LEGISLATIVE COUNCIL

Wednesday 26 February 1992

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions, as detailed in the schedule I now table, be distributed and printed in *Hansard*: Nos 23 and 29.

DEPARTMENTAL REDEPLOYMENT LISTS

23. **The Hon. L.H. DAVIS** asked the Attorney-General, representing the Minister of Labour: what are the numbers of persons on the redeployment list of each of the Minister's departments and Government agencies and how many of these persons have been on the redeployment list for 1. longer than 12 months, and 2. longer than six months?

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

Department of Labour

The number of employees of the Department of Labour who are currently on the redeployment list of the Careers Consulting Unit as active clients is four. One person has been on the list for longer than 12 months. (The previous Director-General of Education employed this client in a funded position on a temporary basis during 1991. The decision on permanency of this placement has been deferred pending the appointment of a new Director-General of Education, because of the close personal relationship of the new position concerned to that of Director-General of Education.) Two people have been clients for longer than six months. (These clients have been placed in temporary funded situations, in one case to enable some retraining and in both cases to facilitate a comprehensive assessment of the suitability of the placement as a longer-term option.) One employee has been a client for less than six months.

Department of Marine and Harbors

1. Nil.
2. Longer than six months:

GME Act	Weekly Paid
1—AS03	1—Carpenter
1—AS02	1—Assistant Wharf and Jetty Builder
2—AS01	1—Driver
1—PS02	1—Plumber
	1—Ganger
	1—Supervisor Grade 1

Occupational Health and Safety Commission

Nil.

29. **The Hon. L.H. DAVIS** asked the Minister for the Arts and Cultural Heritage, representing the Minister of Education: what are the numbers of persons on the redeployment list of each of the Minister's departments and Government agencies and how many of these persons have been on the redeployment list for 1. longer than 12 months, and 2. longer than six months?

The Hon. ANNE LEVY: The replies are as follows:

Education Department

Two. Nil longer than six or 12 months.

Senior Secondary Assessment Board of South Australia

Nil.

Children's Services Office

Four. One longer than 12 months, three less than six months.

STATE BANK INQUIRY

The PRESIDENT: I lay on the table a letter I have received this day from the Auditor-General regarding the State Bank of South Australia inquiry pursuant to section 25 of the State Bank of South Australia Act 1983 as amended. I have arranged for copies of this letter to be made available to all honourable members.

PAPERS TABLED

The following papers were laid on the table:

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

Boating Act 1974—Regulations—Stansbury Zoning.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

South Australian Institute of Technology—Report, 1990.
City of Adelaide Development Control Act 1976—Regulations—Commencement and Completion Times.
Metropolitan Taxi-Cab Act 1956—Applications to Lease.

QUESTIONS

FREEDOM OF INFORMATION

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Attorney-General a question on the subject of freedom of information legislation.

Leave granted.

The Hon. R.I. LUCAS: The administrative guidelines under the new freedom of information legislation require all Government departments and agencies to appoint a freedom of information officer to handle all queries concerning freedom of information. However, it is now clear that some Government departments and agencies have not yet appointed such officers, some two months after the start of the freedom of information legislation. For example, when my colleague the Hon. Legh Davis asked to speak to the freedom of information officer for the South Australian Timber Corporation, he was, to put it mildly, greeted with a stunned silence, because it had not yet appointed its freedom of information officer.

The Hon. M.J. Elliott: They won't tell you who it is, that's all!

The Hon. R.I. LUCAS: Yes, it is evidently a secret and they were not going to tell. There have also been other problems with the operations of freedom of information officers. For example, on 24 December last year, I lodged an application for some search reports from the Education Department. Some time in mid January this year I was contacted by an officer within the Education Department who told me that she was processing my application and asked whether I wanted a copy of the attached correspondence as well as the research reports that I had requested. My answer was that, at that stage, I was only looking for the research reports but if she wanted to offer me anything more that was fine.

When the 45-day response period expired towards the end of February, without any response from the Education Department, I lodged an appeal under the terms of the freedom of information legislation with the Education Department against that refusal of access. I now understand that the story from the Government is that the Director-General of Education's office has no knowledge of such request or application, and the Minister of Education's office has no knowledge of such a request or application, and everyone claims to have no record of my application. I have subsequently faxed them a copy of my application of 24 December, I guess to start the process over again. Clearly, somewhere buried deep within the bowels of the Education Department, an FOI officer is running rampant with my FOI request. My questions to the Attorney-General are:

1. Will the Attorney-General ascertain which Government departments and agencies had not appointed freedom of information officers as at 26 February 1992, and what were the reasons for their not appointing such officers?

2. What procedures are freedom of information officers meant to follow in processing freedom of information requests, and who ultimately is meant to take the decision as to whether or not a particular request should be complied with?

3. Can the Attorney-General give an assurance that ministerial officers are not involved in any way in the decisions being taken about the release of information? If he cannot, will he indicate what role ministerial officers are taking in the handling of freedom of information requests from members of Parliament?

The Hon. C.J. SUMNER: I would assume that ministerial officers might be involved in requests dealing with freedom of information in certain circumstances, and there is nothing particularly wrong with that. In the final analysis, the person who has to take responsibility is the Minister concerned in the department, and if there are ministerial officers involved in working with a Minister one would expect that those ministerial officers might be involved in some circumstances. The procedures for freedom of information are clearly set out in the legislation. In addition, as I understand it, there are publicly available manuals that are being prepared by the freedom of information unit, which the honourable member probably has not caught up with, but it just goes to show that he is not on the ball—

The Hon. R.I. Lucas: We have requested it, but they are saying it is not yet available.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —and which is actually the responsibility of my colleague, the Minister of State Services (Hon. Anne Levy), under whom the freedom of information unit is lodged.

The Hon. L.H. Davis: No it's not. She's shaking her head.

The Hon. Anne Levy: It's not called the freedom of information unit.

The Hon. C.J. SUMNER: Well, whatever its called; it doesn't worry me what it is called.

The Hon. L.H. Davis: Do you know what it's called?

The Hon. C.J. SUMNER: It is the group that deals with freedom of information within the Government.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas: You still can't get the manuals.

The Hon. C.J. SUMNER: The honourable member says that you still can't get the manuals. I will refer that part of the question to the Hon. Anne Levy and see if she can provide any information on the topic. As I said, the freedom of information unit and the Freedom of Information Act is committed to the Minister of State Services. Naturally, I as Attorney-General, and the Crown Solicitor, provide advice on the operations of the Act. It would not surprise me if there were not some teething problems with the introduction of legislation of this kind within the bureaucracy. That is entirely to be expected. As I understand it, there have been a number of requests and they have been met, including requests from the Leader of the Opposition and others, and they will continue to be met in accordance with the legislation. As to whether or not the manuals are available or if there are some other difficulties that the honourable member is having, I am sure that the Hon. Anne Levy would be perfectly happy to follow up those matters.

The Hon. R.I. LUCAS: As a supplementary question, is there a directive that all FOI requests from members of Parliament have to be processed or vetted by ministerial officers in the Ministers' offices in relation to the decision-making processes as to whether or not the information should be released? If there is such a directive or instruction, will the Attorney-General, in the interests of freedom of information, make that directive available to the Parliament?

The Hon. C.J. SUMNER: I know of no such directive. I certainly have not given it. Whether any other Minister has is a matter for them to answer.

The Hon. R.I. Lucas: Will you inquire and report?

The Hon. C.J. SUMNER: Well, it's not a matter for me. As I said, it is a matter for the Hon. Ms Levy. If the honourable member wants to ask her questions about freedom of information, he should feel free to do so. If you want to ask the Hon. Barbara Wiese about her approach to freedom of information as far as ministerial officers—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Is something wrong with these people? It seems as though they are in some kind of schoolyard, Mr President. The adolescent behaviour of the Leader of the Opposition just as—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: He really ought to get back where he belongs.

Members interjecting:

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

Members interjecting:

The Hon. C.J. SUMNER: I know what's going on. If the honourable member wants to ask me—

The Hon R.I. Lucas: No you don't.

The Hon. C.J. SUMNER: Of course I do. I know in general terms what's going on. To expect me to answer detailed questions about the implementation of the FOI legislation is quite clearly ludicrous. To suggest anything else indicates that the honourable member really does not know what is going on, and his behaviour, quite frankly, is childish. I cannot put it any other way. It is adolescent and childish, and he ought to grow up or get out of the job, as far as I am concerned. I have not given any direction about ministerial officers looking at requests for freedom of information, checking whether freedom of information requests have been made. Other Ministers may have. If they have, I see nothing wrong with it, in any event.

Ministers ultimately must take responsibility for what goes on in their departments, and if ministerial officers are engaged in assisting Ministers, I would see no problem with their seeing a request for freedom of information. In the final analysis, whether the material is to be released is determined in accordance with the legislation that Parliament has passed. If people are not happy with the procedures followed, obviously, they can write to Ministers and seek reviews of decisions.

They can go to the Ombudsman in certain circumstances, and they can go to the District Court if they feel it necessary. Procedures are established under the Act, and the Government will comply with those procedures: it is as simple as that.

STATE BANK

The Hon. K.T. GRIFFIN: My questions are to the Attorney-General as follows:

1. Has the Attorney-General (or the Premier) had any discussions recently with representatives of the State Bank in relation to either the bank's overdue half-yearly results or the State Bank Royal Commission and its effect on the State Bank with a view to using the State Bank's results as justification for dropping or amending term 3 of the royal commission's terms of reference or otherwise addressing

those terms of reference or the terms of reference of the Auditor-General's inquiry? If so, will he indicate the tenor of those discussions?

2. Has the Government made a decision on term of reference 3 of the royal commission and, if so, will he indicate what that decision may be?

The Hon. C.J. SUMNER: There have been discussions with State Bank representatives. Obviously, the Premier has them on a regular basis. As has been reported in the media, I have had discussions with Mr Clark, the Chairman of the State Bank board, but the answer to the first question, apart from the fact that there have been discussions, is 'No'. In relation to the other questions, decisions have been made about the terms of reference, and the honourable member will be advised of them in due course.

The Hon. K.T. GRIFFIN: Supplementary to that, will the Attorney-General indicate what 'in due course' means in terms of time?

The Hon. C.J. SUMNER: As the honourable member would know, Executive Council meets tomorrow morning at 9.15. If the honourable member keeps his eye on the newspaper and the radio, as I know he likes to do—

The Hon. L.H. Davis: You can't keep your eye on the radio.

The Hon. C.J. SUMNER: Well, you can, unless it has disappeared. It may be invisible, I suppose, but it is still possible to keep your eye on the radio—unless, of course, you are blind. I suggest that the honourable member keep his eye on the radio, television, newspapers or the rumour mill in Adelaide and, in due course, it may well be that some announcements will be made about the matter in Parliament. I suggest that he does not get too anxious about it.

TOURISM SOUTH AUSTRALIA

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the public relations unit within TSA.

Leave granted.

The Hon. DIANA LAIDLAW: Last year a gold and white, multi-coloured glossy and expensive pamphlet was printed to publicise the work of the public relations unit within Tourism South Australia. It is of some interest that copies of this publicity promotion pamphlet are as scarce as hen's teeth. I have been provided with a copy by a disgruntled staff member, but the pamphlet is not freely available through TSA, notwithstanding the fact, as the Hon. Mr Lucas noted earlier, that we have freedom of information legislation in this State. In fact, I am informed that the pamphlets remain sealed in the very same boxes in which they were delivered to TSA.

Apparently, Michels Warren produced the pamphlet for $4 500 at the request of the public relations unit but, when the Acting CEO heard about the initiative, he did his block and ordered that they not be distributed. At a time when funds for tourism promotion and marketing are so scarce, I ask the Minister:

1. What is to be the fate of this pamphlet which was produced for the public relations unit for publicising its activities? Will it be distributed, as initially planned, or will it remain under lock and key?

2. Is the Minister aware whether it is the intention of all divisions within TSA to produce a pamphlet to publicise its role and function?

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I am not sure whether she has seen it, but I can certainly provide her with a copy. My questions continue, as follows:

3. Has the public relations pamphlet been paid for, and who authorised the account?

The Hon. BARBARA WIESE: I would be very grateful if the honourable member gave me a copy of this pamphlet; as far as I am aware, it has not been drawn to my attention. However, I think I can say that it would not be the intention of the various divisions of Tourism South Australia to produce brochures on their operations although, in general terms, information is available which describes the functions of the various divisions of the organisation and which is distributed to appropriate people so that they have information about the organisation and are able to access officers who may be of some assistance to them, whether they be members of the industry, the media or the general public. In the past, documents have been produced which provide this sort of information and which have been made available to the appropriate people.

As to matters relating to this brochure and any plans for its distribution, I will have to seek a report from the Acting Managing Director, and I will provide that information as soon as I am able.

WHYALLA MOTEL SALE

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister for Local Government Relations a question about the Whyalla City Council land sale.

Leave granted.

The Hon. I. GILFILLAN: As members may have noticed from this morning's media, the Whyalla City Council could be described as being in turmoil following allegations of corruption, a call for the sacking of its City Manager, David Knox, and a motion of no confidence in the Mayor, Mr Russell Reid.

A council meeting on Monday night saw documents tabled and allegations made against councillors of alleged irregularities involving the proposed sale of a council property, the Whyalla Foreshore Motel, to Deputy Mayor, Mrs Barbara Derham. The allegations, by Councillor Eddie Hughes, centre on two main issues: first, the original valuation for the property as determined by City Manager, David Knox, was set at $610 000 but, after investigation and public questioning about the proposed sale, Mr Knox revalued the property upwards by $140 000 to $750 000. I note that in the newspaper report, Mr Knox claimed that he had had two valuations provided.

Secondly, the method of sale has been challenged by Councillor Hughes, who claims that in the interests of ratepayers the property should have been offered for sale by public tender or auction. However, according to Councillor Hughes, the sale was arranged privately between Mr Knox and Deputy Mayor Derham and, had it not been for public revelation of the matter, ratepayers may have lost at least $140 000 on the deal. The tabling of documents relating to this matter on Monday night, the allegations of corruption by Councillor Hughes, the call for the sacking of Mr Knox and a vote of no confidence in Whyalla's Mayor, Mr Reid, have apparently split the council.

According to Councillor Hughes, there is widespread concern among the people of Whyalla about this particular deal, and his allegations directed at Mayor Reid, Deputy Mayor Derham and Mr Knox are of profound concern. My questions are:

1. In the interests of the concerned ratepayers of Whyalla, will the Minister give an undertaking to hold a full investigation into the Whyalla Council's handling of this matter?

2. Will the Minister ensure that the sale of the council property in question be put on hold until that investigation has been completed?

3. Will the Minister undertake to present to Parliament the findings of the investigation?

The Hon. ANNE LEVY: The first indication I had of this matter with the Whyalla City Council was the report in this morning's *Advertiser*, which the honourable member has read out. As Minister for Local Government Relations, I do not get involved in the affairs of particular councils in the same way as I had a responsibility and power to do as Minister of Local Government. In this instance I am afraid that at this stage I know no more than has appeared in the press.

Certainly I have received no request from any member of the council for any investigation, nor have I received any request regarding the possible legality of the procedures that have been adopted. Of course, if there is any suggestion of illegal behaviour on the part of the council or any of its members, that is a matter for the Government to investigate. I certainly have received no request for such an investigation to be carried out, nor any request to examine the legality of the procedures adopted by the Whyalla City Council in this matter. I will certainly have inquiries made to ascertain whether there is any further information that I can obtain and, if so, I shall be happy to provide it to the honourable member.

ARTS FUNDING

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about arts funding.

Leave granted.

The Hon. L.H. DAVIS: A major plank of the Dunstan and Tonkin Governments and the early years of the Bannon Government was a commitment to the arts. 'Festival State' adorns the number plate of South Australian motorists and our biennial Festival of Arts, our established North Terrace cultural institutions, the network of museums in Adelaide and country South Australia and a strong commitment to craft, community and regional arts have been a feature of the past two decades. However, in the past few weeks it has become obvious that arts in South Australia is about to have its throat cut on the altar of the State Bank. Many people in the arts have confirmed that officers from the Department for the Arts have advised them that cuts in money terms of at least 10 per cent will be made not only in 1992-93 but also, quite possibly, in 1993-94. That, of course, represents a cut in real terms, after adjusting for inflation, of up to 15 per cent.

Morale in the arts community in South Australia is at its lowest ebb in memory. Many arts leaders and others committed to the arts have expressed their anger to me over the fact that the Bannon Government's commitment to the arts appears to have evaporated. As one arts leader remarked to me only yesterday, it will soon be pointless having a numberplate with the slogan 'Fringe State', let alone 'Festival State'. The Bannon Government appears to be asking the arts in South Australia to cut back harder than any other area, and all this at a time when Australian and overseas experience is that economic growth in the 1990s will be driven by quality of life issues. The Minister would be aware of the success of such cities as Glasgow and San Diego, which have placed heavy emphasis on quality of life, as businesses seek to locate, not where population is necessarily largest, but where quality of life is best. New South Wales, Queensland and Victoria have all recognised this phenomenon at the very time that the Bannon Government is rejecting it. For example, the embattled Kirner Government, in its 1991-92 budget, stated:

> The Government recognises the importance of the arts in establishing a cultural identity for Victoria and in the promotion of Melbourne as the cultural capital of Australia. To this end the Government has recently launched 'mapping our culture', a cultural policy for Victoria which provides a framework to identify opportunities and to plan for our future.
>
> Government funding of the arts industry contributes to employment, economic and social development as well as providing opportunities for tourism and other related industries.

The Melbourne International Festival is quite clearly setting out to catch Adelaide's internationally renowned arts festival, and it is already breathing down our neck.

Notwithstanding the opening of the Lion Arts Centre yesterday, the Government's record in the arts in the past 12 months has been highlighted by the failure to proceed with the extensions of the Art Gallery of South Australia. The acquisition budget for both the Art Gallery and the State Library remains by far the lowest of any mainland State, and cuts and centralisation of regional arts appear imminent. The arts community is angry and dismayed at the Bannon Government's indifference, disinterest and lack of awareness of the close link between cultural life and economic strength. My questions to the Minister are:

1. Will the Minister categorically deny that departmental officers are advising arts bodies that money cuts of at least 10 per cent are proposed in the 1992-93 State budget?

2. Will she confirm that these extraordinary cuts are as a result of the massive losses suffered by the State Bank of South Australia and the annual interest burden of $220 million a year?

The Hon. ANNE LEVY: What an extraordinary tirade from the honourable member. Obviously he attended the opening of the Lion Arts Centre yesterday and was totally immune to the many expressions of enthusiasm, joy and pleasure from the very large number of arts community members who were there. There was praise, congratulations and thanks to the Government given by many people, both publicly and privately, and there was enormous enthusiasm for the provision of the Lion Arts Centre, which was so spectacularly opened yesterday. I cannot imagine whom he was talking to. He was present, but presumably chose not to listen to the many conversations which occurred for many hours.

The Hon. L.H. Davis: We're not talking about the opening; we're talking about the next 12 months.

The PRESIDENT: Order!

The Hon. ANNE LEVY: There were members of the arts community from all areas of the arts at the opening yesterday and, as I say, it was received with great enthusiasm. I am staggered that, the day after this inauguration of such an important achievement, the honourable member should come in and start whinging instead of giving credit and sharing the general enthusiasm for this major cultural venue which opened only yesterday. The comments he makes regarding morale are ludicrous unless he walked around the Lion Arts Centre yesterday with cotton wool in his ears. The morale evident yesterday was totally different from the picture he is attempting to develop here. He speaks of the number plates which this State has, where South Australia is indicated as being the Festival State.

To suggest that this Government is not enthusiastic about the Festival of Arts is patently absurd. I have stated on numerous occasions—and I am sure that anyone involved

in the arts in this State is well aware of the fact—that the State Government's contribution to the festival about to begin later this week is 50 per cent greater than that given for the 1990 festival. How the honourable member can pretend that there is not a commitment by this Government to the world renowned Festival of Arts is—words fail me as to the attitude that he is taking in this regard.

As has been pointed out on numerous occasions, we have increased our funding for the 1992 festival to 50 per cent above that given for the 1990 festival. We are providing $2.2 million for this festival. To suggest that this Government does not support the festival, and that we should not have 'The Festival State' written on our number plates, is just totally absurd.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: This State has a very proud record in the arts. Many of the honourable member's assertions are totally erroneous. He speaks of our dismal record in the past 12 months. In the past 12 months this Government has maintained the budget for arts funding. We have not only completed and opened the Lion Arts Centre but we have increased the festival funding and have provided substantial assistance to the rock industry in this State. We have not cut back on any major programs.

We have signed an agreement with the Local Government Association regarding the funding of the 135 public libraries in this State, in which we have guaranteed to maintain funding in real terms for that extensive network of libraries. This agreement has been hailed widely by councils all around this State as maintaining our library system.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: When it comes to expenditure on the arts, there is no doubt whatsoever that South Australia spends more per capita than any other State in Australia. I have the figures in front of me, if the honourable member would care to hear them. These figures are prepared in Victoria, so there can be no question of any bias in their preparation. They have been prepared by a senior person in the arts in Victoria and we have to take into account the expenditure on similar items where different things may be included under the arts in different States. The most accurate available data shows that the South Australian Government spends $39.62 per capita. The next closest is Tasmania which spends $31.01 per capita.

The Hon. Diana Laidlaw: You have spoken for so long that you've forgotten the question!

The Hon. ANNE LEVY: The honourable member, who is no longer shadow Minister for the Arts, interjects that I am not answering the question. I am answering the numerous assertions made by the honourable member in his very lengthy question, most of which bore very little relationship to the question he finally asked.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: My answer bears a great deal of relationship to the assertions he made and the opinions he expressed, quite contrary to Standing Orders, in explaining his questions.

The Hon. L.H. Davis: Do you catagorically deny that departmental officers are advising arts bodies—

The PRESIDENT: Order!

The Hon. C.J. Sumner: Who's running this place? Are you in charge or not?

The PRESIDENT: Order! The Hon. Mr Davis has asked a question. I strongly suggest that he listens to the answer. If he is not happy, he can ask another question.

The Hon. ANNE LEVY: In the honourable member's diatribe he spoke about the Government's record over the past 12 months in the arts which, as far as I know, had nothing to do with the question he finally asked. However, seeing he raised the matter in his explanation, I feel perfectly entitled to raise it in my reply to him and answer the nonsense that he is purveying.

The Hon. Diana Laidlaw: I think you are going to speak until quarter past three so you don't have to get to the answer.

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: It is amazing how the previous shadow Minister for the Arts takes such an interest when she is no longer the shadow Minister.

The Hon. L. H. Davis: Answer the question; you are refusing to answer that question.

The PRESIDENT: Order! If members would give the Minister an opportunity, she would.

The Hon. ANNE LEVY: The whole country and indeed the whole world is in recession at the moment. This is hardly news, but I repeat it for the benefit of members opposite, in case they have forgotten. Because of this, it is extremely likely that there will be cuts to various Government functions in the next budget.

The Hon. L.H. Davis: Ten per cent.

The PRESIDENT: Order!

The Hon. ANNE LEVY: How much, Mr President, has not been determined and obviously cannot be determined at this stage. Budgets that are to start on 1 July have not been determined at the end of February, and I would have thought that the honourable member would realise that. There is no question that economic times are very tough, and there may well be cuts in not only the arts budget but in all agency budgets across Government. That is hardly a secret, as anyone who is aware of the current financial position around the world would realise.

As indicated in the honourable member's explanation, there is no question of the arts being singled out. This is a matter across Government. Times are tough. There will have to be reductions in Government spending over a whole range of agencies and functions, and the arts is not immune from that. It is not being singled out in any way. It is hardly news that times are tough and that cuts are likely in a whole range of areas across the State budget. Any question of a percentage has not been determined.

The Hon. L.H. Davis: Why are they talking about 10 per cent all the time?

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: Thank you, Mr President. He is like a cracked record; he keeps saying the same thing. I am well aware that there has been discussion about possible cuts of 10 per cent, Mr President, but these are based purely on hunches. No decisions have been made regarding the forthcoming State budget—and I am sure that every Minister would endorse that comment—which does not start for many months to come. There may well be discussions about cuts of 10 per cent. I have heard other figures mentioned also.

The Hon. L.H. Davis: Fifteen per cent is the other figure I have heard. I was trying to be generous.

The PRESIDENT: Order! The honourable member will come to order. The honourable Minister.

The Hon. ANNE LEVY: As I am trying to say, Mr President, I have heard other figures talked about. These are hunches only. I reiterate: no decisions have been made as to the extent of any cuts which may occur in the forthcoming State budget. No Minister would be able to tell you what is going to occur in their budget in the forthcoming

State budget. Budget discussions are at the most preliminary of stages. There are many months to go before the State budget is brought down and until decisions are made any figures being quoted can only be regarded as guesses.

NATIVE VEGETATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister for Environment and Planning a question about roadside vegetation management on Kangaroo Island.

Leave granted.

The Hon. M.J. ELLIOTT: Over the past month I have received a number of reports from many sources that excessive clearance of roadside vegetation has been carried out on Kangaroo Island by the District Council of Kingscote. Remnant roadside vegetation provides important habitat for many species of animal, some of which are unique to the island and are scheduled species under the National Parks and Wildlife Act.

The verges contain many plant species which are also unique to the island. As I am sure the Minister of Tourism would attest, roadside native vegetation is a major factor in the visual attraction and character of the island for tourists. The letters I have received relate to Hickmans and McHughs Roads where a bulldozer has been used to push large heaps of vegetation cleared from road verges into the remnant vegetation. This practice has the effect of breaking up wildlife corridors and causing unsightly fire hazards.

An apparent justification for the clearing has been safety but two letters I have received from people concerned about the activity have pointed out that, apart from a few isolated branches hanging out onto the carriageway, safety is not affected by native vegetation and that the speed of vehicles along the two roads has increased since the clearance took place. On letter from a tour operator on the island states:

> I find it embarrassing to be asked by visitors why the roadside is being cleared, particularly when I have just explained the ecological importance of the roadside vegetation.

Four years ago a roadside vegetation management plan was prepared by a consultant, Keith Bellchambers, under the guidance of a steering committee. The plan contained recommendations for the management of roadside vegetation on the island in an environmentally sensitive manner. One of the most important recommendations was that heavy machinery use should be restricted and that less intrusive methods be used to manage the roadsides. The plan was paid for jointly by the Department of Environment and Planning and the two island councils but has never been adopted by the District Council of Kingscote or endorsed by the Vegetation Council. My questions to the Minister are:

1. Under what authority is the council clearing roadside vegetation, given that the island's roadside vegetation management plan has not been endorsed by the Vegetation Council?

2. Why was the management plan not ratified and why did the Minister allow it to remain in limbo for four years?

3. What action will the Minister take to ensure that the inappropriate clearance of native vegetation along Kangaroo Island's roads ceases?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

ROYAL VISIT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General a question about the royal visit.

Leave granted.

The Hon. J.C. BURDETT: In the press last week it was reported that the Attorney-General with the Minister of Transport in another place and some other Labor members did not intend to be present at the official lunch that was jointly sponsored by the Government and the Adelaide City Council in honour of Her Majesty the Queen of Australia. In last week's *Advertiser* the Attorney was reported to have stated that he did not intend to be present. In this morning's *Advertiser* it is reported that the Attorney-General worked at his desk all day yesterday—

The Hon. L.H. Davis: Cut lunch.

The Hon. J.C. BURDETT: —and took a cut lunch. I am quite ready to acknowledge that the Attorney is a hard-working Minister, and I would expect that, as he had decided to boycott the Queen's visit, he would have worked in his office and not gone fishing or something of that kind. My copy of the schedule for the sittings of Parliament for the 1992 part of this session scheduled yesterday as a sitting day, which would have involved Caucus in the morning and Parliament in the afternoon. The sitting for yesterday was cancelled comparatively recently, so it is difficult to see that the honourable Attorney had many appointments at the time of the luncheon. Because of the visit, it would not have been possible to make many appointments at this time as many other persons would have been involved with the luncheon.

Her Majesty is the Head of State and the honourable Attorney has the honour to be one of her Ministers and advisers in South Australia. I do not know why the Attorney could not have rearranged his busy schedule to honour the visit of the Head of State, which was enthusiastically supported by very many citizens of South Australia. Just why did the honourable Attorney not attend on the occasion of Her Majesty's visit?

The Hon. C.J. SUMNER: I have explained why publicly on a previous occasion, and the explanation is quite simple. I received the invitation. I receive large numbers of invitations: where my wife and I are invited to go, I discuss the matter with her. I did this on this occasion, and we decided not to go. It is as simple as that. To suggest that there is a boycott is ridiculous, and to suggest that in relation to other members of Parliament is also ridiculous. There was no organised decision of those members of Parliament to stay away from the Queen's lunch. As the honourable member would know—and I am surprised that he has continued this defamatory allegation in the Council—a boycott, according to the *Oxford Dictionary*, is to combine to punish or to coerce persons, a class or nation by systematic refusal of social or commercial relations. Clearly, this was not an organised decision by Labor members to boycott the Queen's lunch. It was a decision taken on an individual basis and had absolutely nothing to do with a boycott.

Of course, it was something that the media here wanted to relay, because what we know as a feature of South Australia's media is the copycat syndrome. If something happens in the Eastern States, then we must have our own home-grown version of it. In New South Wales, apparently there was a boycott consciously organised as such. In South Australia, despite the media portrayal of the matter, there was no such boycott. Despite what the honourable member has said in this Parliament today, there was no such boycott. They were individual decisions taken by members who were

perfectly entitled to do so. There was nothing sinister in my decision. As I said, I discussed it with my wife and we decided on this occasion not to go. I have attended royal functions on previous occasions for Her Majesty, Prince Philip, the Prince of Wales and, I think, others. In 1986 my wife and I hosted a luncheon at the Wayville Showgrounds for some 120 or 130 people, which the Hon. Ms Wiese attended.

The Hon. Barbara Wiese: Very graciously hosted, too.

The Hon. C.J. SUMNER: And it was very graciously hosted by me and my wife, thank you, Ms Wiese, and I enjoyed the occasion. So, it is not true to say that I am boycotting the Queen or that I would not lunch with the Queen. On this occasion it was simply a personal decision not to go. I am somewhat surprised by the reaction displayed by the media and by some sections of the public. Most of the time, as a member of Parliament I spend my life being vilified by members of the public who think I continually have my snout in the trough; that I am a loafer, that I do not do any work and that all I do is have free lunches, free perks, overseas travel and all the goodies that this amazing life brings to us all. That is the general public's view of my role in this State, and one only has to pick up the newspaper virtually every day of the week to see that sort of vilification, not just of me but also of other members. Well, on the one occasion when I decide that my snout will not be in the trough, when I decide not to go to the free lunch to which all other members went—

The Hon. Barbara Wiese: That's not a reflection on anyone?

The Hon. C.J. SUMNER: No, it is not a reflection on anyone. You all went and I am sure you all enjoyed it.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Having been to these things before, I am sure that it was a very posh lunch. I am sure that the very best of South Australian products were on display. I am sure that the best South Australian wines were available to all the people who went to the Queen's lunch, and I am sure that you all had a very good time. Having declined to enjoy one of the perks of office I am now vilified by the media, by members opposite and by sections of the general public—for doing the very opposite of what I have been vilified for allegedly doing before. As has been said, in this game one cannot win. However, I imagine that what would have been useful for all members to have done would have been to decline and let some ordinary members of the public go along to the lunch and enjoy lunching with the Queen. It seems to me that that would have been a more productive thing for members opposite to do.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The fact of the matter (and I have not checked it, but I presume it to be the case) is that if I did not go, the Hon. Mr Feleppa did not go and others did not go, it meant that 10 positions were potentially available for other members of the public. Rather than being condemned for that, we should have been applauded.

DISABLED CHILDREN

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about funding for disabled children requiring residential support.

Leave granted.

The Hon. BERNICE PFITZNER: I understand that funding to disabled children receiving residential support will be significantly reduced. These services provide either respite care for the family or support in the home. Due to the recent new awards being negotiated for welfare officers, these services will need increased funding. Four main services will not be able to continue if funding from State and Commonwealth is not continued, taking into account the new wage award. These four organisations are:

1. The Alternative Accommodation for the Intellectually Disabled;
2. The Lamont House at Victor Harbor for community living option;
3. The community living project in Christies Beach; and
4. The Elizabeth Bowie Lodge in Parafield Gardens.

Elizabeth Bowie Lodge, in particular, has 85 people from six to 26 years, of whom 80 are children, all of whom are intellectually disabled and some multiply handicapped. The lodge provides respite and residential care for those children. I understand that the emergency funding has been provided until March. My questions are:

1. Will funding for these four organisations continue after March 1992?
2. If the funding needs to be increased due to the new awards, who will pick up the extra amount?
3. If the Commonwealth component of funding does not include the increase due to the new award, will the State cover the extra amount necessary and, if not, what will be the implications for these organisations?
4. Are the State and/or Commonwealth Governments considering terminating these services?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

FREEDOM OF INFORMATION

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about freedom of information legislation.

Leave granted.

The Hon. R.I. LUCAS: Earlier in Question Time, I addressed to the Attorney-General a series of questions on freedom of information, which he handballed to the Minister. I wish to pursue one aspect in particular. The Minister may well recall that the Attorney indicated that he would not be surprised if ministerial officers were involved in the vetting or processing of freedom of information requests from members of Parliament and others prior to Ministers making decisions. In the light of the Attorney's statement, will the Minister indicate the position in relation to ministerial officers' involvement in processing of freedom of information requests from members of Parliament and others in the community?

The Hon. ANNE LEVY: I cannot speak for other Ministers, but I can assure the honourable member that I have given no instructions that all requests—

The Hon. C.J. Sumner: What's wrong with being involved?

The Hon. R.I. Lucas: I just want to know what the process is. You said to ask her, and she says she doesn't know. Who does know?

The PRESIDENT: Order!

Members interjecting:

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

The Hon. ANNE LEVY: If the honourable member wants to hear my reply, I am happy to give it: if he does not wish to, I am equally happy to sit down, I can assure him.

An honourable member interjecting:

The PRESIDENT: Order! I cannot hear it over the honourable member's, either.

The Hon. ANNE LEVY: I have given no instructions to any of my agencies that requests from members of Parliament or anyone else in relation to FOI should be referred to me. I have given no instructions that my ministerial officers are or are not to be involved. As far as I am aware, the agencies for which I am responsible have received no requests under freedom of information legislation and, if they have, it has certainly not been drawn to my attention.

While I am on my feet, I would like to provide some information which was not part of the honourable member's question to me but which was part of the honourable member's earlier question to the Attorney-General in which he complained about the unavailability of manuals. I can assure the honourable member that over 400 manuals were printed, and these have been distributed as requested to any inquirer for them. They ran out this week. More are being printed and will be available in a few days, and any outstanding orders for them will be filled as soon as the re-printing occurs. I am sure that the honourable member would know—though he chooses to ignore it—that special training sessions were held for all electorate staff on FOI, which certainly included members of Parliament. Copies of the manual were made available to all electorate staff who attended those training sessions; they are certainly available to members of the Liberal Party and are probably held by many of them.

COURT FEES

Adjourned debate on motion of Hon. K.T. Griffin:

That the regulations made under the Supreme Court Act 1935, relating to fees, made on 15 August 1991 and laid on the table of this Council on 20 August 1991, be disallowed.

(Continued from 12 February. Page 2662.)

The Hon. M.S. FELEPPA: I rise to oppose the motion and, in briefly speaking to it, to respond to some of the comments and misunderstandings expressed by the Hon. Mr Griffin in relation to court fees as contained in some aspects of his speech on the motion. I remind honourable members that this regulation to which the Hon. Mr Griffin referred was approved without dissent by the Joint Committee on Subordinate Legislation on 28 August 1991. Now, six months later, the honourable member has decided to raise the disallowance of these regulations, a long time after it came into force. In his brief speech not long ago the honourable member stated:

I want to use this motion to raise a few issues about the courts and court fees.

In particular, it makes me wonder why the Hon. Mr Griffin has taken so long to raise this matter. Six months is a long time for regulations to be in force before the honourable member sees fit to take any action. I suspect, quite frankly, that it is not his Party that is raising the issue. I say that because, if indeed it was a Party matter, the other members of his Party—the Hon. John Burdett of this place and John Meier from the other place—who sat on the Joint Committee on Subordinate Legislation at the time would have sought disallowance on 28 August 1991. When the regulations were before the committee for review there was no question of disallowance then. This regulation was not disputed at all but was passed unopposed, as I have already said, and approved in the terms in which the regulations now stand.

The reason given by the Hon. Mr Griffin for the disallowance of this regulation relates to his objection to some of the increases in charges and the introduction of a new charge of a daily sitting fee, namely, $150 for the Supreme Court and $100 for the District Court. I certainly do not intend to expand upon each item raised by the Hon. Trevor Griffin in his speech. However, I agree with him that legal fees must be kept within reasonable bounds, as he stated. It can be demonstrated—and the honourable member should agree with me—that legal fees go to make up the greatest part of the burden on litigants. That therefore places some responsibility for the financial burden of litigation on the shoulders of the legal profession which, in my view, deserves a reward and recognition for their skill and dedication.

If the full cost of the operation of a court were to fall on litigants, they would have to find up to $5 000 per day. That $5 000 would, as the honourable member said, be a user-pays system. However, one cannot call it user-pays when, instead of paying $5 000 per day, one pays only $150 or $100 respectively. It is simply a recovery of costs, which are a fraction of the real cost of a day in the court.

If one were to call out a tradesman for repairs at home, the call-out fee for one person could be $40, $50 or $60, depending on the trade and skills of the tradesman called. A plumber, for example, charges $35 to attend and install a new washer in a tap, and that takes no more than 10 minutes. I certainly would not quibble with that because it is worth the convenience of getting the job done and, more so, to stop a tap leaking and save our precious water.

When the court assembles there is an array of expertise, and I am sure that the Hon. Trevor Griffin, being a lawyer and professional in legal matters, would be well aware of that. We have a judge, an usher who guides people within the court, a reporter and a number of other facilities. The litigants get all that for $150 or $100 for what could be a full day's work. Why, then, does one quibble with that? If there were no fees we would be inviting litigation for frivilous or vindictive reasons, perhaps for the fun of it.

The fee, as the honourable member would realise, serves as a barrier, but that should in no way deter the serious litigant with a real cause to be heard by the court. The $150 or $100 could be half, one-third or even one-quarter of one's take home pay. If the litigant suffers real hardship but is not entitled to legal aid, the Local and District Court at least has the power to waive fees where it thinks fit. A litigant must think carefully before going to the court and consider the cost of litigation against the seriousness of the issue and the possible outcome.

While fees and charges have been increased marginally, adding to the cost of litigation, a legislative restructuring of the courts affords access to the courts and reduces the cost of litigation. This is in keeping with improving social justice. The legislative restructuring takes account of time spent in court, and reduced time in court would be a saving in legal fees. A further opportunity exists for saving where there is a provision for a pre-trial conference at which a resolution for a reasonable person may be found before a matter gets to trial.

It is fair to say, however, that the legal profession must carry a share of responsibility for the cost of litigation. It is also fair to say that the Government recommended regulations 176, 177 and 178, the regulations in question, thereby demonstrating that it accepts its responsibility.

The Joint Committee on Subordinate Legislation, which was made up at that time of Liberal Party and Labor Party members, with one Independent, Mr Evans, reviewed and approved this regulation. Its responsible opinion then was that the disallowance of the regulation should not be sought from Parliament, and I think that would be the opinion of the committee today.

In conclusion, I accept that the Hon. Mr Griffin has moved this motion in order to raise a few issues about court matters, including fees, but I cannot support it because it does not in any way suggest any constructive solution. For that reason, I oppose the motion and urge all members to do likewise.

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

LOCAL AND DISTRICT CRIMINAL COURTS ACT

Adjourned debate on motion of Hon. K.T. Griffin:

That the regulations made under the Local and District Criminal Courts Act 1926, relating to fees, made on 15 August 1991 and laid on the table of this Council on 20 August 1991, be disallowed.

(Continued from 12 February. Page 2662.)

The Hon. M.S. FELEPPA: I believe that this motion is of the same nature as the previous one. Therefore, the comments I made in relation to the previous motion apply to this matter as well. For that reason, I oppose the motion.

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

PROSTITUTION BILL

Adjourned debate on second reading.

(Continued from 30 October 1991. Page 1515.)

The Hon. K.T. GRIFFIN: I do not support the second reading of this Bill. That may not come as any surprise to members of the Council who may remember that, in relation to the Bill presented by the Hon. Carolyn Pickles in 1986, I indicated the same position. Whilst I do not support the Bill—and I canvassed in 1986 my various reasons for not supporting the legalisation of prostitution—it is important to reiterate some of the points I made on that occasion and to make some additional observations about this important issue. It is an issue of continuing public debate and controversy, and one certainly makes no criticism of either the Hon. Mr Gilfillan or the Hon. Carolyn Pickles in relation to her Bill in 1986 for putting the subject before members for consideration.

There are some very widely held views on this subject in the community. Many of those views have been canvassed by Mr Matthew Goode, who is presently full time in the Attorney-General's office, in his information and issues paper on 'The Law and Prostitution' in July 1991. Whilst that was a much more comprehensive paper than the background paper tabled by the Attorney-General in either 1985 or early 1986, nevertheless it proffers points of view which an issues and information paper is certainly entitled to do, but makes some judgments based on the author's own assessment both of the law and the moral and practical position. To that extent, therefore, Mr Goode's paper in itself attracted some criticism as well as some commendation.

The Attorney-General's background paper in 1985 or 1986 did confine itself to indicating what the law was at the time and did not proffer judgments about the law and whether or not it should be changed and, if so, in what direction. I must say that I found Mr Goode's paper helpful in giving a range of views on this difficult issue. However, there are many areas on which I do not agree with his conclusions, and I suppose that is understandable. As I have indicated already, the issue is one upon which members of the community hold widely divergent views.

As have other members, I have received a range of submissions on this Bill from various churches, the Prostitutes Association, Disabled Persons International and many others. I have endeavoured to read those and absorb the arguments which they present and the points of view for which they argue. Whilst I do not agree with all those submissions, I did endeavour to assess them and note each one. I will deal with one or two of those in the course of this debate.

It is clear that a lot of attention has been addressed to the issue of the causes of prostitution, and I suggest that this Bill does not really seek to come to grips with the causes of prostitution but seeks to address the issue as it is now, and focus on individual relationships and rights and the consequences of some legal structure within which prostitution may exist.

In the 1985-86 paper of the Attorney-General the causes of prostitution were identified as falling into four general groups, and related in that paper specifically to women. The categories which were identified then were: first, women who are severely disadvantaged socially and economically; secondly, women who are poor and/or in debt or supporting children or who are unemployed; thirdly, women who are subjected to coercion by partners or acquaintances through threats or by use of drugs; and, fourthly, women who seek money for a specific purpose, for example, to support themselves while studying, to pay for a large debt or to acquire an expensive item.

It is interesting to note that back in 1959 there was a study on the traffic in persons and prostitution by the Department of Economic and Social Affairs of the United Nations. I referred to this in 1986, but it is important historically to refer to it again. It was a report on the principles embodied in the 1949 United Nations convention for the suppression of traffic in persons and of the exploitation of the prostitution of others. It identified similar causes of prositition as those to which I have referred as being drawn from the Attorney-General's paper in the mid-1980s. That United Nations study stated:

> Since prostitution reflects existing social conditions, its prevention depends to a certain extent on the way in which general social policies are implemented. In order to increase the preventive, although indirect, effect of these policies, the following measures are suggested:
>
> *(a)* improvement of social and economic living conditions, particularly of the low income groups;
>
> *(b)* improvement of housing conditions, and the establishment of priorities, especially for families with several children;
>
> *(c)* effective application of the principle of equal pay for men and women performing work of equal value;
>
> *(d)* extension of educational training and apprenticeship facilities and courses for juvenile and young women workers . . .;
>
> *(e)* provision of sex, health and mental hygiene education in schools and colleges . . .;
>
> *(f)* improvement of the status of women especially as regards their political status, status in the family and in legal relationships, as well as in social security and other welfare benefits, including pensions, without distinction as to whether a woman is married or not; . . .

It is interesting that even now there is continuing concern about the fact that there is not yet equal pay for men and

women performing work of equal value; that opportunities for educational training and apprenticeships are still denied to women who may wish to avail themselves of those opportunities; and that there is still a significant amount to do to improve the status of women in Australia and to provide opportunity.

But, overriding all that, are the continuing economic problems which face our society and which are certainly much worse than they were in the mid-1980s, when the Attorney-General's discussion paper was tabled in Parliament, and probably as bad as those circumstances in 1959. One of the reasons for the continuing resort to prostitution is undoubtedly the economic pressures and stress on women and their families, and that has still not been addressed by the Federal Government in particular.

A forum in the mid-1980s was addressed by an advocate for prostitutes who made the point that, when women have real equality of opportunity, equal access to resources and play an equal part with men in our society, the necessity to turn to prostitution and the incidence of prostitution will be, if not abolished, at least significantly reduced. So, quite obviously that is an area which requires the attention of Governments in ensuring that there are opportunities for women in particular to improve their status and self-sufficiency.

In the information and issues paper presented by Mr Matthew Goode, he made some reference to the two United Nations conventions—the 1949 United Nations convention for the suppression of traffic in persons and of the exploitation of the prostitution of others, and the convention on the elimination of all forms of discrimination against women—and argued that those conventions have been misused by those who seek to rely on them to oppose any legalisation of prostitution. In relation to the 1949 convention relating to prostitution, he states:

> This is a very weak reed upon which to rely. The preamble to that convention states that prostitution and associated activities are incompatible with the dignity and worth of the individual and endanger the welfare of the family, the community and the individual. However, the parties to the convention did not agree to make prostitution an offence or prostitutes criminals in any way. Rather, the parties agreed to criminalise procuring and the exploitation of prostitution, and to make the management, financing and keeping of brothels a criminal offence.

He goes on to say:

> To that extent, the convention is inconsistent with reforms based on the abolition of traditional criminal offences.

In relation to the convention on the elimination of all forms of discrimination against women he states:

> [That convention] contemplates criminal sanctions as one of a number of measures that may be taken in order to suppress all forms of traffic in women and the exploitation of prostitution.

It is quite obvious, I suggest, that whilst these two conventions are used to argue for and against legalisation, the spirit of each convention is that prostitution is not to be supported and that steps must be taken to ensure, as much as it is possible to do so, that prostitution and associated activities are not promoted. Those conventions recognise that prostitution is incompatible with human dignity and the worth of the individual and the family, and that steps must be taken to ensure that prostitution is eliminated. That is certainly desirable, although commentators and those arguing one position or the other will recognise that prostitution has been around for thousands of years and that it is unlikely to be stamped out absolutely.

I have made no secret of the fact that I am opposed to the legalisation of prostitution. I recognise that it presently exists and, as I have indicated, has for thousands of years, but I suggest that the fact of its existence is no reason for saying that, because it exists and because stamping it out will be difficult, it should be tolerated and in fact made legal under our law with the seal of approval by the State delivered through an Act of this Parliament. Although some may criticise this point of view, nevertheless I adhere to it; that the legalisation of prostitution does give a lead to the community by the leaders of the community indicating that the authorities condone prostitution and set a standard for it. I suppose that that is consistent with the argument I have raised in relation to the legalisation of marijuana: that if it is legalised it sets a standard of acceptability and, whether or not those who promote legalisation in fact condone prostitution—and many do not—the fact is that that is the perception of acceptability that is created.

I have made the observation on a number of previous occasions and make it again that, whether the prostitute is female or male, I hold the view that the law should not recognise it as a valid and approved occupation or practice. I recognise, too, that the law in South Australia places an unequal burden on the prostitute compared with the position of the client, who escapes virtually scot-free from any criminal proceedings. That is something I believe needs to be appropriately addressed if the law is to remain in favour of some form of criminalisation rather than legalisation and some form of regulation as is proposed in this Bill.

Prostitution is degrading to human relationships and is exploitative and, whilst it is argued that it is a so-called victimless crime, nevertheless the community and Governments must accept responsibility for the consequences of prostitution. Those consequences impinge on many people regardless of age, status or occupation within the community. Of course, there are some options for dealing with prostitution. We can maintain the *status quo*, which I think most people recognise as unsatisfactory; we can strengthen the present law to ensure a more even-handed approach towards prostitute and client; we can legalise and regulate; or we can decriminalise with what some might regard as appropriate safeguards. My preferred option is to strengthen the present law. Legalisation and regulation put the State in the position of recognising and licensing brothels, and decriminalisation or legalisation does nothing to assist the current problems.

In the United Kingdom there is what I would regard as an appropriate model for consideration of strengthening the present law. The Sexual Offences Act of 1985 makes it an offence for a woman—and that, obviously, ought to be extended to a man—to loiter or solicit in a street or public place for the purpose of prostitution; for a man persistently to solicit in a public place another man or men for sexual purposes; for a man to solicit a woman from a motor vehicle whilst it is in a street or a public place or in the vicinity of a motor vehicle from which he has just alighted; for a man persistently to solicit a woman for the purpose of prostitution in a street or public place; and for a man to solicit a woman for sexual purposes in a manner likely to cause fear.

As I have indicated, I think that there are very strong arguments not to focus only on one sex but on both sexes. There was an English Criminal Law Revision Committee report in 1985 with respect to off-street prostitution, which recommended the creation of new offences in that it should be an offence for a person for gain to organise prostitution, to control or direct the activities of a prostitute and to assist a person to meet a prostitute for the purpose of prostitution. Three new offences relating to premises used for the purposes of prostitution were also proposed. They were: managing or assisting in the management of premises; letting those premises; and being the tenant or occupier or person in charge of the premises, knowingly permitting their use for the purposes of prostitution. That United Kingdom

background is useful in looking at where South Australia should go if this Bill should not pass.

One issue that the Matthew Goode paper examines is this question of strengthening of the law. He makes the point that this may be by far the most costly option and that, if there were not to be adequate resources applied to the policing of the law one was a hypocrite merely to retain the *status quo* or to change the law to strengthen it without providing for those resources. My only answer to that is that, if the law is enacted by the Parliament, it ought to be administered. If it is unsatisfactory, then it ought to be amended.

If there are difficulties in application of the law, its administration or gaining convictions, then the issues ought to be fairly and squarely addressed and not pushed to one side and ignored. There ought to be a proper emphasis upon policing and administering the law and, if resources are needed, so be it. They should be applied by police and by Governments to police in ensuring that that law is properly enforced. If there is an additional cost in that, again that is something we need to face up to and to accept. Incidentally, the Police Commissioner makes some reference to this. He submitted an article to the police newspaper *In Brief* and made some observations about this sort of legislation. He stated:

> . . . similar to any other legislation impacting on our profession [that is, the police], it is imperative that in relation to prostitution Parliament develops a clear and workable system of laws which are readily enforceable. This has not been so in the past and, consequently, legitimate police actions have been besmirched as the community debates the various moral and social issues.

Later, he says:

> It is fair to say that police at present are in the invidious position of enforcing outdated prostitution laws with limited powers; with limited prosecutorial success; and with complex judicial interpretations adding to complexity of offences such as:
> - keep/manage brothel
> - receive money, etc.
> - permit premises, etc.

In relation to current criminal activities, he says:

> Operators are therefore able to create a veil of anonymity, which makes the police function extremely difficult. This is a national, not only a State, problem.

Here, he was referring to operators of prostitution services using sophisticated technology to avoid detection and investigation, the use of couriers equipped with pagers and cellular phones and capacity to transport prostitutes to clients anywhere, any time. He goes on to say:

> In enforcing the existing prostitution laws, we find ourselves facing criticism not just from the sex industry, but from some politicians, health care workers and community leaders. Our dilemma is that if we do not enforce existing laws, then allegations of corruption quickly surface. And yet when we do, cries of harassment, selective targeting, and forcing prostitutes onto the streets are made, and amplified in any convenient forum, particularly in the media and Parliament.
>
> This is a curious circumstance and it reflects a lack of community resolve to deal with the issue.
>
> The real issue is not just whether present inadequate legislation remains, or whether prostitution is decriminalised and 'regulated'. It is whether the community has been fully informed on all the relevant issues.
>
> I have serious reservations as to whether this is so and am concerned that the community may not be aware of the harmful relationship which exists between prostitution and organised crime, and with the drug trade. In any event, on best information, any controls will only relate to about 40 per cent of the industry which really exists.
>
> Is the community really aware that prostitution is not simply restricted to female prostitutes, but also includes and encourages male brothels, child prostitution, and an entire range of alternative practices such as are readily depicted in pornographic literature?
>
> Is the community prepared for the social consequences which will manifest themselves in greater levels of criminal activity, and which have the potential to expose many to serious health risks and loss of personal dignity?
>
> Is the community aware that should prostitution be decriminalised, there will be increased pressure placed on scarce police resources, not only to ensure compliance with whatever legislation is enacted, but to police those operating outside legal parameters, as has occurred within Victoria?
>
> Unfortunately, while police resources are finite, the community's crime problem is not!

The Commissioner is referring to the difficulty, which has become obvious in Victoria, that police resources are necessary to police the compliance with the system in operation there and deal with not only the system which has been established but those who work outside it.

In his paper, Mr Goode makes the judgment of the Victorian experience as one which is not an easy matter to evaluate. He suggests that so much depends upon the perspective of the evaluator: as with any change of such a kind, there were some winners, some losers, and some whose position did not change. However, there are those who have made a study of the Victorian experience who say that it has created quite horrific and unforeseen consequences in Victoria and that Victoria now has a two-tiered industry—legal and illegal—with legal brothels mainly being controlled by large corporate interests and individuals involved in the management being often impossible to identify.

Some make the judgment that the system in operation in Victoria has not produced a better deal for women working in legal brothels but has resulted in glossy public profiles, harassment and exploitation by management, prostitutes being required to provide menu services to clients, and prostitutes being coerced in to signing contracts, which have the consequence of avoiding a liability for WorkCare and public liability consequences. Unpaid socialising is required as a compulsory consequence of employment. There are systems of in-house fines ranging from $100 for prostitutes for not complying with the brothel's rules, whether onerous or not, and pressure by management not to use condoms upon request by the client.

The conclusion which some have reached in relation to Victoria is that an illegal industry thrives due to the financial inability of smaller operators to contest the complex and expensive licensing system. So, it is obvious that whatever system is in place, whether it is regulation through licensing or other means of so-called decriminalisation or legalisation, or whether it is maintaining criminal sanctions, the problems for a society and for enforcement are equally difficult.

I wish to refer to a number of other issues, not in any special order of significance. First, in relation to the Operation Hydra report, which some have argued supports decriminalisation, it is important to recognise, first, that this was not an inquiry into prostitution. Secondly, it is important to recognise that, whilst a recommendation was made from the National Crime Authority to review the operation of the prostitution law in South Australia, certainly no recommendation was made to legalise prostitution here. In some of its conclusions, the National Crime Authority said:

> 6.19 The NCA's investigation was not concerned with the morality of prostitution, nor was it ever envisaged that people would be charged with offences relating to prostitution as a result of Operation Hydra. In the course of the investigation it became clear that, in spite of often rigorous efforts by police to enforce the law, there was no real probability that prostitution could or would ever be eradicated. The situation, of course, is not unique to South Australia.
>
> 6.20 The current situation in South Australia, where vice establishments operate relatively openly but under threat of arrest and prosecution, creates an environment where rumours of corruption of police and other public officials can flourish. It is evident from reading this report that such allegations, while easily made, are difficult to refute.

6.21 The National Crime Authority therefore recommends that the operation of the criminal law in South Australia, as it applies to prostitution, be reviewed with reference to the law and practice in other States.

Of course, if that review was made and there was a consideration of what the experience was in Victoria, as opposed to New South Wales or even Queensland, one would be able to draw a variety of conclusions from the different experiences and not necessarily be helped to reach any satisfactory conclusion about the question of legalisation or criminalisation of prostitution in those States or about what should be done in South Australia.

Briefly, I now turn to the new Bill, which deals with a number of issues. Many of these issues will be dealt with if the Bill should pass the second reading stage, but it is important to note several of them now. There is a concern about the involvement of children in prostitution and pornography.

The Bill seeks to provide that a person who causes or induces a child to commit an act of prostitution or to have sexual relations with a prostitute is guilty of an offence which, by virtue of the operation of the Bill, is to be an indictable offence. A child is defined as a person under the age of 18 years, but it is provided that where the victim is in fact of or above the age of 16 years the alleged offender may prove that he believed, on reasonable grounds, that the victim was a person of or above the age of 18 years. So, for all practical purposes, we will have a situation where 16 years becomes the relevant age, and that is a matter of concern.

One of the issues identified back in 1985 by the Attorney-General in his background paper relating to child prostitution which caused concern to police is that the powers of the police to enter places where prostitution occurs are proposed to be severely reduced. There is nothing to prevent a child being on premises used for the purposes of prostitution, whether it is a large or small brothel. That issue will be compounded by the Bill because the Bill gives certain powers to authorised persons. It certainly does not override the Summary Offences Act provision, but gives power for authorised persons to enter premises, but those authorised persons are not all police officers but only those persons, whether police or otherwise, who may be appointed by the Minister to exercise the powers of an authorised person for the purposes of the Act. So, we may have some police who are authorised and some who are not, and that in itself will create some problems in policing, as is acknowledged by Mr Goode in his paper.

There is no doubt that from time to time we see instances of children being used for the purposes of prostitution. Clause 26 makes it an offence for a person to permit a child to enter or remain in a brothel for the purpose of committing an act of prostitution or having sexual relations with a prostitute, and that places a significant onus on the prosecution because the purpose will have to be proved. It may be proved by direct evidence, but may have to be proved by circumstantial evidence. It is difficult to discharge that responsibility, and that is why I suggest that, if this legislation is to pass, no child ought to be permitted to be on premises used for the purposes of prostitution. That may make it difficult for those who operate small brothels, but so be it.

Ample evidence exists from other States and overseas that, if there are not strict controls on access by children to these sorts of premises, children will be used for the purpose of prostitution. That will continue to be a major concern, whether prostitution is legalised or remains the subject of criminal sanctions. It is more likely to be a problem in the event of legalisation because of what are likely to be the proliferation of premises used for the purposes of prostitution permitted by this Bill.

Advertising is a significant problem, as is the access to premises carried on for the purposes of prostitution. There is no restriction on where a small brothel may be located, except that they may not be in a restricted zone; that is defined as a residential zone or an area surrounding and extending to a distance of 100 metres from the site of a church, school or kindergarten. It is important to note, as again Mr Matthew Goode points out, that it ignores the situation where there are non-conforming uses, that is, residential development in non-residential zones, and that there are premises used for such purposes as child-care centres, scout or girl guides' halls, community centres, senior citizens centres and similar premises which ought also to be protected. Mr Goode also makes the point, interestingly, that 100 metres might be thought to be insufficient. If we recognise that 100 metres is a very short distance, quite obviously if the Bill is to pass, some consideration needs to be given to that distance.

As I have indicated, the question of small brothels is also a problem because there is no limitation on the location of such premises, which might be in the residential areas or light commercial areas. I made the point in 1985 that shopping centres such as Jetty Road, Glenelg, Commercial Road, Port Adelaide, the Parade at Norwood, Westfield Marion or Tea Tree Plaza might be the sorts of areas where small brothels could be established.

Other issues relate to the Bill, and we can deal with them if the Bill passes to the Committee stage. I hope that it does not. Neither the Bill nor the second reading contribution of the Hon. Mr Gilfillan presents a valid basis for legalising prostitution, establishing a statutory board to license and other controls which are not likely to be effective in protecting those who may be the men or women providing prostitution services in those facilities, and there is no likelihood that this will see any reduction in criminal involvement in prostitution. Rather, it is likely to see an increase because those premises are then likely to attract additional value by virtue of the fact that they will then be recognised by the law.

I conclude by reaffirming my opposition to the second reading of this Bill. My concern is that it will create, if passed, a significant perception that prostitution is acceptable behaviour in our community and does open the way for additional criminal activity to be related to the regulation of brothels. It does nothing to confront the causes of prostitution or to provide opportunities for women in particular, and also men, to escape from the clutches of the provision of prostitution services.

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

PARLIAMENT (JOINT SERVICES—PROHIBITION ON SMOKING) AMENDMENT BILL

Third reading.

The Hon. J.C. BURDETT: I oppose the third reading of this Bill because it is unnecessary and ineffective. During the second reading debate I said that it is our duty to consider the Bill at the third reading stage as it came out of Committee. It was not amended in Committee, so it still has these same defects. The Bill refers to any part of Parliament House under the control and management of the Joint Parliamentary Service Committee which was set up by the Parliament (Joint Services) Act 1985. Section 28 of that Act provides:

The committee shall have the control and management of the dining, refreshment and recreation rooms, lounges and garages—

I am not sure what garages we have—

of Parliament House.

So, it is in the committee's hands without our passing a Bill about it. The committee has exercised its powers in this regard and has imposed a prohibition on smoking. So, it is quite unnecessary to do it by legislation. It is not only unnecessary but also ineffective, and I do not believe in passing Bills which are unnecessary and ineffective and which do nothing. It makes a prohibition of smoking in those areas, but there is no sanction. There is nothing that anyone can do about it. It is still in the hands of the committee or, in some circumstances, perhaps of the Chambers of the Parliament. But, no sanction is provided. The Bill is totally ineffective and makes a mockery of the legislative process.

If this Bill passes the Parliament, I would be very much tempted to buy the most foul-smelling cigar and smoke it in one of those areas and see what happens to me, because there is nothing that can be done. It is in the hands of the committee.

The Hon. M.J. Elliott interjecting:

The Hon. J.C. BURDETT: There is an unofficial sanction already. This Bill does not add anything. The committee has already made an instruction about smoking in the areas of Parliament House under its control, and the Bill adds nothing to that. So, if there is an unofficial sanction, it is already there and is not enhanced by this Bill. The hands of the committee shall not—

The Hon. M.J. Elliott interjecting:

The Hon. J.C. BURDETT: Well, so does the direction of the committee already refer to everyone in Parliament House. The Bill adds nothing. It does absolutely nothing and imposes no sanctions. The powers of the committee are usurped by this Bill. It should be left in the hands of the committee and, in my view, the Bill is an insult to the committee in taking it out of its hands. In my view, this is a serious intrusion on the privileges of the Parliament and for those reasons I oppose the third reading of this Bill.

Bill read a third time and passed.

URBAN LAND TRUST (URBAN CONSOLIDATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 2983.)

The Hon. BARBARA WIESE (Minister of Tourism): I thank members for their contributions to this debate. I reiterate that the proposed amendment to this Act is to enable the trust to extend its activities into the general urban area to facilitate urban consolidation. At present the trust is prevented from operating in other than new urban areas. Urban consolidation is important if urban sprawl is to be minimised.

The Urban Land Trust has the resources, both financial and professional, to successfully undertake urban consolidation projects. The Urban Land Trust Act does not enable the trust to act as a developer in its own right except by way of a joint venture with a private developer such as at Golden Grove and Seaford, and as is proposed at Northfield. The amendment maintains this situation. Therefore, the trust will not be directly involved in development for urban consolidation.

As to the issues that were raised by members in relation to compulsory acquisition, the Urban Land Trust Act 1981, which was amended in 1985, enables the trust to compulsorily acquire land in the following situations: first, in new urban areas, under section 14 (1) only; secondly, not a principal place of residence, factory, business and so on, under section 14a(2); or, thirdly, not where subdivision involving roadworks and so on for allotments smaller than 2 000 square metres in area is being or has occurred, under section 14 a(2) *(d)*. The ability of the trust to compulsorily acquire land is therefore heavily circumscribed.

Furthermore, the current practice of the trust is always to obtain the Minister's approval for acquisition. This ensures that the landowner's recourse to compensation is always available, and there is accountabity to Parliament. The compulsory acquisition power has been used, but infrequently. Only 4.2 per cent by area of the land acquired over the past five years has been compulsorily acquired. The trust avoids this process wherever possible, using it only as a last resort and where a significant benefit to the community can be demonstrated.

The process involves the owner's right to appeal on the valuation. The amendment will extend this limited ability to the metropolitan area generally. Based on legal advice received, compulsory acquisition could be used to acquire a vacant allotment or a backyard only where a subdivision involving works to create allotments less than 2 000 square metres (which is about half an acre) has not occurred at some time in the past. Since virtually all residential properties have been subject to this form of subdivision at some time, this would prevent the trust from compulsorily acquiring residential land in all but a few cases. For example, in the case of a large allotment that is greater than 2 000 square metres, where most of the land is not directly used for residential purposes, the unused area, not being part of the principal place of residence, could be compulsorily acquired.

Compulsory acquisition is a useful additional tool, one of many, to assemble feasible urban consolidation parcels in areas of fragmented allotment sizes and shapes. It is and can be used only in exceptional circumstances. It assists in limiting undue speculation which contributes to excessive land prices, and enables negotiations to occur on a fair basis, thus minimising the ultimate expense to the taxpayer.

I understand that similar interstate urban consolidation schemes, such as in New South Wales, without the compulsory acquisition provision, have resulted in high prices and consequently have had limited success. I put those matters on the record because during Committee we will be considering an amendment of the Hon. Mr Irwin which relates to the question of compulsory acquisition.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Powers and functions of the trust.'

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

Page 1, lines 19 and 20—Leave out all words in these lines and insert—

Section 14 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:.

My limited understanding of how these amendments to amendments work is that the first amendment basically relates to paragraph *(a)* of my amendment after line 25, which provides:

Subject to this Act and with the prior specific approval of the Minister, acquire land in accordance with the provisions of the Land Acquisition Act 1969.

I take that to be consequential on a change by my next amendment, which relates to the Urban Land Trust compulsory acquisition of land. It is not my intention to reiterate all the arguments put by me and my colleagues regarding

our concerns with certain parts of the Urban Land Trust Act and, particularly, with compulsory acquisition. That has been opposed by us both in 1985 and prior to 1985, and we still oppose it.

We see the Urban Land Trust as a land bank, which should be used to acquire—and I use that word carefully—land as it becomes available for the benefit of other people, and to use it for the benefit of new urban areas or urban areas, for that matter. However, compulsory acquisition would be used not only—to give a very simple example—to remove a stubborn landholder in a total area where quite a large area had been acquired by negotiation and one landholder was holding out. It could also be used, for instance, to consolidate a number of backyards in an area that might be acquired by the trust against the best advice of some people within the area and of those people who own the backyards. It may not be desirable from the local council's point of view or from that of local residents to have those backyards acquired to make an area big enough for urban consolidation to be used in the form devised by the Urban Land Trust rather than by the local council.

That is probably taking it to an extreme, because I imagine that the trust at all times would work very closely with local government in the pursuit of urban consolidation. We do not mind the trust operating in old urban areas, but not with this compulsory acquisition power. To me, this argument is not about urban consolidation at all but about the power to acquire land. My later amendment to section 14a is to restrict that compulsion to new urban areas such as Golden Grove and others that will develop in the outer urban areas, but we do not want the power to be in the old urban areas in the built-up part of Adelaide or any other city or large town in South Australia. I urge members to support the amendment.

The Hon. BARBARA WIESE: The Government opposes this amendment. I appreciate that the honourable member's principal objection to the compulsory acquisition clause is one of principle, essentially, but the Government believes that the power to acquire land, as long as it can be demonstrated that it is in the public interest, should be available to Governments. In this instance, under the Urban Land Trust legislation, the powers to acquire are already in accordance with the powers provided under the Land Acquisition Act.

In fact, very recent advice from Crown Law indicates that under section 14 (2) *(a)* those powers already apply. In essence, the only difference is that under this legislation the powers to acquire are more restrictive than those that apply under the Land Acquisition Act. Therefore, the Government feels that the provisions contained in this amending Bill and the provisions that already exist within the Act are appropriate, and we oppose the amendment.

I might just make one comment in relation to a point the honourable member raised with respect to consultation. It is the practice of the Urban Land Trust, when considering compulsory acquisition, which is considered only in very extreme circumstances, to consult very closely with local councils in these matters, and the intention is to continue that practice. Of course, there is very careful consultation with residents in any area where compulsory acquisition is being contemplated.

The Hon. I. GILFILLAN: I oppose the amendment. I believe that there are occasions on which the common good and the intentions of urban consolidation must outweigh the circumstances in which a particular landowner or landowners block that project. That argument applies to any land acquisition anywhere, whether it be in the metropolitan area, in the older areas or in new areas.

I also think it appropriate to recognise that we do not want the further spread of metropolitan Adelaide. I would be surprised if anyone enthusiastically sees the apron of Adelaide going farther afield. We have had it: it has gone far enough. It has spread out and, many would say, contaminated far too much of some of our richest farming land and spoiled many areas of natural beauty, which are now covered with, in some cases, pretty ordinary development.

It is in the turning of the policy from further extension to better and more efficient use of the land we currently have embraced in the city of Adelaide that urban consolidation, on the part of the Urban Land Trust, will now find its place.

The powers that were appropriate for its operation in its current area of activity are appropriate in its new concept and therefore I see no reason why we should restrict its ability to work in the same manner in what have been regarded as new development areas and new urban areas as its application in the so-called old urban areas. I oppose the amendment.

The Hon. K.T. GRIFFIN: I am disappointed to hear that. I would have thought that the Hon. Mr Gilfillan had some recognition of the principle that a Government statutory body, which has a responsibility for holding land for new urban areas, and now getting into the consolidation of existing urban areas, should not be able to compulsorily acquire any individual's property within existing urban areas merely for the purposes of maybe redesigning the allotment or adjacent allotments, and then either developing it or, more particularly, putting it out for development by some developer or real estate entrepreneur, and thus depriving the individual who owns that property of the benefits of that property holding.

It seems quite foreign to any role of Government that it should have the power to compulsorily acquire a vacant allotment of land or a property with a house on it which is not the owner's principal place of residence merely for the sake of subdividing it, putting cottage homes on it, home units or consolidating it with bits of adjoining land for some purpose of development. There is no public purpose in that: there is no hospital, school, police or other similar public purpose which, in my view, should be, and is, the object of the Land Acquisition Act. If the property is acquired for that sort of public purpose, the Government must have the power to compulsorily acquire. However, merely for the purpose of restructuring titles and redeveloping blocks of land upon which buildings are presently erected seems to me an extraordinary extension of Government responsibility.

As I recollect, the Housing Trust does not have power to compulsorily acquire—for the reason that it must compete on the marketplace. Here one has Big Brother, the Urban Land Trust, with the power to compulsorily acquire, beginning to get into the compulsory acquisition of land within the metropolitan area. I find that totally objectionable and quite inconsistent with what I see as the role of the Government. It is all very well for the Hon. Mr Gilfillan to say, 'Well, we don't want Adelaide to spread too far'—and we all agree with that—but we must offer some incentives and not use compulsion to get that urban consolidation going. What the Hon. Mr Gilfillan does not address his mind to—and nor the Government, for that matter—is the fact that there are many vacant allotments of land and properties around Adelaide which are not used for offices by the owner, which are not used as the dwelling place for the owner, but which are used for investment purposes, maybe to safeguard one's superannuation lump sum payout or to provide for one's retirement.

Here we have ultimately the power of a Government agency to compulsorily acquire that and, therefore, to deprive an individual of his or her property. Sure, there is the issue of compensation, but that can be messy, and it can be a long, drawn-out litigious process for compensation to finally be awarded, because most often the Government agency wants to pay less than what an individual believes his or her property is worth. I see this as the extension of the tentacles of a socialist Government into the urban area of Adelaide for no public purpose as commonly understood in respect of the Land Acquisition Act. I find it objectionable, and it ought to be resisted as strenuously as possible.

The Hon. J.C. IRWIN: Members have taken their positions, and I do not wish to delay this legislation for much longer. However, no doubt the Urban Land Trust does consult, and I support that, but if the trust decides that it is within the public interest to compulsorily acquire, it will do so. I must ask the obvious: what is the public interest? Is it the Liberal Party's philosophical position on public interest? Is it the Government's—and obviously it is—principle and philosophy on the public interest or is it the Democrats'? They will all be different, and they are, but we have to decide, and I believe the local community bodies, whether it be the Adelaide City Council, Prospect council or any other, are the best placed to decide this: not a Government trust or a trust working under the arm of Government and legislation deciding it is in the public interest to do a compulsory acquisition for a particular project.

I would like the Hon. Mr Gilfillan to think about regional development, because all our thoughts seem to be on the urban and outer metropolitan areas of Adelaide. I agree with members who have talked about urban consolidation being cheaper than the ribbon development or spread and the use of good rural land south and north of Adelaide. I agree: it is a cost and is something that we can no longer afford. But if the whole of the population of South Australia is going to come out of the regional areas and into Adelaide. That is what will happen, whatever one does.

It may well be cost-effective to get people to go back into the regional areas, such as Murray Bridge, Whyalla, Port Lincoln, Mount Gambier and Naracoorte. These should be given some consideration in terms of the expenditure of private dollars and Government dollars in reducing the cost of urban consolidation in the old urban areas of Adelaide. It may well be cheaper to get people back into the regions and towns of South Australia which at the moment are dying on their feet. The people are coming into Adelaide. The population of South Australia is not greatly increasing, but the population of Adelaide is, and that is why. I have gone further than just considering the amendment, but these points have been raised by others in the debate so far. However, I reiterate that the Opposition is opposed to the compulsory acquisition power.

The Hon. BARBARA WIESE: I do not want to prolong the debate either, but I shall make a couple of points. On the matters most recently raised by the Hon. Mr Irwin, the Government has other programs which it is pursuing to encourage regional economic development and the retention and growth of populations in regional centres. It is probably not the most appropriate vehicle to use the Urban Land Trust Act to pursue those matters. I am sure the honourable member is aware of the efforts being made by the Government, under numerous programs, to improve the situation in rural areas.

As to the matter of public purpose, which was raised by the Hon. Mr Griffin, I would like to strongly suggest to him and to members of the committee that one very real public purpose that would justify the acquisition of land in inner urban areas is the prevention of urban sprawl. A very definite public interest is involved here, namely, the enormous infrastructure costs that are associated with urban sprawl. Although no really reliable figures are available in relation to development costs in outer areas as opposed to inner areas, from the work that has been done so far it has been suggested that the cost of urban development in vacant land in inner urban areas could be about a quarter of the cost of the development that is continuing to occur on the outer edges of the metropolitan area.

If the figures that are emerging can be substantiated, I suggest that there is a strong public interest here in encouraging urban consolidation, and the Urban Land Trust wants the authority to work in this area of urban consolidation. The question of compulsory acquisition, as I indicated earlier, is simply one tool that may be used in very exceptional circumstances in order to put together parcels of land sufficient to enable development to take place in the inner urban area.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin, J.C. Irwin (teller), Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

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

The CHAIRMAN: There being an equality of votes, I cast my vote with the Noes.

Amendment thus negatived.

The Hon. J.C. IRWIN: I wish to withdraw my next amendment to insert new clause 4, as it is linked to the one that we have just lost.

Clause passed.

Title passed.

Bill read a third time and passed.

ASSOCIATIONS INCORPORATION (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: I will now reply to some questions raised by the Hon. Mr Gilfillan during the second reading debate. As to the consultation process, on 12 November 1988 prominent advertisements were published in the two daily newspapers inviting comment on the operation of the principal Act. Some 50 letters were also sent to representative bodies such as the major churches, the Chamber of Commerce and Industry, and the South Australian Council for Social Service, inviting comment and submissions. There were only 17 responses to those appeals, the contents of which were given every consideration. There were then approximately 10 000 associations on the register.

A seminar based on a paper on the 1985 Act was arranged by the Law School of the University of Adelaide. That paper was critical of the accountability regime under the present Act. There have been lengthy consultations with the Law Society and the accounting bodies to which the Bill was exposed on a confidential basis. The Corporate Affairs Commission alone has distributed 25 copies of the Bill subsequent to introduction. There has been only one complaint of lack of consultation. The concerns of that organisation have now been addressed at length by one of my senior officers.

With respect to changing rules by special resolution, very few incorporated associations or, indeed, companies have provision for postal voting, because associations are in the main local in character and operations. Changes to rules are not undertaken frequently by associations, and in the event that the provision in the Bill was inappropriate there are wide absolving powers under clause 34.

As to clause 46 relating to public examination, this provision is adapted from the corporations law. It is an extension of the winding up provisions under the principal Act. There has always been a power to examine delinquent company directors if the court so orders. The proceeding is usually set in train by a report from a liquidator alleging fraud or other contraventions of law. At present the liquidator of an association would be required to report to the Corporate Affairs Commission, but there is no power of examination. The provision exists for the protection of creditors, and is applicable only in cases where probable serious breaches of directors' or committee persons' fiduciary duties come to notice.

As to voluntary work being inhibited, the claim was made when the present legislation was enacted that regulation and accountability under this Act would stifle voluntary endeavour, particularly at management level. This has not been shown to be the case. South Australia has had the facility of this legislation since the last century. It has had a very short history in Victoria, New South Wales and Queensland. In those jurisdictions most voluntary non-profit activity had to be carried on by companies for a very long period of time. Although the full force of company regulation applied, I am not aware that this inhibited the law abiding volunteer. This legislation is not only about conferring limited liability: it is also about adequate accountability as the price of that privilege.

Clause passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Can the Attorney-General indicate what prospective date he has in mind to bring this legislation into operation?

The Hon. C.J. SUMNER: It is intended to bring it into operation as soon as possible. It is estimated that the preparation of the regulations will take about two or three months.

The Hon. K.T. GRIFFIN: Is it proposed that there be some period of communication education for those likely to be affected by the operation of the Bill, considering that significant additional obligations are being placed upon members of committees of management? If so, will he indicate what sort of program he has in mind?

The Hon. C.J. SUMNER: There will be an education program, including seminars and discussions with professional associations. I understand that a pamphlet is to be prepared and will be available to incorporated associations and members of committees.

Clause passed.

Clause 3—'Interpretation.'

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

Page 2, after line 13—Insert the following paragraph:

(ca) by inserting after the definition of 'financial year' in subsection (1) the following definition:

'gross receipts' of an incorporated association means the total amount of the receipts of the association including any grant or subsidy paid to or on behalf of the association by the Government of the State or the Commonwealth, local government or an agency of the Crown in right of the State or the Commonwealth, but not including any money received by the association—

(a) by way of a membership fee, subscription, levy or other fee, if any, paid by a member;

(b) as a gift, devise or bequest;

or

(c) from the sale of any of the association's assets that had not been originally purchased by the association for the purpose of resale:.

The object of the first amendment to clause 3 is to address the issue about which I spoke in the second reading debate. If there is an inclusion of grants or subsidies paid to or on behalf of the association by the Government of the State or the Commonwealth, local government or an agency of the Crown, the amount of $100 000 gross receipts must be adjusted. More particularly, in the present legislation, the figure of $100 000 must be adjusted to take into account inflation which, as I indicated during the second reading debate, I had calculated at approximately 72 per cent since the principal Act came into operation until 31 December 1991.

I accept what the Attorney-General has indicated, namely, that there is some difficulty with Government grants at least in the minds of associations as to whether or not they are part of gross receipts. That has been clarified, although I am not sure that it was really necessary to do that and then adjust the level to what I think is a reasonable figure of $200 000 after which organisations will be required to have accounts audited and to have those accounts lodged at the Corporate Affairs Commission.

The other aspect of this definition is that later I will move to define a 'prescribed association'. As I said in the second reading debate, there is a very strong argument for distinguishing between those associations that are required to file their accounts where one can expect a higher level of understanding by members of committees of management of the operations of the law as well as of the association than those which might be relatively small associations.

It is a matter of judgment whether $100 000, $150 000, or $200 000 (or some other figure) might be appropriate. Taking into consideration what we said in 1985, I think $200 000 at today's value is reasonable. I seek to define a 'prescribed association' and then to apply a different level of maximum penalty to those which are not prescribed associations than for those which are prescribed associations, recognising the different level of experience and accountability.

In answer to a request I made before I spoke to this Bill, the Attorney-General sent to me a letter which indicated that currently 12 693 associations are on the register. I sought information from the triennial returns for 1985 to 1990 which were required to be lodged by all associations. The Attorney-General indicated that the requirement to lodge those returns was not adequately complied with by associations, but he did let me have the data that had been collected and the computerised listing of the gross incomes was from triennial returns of some 768 associations.

The summary, which is annexed to the letter, I have some difficulty in comprehending only to the extent that each of the years is identified. Institutions which had their gross receipts recorded were as follows: in 1986 there were 644; in 1987 there were 481; in 1988 there were 368; in 1989 there 187; and in 1990 there were 40. I am not sure whether the gross incomes referred to in the Attorney's letter, taken from the triennial returns, and involving some 768 associations, is somehow gleaned from the summary and whether there may have been some duplication of the associations in each year's returns.

Regardless of whether 768 is the correct figure, in 1986 there were 61 associations with income levels less than $100 000 and 226 associations with income levels between $100 000 and $199 999, out of a total of 644. Then there

are various diminishing levels through to 1990, when 19 associations had income levels less than $100 000 and five between $100 000 and $199 999, out of a total of 40. Therefore, not a large number are either below or above the cut-off points of either $100 000 or $200 000.

I acknowledge that the information from the triennial returns is perhaps not representative of the income levels of all the associations on the register, but what the figures tend to suggest is that we really would not have a problem if the limit were increased from $100 000 to $200 000. It may be that there are other figures which the Attorney-General has and which might relate to audited statements actually filed, and if he has certainly that might be an answer. But, on the basis of the information provided, I suggest that there does not appear to be a significant problem if we put the threshold at $200 000.

The Hon. C.J. SUMNER: The Government opposes the amendment in this form. This proposed amendment to the definition of 'gross receipts' in the Bill could frustrate the whole intent of the Bill. That intent is for adequate accountability by large associations by requiring an audit, and the lodgment of audited accounts with the Corporate Affairs Commission.

The Bill is framed to include any gifts or donations in the calculation of the 'gross receipts' threshold figure of $100 000. As the definition now stands in the principal Act, high profile associations supported by significant public gifts or donations escape the accountability provisions of the legislation. In the Hon. Mr Griffin's amendment, gifts are excluded from the calculation of the threshold amount. Because the words 'gift' and 'donation' are synonymous, the very associations which the Bill seeks to regulate in the public interest could still escape accountability.

The Government is prepared to attempt to resolve this matter by accepting the amendment with the deletion of the word 'gift' in paragraph *(b)*, and agreeing to increase the threshold to $200 000. Whether or not that appeals to the Committee, I do not know.

The Hon. K.T. GRIFFIN: I acknowledge that in the Bill the $100 000 limit remains, and I notice that gifts are not included. I was picking up the provisions of the original Act. I am not happy with it, but I would be prepared to consider the Attorney-General's proposition. I wonder whether the Hon. Mr Gilfillan has a particular point of view that we can listen to first.

The Hon. I. GILFILLAN: I appreciate the opportunity to comment about what appears to me to be a constructive proposal from the Attorney. I understood him to say that with the deletion of the word 'gift' from paragraph *(b)* the Government would support a lifting of the threshold to $200 000.

The Hon. C.J. Sumner: Yes.

The Hon. I. GILFILLAN: In which case the only change would be the deletion of 'gift' from the Hon. Trevor Griffin's amendment.

The Hon. C.J. Sumner: That is right.

The Hon. I. GILFILLAN: I do not feel particularly uneasy about it. I think that in general terms the amendment will have my support, but I am a little wary that larger associations may look at ways of getting around the $200 000 threshold by masquerading some forms of revenue as a gift. In some ways I find the Attorney's proposal attractive. I am happy for the word 'gift' to be deleted and to support such an amendment. Because the Attorney raised the issue of how the intent of the Bill could be thwarted, I signal my support for legislation that would ensure accountability and reduce the possibility of fraud or misappropriation in associations, particularly large ones.

The unfortunate consequence of that, and the very real fear I have, is that the thousands of smaller associations will be impacted in varying degrees, depending on how large they are, with very cumbersome impositions. As the Democrats said in the second reading debate, I think those fears are well grounded. That restates my position in relation to this Bill. I agree with the Attorney that we need competent legislation to safeguard the members of large associations and the public from fraud and misbehaviour.

The Hon. K.T. GRIFFIN: It seems that there is general agreement about deleting the word 'gift'. Therefore, I seek leave to amend my amendment as follows:

By deleting in paragraph *(b)* the word 'gift'.

Leave granted; amendment as amended carried.

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

Page 2, after line 34—After this line insert the following definition:

'prescribed association' means an incorporated association—

(a) that has gross receipts in a year in excess of—

(i) $200 000;

or

(ii) such greater amount as is prescribed by regulation;

or

(b) that is prescribed or of a class prescribed by regulation:.

This amendment seeks to establish a definition of 'prescribed association' with a view to subsequently establishing the two-tier level of penalties, distinguishing between the larger association and the smaller.

The Hon. C.J. SUMNER: I will use this amendment to debate the question of differential penalties. The Bill provides for a division VI fine, namely not exceeding $4 000. These amendments seek to retain this penalty for a 'prescribed association'; and for other than 'prescribed associations' provide for a division VIII fine, namely, not exceeding $1 000. This and a number of the amendments proposed by Mr Griffin introduce a two-tier system of maximum penalties for offences. In other body corporate legislation no such distinction is made, on the basis of the quantum of income or undertaking. It is, for example, left to a court to decide if an offence by a small proprietary company is less heinous than an identical offence committed by a large public company.

There is a further difficulty perhaps not foreseen by the Hon. Mr Griffin. This difficulty is that it would be possible for an association to be a 'prescribed association' in one year, but not in the following year because of a reduction in 'gross receipts'. In some cases the determination could be made only when the final accounts are prepared. What is to be put to a court to ensure that the penalty imposed is appropriate to the status of the association? It may well be that, because of these very real difficulties, officers of the association would be prosecuted under clause 41 of the Bill in lieu of the association.

The Hon. K.T. GRIFFIN: The Attorney is dealing with associations at both ends of the spectrum. On the one hand are the very large organisations, such as large charity organisations which run private hospitals or schools, have very large incomes and gross receipts and are akin to companies carrying on business, yet they are providing a service in what they do, as they are entitled to do. On the other hand, we have the very small association such as a local progress association or a sporting association such as a netball club, where you do not have people with the same level of expertise and where you do not expect people to have the same competence in running the affairs of that association.

It may be that the larger association owns property and the smaller one does not. I seek to acknowledge that, with the increased obligations being placed upon all associations,

there is a recognition not just by the court in fixing penalty but also by the law itself that there is a different level of competence generally available at one end of the scale from that available at the other. In keeping minutes, for example, you would expect the council or committee of management of a school to keep accurate minutes and books of account, which would be audited.

On the other hand, the small local progress association's secretary would perhaps have a hand-written note of the minutes and may not write them up immediately but would do so within two months time, just before the next meeting of the committee, and that may not be quite accurate. There may be something not quite accurately recorded. In those circumstances, it seems to me that that offence is less serious when committed by the small organisation than by the large.

I am trying to develop a scenario that recognises that different level. It may be that there is a technical problem in relation to the association's being prescribed one year and not the next because it has a lower level of receipts, but I should have thought that, in terms of the offence, the relevant person or body would be charged with an offence relating to the time at which it occurred and not later. I should like to see the amendment carried, and if there are some technical problems of a minor nature we can sort them out later. With respect, however, I do not think there are.

The Hon. I. GILFILLAN: I am not attracted to the amendment. I think that the offence is the offence and it does not matter very much if the offence has been committed by a large, medium or small body. I also note that, although the division VI penalty is listed as one year imprisonment and a $4 000 fine, that is a maximum, so one would assume that the sentencing court would have some sensitivity to the offender's situation and make some judgment as to the degree or gravity of the offence. Other complications may be involved that further Committee discussion may bring up, but that is my position on hearing the argument.

The Hon. K.T. GRIFFIN: I hope that I can persuade the Hon. Mr Gilfillan to support this for the moment and, if he has some second thoughts, they can be addressed later, as I think it is important. Whilst an offence of not keeping a proper record of the minutes may be technically the same offence, the circumstances in which the offence was committed are quite different when you look at the different sizes of organisation. What the Hon. Mr Gilfillan was saying in his second reading speech was that he had a grave concern about the obligations being placed on people who belonged to smaller organisations and who, perhaps, did not have the necessary competence to comply technically with every onerous obligation placed on them by this legislation.

The Hon. I. Gilfillan: Does lifting the ceiling not exempt many of those smaller organisations from much of this imposition?

The Hon. K.T. GRIFFIN: It may, but not necessarily. The court will look at the maximum penalty and will apply it in the circumstances of the case. We are leaving a lot of discretion to the courts, and I do not believe that ought to be done; we ought to ensure that some guidance is given to the courts in the way in which the penalties are to be imposed.

Clause 5 of the Bill provides that the commission has power to refuse to register or reject documents, and the penalty is a division 6 fine (that is, $4 000). It can reject them by reason of an omission or misdescription: because it has not been duly completed; because it does not comply with the requirements of the Act; or because it contains an error, alteration or erasure. The Bill also provides that the commission may request that the document be appropriately amended or completed and resubmitted, that a fresh document be submitted in its place or, where the document has not been duly completed, that a supplementary document in the prescribed form be submitted.

Under subclause (2) the commission may request a person who submits a document to furnish other information. However, if a person fails to comply with a request within 14 days, an offence is committed. What I am saying is that it might be all very well to require the secretary or the executive officer of a large association to comply with that request and, if it is not complied with because of the level of competence, the maximum fine is appropriate. However, if a small tennis club or progress association is involved, one must recognise that that may not happen. I am not saying that the Corporate Affairs Commission or the courts will not exercise discretion but that this is less serious for the smaller organisation to delay in providing the information than it is for a big organisation. The level of penalty that I am seeking to reflect in later amendments recognises that different seriousness of obligation.

If the Hon. Mr Gilfillan is inclined at least to support this amendment, that will tidy up references elsewhere to prescribed association, but he can dismiss the different levels of penalties on each occasion if he sees fit. I do ask him to reconsider his position on the penalties, because that distinction is important between the more serious offence by larger organisations than by the smaller organisation. The amendment is related not only to question of penalty, but also to some other offences later which are imposed upon prescribed association and, therefore, I would suggest that it is appropriate to support the amendment without necessarily making a final decision on the different levels of penalty.

The Hon. I. GILFILLAN: What are the actual differences in requirements that would apply sub-ceiling and supra-ceiling in organisations in which the ceiling is $100 000 or $200 000?

The Hon. C.J. SUMNER: The principal issue is in the area of preparation, audit and filing of accounts with the Corporate Affairs Commission. That is the principal difference; that is what the $200 000 threshold means to the incorporated corporation.

The Hon. I. GILFILLAN: Will the other obligation of bookkeeping, minutes and account keeping be required?

The Hon. C.J. SUMNER: Yes, that is right. I will suggest a possible way out of the problem. The current fine is $2 000.

The Hon. K.T. Griffin: For some, not for all of them.

The Hon. C.J. SUMNER: The maximum in this area is $2 000, as I understand it. The honourable member is reducing that to $1 000 by moving it to a division 8 fine. Would the honourable member be interested in increasing that to a division 7 fine, which would bring it back to what it is now? We could leave the structure that he has put in his amendment in place, and we could examine the evidentiary problems that might give rise to see whether they can be resolved and, if they cannot, we might have to bring the matter back after it has been dealt with in another place or perhaps deal with it before it leaves this place. That is my proposition at the moment: to agree to a division 7 fine, look at the evidentiary difficulties and recommit the Bill tomorrow.

The Hon. K.T. GRIFFIN: I appreciate the Attorney-General's suggestion. There are some places where the division 8 fine (or $1 000) is currently the position, and what we would need to do, without necessarily acknowledging universally $2 000 or a division 7 fine, that, where it is presently $2 000 or a division 7 fine, it remain for an

association that is not a prescribed association; where it is presently a division 8 fine or $1 000, we leave that at the present fine levels. So, I am happy to accommodate what the Attorney-General is suggesting, but we must look at each offence as we go through to see which should be a division 8 fine and which should be a division 7 fine to maintain the *status quo* in relation to the lower level.

The Hon. I. GILFILLAN: Do you intend to support what is prescribed?

The Hon. C.J. SUMNER: For the moment, yes, subject to what I have said and if we can overcome the evidentiary problems.

Amendment carried.

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

Page 3, line 5—After 'person' insert 'or where alternates are allowed by alternates'.

The Hon. C.J. SUMNER: I accept it.

Amendment carried.

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

Page 3, lines 17 and 18—Strike out 'a member or a former member of an incorporated association' and substitute 'another person'.

The Hon. K.T. GRIFFIN: This is just a technical amendment, and I am happy to go along with it.

Amendment carried.

The Hon. K.T. GRIFFIN: On page 2, lines 11 and 12, reference is made to a body corporate as meaning a body corporate as defined in section 9 of the corporations law. That is relevant in relation to paragraph *(j)* on page 3. Looking at the definition of bodies corporate, I am not sure that it adds much to the definition.

I presume that, in drafting, this has been checked out, but a body corporate includes a body corporate which is being wound up or which has been dissolved, and in this chapter, except section 66a (3) and section 230, includes an unincorporated registrable body and in chapter 6 includes a chapter 6 body. A chapter 6 body is one, as I recollect, which is being wound up. Is the Attorney-General able to give an explanation of the necessity for including that definition? It may be that it is also in relation to section 46 of the corporations law, which defines what is a subsidiary when a body corporate is a subsidiary of a body corporate, but it did not seem to add much.

The Hon. C.J. SUMNER: I am advised that it was Parliamentary Counsel's suggestion in drafting to get certainty as to the definition. I am not sure that I understand the point that the honourable member is making, but I am advised that it provides a definition that is available under the corporations law and that, when trying to determine who is an associate of a member or a former member of an incorporated association then, in addition to the other criteria, one refers back to the corporations law. I am not sure what the problem is.

Clause as amended passed.

Clause 4 passed.

Clause 5—'Power of commission to refuse to register or reject document, etc.'

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

Page 3, line 37—Strike out 'Section 7 of the principal Act is repealed' and substitute 'Sections 7 and 8 of the principal Act are repealed'.

This is a drafting matter.

Amendment carried.

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

Page 4, line 24—strike out this line and substitute the following:

Penalty:

(a) if the offence is committed in respect of a prescribed association—division 6 fine;

or

(b) in any other case—division 8 fine.

I draw the Committee's attention to the fact that section 7 of the principal Act provides for a penalty not exceeding $1 000, which is a division 8 fine. In this amendment I seek to leave that level of fine for an association that is not a prescribed association and provide for a division 6 fine for a prescribed association. It is not a case where we need to make the division 8 fine a division 7 fine, unless I have misread section 7 of the principal Act.

Amendment carried.

The Hon. K.T. GRIFFIN: I think it is adequately covered, but there is reference in subclause (3) to a court of summary jurisdiction. Is my recollection correct that that becomes a Magistrates Court, under the operation of the Statutes Repeal and Amendment (Courts) Bill that we passed at the end of last session, so there is no need to provide for any sort of transitional provision?

The Hon. C.J. SUMNER: No, there is no need.

Clause as amended passed.

Clause 6 passed.

Clause 7—'Offences.'

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

Page 4, lines 36 and 37—Strike out this paragraph and substitute the following paragraph:

(b) by striking out from subsection (1) 'Penalty: Two thousand dollars' and substituting the following:

Penalty:

(a) if the offence is committed in respect of a prescribed association—division 6 fine;

or

(b) in any other case—division 7 fine.

The present section 14 carries penalties of $2 000 maximum fine and this amendment makes it consistent.

The Hon. C.J. SUMNER: It is agreed.

Amendment carried.

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

Page 5, lines 1 and 2—Strike out this paragraph and substitute the following paragraph:

(c) by striking out from subsection (2) 'Penalty: Two thousand dollars' and substituting the following:

Penalty:

(a) if the offence is committed in respect of a prescribed association—division 6 fine;

or

(b) in any other case—division 7 fine.

The Hon. C.J. SUMNER: It is agreed.

Amendment carried.

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

Page 5, lines 4 and 5—Strike out this paragraph and substitute the following paragraph:

(d) by striking out from subsection (4) 'Penalty: Two thousand dollars' and substituting the following:

Penalty:

(a) if the offence is committed in respect of a prescribed association—division 6 fine;

or

(b) in any other case—division 7 fine.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9—'Secrecy.'

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

Page 5, line 17—Strike out '6' and substitute '5'.

For breaches of secrecy provisions the penalty ought to be stiffer than a division 6 fine, and I therefore move to amend it to a division 5 fine.

The Hon. C.J. SUMNER: It is agreed.

Amendment carried; clause as amended passed.

Clause 10—'Eligibility for incorporation.'

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

Page 5, after line 33—Insert the following paragraph:

(aa) by striking out 'Minister' from subsection (5) and substituting 'Commission';.

This clause relates to eligibility for incorporation. There is a provision in the principal Act for the Minister to give an

approval for a purpose, other than those specifically listed, to bring an association within the eligibility criteria. I am suggesting that that be amended to 'Commission'. Subsection (5) provides that an association of which a principal or subsidiary object is to secure a pecuniary profit for the members of the association, or any of those members, or if a principal or subsidiary object is to engage in trade or commerce is not, unless the Minister otherwise approves, eligible to be incorporated. I think that is appropriately the commission. I say that only because there is a right of appeal or review from the commission to the Minister. As this legislation has now been in operation for six or seven years, it seems to me that, if we give the responsibility to the commission, there is always a right of review by the Minister if there is a problem with it.

The Hon. C.J. SUMNER: In fact, the appeal against the decision of the commission is to the District Court. In the final analysis, I suppose the Minister can direct the commission. So we will not object to the amendment.

The Hon. K.T. GRIFFIN: It is consistent with other amendments. If there is a problem that we discern following this being passed tonight, we can make some adjustments before the Bill passes in the Legislative Council or through the other place.

Amendment carried.

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

Page 5—
Line 39—Strike out 'and'.
Line 41—Strike out this line and substitute 'non-members (other than spouses, children or parents of members)'.

This amendment is designed to encompass members and their spouses, children or parents in relation to paragraph *(b)* of subsection (6) where the association is buying, selling, dealing in or providing goods or services, where the transactions are ancillary to the objects and, in the case of transactions with non-members, they are not substantial in number or value. The only point I make is that there are many clubs, such as yacht or sporting clubs, that provide services to people who are non-members but are in the category of spouses, children or parents of members, and I want to ensure that that is appropriately recognised.

The Hon. C.J. SUMNER: No objection.

Amendments carried.

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

Page 5, after line 41—Insert the following:
and
(c) by inserting in subsection (7) after 'Minister' twice occurring, in each case, 'or the Commission'.

This amendment is consequential on the earlier amendment.

The Hon. C.J. SUMNER: No objection.

Amendment carried; clause as amended passed.

Clauses 11 to 14 passed.

Clause 15—'Contents of rules of an incorporated association.'

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

Page 7, lines 2 and 3—Strike out 'adequately deal with the following matters' and substitute 'deal with the following matters with sufficient particularity and certainty'.

This clause seeks to insert a new section 23a dealing with the contents of the rules of an incorporated association. I recognise from the Attorney-General's reply that some rules or constitutions are grossly inadequate, being one page. On the other hand, I made the point in my second reading speech that I have concern that the commission should be making a judgment about the nature of membership, powers and duties rather than ensuring that the rules deal with certain matters with sufficient particularity and certainty. I make the point that there is a whole range of different approaches by way of the rules of various organisations to such things as powers and duties of the committee of management. I am suggesting that, rather than adequately deal with the matters, which suggests a judgment about the quality and quantity, we give the commission an opportunity to say that that has been dealt with with sufficient particularity and certainty but we make no judgment about the adequacy of the powers.

The Hon. C.J. SUMNER: No objection.

Amendment carried.

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

Page 7, line 5—After 'membership' insert 'in the case of an association that has members'.

This is part of the long list of things which now must be dealt with with sufficient particularity and certainty. One of these is membership. Some associations do not have membership. I remember a debate in 1985 about whether an association can exist without members. But there are associations without membership. I wanted to recognise that and make it consistent with the other provisions in the principal Act, by referring to membership in the case of an association that has members.

The Hon. C.J. SUMNER: The Government opposes this amendment. No matter whether the association has a membership at large or is an association often referred to as a memberless association, it is critical that the rules set out who are the members for the purposes of the Act. Therefore, the form of words proposed in the amendment is inappropriate. There have to be some rules, and it is important that the rules set out who are the members for the purposes of the Act, even if they are what are called memberless associations.

The Hon. K.T. GRIFFIN: I beg to differ with the Attorney-General on this, because the principal Act already recognises that an association may not have members. All I was seeking to do was ensure that this was consistent, as I recollect it, with special resolutions where, if there are no members, a special resolution is passed by a committee of management.

If the Attorney-General is able to convince the Hon. Mr Gilfillan to support him in opposing the amendment, I suggest that it is an issue that the Attorney look at to ensure consistency with the rest of the Act. I can remember raising this issue in 1985. I know of several organisations that do not have members; a committee of management is appointed by another organisation, and the other organisation has the responsibility for amending the rules. One such association was established by a person who subsequently became a Supreme Court judge to facilitate the implementation of the terms of a bequest in a will. Effectively it is an incorporated association with a committee of management and no members, where the decisions are taken by the committee in the day-to-day administration but where the objects are the terms of the trust specified in the will of a deceased person.

Sometimes it is difficult to come to grips with the concept of a memberless association, but until 1985 I do not think that there was much doubt that you could have a memberless association. Even in 1985, in the principal Act, we made provision for these associations—those that were already in existence in relation not only to annual meetings, and so on, but also to the passing of resolutions. Therefore, I suggest that my amendment is consistent with the principal Act, and I do not see that there ought to be a specific obligation to deal with the question of membership in view of the history of the operation of Associations Incorporation Acts in South Australia back to the end of last century.

The Hon. I. GILFILLAN: I am not convinced that the amendment is a matter of particular moment. It seems to me that if you have a memberless association the requirement of this clause would adequately be covered by having that description in the rules pertaining to membership. I may be wrong, but I interpret the Attorney's earlier comments in opposing this amendment as being that the qualification of the association that does not have members is exempt from the other requirements. I do not see that. I think the amendment applies to membership, and that it pertains only to that. That is what I understand the Hon. Trevor Griffin is seeking to do, but I think it is unnecessary, because it seems to me that it would be no bother if a memberless association just made that part of its rules, so that it was printed. I think that is the only thing to which it would apply.

The Hon. C.J. SUMNER: They are memberless in the sense that they do not have members at large, but they are not memberless in the sense that there are people who conduct the affairs of the association. My advisers are concerned to ensure that those people are regarded as members of the association for the purposes of the Act and therefore can be picked up by other provisions in the Act, such as the provision for special resolutions and the like. So, there are no members at large but the people who established the incorporated association should be regarded as members for the purposes of the other provisions in the Act. That is our argument.

The Hon. K.T. GRIFFIN: There are obligations on the members of the committee of management, and that is recognised and is addressed in new subparagraph (ii). However, there are in the principal Act provisions such as in relation to annual meetings and special resolutions, which recognise that an association may not have members. Although the Hon. Mr Gilfillan's solution might be the commonsense approach, I am concerned that, if you just put 'membership', in the light of the amendment we passed earlier, it must deal with the following matters with sufficient particularity and certainty. What will happen if in a constitution it is specified that there are no members? Will that come back from the Corporate Affairs Commission saying that you must have members? I thought we had had this out in 1985 and that there are associations which do not have members but have a committee of management, and the obligations are then placed on the members of the committee of management in relation to certain of the functions that are carried out on behalf of the association.

Amendment negatived.

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

Page 7, lines 8 and 9—Strike out 'of an association to which Division II of Part IV applies' and substitute 'in the case of an association that is a prescribed association'.

This amendment is consequential on the earlier amendment to establish a definition of 'prescribed association'.

The Hon. C.J. SUMNER: The Government has no objection to this amendment.

Amendment carried.

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

Page 1, line 11—Strike out 'and procedure at'.

One of the matters which has to be dealt with sufficient particularity and certainty under the Bill is the calling of and procedure at general meetings. It seems to me that the calling of general meetings is the appropriate obligation; the procedure, I think, can be left at large, remembering that small organisations will have a different approach to larger organisations. I think it is a bit of an imposition specifically to include the procedure having to be set out with particularity. It may be that that is provided for in by-laws, anyway.

The Hon. I. GILFILLAN: I think it is reasonable for an association to particularise its procedure at an annual general meeting. I do not agree that just the calling of it is adequate, and I oppose the amendment.

The Hon. C.J. SUMNER: We oppose the amendment.

Amendment negatived; clause as amended passed.

Progress reported; Committee to sit again.

SUPPLY BILL (No. 1)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Its purpose is to grant supply for the early months of next financial year. Present indications are that appropriation authority already granted by Parliament in respect of 1991-92 will be adequate to meet the financial requirements of the government through to the end of the financial year. The government will, of course, continue to monitor the situation very closely, but it is unlikely that additional appropriation authority will prove to be necessary. Honourable members may be aware of recent media comment on this year's budget and the likely outcome for this year. While it is too early in the year to be precise about the prospective budget outcome for 1991-92, I can advise the honourable members, in broad terms, of budget developments.

In introducing the 1991-92 budget, it was outlined to honourable members the economic context in which the Government had made its decisions. In the early months of this financial year available data suggested that the economic slowdown was intensifying. The assumptions made, particularly with respect to estimated budget receipts, took this into account. The national recession has deepened during 1991-92 and signs of the effects of this on the prospective budget outcome have emerged.

In particular, at this stage of the year it is possible that we will have a sizeable shortfall on taxation receipts in addition to which the falling inflation figure may mean a reduction in the State's financial assistance grant when compared with budget estimates. These are similar problems to those which confront most other State budgets and, indeed, the Federal budget. On the other hand, there are areas for potential improvement, including the effects of reduced interest rates and the contribution to the budget from the SAFA surplus. On the expenditure side of the budget, the Government is maintaining its policy of restraint. At this stage of the year there is no evidence to suggest that total expenditure, both recurrent and capital, will be significantly different from estimated levels included in the budget. The government is thus confident of ending the financial year with an acceptable result in terms of the level of borrowings.

The outlook for the national and South Australian economy will, however, clearly be affected by the initiatives proposed in the Federal Government's economic statement. As honourable members are aware, the South Australian Government has presented the Federal Government with an extensive submission addressing the particular problem and priorities of this State. This submission was well received by the Prime Minister during his visit on 30 January and specific issues in our submission have since been followed up with visits from Senator Richardson and the visit by the Federal Treasurer, Mr Dawkins, and the Minister for Industry, Technology and Commerce, Senator Button, and Minister Brown. The State Government will, therefore, provide a response to the Federal Government's economic statement shortly after it has been analysed, and at that stage the government will be in a better position to provide a more detailed report on the State's financial position.

Turning to the legislation now before us, the Bill provides for the appropriation of $860 million to enable the Government to continue to provide public services during the early months of 1992-1993. In the absence of special arrangements in the form of the Supply Acts, there would be no parliamentary authority for expenditure between the commencement of the new financial

year and the date on which assent is given to the main Appropriation Bill. It is customary for the government to present two Supply Bills each year, the first covering the estimated expenditure during July and August and the second covering the remainder of the period prior to the Appropriation Bill becoming law. This practice will be followed again this year.

Honourable members will note that the expenditure authority sought this year is approximately 1 per cent more than the $850 million sought for the first two months of 1991-92. This is broadly in line with increases in costs faced by the Government and should be adequate for the two months in question.

Clause 1 is formal.

Clause 2 provides for the appropriation of up to $860 million and imposes limitations on the issue and application of this amount.

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

ROAD TRAFFIC (PRESCRIBED VEHICLES) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes that drivers of heavy vehicles, public transport vehicles (including taxi-cabs) and vehicles carrying dangerous substances by subjected to a zero blood alcohol limit. Currently, the Road Traffic Act defines the 'prescribed concentration of alcohol' as being:

- any concentration of alcohol in the blood for an unlicensed or inappropriately licensed driver; and
- a concentration of .05 grams or more of alcohol in 100 millilitres of blood for any other driver.

In addition, the Motor Vehicles Act defines the 'prescribed concentration of alcohol', in relation to holders of a learner permit or a probationary driver licence, as being any concentration of alcohol in the blood.

Although considerable progress has been achieved in upgrading the safety standards for heavy vehicle operations, extending the zero blood alcohol limit to cover drivers of heavy vehicles, dangerous goods and public transport vehicles will further enhance road safety. This is an integral component of the National Road Safety Initiatives package and is being adopted by all States and Territories of Australia. A recent South Australian study of the causes of fatal articulated truck crashes indicated that excessive drinking by the truck drivers contributed to crashes in which about 15 people died over the 10 year period, 1978-87.

The effective enforcement of a zero blood alcohol limit will, because of current technology, be at the .02 level. This will counter any possible defence argument that a driver had not been drinking alcohol but was taking a medicine, such as a cough syrup with an alcohol base. However, to actually set the limit at .02 instead of zero would undoubtedly indicate, to some drivers, that drinking a small amount of alcohol was permissible. The penalties relating to drivers detected in contravention of the provisions of this Bill will be those penalties currently prescribed in section 47b of the Act and are dependent on both the seriousness of the offence, for that is, the amount of alcohol in the blood, and whether the offence is a first, second or subsequent offence.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 amends section 5, an interpretation provision. It inserts definitions of 'prime mover' and 'semi-trailer' that refer to the definition of 'articulated motor vehicle'.

Clause 4 amends section 47a by inserting new definitions relevant to the provisions prohibiting driving with certain concentrations of alcohol in the blood. The definition of 'prescribed concentration of alcohol' is amended so that when driving certain categories of vehicles the prescribed concentration is zero. The categories of vehicles are as follows:

(a) a vehicle with a gross vehicle mass (which is in turn defined) exceeding 15 tonnes;

(b) a prime mover with an unladen mass exceeding 4 tonnes;

(c) a bus;

(d) a motor vehicle that is—

(i) designed for the principal purpose of carrying passengers;

(ii) designed to carry more than 8 persons, but less than 12 persons, (including the driver);

and

(iii) used regularly for the purpose of carrying passengers for hire or for a business or community purpose;

(e) a vehicle that is being used for the purpose of carrying passengers for hire;

(f) a vehicle that—

(i) is used to transport dangerous substances within the meaning of the Dangerous Substances Act 1979 or has such substances aboard;

and

(ii) is required under that Act to be marked with a label.

Clause 5 amends section 175 by inserting a further evidentiary aid relevant to the new offence of driving a prescribed vehicle with any concentration of alcohol in the blood.

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

REAL PROPERTY (SURVEY ACT) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill has its origin in reviews carried out by the Department of Lands into land boundary requirements and the Surveyors Act 1975. In 1987 Cabinet approved a proposal for the gradual introduction of a new land boundary system, called a Coordinated Cadastre to South Australia. In this system the positions of property boundaries are expressed in east and north coordinates derived from a series of accurately coordinated survey marks established and maintained by the Surveyor-General. Procedures to introduce the Coordinated Cadastre are incorporated in the Bill to introduce the Survey Act 1991.

Current boundary determination procedures are based on a number of common law precedents established by the courts early this century, and do not necessarily recognise survey measurements as defining the positions of title boundaries. To introduce the Coordinated Cadastre it is necessary to amend the Real Property Act to provide legal status to coordinates determined from the survey measurements. This Bill provides that status. In addition, it allows the courts authority to rebut coordinates and makes provision for the correction of errors in the Coordinated Cadastre.

The Bill for the Survey Act 1991 also empowers the Surveyor-General to identify 'confused boundary areas', being areas where the legal positions of boundaries disagree markedly with fences, buildings and other features which have over many years been accepted by land owners as the boundaries. This disagreement usually results from poor quality surveys in the early days of the survey of South Australia. The proposed Survey Act provides that such areas can be defined and the boundaries therein determined by the principles of equity rather than common law. The amendments to the Real Property Act contained in this Bill require the Registrar-General to alter the certificates of title of land in confused boundary areas to reflect the new boundary details as surveyed.

The land boundary and title methods introduced by Colonel Light and Robert Torrens respectively have given South Australia a registration system virtually free from boundary disputes and costly litigation. This Government is committed to maintaining the system's quality and views this legislation as an important component in achieving that goal. The Government trusts this Bill will be well received and looks forward to its passage through

Parliament and successful implementation. The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 inserts a new Division after Part V Division II. The Division contains two sections. One relates to the coordinated cadastre and the other to confused boundary areas. They are both consequential to the inclusion of provisions on these matters in the Survey Bill 1991. New section 51e provides for filing in the Lands Titles Registration Office of a plan of an area of the State within the coordinated cadastre lodged by the Surveyor-General in accordance with the Survey Bill 1991. Such a plan will give AMG (Australian Map Grid) coordinates for the boundaries of allotments of land within the area covered. The coordinates will have been fixed by reference to permanent survey marks established by the Surveyor-General. Such a plan must be accepted in legal proceedings as evidence of the position and dimensions of the boundaries of allotments that it delineates. If an issue as to the position or dimensions of a boundary shown on such a plan arises in legal proceedings, the Surveyor-General must be given an opportunity to present evidence and be heard on that issue. The new section also provides a mechanism for the correction of any errors found in such a plan and for any necessary adjustments of certificates of titles.

New section 51f requires the Registrar-General to correct certificates of title that are inconsistent with a plan relating to a Confused Boundary Area (as established under the Survey Bill 1991) that has been deposited in the Lands Titles Registration Office.

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

ADJOURNMENT

At 6.24 p.m. the Council adjourned until Thursday 27 February at 2.15 p.m.