutional problems highlighted by the High Court recently.

South Australia's bottle deposit laws have had a major impact on the litter problem. The recycling system created around the laws not only provides a livelihood for a number of people but is also a practical and effective method of conserving resources. Rumours suggest that the Government will introduce a relatively low, flat rate of deposits for bottles and cans. While this will have some impact in relation to litter, it will be totally useless in terms of encouraging re-use of containers. It is highly likely that the three companies currently re-using beer bottles will very rapidly cease to do so. That spells doom for the South Australian beer bottle system.

The High Court made it clear that it would allow a differential bottle deposit system so long as it was part of a general legislative scheme tackling resource wastage. Rather than take this up and also prove its credentials in this important environmental area, the Government has gone to water and ducked its responsibilities. I am told that the Government intends to introduce legislation on 3 April and that it expects the Parliament to put it through in five days. It is alleged that the Government is doing this so that there will be very little debate in Parliament, and precious little in the public arena, because it knows this will not be accepted. My questions to the Minister are:

1. Will sufficient time be allowed for public debate on the new laws, or will there be an attempt to rush them through in the final days of the session?

2. Why has there not been a public consultation on this matter? The Government has been considering it for months and there has been no public consultation.

3. Has the Government done any deals with Bond Corp whereby it will not introduce differential bottle deposits in return for a damages suit not being pursued?

The Hon. ANNE LEVY: It is a well-established fact that the reason our legislation was disallowed by the High Court is because of the vote taken in this place, against the advice of the Government, in which the Australian Democrats played a crucial role. It is rather difficult for them to now start criticising, or perhaps they again want to write the legislation themselves to see if they can make a better job of it this time. However, I will refer the honourable member's question to my colleague in another place and bring back a reply.

SUPPLY BILL (No. 1)

(Second reading debate adjourned on 21 March. Page 662.)

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

ABORIGINAL LANDS TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 March. Page 564.)

The Hon. DIANA LAIDLAW: The Liberal Party supports the second reading of this Bill, which aims to assist Aboriginal communities in Aboriginal land trust areas to prohibit the consumption, possession, supply and sale of alcohol and other regulated substances. There are seven Aboriginal land trust communities in South Australia: Koonibba, Yalata, Davenport, Point McLeay, Point Pearce, Nepabunna and Gerard.

I understand that each of these communities seeks the powers provided in this legislation. These powers are not to be imposed upon each community; rather, the Bill provides that if a community wishes to exercise restrictions or prohibitions on the consumption, possession, sale or supply of alcoholic liquor or to prohibit the inhalation or consumption of any regulated substance, such as petrol, it may design its own by-laws and recommend implementation by the Governor.

The provisions of this Bill are similar to those in section 43 of the Pitjantjatjara Land Rights Act 1981 (as amended in 1987). These provisions were the outcome of a most successful select committee of the House of Assembly which recommended at the request of the Anangu Pitjantjatjara, help for the traditional owners to successfully manage their lands.

At that time, and indeed for some time previously, the excessive consumption of alcohol and the practice of petrol sniffing were having devastating effects on the Aboriginal people living in the Pitjantjatjara lands. I recall visiting these lands in 1983 with my colleagues, the Hon. Mr Cameron, the Hon. Peter Dunn and the Hon. Mr Lucas, soon after my election to this place. At that time, we visited

Yalata, Ernabella, Amata, Fregon and the Pipalyatjara. It was clearly evident that alcohol consumption and petrol sniffing were steadily destroying the heart and soul of these communities.

Although I did not speak with many of the men and the traditional elders because as a female I was not welcome to such discussions, I spent a great deal of time speaking with mothers and grandmothers who were very upset by what was happening to families in their community as a consequence of heavy alcohol consumption and petrol sniffing. Clearly, ill health was one of the obvious consequences of such practices. Physical and anecdotal evidence was provided of domestic violence and child abuse, and there was clear evidence of vandalism of public and private property and terrorisation of the community and staff.

In 1983, the community leaders of the Pitjantjatjara areas pleaded with us to provide them with the powers to stem excessive alcohol consumption and petrol sniffing and to curb the unscrupulous practices of people who were profiteering by selling alcohol to Aborigines. They also highlighted their frustration in dealing with Federal and State Government bureaucrats who insisted that the powers sought by Aboriginal communities were unacceptable on civil liberty grounds. I remember an elderly Aboriginal woman who was quite frustrated by the fact that every time she raised this issue she was told by white bureaucrats that she had to consider the interests of white advisers and staff at the community. According to the laws of white Australians it was permissible to drink alcohol in one's home and elsewhere, so in the interests of white staff and advisers she had to take this into account.

This women found it quite difficult to accept this situation—and for good reason—but this was the advice provided to her and her community. Certainly, she and others argued with me that they had been granted lands by State Parliament but were not given the authority to exercise any control within those lands. This was the situation in 1983, and it took some four years after that visit for the community to be granted finally the powers that it sought in relation to the consumption and supply of alcohol and petrol sniffing. Today we are debating the extension of those same powers to communities in the Aboriginal Lands Trust areas.

I am a little confused from reading the Minister's second reading speech. She noted that on the two visits to the lands by the Pitjantjatjara lands parliamentary committee since the introduction of by-laws in 1987, the committee had reported a marked improvement in the general health and well being of the people, including more effective law and order, in those communities. I would point out that there does not appear to be a committee such as the Pitjantjatjara lands parliamentary committee but my efforts to gain copies of reports of that committee have identified that the only committee available is the Maralinga lands parliamentary committee. Having perused the three reports by that committee to date, I find no reference to the general health and well being of the people, so I am not quite sure how that paragraph arose in the Minister's second reading speech.

However, notwithstanding that confusion, I am aware, from discussions with the Hon. Peter Dunn from time to time, and more recently with the member for Eyre (Mr Gunn), in the other place, that the by-laws in place in the Pitjantjatjara lands area have been helpful in controlling the consumption of alcohol and, to some degree, petrol sniffing. However, there is a long way to go in regard to both areas.

I raise the point about the general effectiveness in the Pitjantjatjara areas because it will be interesting to see how effective the same powers will be in the Aboriginal Lands Trust areas. Of course, those areas are not nearly as isolated from the general population as the Pitjantjatjara communities. Therefore, I do not think there is any doubt that there will be greater difficulty in enforcing the very strong powers which are provided by the Bill. I should be interested to hear the Attorney's comments on that matter.

As I said, the Liberal Party welcomes the introduction of the Bill. It will assist Aboriginal communities to exercise a responsibility that they want to accept. I also welcome the fact that not only has there been wide consultation on the provisions of the Bill, but also that, in the course of those consultations, the wishes of the Aboriginal people have not only been listened to but have been acted upon. In my experience and observation, that is an unusual step in respect of the history of the Government's negotiations with Aboriginal people in this State.

There are three other points that I want to make in relation to the Bill. It provides wide powers to the Aboriginal community, but I would argue that it will also be necessary for the communities, in exercising those powers, to be provided with sufficient resources in terms of police numbers and facilities, especially police aides, if the program is to be as effective as the Aboriginal communities believe it will be. According to the member for Eyre, there is no question but that the success to date of similar powers in the Pitjantjatjara areas owes a great deal to the presence of police aides rather than police officers from the South Australian Police Force. I suspect that there will be a need for not one but more police aides in all the Aboriginal Lands Trust areas. I understand that there is no such officer in place at the present time, so it will be interesting to observe the Government's commitment to resources to help the communities exercise the powers that they will be granted by this Bill.

I also want to refer to rehabilitation for alcoholics. As we all know, it is quite easy to impose a dry area—not perhaps in all areas, but in Whitmore Square—but fail to address the health needs, both emotional and physical, of Aboriginal people who consume excessive quantities of alcohol. There is a reference to rehabilitation in subsection (6), as follows:

> A court by which a person is found to have been unlawfully in possession of alcoholic liquor or a regulated substance for his or her own use in contravention of a regulation may, subject to the regulations, order that person to undergo treatment or participate in a prescribed rehabilitation program.

My assessment is that the need for rehabilitation programs, and therefore for resources to establish such programs, will be great if we are to be effective in addressing the long-term needs of Aboriginal people with respect to alcohol problems. Declaring dry areas and providing for the imposition of heavy fines will not essentially help the individuals themselves. It may help family members to escape from domestic violence and other threats within the community, but it will not necessarily help those who are suffering without considerable resources being made available for rehabilitation programs. I see no reference to resources for this aspect in the Minister's remarks in the other place or in the second reading speech here. I see only the Minister's euphoria that the Government is finally doing something that the Aboriginal people want. However, to be effective it will require more than the Minister's euphoria: it will require a commitment by the Government in terms of resources.

There is a further concern in relation to the effectiveness of this whole program. There is no doubt, from advice given to me by the Hon. Mr Cameron and the Hon. Mr Dunn, and also from my own limited observations, that the reason for the excessive consumption of alcohol and indulg-

ence in petrol sniffing among the younger people is boredom. When we were in Amata in 1983 and spoke to some of the traditional senior people, the men related to me that petrol sniffing had esssentially stopped for two weeks when stockmen came in to conduct a course. The youngsters had enthusiastically participated in that course, had been distracted from their regular habits, such as petrol sniffing, had found life exciting and full of interest and petrol sniffing was not a problem during that period. I believe that declaring dry areas is one way of dealing with the problem of excessive alcoholism, but our assistance, in the manner in which the communities want that assistance, will have to be directed to those communities to address the problem of excessive boredom.

I refer to proposed subsection 21 (1) and specifically to prescribed fees. I am not sure whether that provision would also allow community work to be ordered in exchange for fees not exceeding $2 000 for contravention of or non-compliance with some of the regulations in this Bill, and subsequently with bylaws to be passed by the communities. However, I hope that community work is an option for contravention of these regulations but, again, if that is to be an option, resources need to be found to implement effective community work programs.

In conclusion, I indicate that the Liberal Party welcomes the introduction of this legislation, which is a particularly important initiative. We trust that it will help the Aboriginal communities to deal with the problems of excessive alcohol consumption and petrol sniffing, which problems they are keen to address. However, I maintain that the Government will have to address other issues to help the Aboriginal communities to deal with those problems, all of which will require resources. It will be interesting to see whether those extra resources are provided to the communities so that they can effectively implement the measures in this Bill.

The Hon. M.J. ELLIOTT: I support this Bill. It seems almost like the Hon. Ms Laidlaw had a bug in my room when I prepared my speech, because her sentiments accord very much with mine.

The Hon. Diana Laidlaw: I did it all myself.

The Hon. M.J. ELLIOTT: We need not be sensitive about these things when we are actually agreeing. It is pleasing to see a move towards more self-determination. There is no doubt that the allowance of self-determination in these sorts of areas in the Pitjantjatjara lands has been a success and there will now be an opportunity for this concept to start applying in this limited area in other Aboriginal communities. Of course, it will not be full self-determination in these matters, because it will occur by regulation and will need the approval of the Governor, which I do not think is the case with the Pitjantjatjara lands. It is a good initiative.

I have had an opportunity to speak with the people in the Pitjantjatjara lands and they are pleased that they have had those powers to regulate drinking and abuse of other substances in their lands. As was noted by the Hon. Ms Laidlaw, along with all those pluses they also concede that, to some extent, it has shifted some of the problems. If people want to drink in the Pitjantjatjara lands, they are more likely to go out to places like Marla and drink in the general vicinity of that area. It is not necessarily having a great impact on consumption of alcohol, but it appears to have had a great impact on decreasing the disruption to the communities themselves. For that reason it is a good initiative and we can only hope those benefits may be gained in other communities, also.

However, this legislation also shares the same problems of the dry areas legislation around the State—it shifts the alcohol problem and does not tackle whatever it is that causes alcoholism or substance abuse generally. South Australia is having a spectacular lack of success in getting down to those basic issues which are undermining the Aborigines and leading to these sorts of problems. I believe that one of the key problems is a question of pride, and increasing self-determination like this starts having its own impact. I only wish that the Government was willing to let the reins loose in a lot of other areas. I refer particularly to the way in which many portfolios that work with Aboriginal affairs are administered, where they work very much at the whim of white bureaucrats rather than Aboriginal people themselves.

Not that long ago a number of us, as members of a select committee, had an opportunity to visit quite a few Aboriginal communities and there is really so much to be done in areas that we have not yet tackled. Substance abuse is easily understood when one sees the conditions in which people are living. The problems are created not just by physical conditions; it relates more to the social conditions which are not of their own making but which, in part, are inflicted upon them, and with white bureaucrat after white bureaucrat driving through checking on them and, in many cases, not carrying out a particularly useful task. We are failing dismally in those areas. In any event, and not to prolong the agony of repeating many of the very sensible things contributed by the Hon. Ms Laidlaw, I indicate that the Democrats will support this legislation.

The Hon. PETER DUNN: I, too, support this legislation. However, I have some reservations which I wish to express today. The legislation is all-encompassing. Under the heading 'Miscellaneous', proposed section 21 (1) provides that 'The Governor may, on the recommendation of the Aboriginal community, make regulations.' That would apply only to those communities that request it. If they wish to prohibit the consumption of alcohol they will have to apply to do so and the regulation will have to be gazetted.

I suppose I travel into those north-western Aboriginal reserves more than any other honourable member in this Chamber. Those areas are alcohol free and the concept operates very well up there. It would be very easy for outsiders to bring alcohol into that area and to hide it and not be caught, but legislation introduced into this Chamber several years ago that prohibited such an occurrence and provided for the confiscation of the cars involved in any such contravention has had the effect of stopping alcohol going into those areas.

The problem of petrol sniffing ,with which this Bill also deals, is a different matter. I do not believe that while those people continue to suffer from boredom we will ever control that problem in those areas. The Hon. Diana Laidlaw so rightly put it when she said that they need occupational therapy. They need something to do; they need to be occupied by looking after a mob of animals, or occupied in some way because, since they have been taken to the camps and put into a community of the type in which we expect to live, for a large part of the day they do not have anything to do. Food can now be bought and supplied very quickly; therefore, they are not involved in hunting (which previously took up most of their day). They buy their food and they fill in the rest of the day in one way or another, and the young people tend to become involved in petrol sniffing. It is very sad to see the effect of petrol sniffing on those younger people. It is not as though they can recover from

the effects of petrol sniffing. In many cases, they do not recover very well following long periods of petrol sniffing.

This Bill really deals with extending that law relating to prohibiting the transmission, carrying and consumption of alcohol into the southern regions of the State. I believe that is a totally different kettle of fish from applying such legislation to Yalata, as I believe this Bill is intended to do. This Bill is really aimed at places such as Koonibba, Yalata and perhaps Davenport in the Port Augusta area, but when we start talking about Point Pearce and Point McLeay we are talking about areas established within white communities, and therefore white laws apply all around them. Thus, a Bill such as this is applying an apartheid law, something that cannot be well policed.

Furthermore, I notice in the legislation provision for a special constable to be able to seize vehicles under this legislation. This applies, certainly, in the North-West in the Musgrave Ranges and in the Mann Ranges and Tomkinson Ranges areas. As far as I am aware, there are no special constables further south than Port Augusta. Those persons will have to be trained, and I do not believe the communities would want that in these areas. I am suggesting that the application of this law at places such as Point Pearce and Point McLeay is really providing something for the Aborigines in which the white people cannot participate and vice versa. It really is not a clever law. I agree with it for those areas where the Aborigines are less sophisticated, but the people who live in Point McLeay and Point Pearce have had a lot of contact with white society and therefore are relatively sophisticated, have education possibilities that are greater than perhaps those in the North-West and have had much longer contact with white men. For these reasons they should be used to the laws and the application of those laws and the problems with consuming relatively large quantities of alcohol.

The Bill, as I stated before, really is to deal with Yalata, which has been a big problem. Yalata sits on the Western Australia highway. It is close to the highway and it is very easy for alcohol to be taken into that area. It does not need much imagination for somebody to be able to get off the main road, circumvent the normal methods of transport and be able to get alcohol in there. This Bill will now allow that community, if it wishes, to provide a method by which it can at least stop that, whether it is people in the community peddling alcohol or outsiders bringing in alcohol. I would have thought it would be better for them to put in a special police constable.

Special constables have been a great success in the North-West, and one of the best things that have happened to those communities. They do not apply the law rigorously, but by their presence they have an influence on the rest of the community, not only in the control of petrol sniffing and the consumption of alcohol but in all other activities which are anti-social and which tend to take place in any community. It has been reported to me that gambling had started to quite a degree with cards in the North-West community but that has been nipped in the bud. When communities run out of money because they have gambled it away (and they do not get large incomes, for sure) then the community is in trouble; families within that community are in trouble; and there is a problem because somebody has to look after those people. We have the social security system trying to cope with that problem.

The Bill has merit for communities farther away from the more intensely populated areas but I am not so sure that it will work particularly well in incorporated areas such as Point McLeay and Point Pearce. There is an area in Port Augusta, Davenport, which has its own significant problems. Other areas in Whyalla, Port Lincoln, and probably in Murray Bridge and Renmark as well, have problems. Apart from Davenport they will not have this law applied to them, so it is not fair in that regard. However, I do not believe we should apply the legislation to these areas that are closer or in more intensely populated areas. It should apply in those areas such as Yalata and Koonibba and in the North-West Pitjantjatjara lands.

I suggest to the Government that it monitor carefully how the Bill works. I would like to see more effort put into caring for the health of the Aborigines in the North-West. This is one area that has been neglected. We have not applied good health standards or accommodation standards. I appreciate that, in the past, Aborigines there have not lived in houses but they are becoming each week, month and year more and more accustomed to living in houses. As they do this, in sensibly constructed houses, their health improves. I suggest that we ought to be heading in that direction because those areas are alcohol free; the North-West is relatively alcohol free.

For those reasons we ought to be emphasising the health standards. Alcohol is a big problem in the southern areas and that problem has to be attacked in a different fashion. It was pointed out that this needs to be carried out by ensuring that people have jobs so they can see some future for themselves. I believe for all those reasons that the Bill has merit, particularly for Yalata and those areas that are a bit farther out. I doubt whether it will apply to those closer areas. For those reasons I support the Bill.

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

EQUAL OPPORTUNITY ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 21 March. Page 652.)

The Hon. K.T. GRIFFIN: My colleagues, the Hon. Legh Davis and the Hon. Diana Laidlaw, have admirably addressed this Bill and I do not intend to retrace the areas to which they have made specific reference, nor would I want to canvass the history of the development of this legislation from the origins of the Bill introduced by the Hon. Diana Laidlaw on several occasions in previous sessions of the Parliament. What I want to do is refer to specific sections and raise several issues to which the Attorney-General may be prepared to give some attention and reply in due course.

The principle of the Bill is accepted and supported by me. I suppose it is probably the most far reaching of any of the equal opportunity legislation that we have had before us because the age question is all pervasive and it has had a more traditional embodiment in our law and society for a much longer time than the other forms of discrimination addressed in the Equal Opportunity Act.

For that reason, the removal of those areas of age discrimination is a much more complex and difficult issue and must be addressed carefully, but nevertheless expeditiously. There are good reasons why age is referred to in legislation; for example, the voting age of 18 reflects perhaps an arbitrary point at which persons are deemed to be old enough to accept responsibility, to be sufficiently mature enough to understand the issues being presented to them, and to exercise a political choice at the ballot box. The same sorts of argument can be addressed to the driving age, where the somewhat arbitrary age for driving is 16 in this State, 17 in

some and 18 in others. They are the ages at which young people are believed to have had such a development in their personality, character and experience as to be able to responsibly handle motor vehicles.

On the other hand, with respect to the criminal law, the age of 10 years, below which a young person is deemed not to be able to form the necessary criminal intention, is a recognition of the fact that young people below that age are, generally speaking, unable to form the intention to commit a criminal offence, although they may be able to understand the difference between right and wrong and be capable of giving evidence. In many other areas an age restriction is included in the law because of experience and because some point is required beyond which responsibility can be implied.

There are well over 100 Acts of Parliament of this State which carry some reference to an age period. My colleague, the Hon. Legh Davis, has worked his way through a number of those, and I do not intend to repeat them. Suffice to say that, in the review which the Government is proposing to undertake over a period of two years after the commencement of the operation of this Bill, it is important to ensure that those age provisions in other statutes are not overridden. Therefore, I will support the Hon. Legh Davis in his proposal to put beyond doubt that the *status quo* in relation to that legislation, which deals specifically with particular ages, remains intact until they are progressively addressed and judgments taken as to the appropriateness of such age limits on a case by case basis. The argument is that there is no need for such specific provision in legislation on the basis that a general Act does not repeal a specific Act. Nevertheless there is some doubt about that argument, and it ought to be put beyond doubt in respect of this legislation and all of the other State Acts of Parliament which deal with matters of age.

The other area which is a reflection of current practice is covered by new section 85h, which, under subsection (3), does not apply to discrimination against a person on the ground of age where, in consequence of a person's age, the person is not, or would not be, able to practise the profession, or carry on or engage in the trade or occupation, adequately or safely. I find that sort of provision curious because one proceeds on the basis of this Bill, and other aspects of the Equal Opportunity Act, that discrimination does occur if a decision is taken on the basis of age and not the basis of professional competence and ability to carry out a task. So, I find it rather curious that, notwithstanding the basis for the legislation, there is nevertheless this saving provision in subsection (3) of section 85h. I suppose it is there out of an excess of caution. It does reflect the law, as I understand it will be, and does reflect the current practice in a number of trades, occupations or professions.

One noteable example is the medical profession where peer review in accredited hospitals is a fact of life and, whilst age is relevant to a decision whether or not practising privileges should be allowed, nevertheless the ultimate decision is the professional competence of the person under review and the extent to which that person can continue to practise adequately and safely. However, this provision does highlight the point that the Hon. Mr Davis has made: that we should, out of an excess of caution, include a provision which acts as a saving provision for those pieces of State legislation specifically referring to age limits until the review provided by this Bill occurs.

On a more specific basis, let me say that, in proposed section 85c, discrimination by principals against agents is dealt with. I suppose in this area, probably more than any other areas of discrimination covered by the principal Act, it is pertinent to ask why it is not also unlawful for agents to discriminate against principals, because in the business and professional community it is quite possible for agents to discriminate against a prospective principal on the basis of age, notwithstanding that person's professional or business competence. So, I raise the question why there should not also be the converse situation covered, as in section 85c.

With respect to the proposed section 85f, I support the Hon. Legh Davis in his proposal to invoke a sunset clause in a different format from that to which the section presently refers. I think that in this legislation it is dangerous to provide for an automatic expiry of a particular provision. In my view it is much safer to provide a period within which the operation of Division II does not apply, and subsequently to apply it by proclamation.

I recollect that a similar sort of provision was included in the Equal Opportunity Act in respect of insurance when dealing with the principal legislation several years ago. Proposed new section 85j, along with proposed new section 85k, deals with discrimination against another on the ground of age, first, by refusing or failing to dispose of an interest in land and, secondly, in offering or providing goods or services.

It is curious that, in relation to land, there is a proviso that the provision against discrimination does not apply to the disposal of an interest in land by way of or pursuant to a testamentary disposition or gift; and that is appropriate because many wills provide for a devise of land or an interest in land provided that the person attains the age of 18 years or 25 years. It would be quite wrong for the wishes of the testator to be overridden by this legislation. Each testator has different views about the competence of beneficiaries, and it would be quite obnoxious for legislation to override that wish.

In relation to the provision of goods, I suggest that there ought to be a similar provision because testators do provide for specific gifts and bequests of, say, a motor car, jewellery, household furniture and effects, paintings, and a whole range of other personal property that would certainly come within the description of 'goods'. On many occasions the provision is subject to a person attaining a particular age—it may be 18 years, 21years, 25 years or some other age.

Conversely, a will sometimes provides for the use of goods as well as land during a person's lifetime, in some instances until a person attains a particular age, maybe 21 years, while the child is being educated. In those circumstances, it would seem to me that, unless some specific provision is included in either of these two proposed new sections, it is possible for this Bill to be construed as overriding the provisions of the will.

I suppose the other area that again is relevant is where a trust is established, not by testamentary disposition but by deed, which does again provide for an interest in goods or services to be provided to persons of or under a particular age or of or over a particular age. It seems to me that that question is not adequately addressed, because I do not think that there ought to be any prohibition against individual benefactors establishing trusts for particular persons or groups with age as a criterion.

I now draw attention to proposed new section 85*l*(4) which relates to the provision of accommodation but does not apply to discrimination on the ground of age in relation to the provision of accommodation by an organisation that does not seek to provide a pecuniary profit for its members, where the accommodation is provided only for persons of a particular age group. I suggest that it is possible for

cooperatives not to be protected by that exclusion, and I would suggest that this issue should be examined.

I draw attention to the fact that proposed new section 85q relates to annuities, life assurance, accident insurance or any other form of insurance other than life insurance. I suppose there is no difficulty with disability insurance, but I would like to see that matter addressed. More particularly, what comes to mind is whether this proposed new section has any relevance to workers compensation and rehabilitation. I do not think it does, but I flag it as an area that should be addressed. They are the additional specific matters that I think ought to be addressed. I hope that the Attorney-General will be able to do that in his reply. I support the second reading.

The Hon. M.J. ELLIOTT: The Democrats support the Bill, as we have supported similar legislation in the past. It predominantly looks at issues relating to discrimination on the ground of age. It seeks to provide that whether a person does or does not do something or is allowed to do something should be determined not by age but simply by their capacity to carry out that function, whether we are talking about employment, renting a house or whatever.

The Democrats very strongly support the general concepts behind this Bill and also the provision that seeks to ensure that overseas qualifications are suitably looked at by bodies that allow people to practise in particular trades and professions.

I will now address a couple of matters so that the Government can respond to them. As yet I have not decided whether I will move to amend the Bill; that will depend on the responses I get to my questions. My first query relates to proposed new section 85*f*(4) which provides:

> This Division does not render unlawful an act done in order to comply with the requirements of an award or industrial agreement . . .

I fail to see why we seek to stop age discrimination almost everywhere but continue to allow it to occur in industrial awards. I refer to proposed new section 85r. Presently it is envisaged that within two years of the commencement of this legislation, a report on Acts of this State that provide for discrimination on the ground of age will be prepared.

When this report is being prepared, why cannot those involved also look at various awards which, at present, may allow age discrimination and prepare a report on that also? It is ludicrous to allow certain employment awards to discriminate on the basis of age rather than ability or the capacity to do something, which is really what this Bill is all about. I would like to know from the Minister why we are allowing that to occur under this legislation.

The second matter that I wish to put to the Minister relates to the clause on discrimination by qualifying bodies. Proposed new section 85h (3) provides:

> This section does not apply to discrimination against a person on the ground of age where, in consequence of his or her age, the person is not, or would not be, able to practise the profession, or carry on or engage in the trade or occupation, adequately or safely.

When one considers that the Bill is, essentially, trying to get rid of age discrimination and say that it is a matter of ability, we suddenly have a contradiction in this clause which almost appears to offer an out again, saying that age does count. It seems to me to be an unnecessary clause. It starts creating a conflict that might be very entertaining for lawyers, but I do not think it will help the legislation to work in the way in which it was intended. I cannot see any benefits that would be gained as a result of its inclusion. I would like to know the justification for it. I think it is most likely that I will be moving for that provision to be deleted.

My final question relates to proposed new section 85q, which refers to insurance, etc. and which as it is currently structured, provides:

> This Part does not render unlawful discrimination on the ground of age—
>
> *(a)* in the terms on which an annuity or life insurance is offered or may be obtained.

I understand that the need for that relates to certain Federal legislation so that we are not creating a conflict. I find it difficult to understand why paragraph *(b)* is in this legislation. It relates to supperannuation schemes and provident funds that, as I understand it, are not hindered in the same way by other legislation. Why was not that provision included in subsection (2) of proposed new section 85q, which relates to other forms of insurance, accident insurance, etc., and which allows the insurance officers, or whoever else, to discriminate only so far as discrimination is based on actuarial or statistical data? It would seem to me that when we are looking at superannuation funds exactly the same thing should be able to occur. I would like to know whether or not this is a drafting error or whether it is deliberate. In Committee, I will suggest that proposed new section 85q (1) *(b)* be moved into proposed new section 85q (2). Those are the matters that I raise. The Democrats are most certainly in support of the broad thrust of the Bill and will be supporting it.

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading of this Bill. I only want to address one matter, on which I will expand in Committee. However, I want to flag some potential questions for the information of the Attorney-General, so that we can, perhaps, expedite Committee debate. I want to refer to 'Division IV—Discrimination in Education' and especially discrimination by education authorities. I have discussed this with a small number of principals and education administrators in relation to its possible effects, and they have raised a number of questions with me. On the surface, it would appear that some of these questions are not readily answered or, perhaps, will require some amendment. However, I will place them on the record and pursue them further with the Attorney-General during the Committee stage. Clause 85i (1) provides:

> It is unlawful for an educational authority to discriminate against a person on the ground of age—
>
> *(a)* by refusing or failing to accept an application for admission as a student;
>
> or
>
> *(b)* in the terms or conditions on which it offers to admit the person as a student.

There are a number of age related admission policies in the education system and in the Children's Services Office of South Australia. Members who have children at the lower end of the age bracket—at the preschool or junior primary school stage—will either know, or remember, that under State Government policy, as instituted by the Children's Services office, a child must be at least four years of age to get into kindergarten or preschool and, equally, to get into the reception year at a junior primary school a child must have turned five years of age.

This is a very vexed question for directors of kindergartens and principals of junior primary schools, because many parents believe that their children are either advanced or psuedo gifted and ought to be commencing kindergarten or junior primary school at an age earlier than that allowed under the current policy. That is also exacerbated in relation to the birth date of some children. One is required to have a minimum of 10 terms under the new four term policy in junior primary years, which means that one must have had

a full year in years one and two (eight terms) and at least two terms in reception.

One can have up to 12 terms—that is, a full four terms in reception, four in year one and four in year two—but a minimum of 10 terms. If one's child turns five after the start of term three—somewhere around July, whatever is the starting date for that term—many junior primary schools will not accept that child until perhaps the start of term four. Indeed, some schools will not accept the child until the start of the following year.

Of course, parents with their own personal circumstances in relation to two working parents, the convenience of the household or the judgments that they make about the educational advancement of their child, get very cross with either the directors of kindergartens or the principals of junior primary schools if some flexibility is not shown in those cases. I do not have a copy of the policy in front of me at the moment, but I believe it states that in unusual or extenuating circumstances there is some flexibility.

However, in the main the policy is implemented as I have indicated, and a child must be four to get into a kindergarten and five to get into a junior primary school reception grade. That is certainly my understanding of the matter after an initial reading of the legislation. As I said, to some educational administrators and principals of primary schools, it would appear possible to create some problems in relation to the interpretation of subsection (1) of proposed new section 85i. As I have indicated, they believe that, potentially, the current departmental policy could be overturned by parents insisting that it involves age discrimination and that their child of three should be admitted. I doubt whether this would apply to many two-year olds, but there may well be such cases.

There are economic considerations as one must pay $100 or $120 a week for child care if a subsidy is not available. One does not have to pay for the public education of one's child in preschool. Although one may have to pay a fee, one does not pay $120 a week (potentially, in cost, something over $5 000 or $6 000 a year) to have one's child educated at pre-school or in reception.

So, for many families it would be not only an educational question but a financial question of wanting to get their children into preschool and reception as early as possible, and that is something that I do not think would be sensible.

The Opposition has been critical of the current policy in some respects but has accepted it on a broad basis. I think that the Government would wish this policy to continue, so I raise this question for the Attorney-General. I assume that all Ministers of the Government have looked at the age discrimination legislation over the past years, as have the Minister of Education, the Director-General of Education and the head of the Children's Services Office. I assume at this stage that they are relaxed about it, but I raise this question and indicate that the Opposition intends to explore the matter further in the Committee stage.

The same questions can be raised in relation to the movement of a student from primary to secondary school or the acceleration of a student through various years. Perhaps this issue is not as clear-cut. I do not know whether a policy exists which relates specifically to age. There may well be a policy in relation to movement from primary to secondary school in the Education Department policy documents, but some parents believe that their children are educationally gifted and perhaps at the age of eight they may wish them to move to secondary school to do mathematics and science in some sort of accelerated program for gifted and talented children.

At present, the department allows this to happen and it is true that such examples exist, but the department would have to concede that many more parents who have sought to accelerate their child through the various years have had their requests rejected by the local school principal. The question has been raised with me whether this aspect of the legislation would give greater power to parents to insist that in their judgment their eight-year-old child is entitled to education at year 11, 10 or 9 in a secondary school rather than a primary school. I am interested in the Minister's response to this matter.

Perhaps a little more tenuous is a question raised with me in relation to children who are held back in various years. Many years ago when I was in year 7 at the age of 12, I remember a student in my class who was aged 16 or 17. He stood out at that age in a group of 12-year-old children. It is certainly departmental policy, if not laid out policy, that children or young adults should not be held back for even one year and certainly not for three, four or five years until they reach a certain level of educational attainment of year 7 level.

It is common practice that children are promoted through the years and if a parent wants this to happen but the principal does not, the decision of the parent takes priority and the child is promoted. The view has been put to me—and, as I said, I think it is a little more tenuous an argument than the other two that have been raised with me—that there may be parents who will insist that their 15 or 16-year-old child stays in year 7 until they can read and write at the level one would expect of a year 7 student. I do not imagine that there are thousands of such students and families, but there may be a number of examples, and this matter has been raised with me by education administrators and principals to raise with the Attorney-General. I assume that he will seek advice from the department whether this aspect of the age discrimination legislation of the Equal Opportunity Act would give greater power to parents to insist that their 16-year-old child must stay in primary school until he or she reaches the level of a year 7 student.

Proposed new section 85i (2) provides:

(2) It is unlawful for an educational authority to discriminate against a student on the ground of age—

(a) in the terms or conditions on which it provides the student with training or education;

(b) by denying or limiting access to any benefit provided by the authority;

(c) by expelling the student;

or

(d) by subjecting the student to any other detriment.

Some principals have raised the fact that varying assessment and discipline policies relate to year levels rather than the age of students. Therefore, on their understanding of the Act, it would be permissible to have policies of discipline, uniform, smoking in schools or assessment for various year levels, which may treat year 11 and year 12 students differently from students in years 8 to 10, and that they could continue with such policies because they are related to year level rather than age discrimination. I have been asked to check that their understanding of the legislation in this respect is correct.

Another question concerns the differing discipline policies which exist in junior primary and primary schools. For example, under current administrative instruction corporal punishment is not allowed for junior primary students, that is, up to the age of eight, but it is allowed for students from year 3 to year 12. Therefore, students from the age of eight or nine onwards may be subjected to corporal punishment. The Government's policy is to abolish corporal punishment completely by next year or the year after, but this distinction exists at present. It is felt by principals that this matter

would not be covered by this Act as it is not strictly age related but is related to year levels within schools.

Many other examples have been raised in relation to year level discrimination as opposed to age level discrimination but I do not intend to go over all the examples at this time. The points I have raised I think sufficiently indicate the concerns raised by this section of the Equal Opportunity Act, and I put them forward for the consideration of the Attorney-General and his advisers and indicate that I will pursue them further during the Committee stage.

Bill read a second time.

MARINE ENVIRONMENT PROTECTION BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Marine Environment Protection Bill 1989 received bipartisan support in the Lower House and was passed on 25 October 1989. During the intervening period Parliament was dissolved and the Bill is now re-presented to Parliament as the Marine Environment Protection Bill 1990.

The Government, the Opposition and members of the public have been concerned about the coastal waters of the State for some time. Investigations have identified environmental problems and possible solutions. Some of these problems require solutions different to those applied in other States, as South Australian coastal waters include the large gulfs but receive few major rivers.

The Marine Environment Protection Bill 1990 gives the Minister for Environment and Planning responsibility for protecting and enhancing the quality of the coastal waters of this State.

This is not to say that the marine environment in South Australia is in critical condition. The coastal waters, for the most part, provide for the widest range of public uses. However, there is a danger in complacency, as other States have found, and this Government intends to ensure that the coastal waters of South Australia continue to provide all the possible benefits that future generations have a right to expect.

This proposal closes an existing gap in the protection offered to South Australian coastal waters by providing a means to control private, State and local government-run industries and utilities which discharge their wastes into the sea.

There are about 80 examples of discharges which go directly to sea, and which require control. Unless these and other discharges can be effectively controlled, marine pollution could reach unacceptable levels.

Examples of substantial discharges are treated sewage off metropolitan Adelaide, and those from metal processing in Spencer Gulf. The problems with these discharges are known to include:

- excessive growth of algae or loss of seagrasses around effluent or sludge outfalls off the metropolitan coast
- ecological changes and fish contamination.

It is proposed that the Marine Environment Protection Act would be administered by the Environment Management Division of the Department of Environment and Planning. This division specialises in pollution control in respect of air, noise, chemical and marine issues.

These proposals have been developed with wide public consultation, including a White Paper, which was released in July 1989. Whilst this Bill provides for a new Act rather than simply amending the Coast Protection Act, it does not otherwise vary significantly from the proposals in the White Paper.

The White Paper was circulated to the 46 coastal councils, all members of Parliament, the Environment Protection Council, the Conservation Centre, the Coast Protection Board, the South Australian Fishing Council and the Recreational Fishing Advisory Council and major firms likely to be affected. The White Paper was also distributed to the Chamber of Mines and Energy, to other professional bodies and conservation groups and to all persons/organisations who responded to the newspaper advertisement or who otherwise expressed an interest.

During the period for response to the White Paper, officers met with most major companies that discharge into the marine environment to discuss the paper and its implications for the operations of each company. Officers also spoke to both the Commercial and Recreational Fishing Councils and to the 60 people who attended a public seminar organised through the South Australian Coastal Group.

There were 42 responses to the White Paper, 15 of which were accepted as late responses. As might be expected there has been broad support for the intent of this legislation from both conservation and industry groups. The support from industry is not surprising and reflects a commitment to environmentally responsible actions. The Chief Executive Officer of the Australian Chemical Industry Council, Mr Frank Phillips, in a letter to the press in June 1989, said that most industry is determined to weed out irresponsible operators and has consistently supported statements of effective laws and tough enforcement of environmental standards.

Although the White Paper indicated that the Coast Protection Act would be the vehicle affording control of what was termed 'point-source' pollution, public response to the White Paper strengthened the view that it would be sensible to anticipate the need to manage more diffuse sources of pollution from such things as stormwater runoff. Therefore, rather than restricting powers only to what was needed for point sources, the Government has prepared a Bill capable of encompassing a broader range of problems. There is however, no intention to take action in respect of diffuse sources until the point sources have been dealt with and until there has been extensive liaison with local government.

This Bill follows the Environment Protection (Sea Dumping) Act 1984 and the Pollution of Waters by Oil and Noxious Substances Act 1987 and is the next progression in fulfilling requirements arising out of the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, known as the London Convention. Although the main controls are ready to be implemented, the convention also places an additional onus on Government to develop products and processes which will reduce the amount of harmful wastes to be disposed of in relation to pollution through rivers, estuaries, outfalls and pipelines.

The Bill has been drafted to act in addition to other legislation controlling waste, water resources, coastal management, oil spills, sea dumping and marine operations. It complements that legislation. It does not displace any of the action plans or other controls which have been found quite effective in dealing with such emergencies as oil spills,

but it does cover gaps in existing legislation. It will not override indentures which previous Governments have entered into with specific industries. However, the Government has been heartened by evidence of a high order of environmental responsibility in major industries in South Australia, as shown, for example, by the action plan developed by BHAS at Port Pirie. This involves planned expenditure of several million dollars.

This draft legislation fulfils a Government commitment to introduce additional protective legislation for the marine environment. In addition, the Government will ensure that the complementary provisions of the Environment Protection (Sea Dumping) Act commence, as soon as memoranda of agreement can be exchanged with the Commonwealth.

The legislation as drafted provides that all discharges not covered by other legislation will be licensed annually. Any licence would be subject to conditions that would accord with South Australian marine policy statements, developed with wide public consultation, and consistent with national goals. Existing discharges can be assured of a licence, but deadlines will be set for reductions of discharges to bring them to levels that are in line with international water quality objectives. It is expected that the majority of industries will be in compliance with the objectives within a period of eight years. In practice, reductions in contaminant levels will require industry to introduce the best of proven control technology.

The Bill is based on the 'polluter pays' principle. In addition to equipment costs, licensees would monitor and report on waste output, subject to independent audit. The cost of monitoring discharges, and of collecting and analysing samples for audit, would be borne by the licensee. While there is a necessary power to exempt the unforeseen, this would not extend to any regular industrial process in the public or private sectors. In fact, the South Australian Engineering and Water Supply Department will lead the way with its now well-publicised Strategy for Mitigation of Marine Pollution in South Australia which provides for further sewage treatment to reduce contaminant load to the sea.

In October 1989 copies of the Marine Environment Protection Bill were distributed to the Conservation Foundation, the Chamber of Commerce and Industry, the Local Government Association and to all parties who expressed an interest in the White Paper.

The Oyster Growers Industry Association of South Australia is given the same assurances as were previously given in another place—that having been involved in establishing the basis for tenure for oyster farming through the Lands Act, the Government is not about to use this proposed legislation to impede the proper development of this industry. In fact the Government sees the main effect of this legislation as promoting efficient oyster farming. In the practical sense it should be possible to arrive at arrangements that satisfy our obligation to maintain all beneficial uses of the marine environment, and to offer the oyster industry its best chances of success, by consultation through the Aquiculture Committee.

There was no other comment on the 1989 Bill. However, as a courtesy the revised Bill (1990) was circulated to all those who had shown previous interest. The Government has made further amendments to the Bill, along lines suggested in consultation with conservation groups.

The Marine Environment Protection Bill 1990 differs from the Bill of 1989 in that subclauses 22 *(e)*, *(f)*, *(g)* and clause 24 have been amended so as to take account of concerns previously expressed in this House and to more closely align with the Water Resources Bill.

For example, the power of an inspector to require any person to produce plans, specifications, books, papers or documents under subclause 22 *(e)* has now been qualified with the requirement that the information be reasonably required in the administration of the Act.

Clause 5 (1) states that the Bill does not override any existing Act. Moreover the Bill now emulates the style of the Water Resources Bill by stating quite clearly in subclause 5 (3) that the Act is subject to the Pulp and Paper Mill Acts of 1958 to 1964 which affect Lake Bonney. Although the 1964 indenture provides that neither the industry nor the people of South Australia are legally responsible for any effects of the discharges, honourable members will be pleased to know that negotiations between the Government, the Fishing Industry Council, Local Conservation Groups and Apcel are well progressed and that Apcel has suggested an investment program. It is anticipated that sometime during this year the company will lodge a formal proposal to change its bleach process. If this passes environmental impact assessment, then there could be a very significant reduction in contaminants in the effluent and the industry may in effect exert the same degree of control as will eventually be required of other existing industries through licensing.

Another amendment establishes the Environmental Protection Council as the body which the Minister shall consult during preparation of instruments and policies for administration. The Act would have been subject to the powers of the EPC—this amendment recognises that role, but adds powers to draw on specialist advice relevant to this Act.

The levels of penalties for most offences have been increased in anticipation of national uniform penalties being recommended to the Australian and New Zealand Environment Council, later this year.

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision. The following definitions are central to the measure:

'prescribed matter' means any wastes or other matter, whether in solid, liquid or gaseous form.

Provision is made for the Minister to exclude specified kinds of matter from the definition by notice in the *Gazette*.

'coastal waters' means any part of the sea that is within the limits of the State or that is coastal waters of the State within the meaning of the Commonwealth Coastal Waters (State Powers) Act 1980 and includes any estuary or other tidal waters:

'declared inland waters' means waters constituting the whole or part of a watercourse or lake, underground waters or waste waters or other waters, and declared by the Minister (with the concurrence of the Minister of Water Resources), by notice in the *Gazette*, to be inland waters to which the measure applies:

'land that constitutes part of the coast' is land that is—

(a) within the mean high water mark and the mean low water mark on the seashore at spring tides;

(b) beneath the coastal waters of the State;

(c) beneath or within any estuary, watercourse or lake or section of watercourse or lake and subject to the ebb and flow of the tide;

or

(d) declared by the Minister, by notice in the *Gazette*, to be coastal land to which the measure applies.

Clause 4 provides that the measure binds the Crown.

Clause 5 provides that the measure is in addition to and does not take away from any other Act. It expressly provides

that the measure does not apply in relation to any activity controlled by the Environment Protection (Sea Dumping) Act 1984 or the Pollution of Waters by Oil and Noxious Substances Act 1987 and that it is subject to the Pulp and Paper Mills Agreement Act 1958, the Pulp and Paper Mill (Hundred of Gambier) Indenture Act 1961, and the Pulp and Paper Mill (Hundreds of Mayurra and Hindmarsh) Act 1964.

The clause enables regulations to be made excluding activities of a specified kind from the application of the measure or part of the measure.

Part II (clause 6) provides that the Minister must, before issuing any notice to exclude matter from the application of the measure, to apply the measure to coastal land or inland matters or to set policies, standards or criteria in relation to the granting of licences and imposition of licence conditions, refer the matter to the Environmental Protection Council for its investigation and report and have regard to the advice and recommendations of that council. Under the clause, the council may, with the Minister's approval, or must, if so required by the Minister, coopt as additional members of the council persons with expertise in matters relating to the marine environment and its protection or with knowledge and experience of the fishing industry or any other industry affected by the measure.

Part III (clauses 7 to 21) contains provisions for the purposes of controlling discharges into the marine environment.

Clause 7 makes it an offence to discharge prescribed matter into declared inland waters or coastal waters or on land that constitutes part of the coast except as authorised by a licence under the measure. The clause expressly provides that lawful discharge into a sewer will not result in the commission of an offence.

Clause 8 makes it an offence to carry on an activity of a kind prescribed by regulation in the course of which prescribed matter is produced in declared inland waters or coastal waters, or prescribed matter that is already in such waters is disturbed, except as authorised by a licence under the measure.

Clause 9 makes it an offence to install or commence construction of any equipment, structure or works designed or intended for discharging matter pursuant to a licence or carrying out a prescribed activity pursuant to a licence.

The clause also contains an administrative provision facilitating the issuing of licences for more than one purpose.

The maximum penalty provided for any offence against clauses 7, 8 or 9 is, in the case of a natural person, a fine of $100 000 or a term of imprisonment of four years, or both, and in the case of a body corporate, a fine of $500 000.

Clauses 10 to 19 are general licensing provisions.

Clause 10 provides that an application for a licence must be made to the Minister and enables the Minister to require further information from the applicant.

Clause 11 gives the Minister discretion as to the granting of licences but requires the Minister to make a decision within 90 days of an application for a licence.

Clause 12 provides that a licence is subject to any conditions prescribed by regulation and any conditions imposed by the Minister. The clause empowers the Minister to impose, vary or revoke conditions during the period of the licence.

Clause 13 sets the term of a licence at one year and makes provision for all licences to expire on a common day.

Clause 14 is a machinery provision relating to applications for renewal of a licence.

Clause 15 gives the Minister discretion as to the renewal of licences but requires the Minister to make a decision before the date of expiry of the licence.

Clause 16 requires the Minister, in determining whether to grant or refuse a licence or renewal of a licence and what conditions should attach to a licence, to consider official policies, standards and criteria that are applicable. Before granting a licence the Minister must be satisfied that the applicant is a fit and proper person to hold the licence. A licence cannot be granted authorising the discharge of any matter of a kind prescribed by regulation.

Clause 17 makes provision for the continuance of a licensee's business for a limited period after the death of the licensee.

Clause 18 enables the Minister to suspend or cancel a licence if satisfied that—

(a) the licence was obtained improperly;

(b) the licensee has contravened a condition of the licence;

(c) the licensee has otherwise contravened the Act;

(d) the licensee has, in carrying on an activity to which the measure relates, been guilty of negligence or improper conduct; or

(e) the activity authorised by the licence is having a significantly greater adverse effect on the environment than that anticipated.

Clause 19 makes provision for the Minister to conditionally exempt persons from the requirement to hold a licence under the measure, where the activity for which the exemption is sought is not of a continuing or recurring nature.

Clause 20 requires the Minister to give public notice of any application for a licence or exemption, the granting or refusing of a licence or exemption, the variation or revocation of a condition of a licence or exemption or the imposition of a further condition of a licence or exemption.

Clause 21 provides for a public register of information relating to licences and exemptions.

Part IV (clauses 22 to 25) contains enforcement provisions.

Clause 22 provides for the appointment of inspectors by the Minister. The instrument of appointment may provide that an inspector may only exercise powers within a limited area. An inspector is required to produce his or her identity card on request.

Clause 23 sets out inspector's powers. An inspector may, on the authority of a warrant, enter and inspect any land, premises, vehicle, vessel or place in order to determine whether the Act is being complied with and may, where reasonably necessary for that purpose, break into the land, premises, vehicle, vessel or place. An inspector may exercise such powers without the authority of a warrant if the inspector believes, on reasonable grounds, that the circumstances require immediate action to be taken.

Among the other powers given to inspectors are the following:

(a) to direct the driver of a vehicle or vessel to dispose of prescribed matter in or on the vehicle or vessel at a specified place or to store or treat the matter in a specified manner;

(b) to take samples for analysis and to test equipment;

(c) to require a person who the inspector reasonably suspects has knowledge concerning any matter relating to the administration of the measure to answer questions in relation to those matters (although the privilege against self-incrimination is preserved).

The clause makes it an offence to hinder or obstruct an inspector or to do other like acts. It also makes it an offence

if an inspector or person assisting an inspector uses offensive language or, without a reasonable belief as to lawful authority, hinders or obstructs or uses or threatens to use force in relation to another person. Special provisions are included for dealing with anything seized by an inspector under the clause and for court orders for forfeiture in certain circumstances.

Clause 24 empowers the Minister to require a licensee to test or monitor the effects of the activities carried on pursuant to the licence and to report the results or to require any person to furnish specified information relating to such activities.

Clause 25 requires the Minister to take any necessary or appropriate action to mitigate the effects of any breach of the Act. The Minister may direct an offender to refrain from specified activity or to take specified action to ameliorate conditions resulting from the breach. The Minister may take any urgent action required and may recover costs and expenses incurred in doing so from the offender. The clause makes it an offence to contravene or fail to comply with a direction under the clause with a maximum penalty of, in the case of a natural person, a fine of $100 000 or imprisonment for four years, or both, and, in the case of a body corporate, a fine of $500 000. A person who hinders or obstructs a person taking such action or complying with such a direction is also to be guilty of an offence and liable to a maximum penalty of a division 1 fine.

Part V provides for review of decisions of the Minister under the measure.

Clause 26 provides for a review by the District Court of a decision of the Minister made in relation to a licence or exemption or an application for a licence or exemption or of a requirement or direction of the Minister made in the enforcement of the measure. Any person aggrieved may apply for review. The application must usually be made within three months of the making of the decision, requirement or direction or, where the effect of the decision is recorded in the public register, within three months of that entry being made.

Part VI (clauses 27 to 40) contains miscellaneous provisions.

Clause 27 requires that the department's annual report must contain a summary of—

(a) every allegation or report (whether of an inspector or otherwise) of any contravention of, or failure to comply with, this Act;

(b) the investigative or enforcement action (if any) taken in response to each such allegation or report and the results of that action;

(c) if no such action was taken in any particular case—the reasons why no such action was taken.

Clause 28 makes it an offence to furnish false or misleading information. The maximum penalty provided is a division 5 fine ($8 000).

Clause 29 enables the Minister to delegate powers or functions to a Public Service employee.

Clause 30 makes it an offence to divulge confidential information relating to trade processes obtained in the administration of the measure except in limited circumstances. The maximum penalty provided is a division 5 fine ($8 000).

Clause 31 provides immunity from liability to persons engaged in the administration of the measure.

Clause 32 sets out the manner in which notices or documents may be given or served under the measure.

Clause 33 is an evidentiary provision.

Clause 34 makes an employer or principal responsible for his or her employee's or agent's acts or omissions unless it is proved that the employee or agent was not acting in the ordinary course of his or her employment or agency.

Clause 35 provides that, where a body corporate is guilty of an offence against the measure, the manager and members of the governing body are each guilty of an offence.

Clause 36 imposes penalties for an offence committed by reason of a continuing act or omission. The offender is liable to an additional penalty of not more than one-fifth of the maximum penalty for the offence and a similar amount for each day that the offence continues after conviction.

Clause 37 provides that offences against the measure for which the maximum fine prescribed equals or exceeds $100 000 are minor indictable offences and that all other offences against the measure are summary offences. A prosecution may be commenced by an inspector or by any other person authorised by the Minister. The time limit for instituting a prosecution is five years after the date on which the offence is alleged to have been committed. Where a prosecution is taken by an inspector who is an officer or employee of a council, any fine imposed is payable to the council.

Clause 38 enables a court, in addition to imposing any penalty, to order an offender to take specified action to ameliorate conditions resulting from the breach of the measure, to reimburse any public authority for expenses incurred in taking action to ameliorate such conditions or to pay an amount by way of compensation to any person who has suffered loss or damage to property as a result of the breach or who has incurred expenses in preventing or mitigating such loss or damage.

The maximum penalty for non-compliance with such an order is, in the case of a natural person, a fine of $100 000 or imprisonment for four years, or both, and, in the case of a body corporate, a fine of $500 000.

Clause 39 provides a general defence to any offence against the measure if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence and that, in the case of an offence involving the discharge, emission, depositing, production or disturbance of prescribed matter, the defendant reported the matter to the Minister in accordance with the regulations. Such a person can still be required to take action to ameliorate the situation or can be required to pay compensation.

Clause 40 provides general regulation-making power. In particular, the regulations may provide for different classes of licences and may authorise the release or publication of information of a specified kind obtained in the administration of the measure.

Schedule 1 contains transitional provisions. The Minister is required to grant a licence in respect of an activity that was lawfully carried on by the applicant on a continuous or regular basis during any period up to the passing of the measure. The Minister may impose conditions on the licence requiring the licensee to modify or discontinue the activity within a specified time.

Schedule 2 makes consequential amendments to the Fisheries Act 1982.

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

CONTROLLED SUBSTANCES ACT AMENDMENT BILL

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

CORONERS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

As the matter has been dealt with in another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill amends the Coroners Act 1975 to provide for the mandatory reporting of deaths of persons detained in custody or accommodated in institutions established for the care or treatment of persons suffering from mental illness, intellectual retardation or impairment or drug dependency.

Section 12 (1) *(da)* and *(db)* of the Act authorises the Coroner to hold an inquest into the death of a person whilst detained in custody or accommodated in institutions established for the care or treatment of persons suffering from mental illness, intellectual retardation or impairment or drug dependency. However, there is no requirement for such deaths to be notified to the Coroner, unless they appear to be of a violent or unusual cause.

Although it is unlikely that any death which occurred in prison would not be reported to the Coroner, the Government considers that a specific provision should be made requiring all deaths to be reported.

Similarly, although the holding of an inquest is not mandatory in the circumstances where the death occurred in an institution referred in section 12 (1) *(db)*, nevertheless these deaths, even if from natural causes, come within the jurisdiction of the Coroner. Therefore the Coroner should be notified of the death, in order that he or she can determine whether or not an inquest is warranted. The Bill also places a requirement on a police officer receiving a notification of the finding of a body or the death of a person apparently by a violent or unusual cause to advise the Coroner of the finding or death.

The Bill also provides an opportunity for a review of the penalties in the Act. The penalties have been increased and are now expressed in divisions as provided for in the Acts Interpretation Act 1915. The Bill and schedule also contain a number of statute law revision amendments. I commend this Bill to members.

Clause 1 is formal. Clause 2 provides for commencement on a day to be fixed by proclamation. Clause 3 amends subsection (3) of section 13 of the principal Act by modernising the language used and increasing the penalty for an offence against this section from a maximum fine of $500 to a division 6 fine (maximum of $4 000).

Clause 4 amends subsection (3) of section 16 of the principal Act by increasing the penalty for an offence against this section from a maximum fine of $500 or imprisonment for up to three months to a division 6 fine or division 6 imprisonment (maximum fine of $4 000 or a term of imprisonment not exceeding one year).

Clause 5 repeals section 31 of the principal Act and substitutes a new provision. Subsection (1) of section 31 deals with the offence of failing to notify a coroner or police officer (who must, pursuant to subsection (3), notify a coroner) of the finding of a dead body or of the death of a person apparently by violent or unusual cause. Subsections (4) and (5) make it mandatory for the person in charge of a person in custody or in charge of an institution (or part of an institution) established for persons suffering from mental illness, intellectual retardation or drug dependency, to immediately report, or cause to be reported, to a coroner, any death that occurred, or a cause of death, or a possible cause of death, that arose, or may have arisen while the person was detained in custody or while the deceased was accommodated in an institution (or part of an institution). It is a defence to an offence under this section if the person charged can prove that he or she believed on reasonable grounds, that a coroner (or, in respect of an offence against subsection (1), a police officer) was aware of the finding or death.

The schedule makes amendments to the principal Act of a statute law revision nature without making any substantive changes.

The Hon. R.J. RITSON secured the adjournment of the debate.

WAREHOUSE LIENS BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill seeks to reform and simplify the law relating to the provision of a lien on goods deposited and stored in a warehouse.

In doing so it seeks to repeal the Warehousemen's Liens Act 1941 and express the language of the law in conformity with contemporary drafting principles. The Bill is similar to the Bill introduced into Parliament in August 1989.

In summary, the Bill—

- repeals the 1941 Act
- establishes the right of an operator of a warehouse to have a lien on goods deposited for storage in his or her warehouse
- describes the lawful charges covered by a lien
- protects the rights of persons who may have an interest in the goods deposited
  and
- prescribes procedures in respect of the sale, and disposition of proceeds of sale, of goods covered by a lien.

The major difference between the Bill and the 1941 Act is as follows:

Under the 1941 Act the warehouseman was obliged, within three months after the date of deposit of the goods, to give notice of the lien to:

(a) persons who had notified the warehouseman of their interest in the goods;

(b) the grantee of a Bill of Sale over goods (that is, in effect, the mortgagee of goods); and

(c) any person of whose interest in the goods the warehouseman had knowledge.

By contrast, the Bill abolishes the requirement of a notice of lien. There appears to be no useful purpose for it and it is an extra obligation on business. It seems absurd that the lien is completely lost if the notice is not given within three months.

Instead, the Bill provides for the giving of notice only where the lien is to be enforced (that is, by sale). In that event anyone who has an interest in the goods (of which the warehouse operator is aware) must be notified, as well as anyone who has a registered interest in the goods. Thus, the warehouse operator would need to search the Bills of Sale Register and the Goods Securities Register.

The Bill differs from the one introduced into Parliament last year. The wording of clause 10 (1) *(c)* of the earlier draft has been criticised for giving the impression that there is an absolute obligation on the warehouse operator to notify persons with a registered interest in the goods of the intention to sell, even if there is no reasonable means of ascertaining whether the goods are the subject of any security. Although it is possible that the earlier provision would have been read down to require notice only to persons reasonably ascertainable by the operator, the revised wording clarifies the operator's obligation to make an ordinary search of the registers.

Clause 7 has also been modified slightly to make it clear what costs are recoverable by the warehouse operator—that is, the costs incurred in selling the goods, the costs associated with the giving of notice and advertising.

The Bill is less regulatory than the 1941 Act and, if passed, would require considerably fewer regulations to be promulgated under it.

In nearly all other respects the Bill reproduces the existing law on the topic. The Bill, if it becomes law, will come into operation only after the senior judge has prepared appropriate Rules of Court which will regulate proceedings in local courts under the new Act. I commend this Bill to members.

Clauses 1 and 2 are formal.

Clause 3 repeals the Warehousemen's Liens Act 1941.

Clause 4 defines 'operator of a warehouse' to mean a person lawfully engaged in the business of storing goods as a bailee for fee or reward.

Clause 5 provides that the measure does not limit or derogate from any civil remedy.

Clause 6 establishes that the operator of a warehouse has a lien on goods deposited for storage in the warehouse.

Clause 7 sets out the charges covered by the lien, namely—

(a) lawful charges for storage and preservation of the goods;

(b) lawful claims for insurance, transportation, labour, weighing, packing and other expenses in relation to the goods; and

(c) reasonable costs incurred in selling the goods pursuant to this Act and in giving notice of intention to sell, and advertising the sale, in compliance with this Act.

Clause 8 requires a person depositing goods for storage in a warehouse to notify the operator of the warehouse of the name and address of each person who has an interest in the goods, to the best of the depositor's knowledge. The penalty provided for non-compliance is a division 8 fine (maximum $1 000).

Clause 9 provides that goods stored in a warehouse may be sold to satisfy the warehouse lien on those goods if an amount has been owing in respect of the goods to the operator of the warehouse for at least six months.

Clause 10 requires the operator of a warehouse to give notice of intention to sell to the debtor, to any person who has served on the operator written notice of a claim to an interest in the goods, to any person who has a registered interest in the goods and to any other person who has an interest in the goods of which the operator is aware. The clause also requires certain matters to be contained in the notice and makes provision for the manner in which the notice may be given.

Clause 11 sets out further procedures required for the sale of goods to satisfy a warehouse lien. If the amount owed remains unpaid, the operator of the warehouse must advertise the sale of the goods in a South Australian newspaper at least once a week for two consecutive weeks. The sale can be held after 14 days have elapsed since the first publication of the advertisement. The mode of sale is to be by public auction unless the regulations specify otherwise. Provision is also made for the opening of packages containing the goods where necessary.

Clause 12 enables any person with an interest in the goods to apply to the local court for an order prohibiting any further steps being taken for sale of the goods.

Clause 13 provides that no further proceedings for sale of the goods may be taken if the amount owing to the operator is paid in full. If payment is made by a person other than the debtor, provision is made for it to be recovered by that person from the debtor.

Clause 14 sets out the manner in which the proceeds of sale must be distributed. The lien is to be satisfied and the surplus (if any) must be paid to persons who put in written claims. If the validity of any claim is disputed or if there are conflicting claims, the surplus must be paid into a local court. If no claims are made within 10 days after the sale, the surplus must be paid to the Treasurer. If the operator of the warehouse does not comply with the provision, the operator is guilty of an offence, the penalty for which is a division 11 fine (maximum $100) per day of continued default.

Clause 15 makes it an offence to furnish false or misleading information for the purposes of the Act. The penalty provided is a division 7 fine (maximum $2 000).

Clause 16 provides that offences against the Act are summary offences.

Clause 17 contains regulation-making powers.

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

AGED AND INFIRM PERSONS' PROPERTY ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill deals with a number of amendments to the Aged and Infirm Persons' Property Act 1940 ('the Act').

The Bill empowers the District Court to make a protection order in certain circumstances. It also clarifies the relationship between the Act and the Mental Health Act 1977.

The Bill provides for the District Court to make protection orders when dealing with an action for damages for personal injury. The Public Trustee has advised that the inability of the District Court to make protection orders in terms of section 8a can cause difficulties in certain cases. The judge may direct that the money be paid to the Public

Trustee to be held pursuant to section 88a of the Administration and Probate Act 1919. However, the Public Trustee considers that some of these matters should properly be regarded as 'protected' estates. Therefore, the Public Trustee must then consider making an application on his own initiative to the Guardianship Board for an administration order or to the Supreme Court for a protection order. The proposed amendment will streamline the procedure and enable the District Court to make a protection order in appropriate cases, pursuant to section 8a of the Act.

As currently drafted section 30 (2) provides that a protection order made in respect of a person determines when that person becomes a patient under the Mental Health Act 1977.

The section was appropriate when the Mental Health Act 1935 was still in operation, as under that Act when a person was received into a mental hospital (as they were then called) the superintendent of the hospital gave notice in writing to the Public Trustee who automatically became administrator of the patient's affairs.

Under the Mental Health Act 1977 the position changed and a person may be admitted to an approved hospital within the meaning of that Act without the knowledge of the Public Trustee. The Mental Health Act 1977 does not provide for the Public Trustee to become the administrator of an estate automatically upon a person entering an approved hospital. The Act sets up a procedure whereby the Guardianship Board may appoint an administrator where it is of the opinion that a person is incapable of managing his or her own affairs. The Guardianship Board must appoint the Public Trustee to act as administrator unless special reasons exist for the appointment of another person. If a protection order under the Aged and Infirm Persons' Property Act 1940 automatically ceases upon a person entering hospital, there could be an hiatus in the management of the affairs of the patient until an administrator is appointed under the Mental Health Act 1977. This is clearly undesirable.

This Bill provides for a protection order to be taken to have been rescinded when an administrator has been appointed under the Mental Health Act 1977 and notice of the appointment has been filed with the court. The provision requires the former manager of the protected estate to file accounts, statements and affidavits to finalise the matter.

The Bill also provides that a protection order cannot be made in respect of a person for whose estate an administrator has been appointed under the Mental Health Act 1977.

Parliamentary Counsel has taken the opportunity to make a number of amendments to revise and modernise the Act. Section 5 of the Act is repealed. This provision is not necessary as the Supreme Court is able to make rules pursuant to the Supreme Court Act 1935. References throughout the Act to the Master have also been removed. These references are no longer necessary as the Supreme Court Act makes it clear that the term 'the court' includes the Master of the Supreme Court. The division of jurisdiction between the judges and the Masters of the court can be adequately dealt with by the rules.

I commend this Bill to honourable members.

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 3 of the principal Act, an interpretation provision, by amending the definition of 'court' to include the District Court in relation to a matter in which it has jurisdiction and to strike out the unnecessary definition of 'Master'.

Clause 4 amends section 4 of the principal Act to empower the District Court to make a protection order under section 8a in an action brought in that court for damages for personal injury and to give that court or another District Court jurisdiction to hear and determine any consequential or related proceeding under the Act where a District Court has made a protection order.

Clause 5 repeals section 5 of the principal Act, a rule of court-making power which is unnecessary because of the provision in the Supreme Court Act 1935 which gives the Supreme Court power to make rules of court in respect of any jurisdiction conferred on the court or a judge of the court by an Act of Parliament whenever passed (section 72 (2)).

Clauses 6, 7 and 8 amend, respectively, sections 6, 10 and 24 of the principal Act to delete references to the Master.

Clause 9 repeals section 30 of the principal Act and substitutes a new provision.

Subsection (1) provides that a protection order cannot be made under this Act in relation to a person for whose estate an administrator has been appointed under the Mental Health Act 1977.

Subsection (2) provides that if an administrator of an estate of a protected person is appointed under that Act the administrator must file a notice of the appointment in the Supreme Court within one month of the date of appointment.

Subsection (3) provides that where such a notice is filed, the protection order will be taken to have been rescinded as from the date of the appointment of the administrator.

Subsection (4) provides that the former manager of the protected estate has the same obligations in relation to the filing of accounts, statements and affidavits as if the protection order had been rescinded by the court.

Subsection (5) provides that, except as provided in this section, the Mental Health Act 1977, does not derogate from this Act.

Clause 10 amends section 38 of the principal Act to remove reference to the Master.

Clause 11 amends section 40 of the principal Act to remove the unnecessary reference to 'a judge'.

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

REAL PROPERTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 March. Page 648.)

The Hon. ANNE LEVY (Minister of Local Government): I have some replies to questions which were raised by the Hon. Mr Griffin in his second reading speech and which I should like to provide to him in winding up this debate. A number of points were raised by the report of the Law Society of South Australia. The first point had regard to computer hackers who have gained access to computers which were thought to be inviolable and who have caused substantial damage either by manipulation of the information stored or by garbling the information on the computer program itself. The Law Society states that remote access should be available only if the integrity of the register can be absolutely guaranteed.

In response, the Minister of Lands has accepted that the penalties for interfering with or altering the records of the land registration system should be substantially increased. There is an amendment on file to increase them from $12 000 or three years imprisonment to $40 000 or 10 years imprisonment. It should be pointed out that remote access is strictly limited to an inquiry only against the register and not to the register itself. This limits remote access to reading the files only; no ability to change them.

The second point from the Law Society states that Division 1 of Part V is intended to apply only to titles in the existing register book, but the provision, in proposed section 51b *(a)*, that the term 'Register Book' includes the computerised records, makes Division 1 apply to titles in these records.

The response from the Minister is that this point is accepted and an appropriate amendment to page 2, line 32, of the Bill is on file for consideration in the Committee stage.

The third point from the Law Society stated that proposed section 51b refers to the Registrar-General being 'required by this or any other Act or any other law to register title to land or record any other information'. The Act requires him to issue certificates of title for land and to make entries in the register book. By contrast, correct terminology is used in paragraphs *(e)* and *(f)* of proposed section 51b.

The response from the Minister of Lands is that this point is not valid. The passage criticised is intentionally couched in general terms and does not use the precise terminology of the Real Property Act because it applies to other Acts as well that do not use that terminology.

The fourth point made by the Law Society is that under proposed section 51b information relating to certificates of title in the existing register book could be recorded on the computer, while the existing certificate is retained. It states that this would be most unsatisfactory and that the section should make clear that, if any information relating to a certificate is recorded on the computer, the existing certificate must be cancelled and all information recorded on the computer. It believes that this is the intention of the Act but that it should say so.

The response from the Minister of Lands is that the Law Society argues that the Act should tell the Registrar-General how to do his job. The Registrar-General has to exercise discretions and make judgments many times every day in the proper running of the land registration system. It is pointless to select arbitrarily some of those discretions and judgments and remove them by legislative prescription.

The fifth point made by the Law Society is that the terms 'certificate' and 'certificate of title' in the present Act mean the certificate of title issued under the Act. The Law Society states that the terms generally refer to both the original and duplicate certificate, but may occasionally refer to the original alone. It is suggested that proposed section 51b be altered to read:

> The terms 'certificate' and 'certificate of title' will be taken to mean the records maintained by the Registrar-General pursuant to this section and, except where the context otherwise requires, the duplicate certificate of title.

The response from the Minister of Lands is that it is difficult to understand what point is being made here. The suggested revision does not appear to change the meaning at all.

The sixth point made by the Law Society is that the certificate of title to be issued under proposed section 51c will be the equivalent of the existing duplicate certificate of title. It suggests that it be called by this name throughout the Bill to avoid confusion. The response from the Minister of Lands is that the Law Society is right that the certificate of title issued under proposed section 51c is the equivalent of the existing duplicate certificate of title. The information recorded in the computer is equivalent to the original certificate of title under the present system. With the computer title, the certificate issued under proposed section 51c is the only certificate issued and it would be confusing and misleading to refer to it as a duplicate: it would be a duplicate without an original. Proposed section 51b *(d)* makes clear that references to duplicate certificates of title in the Real Property Act will, in the case of land on the computer, be references to the title issued by the Registrar-General under proposed section 51c.

The seventh point raised by the Law Society is that, if the Registrar-General is required by law to make an entry on the duplicate certificate of title, he should either do this or issue a new duplicate certificate of title. It states that this is not the effect of proposed section 51b *(f)*, which only requires the Registrar-General to cancel the certificate and issue a new certificate, if he thinks it necessary or desirable. It does not require him to make an entry on the duplicate certificate if he does not issue a new duplicate. It suggests that this clause could be deleted, because the Registrar-General has the power to issue a new duplicate certificate under proposed section 51c (2).

The response from the Minister of Lands is that proposed section 51b *(f)* does give the Registrar-General a discretion not to issue a new certificate of title if he does not think it necessary, such as in the case of where a caveat is lodged which is only entered against the original record. The Registrar-General is an expert in land registrations. The Act should accept his expertise and not give him detailed instructions as to the way in which he should do his job. The Minister emphasises that the clause cannot be deleted. It is an essential interpretative provision and has no equivalence with proposed section 51c (2).

The eighth point made by the Law Society is that, in proposed section 51c (1), 'registered' should be inserted before 'proprietor' and 'proprietors'. The response from the Minister of Lands is that the whole point of the land registration system is indefeasibility of title. This means that, once title to land is registered—and I refer to the first line of proposed section 51c (1)—the only kind of proprietor one can have is a registered proprietor.

The ninth point made by the Law Society is that section 53 should not be repealed and that it should be retained as part of Division 1, as there is nothing in the Bill that makes it no longer necessary to enter memorials on the duplicates of titles in the existing register book.

In response, the Minister of Lands states that section 53 requires the Registrar-General to record memorials entered in the register book on the duplicate instrument of title. The section excludes leases, mortgages and encumbrances from this requirement and also recognises that the Registrar-General may need to dispense with the requirement in some cases, for example, recording of caveats or court orders where the duplicate certificate of title is not readily available. Although the proposed section refers to duplicate certificates or other instruments of title, there are no duplicate instruments of title other than duplicate certificates of title and those already excluded by the proposed section. With the new computer title, it is proposed that the duplicate will only show the current position and, therefore, where a sequence of transfers is lodged at the same time, or a transmission application of transfer, only the final result of the sequence will appear on the duplicate title.

To implement this, the Registrar-General needs a discretion not to record every transaction on the duplicate. A historical file will be maintained which will be available for

public record and which will show all dealings registered in respect of the title. Over the next few years, while the manual system of registration remains in existence, the Registrar-General will follow current registration practices. However, when he comes to convert land to the computer title, he does not want to be required by section 53 to go through the pointless procedure of calling up the duplicate manual title and endorsing it with the memorial that he will endorse on the original.

The tenth point made by the Law Society is that section 189 should not be repealed, although it could be amended by deleting the expression 'alter any entry in the register book' and inserting 'enter in the register book any change or correction'. It states that this section is more appropriate for these purposes than updating information under the amendment proposed in clause 32.

The response from the Minister of Lands is that the Law Society does not give a reason for stating that this section is more appropriate. The amendment to section 220 enables the Registrar-General to make the same alterations but is more versatile in that he can do so on his initiative and does not have to wait for an application by the registered proprietor as required by section 189.

The eleventh point made by the Law Society is that the proviso to section 220 (4) is no longer appropriate but should be amended, not struck out. It states that it is important that the nature of any change made in the register book and the date the change is made be on permanent record. The response from the Minister of Lands is that the Registrar-General intends to maintain the old registration system in the manner in which it is currently being maintained. Any changes made to the register will be permanently retained and available at any time. New section 53, inserted by the Bill, requires the Registrar-General to retain all information recorded under the Act. An entry subsequently corrected comprises an item of recorded information which must be retained in one form or another under section 53.

The twelfth point made by the Law Society is that the brackets in lines 1 and 2 of proposed section 51d, and in lines 2 and 3 of proposed section 38, should be struck out. The word 'record' should be deleted and 'enter' substituted in clause 29. The response from the Minister of Lands is that these are minor drafting points and Parliamentary Counsel does not agree with any of them.

Several points were raised by the Hon. Mr Griffin in his contribution to the second reading debate yesterday. I have responses from the Minister of Lands in regard to those points. On clause 9, the Hon. Mr Griffin raised a question in relation to the determination of priority of registration after deletion of section 51 of the principal Act. The response from the Minister of Lands is that all instruments are allocated a date and hour of lodgment. This has always been used and will continue to be used as the method of determining its priority. The instrument is allocated a number in accordance with that priority. Upon registration the date and hour of production is duplicated, if endorsed on the title. The few people who require this information will still be able to obtain it by sighting the instrument itself.

On clause 11, the Hon. Mr Griffin suggested that this could result in possible conflict between section 51b *(b)* (ii) and 51b *(d)*. The response from the Minister of Lands is that there is no overlap or confusion between section 51b *(b)* (ii) and section 51b *(d)*. The Real Property Act uses the terms 'certificate', 'certificate of title', 'duplicate certificate', and 'duplicate certificate of title'. Section 51b *(b)* (ii) provides that 'certificate' and 'certificate of title', in the case of computer title, can mean the computer records (equivalent to the 'original title') or the certificate issued to the land owner (equivalent to the 'duplicate title') or both of these meanings as the context requires. Section 51b *(d)* interprets different terms, namely, 'duplicate certificate' and 'duplicate certificate of title', as they will apply in the context of computer title.

On clause 11, the Hon. Mr Griffin raised the question of interpretation of section 51d. The response from the Minister of Lands is that a statement of title of land means a reflection of the current state of the original certificate of title. This includes the ownership of an estate in fee simple showing the manner in which it is held, or the tenancy, or it may be for an easement or a life estate or any other estate or interest in land for which a certificate of title can issue.

Proposed section 51d provides that a statement (certified by the Registrar-General) of title to land recorded by the Registrar-General is conclusive evidence of title to the land. This is a central element in the indefeasibility of registered title and is a restatement of section 80 of the Act in a form appropriate for the new computer title. It should be noted that that statement can only apply to title of land recorded by the Registrar-General. That statement will normally specify the interest in the land and who is entitled to it. The statement will form evidence in court that cannot be challenged. This is not a departure from the existing section 80 of the Real Property Act. Of course, title, once established, is defeasible to a limited extent under section 69 of the Act.

On clause 13, the Hon. Mr Griffin raised the question that this once again relates to priority of registration. The response from the Minister of Lands is that part of the answer to this clause has been answered in the explanation to clause 9. She can only add that instruments are registered on each respective certificate of title in strict order of numerical sequence, which is determined at the time of lodgment.

On clause 14, the Hon. Mr Griffin raised a question relating to historical information. The response from the Minister of Lands is that proposed section 53 was inserted as a result of public consultation. The section requires the Registrar-General to keep historical information pertaining to registration on the original certificate of title as part of the register. This section does not mean that instruments will be destroyed by the Registrar-General.

On clause 15, the Hon. Mr Griffin raised a question relating to the deregulation of forms of instruments required for registration in the Lands Titles Office. The response from the Minister of Lands is that forms of instruments are currently prescribed by regulation.

The intention of the section is to allow the Registrar-General to make alterations to forms without the need to go through the regulation process. This is consistent with the Government's policy of deregulation. The Registrar-General will need to make some minor changes to some administrative panels on the outside of forms to facilitate registration in the electronic medium. The Registrar-General will, however, always consult with the public through the Law Society, the Land Brokers Society and other appropriate organisations before making alterations to any other part of an instrument.

In relation to clause 32, the Hon. Mr Griffin asked a question concerning corrections to the Torrens Title Register. The response from the Minister of Lands is that it is not possible to retain the original text of a record title after correction on a computer file as is the case on a manual file. It is not intended that any amended text be lost. In the electronic medium the original text will be recorded in an instrument raised by the Registrar-General and entered in the historical file. Section 220 (4) does not provide for the correction of instruments.

In relation to clause 32 *(d)*, the Hon. Mr Griffin asked a question about the destruction of cancelled certificates of title. In response, the Minister of Lands says that Mr Griffin has suggested that new subsection (11) of section 220 may enable the Registrar-General to destroy an original certificate of title. There is no basis for this concern. In the context of the computer title, section 51b *(d)* provides that the reference in section 220 (11) to 'duplicate certificate of title' means the certificate of title issued under the seal of the Registrar-General in respect of the land. There is no way that that can be confused with the records kept in the computer and, therefore, there can be no suggestion that this provision would give the Registrar-General power to destroy those records.

The last question raised by the Hon. Mr Griffin was about the manipulation of data by hackers or by virus. The response from the Minister of Lands is that to get into a system hackers need a combination of a number of access codes. To be able to change the data a hacker would need to have an intimate knowledge of the data protection algorithms (or formulae) to be able to change data undetected. These formulae act as a prevention and detection system to unauthorised changes to data. As regards the program itself, there is no way in which a remote user can interfere with the programs because the source is held on a computer which is not accessible to hackers.

In conclusion, I trust that the answers provided by the Minister of Lands deal with the questions raised by the Hon. Mr Griffin in his second reading speech, although I appreciate that he may want to read them in written form before passing any considered judgment on the information that has been provided.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement'.

The Hon. L.H. DAVIS: I appreciated the very full and prompt reply to the questions that my colleague, the Hon. Mr Griffin, asked in the second reading, and, as the Minister has properly indicated, the Opposition would appreciate the opportunity of reflecting on those answers. However, I think it may be appropriate to ask some general questions about the proposed computerisation of the lands titles system which can be dealt with at this stage of the Committee.

Is the Minister in a position to quantify the savings that will flow from the computerisation of the lands titles system? I accept that it is to be phased in over ten years, so it may not be easy to answer this. However, is it possible to quantify those savings in terms of the number of employees and in terms of the other savings that will flow from the computerisation? It might be helpful if a general answer was available.

The Hon. ANNE LEVY: I understand that the cost of running the existing system is about $6 million per annum. It is estimated that the cost of running the fully computerised system in 10 years will be about $5 million, both figures being quoted in today's money. The main saving occurs in staff reduction, and, given that the current lodgment rate will continue, up to 40 fewer staff will be required to operate the automated system, these staff being mainly employed in tasks of retrieving and filing. During the conversion period, an incremental reduction of staff will occur in proportion to the rate of conversion.

The Hon. L.H. DAVIS: How many persons are presently employed in that area where that proposed reduction of 40 persons will take effect?

The Hon. ANNE LEVY: I understand that currently over all sections there are about 220 staff and that the reduction will come not necessarily from one particular section but will be spread over all sections.

The Hon. L.H. DAVIS: In this plan to register land digitally, computer equipment and other technology will be acquired over a 10-year period. Can the Minister advise the Council how much the equipment will cost, in 1990 dollars, and say whether this equipment will be purchased in a fairly even block over that 10 year period, or whether there will be a significant initial acquisition of equipment? In other words what is the plan for the computerisation of the Land Titles Office?

The Hon. ANNE LEVY: I understand that the department already has the mainframe computer and that equipment purchases will mainly involve terminals and, of course, there will also have to be considerable rewiring. The mainframe computer does not service only the Lands Titles Office: it services the whole department and, of course, there is constant replacement of terminals or other ancillary pieces when required. Therefore, it is not possible to give an accurate estimate of just what relates to the computerisation of the Lands Titles Office. However, the expenditure—other than expenditure for what could be regarded as maintenance and replacement for the whole department—is expected to occur mainly in the next three years.

The Hon. L.H. DAVIS: What is the level of that expenditure over the next three years?

The Hon. ANNE LEVY: I will reply to that question after seeking further information. It would require estimates to be done by the computer experts.

The Hon. L.H. DAVIS: In my second reading contribution I referred to initiatives taken in the Victorian Lands Titles Office, and it appears that it and the New South Wales Lands Titles Office have been following similar paths. Indeed, I understand from discussions with some officers from the department that New South Wales took an initiative in this area two or three years ago. To what extent are advantages flowing from the exchange of information between Lands Titles Offices around Australia? Are there any direct benefits that attach to having similar equipment? Have we been able to discover any disadvantages from the New South Wales experience, given that that office has moved into this field of having its land registered digitally a little ahead of South Australia?

The Hon. ANNE LEVY: The Registrars-General of the different States meet annually and discuss all sorts of matters of common interest. It could safely be said that there is a great deal of interchange of information between the States. They learn from each other's mistakes as a result, and also assist one another based on their experiences. It is not an officially integrated system, but there is very good rapport between the Registrars-General of all States.

Clause passed.

Progresss reported; Committee to sit again.

SUMMARY OFFENCES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

As this Bill has already been passed in another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill provides for the establishment of road blocks by police. It also clarifies police powers with regard to entry into premises where someone has died or is believed to be in need of assistance.

At present, the police have no general power to stop and search a vehicle. However, they do have legislative power to stop vehicles in limited circumstances as set out in the Road Traffic Act, the Motor Vehicles Act, the regulations under the Highways Act and section 68 of the Summary Offences Act.

By virtue of these provisions, police powers to stop a vehicle are limited to:

(i) road traffic and licence purposes; and

(ii) where there is reasonable cause to suspect that the vehicle contains stolen goods, an offensive weapon or evidence of an offence.

The power to search a vehicle is confined to the latter category.

In 1987, the New South Wales Law Reform Commission released a discussion paper on police powers of arrest and detention. One of the proposals in that paper is that, where reasonable grounds exist, a police officer should have the power to stop and search a person or a vehicle, in a public place.

A general power to establish road blocks has been provided for in the United Kingdom in section 4 of the Police and Criminal Evidence Act 1984. The Act arose from a royal commission report and was the subject of significant community debate.

The United Kingdom royal commission was of the view that, in general, the use of powers for road blocks should not be used in connection with crime. However, the commission did recommend that an exception should be made for special emergencies. The UK legislation authorises and provides special rules for road checks in relation to serious arrestable offences.

The Bill before Parliament authorises the establishment of a road block by a senior police officer where the officer believes on reasonable grounds that the road block would significantly improve the prospects of apprehending a person suspected of having committed a major offence, or a person who has escaped from lawful custody. A major offence is defined to mean an offence attracting a penalty or maximum penalty of life imprisonment or imprisonment for at least seven years. The establishment of a road block would allow the police to stop and search vehicles passing a given point. Any person who, without reasonable excuse, fails to stop at a road block or fails to comply with a requirement would be guilty of an offence.

A record of all authorisations must be maintained and reported to Parliament annually. This provision is aimed at establishing a control mechanism to guard against the indiscriminate use of road blocks and to restrict infringements of civil liberties.

The Bill also provides for a senior police officer to declare an area to be dangerous because of conditions temporarily prevailing. Where such a declaration is made a member of the Police Force may warn a person against proceeding towards the area. The officer may also require a vehicle to stop for the purposes of issuing a warning.

A person who ignores the warning, or fails to stop his or her vehicle may be guilty of an offence. In addition, the Crown may seek compensation for the cost of operations reasonably carried out for the purpose of finding or rescuing a person who has ignored the warning.

This provision seeks to clarify the powers of police officers in protecting life and property and preventing entry into unsafe areas. An area could be declared dangerous for reasons such as widespread flooding, the presence of an activated detonating device or because a disaster has occurred or is expected to occur. By virtue of the provisions of the Highways Act the Commissioner of Highways has power to close main roads when they are unsafe or where vehicles are likely to cause damage to the roads. However, this power does not go far enough to prohibit access or to allow cost recovery where rescue operations are required as the direct result of a person ignoring a warning.

The Bill also clarifies the police powers with respect to entry into premises in the case of suspected medical emergencies and in order to ascertain particulars relating to a deceased person.

Police officers are frequently contacted by concerned persons regarding the non-appearance of relatives, friends or neighbours. Often the person in question is elderly and has not been seen for some time. If, on attending, police find that the missing person's residence is locked, they are confronted with a decision as to whether or not to break into the premises to ensure that the occupier has not come to any harm. No legislative authority exists to authorise or protect police officers in these situations.

Such a situation calls for direct police action and may involve breaking into a person's residence. In the case of a suspected medical emergency, quick action can be vital. While it is unlikely that undue criticism would be levelled against police officers acting in good faith in such circumstances, it is more appropriate for the powers of police officers in such situations to be clearly delineated. The Bill requires a senior police officer to authorise entry to premises in such situations.

In addition, it is common for police to be contacted where a person has died intestate and has no known next of kin. The primary avenue of inquiry is to search the deceased's place of residence for information which may give some indication of a relative or the existence of a will. If neither the next of kin nor a will can be located the police take possession of the deceased's property for safe keeping. There is no legislative authority for police to perform these functions. The Bill provides for the Commissioner to issue a warrant in the prescribed form to a member of the Police Force authorising the member to enter and search the premises of the deceased.

In addition, the member of the Police Force may remove property of the deceased into safe custody. The Commissioner is responsible for ensuring that a proper record is kept of property taken from premises by police officers. I commend this Bill to honourable members.

Clause 1 is formal.

Clause 2 provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3 amends section 4 of the principal Act which is an interpretation provision. 'Senior police officer' is defined as a member of the Police Force of or above the rank of inspector.

Clause 4 inserts new section 74b into the principal Act to empower the police to set up road blocks.

Subsection (1) defines 'major offence' as an offence attracting a penalty or maximum penalty of life imprisonment or imprisonment for at least seven years.

Subsection (2) provides that where a senior police officer believes on reasonable grounds that the establishment of a road block at a particular place would significantly improve the prospects of apprehending a person who is suspected of having committed a major offence or who has escaped from

lawful custody, the officer may authorise the establishment of a road block at that place.

Subsection (3) provides that an authorisation to establish a road block operates for an initial period (not exceeding 12 hours) specified by the officer granting the authorisation and may be renewed from time to time for a further maximum period of 12 hours.

Subsection (4) provides that an authorisation may be granted orally or in writing. Where it is granted orally a written record must be kept of certain details.

Subsection (5) sets out the powers of the police where a road block is authorised. A road block may consist of any appropriate form of barrier or obstruction preventing or limiting the passage of vehicles. A member of the Police Force may stop vehicles at or in the vicinity of the road block, may require any person in any such vehicle to state his or her full name and address, may search the vehicle and give reasonable directions to any person in the vehicle for the purpose of facilitating the search and may take possession of any object found during such a search that the member suspects on reasonable grounds to constitute evidence of an offence by the person for whose apprehension the road block was established.

Subsection (6) provides that where a member of the Police Force suspects on reasonable grounds that a name or address stated in response to a requirement under subsection (5) is false, he or she may require the person to produce evidence of the correctness of that name or address. This provision is identical to exiting section 74a (2).

Subsection (7) provides that a person who, without reasonable excuse, fails to stop a vehicle at a road block when requested or signalled to do so, fails to comply with a requirement or direction under subsection (5) or who in response to a requirement under subsection (6) states a name or address that is false or produces false evidence is guilty of an offence. The maximum penalty is $2 000 or imprisonment for six months. This provision is identical to existing section 74a (3) except for the level of maximum penalty.

Subsection (8) is an evidentiary aid.

Subsection (9) requires the Commissioner of Police to submit an annual report to the Minister stating the number of authorisations granted during the year, the nature of the grounds on which they were granted, the extent to which road blocks contributed to the apprehension of offenders or the detection of offences and any other matters the Commissioner considers relevant.

Subsection (10) requires the Minister to table the report in Parliament.

Clause 5 inserts new sections 83b and 83c into the principal Act.

Section 83b empowers the police to declare certain areas to be dangerous.

Subsection (1) provides that where a senior police officer believes on reasonable grounds that it would be unsafe for the public to enter a particular area, locality or place because of temporary conditions, the officer may declare the area, locality or place to be dangerous.

Subsection (2) provides that a declaration comes into force when it is made but should be broadcast as soon as practicable after that time by public radio or in any other manner the officer thinks appropriate in the circumstances of the case. A declaration remains in force for a period (not exceeding two days) stated in the declaration.

Subsection (3) provides that where a declaration is in force a member of the Police Force may warn any person proceeding towards, or in the vicinity of, a dangerous area against entering it and may require or signal the driver of a motor vehicle to stop so that a warning can be given to persons in the vehicle.

Subsection (4) provides that a warning lapses when the relevant declaration expires or at some earlier time specified by a senior police officer.

Subsection (5) provides that a person who enters a dangerous area contrary to a warning or fails to stop a vehicle when required or signalled to do so is guilty of an offence. The maximum penalty is $2 000 or imprisonment for six months.

Subsection (6) makes a person who enters a dangerous area contrary to a warning liable to compensate the Crown for the costs involved in finding or rescuing him or her.

Subsection (7) is an evidentiary aid.

Section 84c confers special powers of entry of premises on the police.

Subsection (1) provides that where a senior police officer suspects on reasonable grounds that an occupant of premises has died and his or her body is in the premises or that an occupant of premises is in need of medical or other assistance, the officer may authorise a member of the Police Force to enter the premises to investigate the matter and take such action as the circumstances of the case may require.

Subsection (2) requires an authorisation under subsection (1) to be in writing unless the authorising officer has reason to believe that urgent action is required. In that case, the authorisation may be given orally.

Subsection (3) provides that where a person has died and the Commissioner of Police considers it necessary or desirable to do so, the Commissioner may issue to a member of the Police Force a warrant authorising the officer to enter the premises in which the person last resided before his or her death and search the premises for material that might identify or assist in identifying the deceased or deceased's relatives and take property of the deceased into safe custody.

Subsection (4) empowers a member of the Police Force to use reasonable force if necessary for the purpose of obtaining entry to premises or carrying out a search.

Subsection (5) makes the Commissioner of Police responsible for ensuring that a proper record is kept of property taken from premises and requires the Commissioner, if satisfied that a person has a proper interest in the matter, to allow the person to inspect the record.

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

ADJOURNMENT

At 5.25 p.m. the Council adjourned until Tuesday 27 March at 2.15 p.m.