HOUSE OF ASSEMBLY

Thursday 14 September 1978

The SPEAKER (Hon. G. R. Langley) took the Chair at 2 p.m. and read prayers.

PETITIONS: PORNOGRAPHY

Mr. SLATER presented a petition signed by 74 electors of South Australia praying that the House would pass legislation to provide for Ministerial responsibility adequately to control pornographic material.

Mr. HARRISON presented a similar petition signed by 53 electors of South Australia.

Dr. EASTICK presented a similar petition signed by 40 electors of South Australia.

Mr. McRAE presented a similar petition signed by 76 electors of South Australia.

Mr. ABBOTT presented a similar petition signed by 151 electors of South Australia.

The Hon. D. J. HOPGOOD presented a similar petition signed by 80 electors of South Australia.

Mr. WELLS presented a similar petition signed by 112 electors of South Australia.

Mr. ALLISON presented a similar petition signed by 80 electors of South Australia.

Mr. GUNN presented a similar petition signed by 51 electors of South Australia.

Mr. MILLHOUSE presented a similar petition signed by 227 electors of South Australia.

Mr. BANNON presented a similar petition signed by 159 electors of South Australia.

Mr. RUSSACK presented a similar petition signed by 52 electors of South Australia.

Mr. GROOM presented a similar petition signed by 23 electors of South Australia.

Mr. KENEALLY presented a similar petition signed by 38 electors of South Australia.

Mr. DRURY presented a similar petition signed by 40 electors of South Australia.

Mr. WOTTON presented a similar petition signed by 187 electors of South Australia.

The Hon. J. D. CORCORAN presented a similar petition signed by 167 electors of South Australia.

Mr. KLUNDER presented a similar petition signed by 128 electors of South Australia.

Mr. DEAN BROWN presented a similar petition signed by 122 electors of South Australia.

Petitions received.

PETITIONS: VIOLENT OFFENCES

Mr. RUSSACK presented a petition signed by 525 residents of South Australia praying that the House would support proposed amendments to the Criminal Law Consolidation Act to increase maximum penalties for violent offences.

Mr. WELLS presented a similar petition signed by 267 residents of South Australia.

The Hon. D.J. HOPGOOD presented a similar petition signed by 36 residents of South Australia.

Mr. DRURY presented a similar petition signed by 315 residents of South Australia.

Mr. RODDA presented a similar petition signed by 226 residents of South Australia.

Mr. HARRISON presented a similar petition signed by 251 residents of South Australia.

Mr. KENEALLY presented a similar petition signed by 179 residents of South Australia.

Mr. GROTH presented a similar petition signed by 164 residents of South Australia.

Mr. CHAPMAN presented a similar petition signed by 73 residents of South Australia.

Mr. ALLISON presented a similar petition signed by 1 365 residents of South Australia.

Mr. BANNON presented a similar petition signed by 39 residents of South Australia.

Mr. WOTTON presented a similar petition signed by 638 residents of South Australia.

The Hon. J. D. CORCORAN presented a similar petition signed by 413 residents of South Australia.

Mr. TONKIN presented a similar petition signed by 820 residents of South Australia.

Mr. SLATER presented a similar petition signed by 97 residents of South Australia.

Petitions received.

PETITIONS: VOLUNTARY WORKERS

Mr. RUSSACK presented a petition signed by 11 residents of South Australia praying that the House would urge the Government to take action to protect and preserve the status of voluntary workers in the community.

Mr. TONKIN presented a similar petition signed by 105 residents of South Australia.

Petitions received.

PETITION: MOUNT GAMBIER HOSPITAL

Mr. ALLISON presented a petition signed by 241 residents of South Australia praying that the House would urge the Government to direct the Health Commission to appoint resident doctors to the Mount Gambier Hospital.

Petition received.

PETITION: SUCCESSION DUTIES

Mr. HARRISON presented a petition signed by 32 residents of South Australia praying that the House would urge the Government to amend the Succession Duties Act so that the position of blood relations sharing a family property enjoyed at least the same benefits as those available to other recognised relationships.

Petition received.

THEBARTON COMMUNITY CENTRE

The SPEAKER laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Thebarton Community Centre.

Ordered that report be printed.

CONTAINING, CONTROL AND REGISTRATION OF DOGS SELECT COMMITTEE

The SPEAKER: After my attention was drawn by the honourable member for Mitcham to an article on the front page of the *News* of 24 August, relating to the report of the Select Committee on the Report of the Working Party on the Containing, Control and Registration of Dogs, I read both the article and the report of the Select Committee. I was sufficiently concerned with the content of the article to seek an explanation from the Managing Editor of the *News* in the following terms:

Dear Sir,

I refer to your front page article "Dog Fee Up To $5" in Thursday's editions of the *News*, and draw your attention to Standing Order No. 395 of the House of Assembly, which reads as follows:

The evidence taken by any Select Committee of the House, and documents presented to such Committee which have not been reported to the House, shall not be disclosed or published by any member of such committee, or by any other person. No doubt you are aware of that Standing Order and the attendant risk of breaching the privileges of the House in publishing the article. Having now read the report of the Select Committee, I believe a number of the statements in the article could only have come from the report, and I therefore seek from you explanations as to:

(a) Whether you had access to a copy of the report and, if so, how you obtained it; and

(b) Why you allowed publication of the article prior to it being tabled in the House.

As I will be absent at an interstate conference for a short while, I would appreciate a reply from you by Monday 11 September.

I have received the following reply:

Dear Sir,

I am in receipt of your letter of 25 August 1978 relating to an article concerning dog registration fees published in the *News* on 24 August 1978, and a possible breach of myself of Standing Order 395 of the House of Assembly.

I do not consider that I am in breach of the Standing Order referred to as I have not, nor would I permit to be, published or disclosed any evidence taken by (or documents presented to) a Select Committee of the House.

The article published relating to dog registration fees did not publish any of the evidence given to the Select Committee and did not disclose the content of any documents which may have been presented to and which had not been reported to the House, hence my belief that I have not offended the Standing Order as suggested. Please be assured that I would not consciously be in breach of the privilege of the House.

Yours faithfully,
Signed (Simon Galvin)
Managing Director.

SUBORDINATE LEGISLATION COMMITTEE

Mr. HARRISON (Albert Park) brought up the following second report, 1978, of the Joint Committee on Subordinate Legislation:

The Joint Committee on Subordinate Legislation wishes to report that on Thursday, the 31st day of August, 1978, one of the Joint Secretaries, Mr. David Bridges, then Acting Clerk of the House of Assembly, received a phone call from a person purporting to act on behalf of J. Mahony & Co., Solicitors, in relation to Paper No. 128—Industrial Conciliation and Arbitration Act—Industrial Proceedings Rules.

This person, after making a number of requests for information, which the committee does not object to, then indicated that it was possible that his firm, in the instruction of its client, would subpoena the Clerk of the House of Assembly and Chairman of the committee to give evidence in the South Australian Industrial Commission.

The committee wishes to make quite clear that neither the Chairman, nor any of the officers of the committee, will give any evidence about matters before it or its deliberations or reasons to that or any other tribunal.

Report received and read.

MOTION FOR ADJOURNMENT: FROZEN FOOD FACTORY

The SPEAKER: I have received the following letter from the Leader of the Opposition (Mr. Tonkin):

I desire to inform you that this day it is my intention to move:

That this House at its rising adjourn until 1 p.m. tomorrow, for the purpose of discussing a matter of urgency, namely, that the excessive expenditure, the unwarranted capacity and the gross inefficiencies in the management and financial control of the Frozen Food Factory confirmed by the Auditor-General's Report released this week warrant the dismissal from office of the Minister of Health.

I call upon those members who support the proposed motion to rise in their places.

Several members having risen:

Mr. TONKIN (Leader of the Opposition): I move:

That this House at its rising adjourn until tomorrow at 1 o'clock,

for the purpose of discussing a matter of urgency, namely, that the excessive expenditure, the unwarranted capacity and the gross inefficiencies in the management and financial control of the Frozen Food Factory confirmed by the Auditor-General's Report released this week warrant the dismissal from office of the Minister of Health.

The Frozen Food Factory has been described as a white elephant, but the matters which have been revealed over the past few months, and which are now specifically confirmed in the Report of the Auditor-General, represent an irresponsible and scandalous waste of taxpayers' money. This waste of money is not confined to any one aspect of the food factory's unfortunate history but, right from the outset, reveals a lack of forward planning and budgetary control that has been pervading the entire operation.

In summary, the Frozen Food Factory seems to have grossly over-capitalised, with costs escalating from the initial estimate of $4 500 000 to $9 200 000; is still subject to further expensive changes and modifications in design, on a trial and error basis; has failed to produce food within the planned unit cost of $1·25 as announced by the Minister of Health, and cannot match prices for food produced by private suppliers; will require massive expenditure on changing existing hospital equipment to receive frozen food, amounting to more than $2 000 000 so far; has not provided up to 20 per cent savings in food costs for kitchen wastes, and up to 15 per cent at ward level, as claimed by the Minister of Health, and, according to the Corbett Report, will not provide answers to the problems of waste and pilfering; has not yet been accepted by some autonomous institutions under the Health Commission as a satisfactory supplier of food; has still, after about nine months, not been able to develop satisfactory accounting or management systems or even guidelines; and, has made a substantial real loss in its first year, and is expected to make a loss of about $500 000 in the coming year.

That is a summary, as I see it, of the present deficiencies of the Frozen Food Factory. Neither the efficiency nor the economics of the venture seem to have concerned the Government or the Minister of Health in the slightest. The record shows lack of control; lack of administrative ability (this is probably the most serious matter); and a lack of concern for the massive costs and waste of public money involved. Lack of awareness is not an excuse, and, indeed, the Auditor-General's Report which was released on Tuesday shows that the Government must have been aware of the situation.

Under the heading "Financial Control", the report states at page 243:

> The accounting, operational controls, and procedures do not ensure the accuracy and reliability of the accounting data, the provision of accurate stockholding information, and reporting of variances between actual performance and standard. Corrective action is required to assist management in the discharge of its responsibilities and ensure accountability of operations. Deficiencies disclosed by audit were referred to the Committee of Management on 13 July 1978. Discussions have taken place and certain matters are being reviewed.

That quote from the Auditor-General's Report shows quite clearly that the deficiencies raised by the Auditor-General were the subject of discussion and must have been known by the Government. The Minister and the Government were therefore aware of the massive shortcomings of the operation in July, and yet the Premier, on 3 August, told this House that the factory was operating efficiently. He deliberately misled the House, and, even yesterday, with the same shameless hedging around the subject, attempted to hold to the same line. I think he did not fool anybody yesterday but, nevertheless, he tried. The point is, that the Auditor-General's Report clearly showed that the factory is not operating efficiently, despite anything the Premier may say on the subject.

Extracts from the report show that the physical and financial control over the operations is unsatisfactory, and that the laundry operations are largely financing the food services. The Auditor reported that the maintaining of stock control records was inadequate, that the expenditure did not include all costs incurred, and that the financial control over operations was unsatisfactory. Not only that, but he reported that the losses for the year to 30 June were $122 000.

However, if one reads the notes to and forming part of the revenue for the six months ended 30 June 1978, which appear at page 241, there is a list of additional expenses which must be taken into account. I note that that list is in small type, and perhaps it was hoped that it would be treated as a secondary matter. I refer the Premier to page 241 and the list of additional expenses. Taking into consideration deferred interest and depreciation, preliminary expenses, and computer expenses, whether shown in the factory's accounts or not, the real loss for the current year could be more nearly $1 200 000 of taxpayers' money. These figures are clearly set out at various places in the Auditor-General's Report, but what I have quoted includes the figure for depreciation that is not in the Auditor-General's Report.

Following the Premier's attempts to cover up, by asserting its efficiency, the enormous deficiencies and problems which had beset the factory, and which are becoming more and more obvious, the Deputy Premier announced an inquiry. He beat the Auditor-General to the gun by one week by announcing an inquiry into the Frozen Food Factory. He said that the inquiry would look into appropriate forms of management control and administration, and study what changes would need to be made in food handling to make the best use of frozen food. He then said that some consideration would be given to whether or not the factory should enter the commercial field. In other words, he was announcing a feasibility study, a study which should have been part of studies done well before work on the factory ever began.

The investigations by the Public Accounts Committee, the Auditor-General, and the Corbett Committee are now to be added to by a further two-stage committee report. This study is obviously aimed at closing the stable door long after the horse has well and truly bolted. No wonder he was reluctant to say whether or not the report would be made public. That was another matter which gave the Opposition a great deal of concern. Whenever such a report is made, Opposition members never know whether or not it will be made public. Indeed, the Government has a track record of making such reports public only when the findings suit it, and never if the findings are critical of it.

In making the announcement, the Deputy Premier said that extensive studies had been carried out before the Frozen Food Factory had been established, and he quoted Mr. John Coumbe, a former member for Torrens, and a distinguished Minister of Works in the Hall Government. He said that Mr. Coumbe had made an extensive study of frozen food services in several United Kingdom hospitals in 1969. I have spoken with Mr. Coumbe, who tells me that, with Mr. Dunn, the then Director of the Public Buildings Department, he visited a factory in the United Kingdom in 1969, and in the canteen had had a meal supplied by a frozen food service. That was the extent of his investigations, which are now quoted as justifying the action of the present Government in initiating studies on the Frozen Food Factory.

The report of the Public Works Standing Committee makes very interesting reading, and shows that investigations were indeed carried out and inquiries made in interstate hospitals, in pilot studies in South Australia, and from a commercial firm in Western Australia. The bulk of that report, however, as was entirely proper, was devoted to the building and construction proposals, and that is the role of the Public Works Standing Committee. Under the heading, "Financial aspect", Mr. Rankin, the Hospital Planning Consultant, said:

> Costs for pre-cooked frozen food organisations vary throughout countries of the world, but the majority find that there is a noticeable saving over conventional catering due mainly to labour savings, reduced wastage and continuous production allowing higher productivity from labour and machinery. . . In England, hospitals have found that they have a considerable saving changing to frozen food, particularly in staff salaries and wastage.

Those are the two major points put forward in favour of the establishment of frozen food facilities. The advantages are, basically, increased efficiency and lower costs from bulk buying and processing, the avoidance of waste, and the centralising of facilities, reducing overall wage levels. These advantages are just not being achieved in the South Australian Frozen Food Factory operations. Frozen food is not being provided more cheaply than it can be obtained from commercial sources, in spite of the Premier's ridiculous preoccupation with gristle and gravy in meat. The factory's price list compares most unfavourably with price lists of private companies when identical items are considered. I have a statistical table involving comparative prices of peas, beans, carrots and potato chips that I seek leave to have inserted in *Hansard* without my reading it.

Leave granted.

Product	Bulk Purchase Price per Kg. for Ready to Eat Products	Frozen Food Factory Selling Price Per Kg.	Percentage Mark-up By Factory
Peas	63c	$1·50	140 per cent
Beans	95c	$1·89	100 per cent
Carrots	84c	$2·50	200 per cent
Chip Potatoes	64c	$1·85	200 per cent

The table shows quite clearly that the percentage mark up at the frozen food factory is considerable; the figures speak for themselves. Control of wastage, which is another

major factor in setting up frozen food facilities, is simply not being achieved. Indeed, the report of the Corbett committee, which the Premier himself had set up to look into this entire matter in a ridiculously short period of six weeks, nevertheless is most pessimistic on the subject. The report states:

> Food is being supplied from the factory in cardboard containers containing either a given weight, or a given count of pieces (chicken, fish, etc.) of the commodity. There does not seem to be any relationship between the contents of the different types of food packs, that is, chicken contains four pieces, braised steak six, fish five, roast beef one kilogram, broccoli 600 grams, cooked apple 1 400 grams, sponge topping one piece (cut into 12 squares), etc.

It cannot therefore be ascertained how many serves of food are contained in a container. For example, four pieces of chicken could produce any number of serves from two to four. That position makes it tremendously difficult for the people catering, and the problem remains that once a pack is opened to take out even one item from a pack of five, eight, or whatever, the remainder of that food must be discarded. The potential for waste is enormous. That problem must be solved.

The total wage bill of $788 000 estimated for the year, when measured against the estimate of the Minister of $1 200 000 saved in hospitals, does not look attractive at all in a facility which is estimated to make a loss of $450 000 in a year. There can be no excuse for what has happened. The Kaiser Foundation in San Francisco, which serves 11 hospitals with more than 2 000 patients, has been in operation for many years, and its experience must have been available. This simply proves that the aims which have been set out can be achieved, and that experience must surely have been available to the Government.

The escalation in costs shows how urgently necessary is a review of the powers of the Public Works Standing Committee, and I intend to go into that matter during the Budget debate. With a Government exercising its proper responsibilities, such an escalation in cost should not occur. The inefficiencies in the accounting and management are inexcusable, and they must be the responsibility of the Minister of Health. The savings are largely illusory. There is no control on wastage, and the whole situation is a disastrous burden on the taxpayers of South Australia.

We have brought this matter before the House by way of an urgency motion to show our concern and to give clear warning to the Government that we believe that both it and the Minister of Health have been totally incompetent and irresponsible in this matter. The Public Accounts Committee's report cannot be far away, and further action may well be taken at that time. What will concern everyone in the community is how many other projects are there that have been put in train under this sort of circumstance—

The SPEAKER: Order!

Mr. TONKIN: —or being similarly managed.

The SPEAKER: Order! Last evening, when I called "Order", every honourable member on his feet resumed his seat. I see no reason why the honourable Leader should have continued speaking. I should not have to yell.

The Hon. D. A. DUNSTAN (Premier and Treasurer): I have listened with interest to what the Leader has had to say this afternoon. He set out to make a case that excessive expenditure, unwarranted capacity, gross inefficiencies in management and financial control should be condemned. We had better look at the history of this operation and see how much there is in his contention. It is interesting that the Leader carefully glossed over the contents of the Public Works Committee's report to this Parliament. He said that it concerned itself primarily with the building of the factory, whereas it went into the whole question of the desirability of an operation of this kind and carefully forecast that it was likely that the cost of the factory would exceed that which appeared in the committee's report. I point out to members that this report was subscribed to by members of the Party opposite, and it states:

> It should be emphasised that while at this stage all these costs are tentative in detail they are useful indicators of the overall magnitude of costs for the projected facility. They are intended to establish maximum target costs. Each of the major items on which the estimates are based will be the subject of further study and the final data will be greatly refined. The maximum target costs have been established on prices current at 30 January 1974 and do not take into account any provision for escalation. Escalation costs can only be established when a final construction programme has been agreed.

The year 1974-75 was a period of gross inflation in building costs. During that period, the major public works in South Australia, in a number of cases, escalated 100 per cent in one year in the tenders that the Government received. A matter of great concern and debate in the Premiers' Conference was the tendering climate with which Australia was faced.

Members interjecting:

The SPEAKER: Order! The honourable Leader was heard in silence, and I hope that honourable Opposition members will cease interjecting.

The Hon. D. A. DUNSTAN: The Frozen Food Factory did not proceed immediately on the receipt of the Public Works Committee's report; in fact, it did not proceed for more than a year after that, because of the pressure on the public works programme of the State. However, that it was clearly desirable to institute a system of frozen food provision to the hospitals of South Australia was clear from the report, because of the great difficulties and escalations in cost of conventional food supplies to hospitals.

The Leader has pointed out, by referring to the Kaiser Foundation, established in California, that this position has been found elsewhere in the world. South Australia is in the lead in establishing a facility to change from the conventional hospital facilities for the provision of food to modern technology, and has imported the best of modern technology in this area. True, building costs escalated markedly, simply because of the basic escalation of building costs within the State, and not because of any extravagance by the Government.

The Government believed rightly that the establishment of a facility of this kind on the basis of the increased costs was still justified as against the prospective escalation of costs of conventional food facilities to hospitals. Indeed, that was already shown, during the period that we were waiting to establish this facility, by the experiments that were carried out in a number of hospitals in limited frozen food facility arrangements. Those limited arrangements made quite clear that we could not do the thing economically on a broad scale, except the establishment of a centrally-provided facility.

We went ahead with the establishment of that facility on the basis recommended by the Public Works Committee's investigation. Again, that was something that had been before the House. This House had an opportunity to vote on the allocations that were provided in the Loan Estimates towards the carrying out of the facility. No objection was raised by the Opposition to the voting of that allocation for the provision of the recommended facility.

Mr. Dean Brown: What—

The Hon. D. A. DUNSTAN: You had ample opportunity to do so; you never said a word. Let me now turn to what has happened in relation to providing capacity. The Leader said that we have provided too great a capacity. We have provided the capacity recommended to the Parliament by the investigations of this Parliament, and recommended by members opposite. The history of this facility is as follows: catering is a major cost factor in running any large institution employing conventional cooking facilities. In the mid-1960's the South Australian Hospitals Department was looking hard at alternative means of catering design to obviate a number of pressing problems in that area. Prior to the establishment of the Frozen Food Factory, catering staff had to be on the job at awkward hours, and this involved payment of penalty rates. Absenteeism, staff turnover and increasing difficulty in obtaining trained kitchen staff added to the problem.

In 1967, the Mental Health services became interested in the newly developing technology for catering services, as it appeared to offer substantive advantages for both the patient and staff points of view. The Strathmont Centre was subsequently built without a conventional kitchen with the intention that the new catering service would be introduced. Again, that was recommended to this Parliament, acted on in this Parliament and voted for unanimously.

A cyrogenic freezing tunnel was installed in the Glenside Hospital kitchen to supply snap frozen pre-plated meals to the Mental Health Services, and when the Strathmont Training Centre was commissioned in March 1971 the frozen pre-plated meals were transported from the kitchen at Glenside Hospital to Strathmont Centre. A food preparation area was provided within the Strathmont Centre, together with appropriate deep freeze storage and reconstituting equipment for both the staff dining room and the patient villas.

The frozen food project developed along the pre-plated system until 1973 when Glenside Hospital dining areas for both patients and staff were converted to reconstitution centres for pre-plated food. About this time investigation was focused on the future of portion-packed systems following pilot trials using both pre-packed and portion-packed frozen food and the Queen Elizabeth Hospital.

The subject about which the Leader is talking, the provision of pre-packed food, has been examined fully in the course of investigations into the provision of frozen food. Those investigations have always been available to him. It became obvious that pre-plated frozen food had limitations when used in multi-storey general hospitals. Transport, reconstitution, plated food portions, production costs, food wastage and food choice requirements were all re-evaluated, and portion-packed frozen food was found to be the better method from the viewpoints of economics, ease of handling and consumer acceptance.

When Modbury Hospital was opened in 1973, this general-acute hospital took over the role of the Frozen Food Development Centre. At that time 4 000 meals were prepared and frozen daily. There were 3 500 in pre-plated form from Glenside Hospital and 500 in multi-portion packs from Modbury Hospital. Future commitments of about 11 000 meals were estimated by late 1976, with the development of the Flinders Medical Centre, which was being constructed without a conventional kitchen area.

This was done because of the intention, which was common at that time and not disputed within this Parliament, to provide a centralised frozen food facility. While these developments proceeded, investigations were conducted into the possible construction of a separate stand-alone central food preparation, freezing, storage and distribution facility. It was quite obvious that if the system was to go beyond the pilot stage, it would be uneconomic and impracticable to convert any existing hospital building or to use expensive real estate within a major hospital campus. As a result of all these circumstances, it was eventually decided to build a properly planned facility at Dudley Park with a common usage of services that had already been established for the Central Linen Service.

It was noted that unless correct preparation, cooking and freezing techniques were used at all times, the quality and presentation of the end product could be poor and there could be in-built user resistance to the whole concept. It was also difficult to maintain the high rates of combined production of 11 000 meals a day from Modbury and Glenside Hospitals on a one-shift basis. To maintain such high rates at an acceptable standard of quality, there was a need for the advantages of co-ordinated production control where automatic and production procedures could be based on the best possible handling systems.

Apart from the early pilot schemes at Glenside and Modbury Hospitals, the construction of the centralised Frozen Food Factory has been a pioneering venture without precedent in Australia. In the early stages it was not possible to predict with accuracy the extent and type of equipment needed. This is reflected in the Public Works Standing Committee Report, page 7, where it states:

> There is no doubt that production techniques and equipment will improve greatly after the facility is commissioned, and, indeed, may change before commissioning.

The Public Works Standing Committee recommended, in January 1974, the erection of the factory.

Early in 1974 a start on the factory was deferred for approximately 12 months because of our heavily committed hospital Loan programme. This deferment was subject to Flinders Medical Centre arranging a frozen food service from other sources during the hospital's first year of operation. When funds approval was sought in April 1975, the estimate of $7 000 000 was based on the anticipated final cost and included escalations to the completion of the project. The estimate recommended by the Public Works Standing Committee was based on January 1974 prices and included no allowance for future price increases, as I pointed out. The actual escalation was higher than the amount originally allowed.

Mr. Gunn: You shouldn't read it.

The SPEAKER: Order! The honourable member is out of order. That is the second occasion on which he has been out of order.

The Hon. D. A. DUNSTAN: Apparently I am not allowed to read from a brief, while the Leader read the whole of his speech from a brief.

Mr. Slater: And read it badly, too.

The SPEAKER: Order! The honourable member for Gilles is out of order.

Mr. Gunn: He's never been in order.

The SPEAKER: Order! I call the honourable member for Eyre to order.

The Hon. D. A. DUNSTAN: A number of additional cost factors led to further escalation beyond the estimate at that time. The amount of $3 053 000 was made up as follows: escalation from January 1974 to March 1976 was 68 per cent. From March 1976 to completion at September 1977, escalation was 17 per cent. From commencement on site to completion, the increase in cost due to escalation was approximately 60 per cent of the total percentage increase. Therefore, the total increase in cost due to escalation from January 1974 to September 1977 is $4 525 000. There were a number of minor additional amounts, but those were the major increases in costs.

As to project management, because of the nature of the project (largely process engineering, as distinct from building), the project team recommended that the firm of Austin Anderson (Aust.) Pty. Ltd. should be engaged for the complete construction management service. As professional project managers, Austin Anderson provided a full design supervision and construction management service, including commissioning, for a total fee of $1 050 000.

There were no substantial changes in concept from that recommended to this Parliament. The original proposal was to produce a food factory with a capacity to produce 25 000 meals in an eight-hour shift and a finished product storage for 400 000 meals. That was the recommendation. It was made to this Parliament by a bipartisan committee and voted on in this Parliament—and members opposite voted for the amounts which we have spent. The capacity has been achieved in accordance with the vote of this Parliament, including the vote of members opposite, and there has been no substantial change in the concept of the project from that submitted to the Public Works Standing Committee. It was not, in those circumstances, necessary to make a further submission to the Public Works Standing Committee; we were carrying out the provisions of its recommendation.

It is quite true that there is reason for concern about the standard of accounting which has taken place in recent months within the Frozen Food Factory.

Mr. Venning: Hear, hear!

The SPEAKER: Order! I call the honourable member for Rocky River to order for the third time. The honourable member for Davenport.

Mr. DEAN BROWN (Davenport): This afternoon, we have basically a vote of no confidence in the Minister of Health on the Frozen Food Factory. Let us tackle, Sir, from the beginning the defence by the Premier. In essence, his defence was this: first, the costs had escalated (in fact, they had escalated from $4 500 000 to $9 000 000), but he claims, in his words—

The SPEAKER: Order! "The honourable member claims".

Mr. DEAN BROWN: The honourable member claims that these were fully justified. His second defence is that there were substantial benefits to be gained from the construction of this factory.

On the first point, the cost escalation, costs rose from $4 500 000, as this Parliament was informed in September 1974, to a final cost, as informed earlier this week, of $9 200 000. The Premier claims that those cost increases were due to escalations in the price of building materials and in the cost of labour. If we look at the facts, we will see that, in the two-year period (and about 80 per cent to 85 per cent of the expenditure on this factory was made in the financial year 1976-77, a mean period of two years after the report of the Public Works Standing Committee), the index, as produced by the Australian Bureau of Statistics, for building materials other than housing increased by only 21 per cent, and not by more than 100 per cent, as has occurred in the price of the factory. Taking out the index for building labour for the same period, equally this is somewhere in the vicinity of 40 per cent to 50 per cent, and not 100 per cent as claimed by the Premier.

Let us look at the real reasons for the escalation in the price, and not those put forward by the Premier. Earlier this week, the Minister of Health, in answer to a question I had on the Notice Paper, gave various reasons for the cost escalation, as shown in *Hansard*. First, there was some $625 000 for additional items in separate submissions—not due to price increases, but substantially new equipment for the factory, totally new expenditure. There was a further $400 000 additional expenditure to the project consultants —not cost increases, but additional payments to the project managers.

There was an additional $120 000 to build up the site—not a cost escalation, but poor costing to start with. There was an additional $323 000 for modifications to the original design—not cost escalation, but modifications to the original design. A further $61 000 was added due to delays experienced in commissioning the factory, a further $65 000 at the request of the management committee, trying to capitalise operating losses into the cost of the factory. Finally, there was a further $132 000 for additional plant and equipment, again requested by the management committee, Health Industrial Services. All of those costs were additional and new costs over and above the Public Works Standing Committee report, as presented to this Parliament. So the Premier's argument that they were simply escalations of price cannot be substantiated one iota. There were escalations, but nowhere near the sort of escalation we are looking at here: nowhere near the $4 700 000 the Premier is trying to justify.

The next point to make is that the Premier claims that the benefits of this factory were going to be substantial. Incidentally, I should point out that if one reads the Public Works Standing Committee's report as presented to this Parliament on 19 September 1974 one sees that the cost of the land was $125 000, which has not been included, I understand, in the more recent figures put forward by the Government. Secondly, an allowance of 10 per cent was made for extra contingencies. That was a total amount of $350 000. So, some allowance was made in the original estimate put to this Parliament for these increases in costs and for additional equipment. Therefore, the Premier's justification on costs is completely without foundation.

The Leader of the Opposition touched briefly on the question of benefits. The Premier's argument is that the whole benefit of the factory is that, if the factory is installed, we will be able to do away with much of the cooking staff of the individual hospitals and that will cut out overtime and penalty payments being paid at present, and it will be substantially cheaper in terms of wages and salaries to produce the food at the central factory and send it out to the individual hospitals.

The additional savings as indicated to the Hon. Mr. Hill in another place earlier this week by the Government showed that the total savings in a full year in terms of wages and salaries in hospitals would be $1 240 000. From the Auditor-General's Report we can total the actual salaries and wages paid, and the associated costs in terms of workmen's compensation, at the Frozen Food Factory. If we add this up and multiply it by two for the full year (which is legitimate because the Auditor-General allowed for only six months) we see that the cost was $787 858. That gives a total saving, if one stretches the point, of $452 000 in a full year.

The Auditor-General's Report shows the interest payments for this factory for a full year to be $600 000, which is far greater than the so-called savings in salaries. Again, the Premier's claim of substantial benefits can be absolutely shot apart simply on those figures. The point is that the Auditor-General's figures for wages and salaries for the financial year just ended (a six-month period of operations) is obviously low because the factory was just starting production.

This afternoon we have a vote of no confidence in the Minister of Health, and we have that on three grounds. The first is the excessive expenditure on the whole venture of the Frozen Food Factory. The cost of the factory has

escalated, and there has been substantial increases in costs in installing suitable equipment in the associated hospitals, a cost which was in addition to the $9 000 000 (a further $2 000 000). Secondly, we have this vote of no confidence because we believe there is an unwarranted capacity at the hospital. If ever one wanted substantial evidence to prove that point, it was that the Minister of Works only last week announced two new committees (one a working party and the other a committee) to investigate ways in which they could increase the utilisation of meals from the factory. The Government has admitted that the factory is under-utilised, so how can the Premier stand up today and try to defend himself and his Minister on those grounds? I related to the House only yesterday that in the first six months of its operations the food factory could sell only about half of the food produced, and the other 49 per cent went into stock and stores. These figures, which appear in the Auditor-General's Report, have not been refuted by the Premier today even though he had that information yesterday.

The third reason for this motion of no confidence in the Minister of Health is that there are gross inefficiencies in both the management and financial control of the factory. If anyone wants any better authority for that, he should read the report. Again, that has not been attacked or answered by the Government. Let us look at some of the new facts that can be obtained by assessing the figures given by the Auditor-General. First, in the revenue statement, the Auditor-General says that the loss for the year was $122 000 (rounded off), but by way of note he says that the following charges were not included: interest payments, $600 000; depreciation, no figure given. In seeking the advice of an accountant this morning on a $9 000 000 venture like that I was told that, if it were simply depreciated over a 20-year period (which in some ways would be excessive and would not take account of any inflation factor), the depreciation would be at least $400 000 for the year. Other expenses as given by the Auditor-General are $119 000, and computer expenses are $35 000. Adding all of those together with the other lines comes to a $1 276 286 loss for the first six months of the operation of this factory: not for a full year.

The Auditor-General even admits that the loss next year will be about $500 000 for the full year. One can only assume, because there is no mention of this, that that still does not take account of the depreciation. One can assume that for the 1978-79 financial year the total loss, with depreciation, is likely to be between $500 000 and $1 000 000. One can take an educated guess that it will be closer to $1 000 000 if proper accounting procedures are adopted. The Premier has argued that this factory can compete with private enterprise. He has not refuted the figures given by the Leader this afternoon that show in some cases a 100 per cent difference and in other cases a 200 per cent difference between private enterprise and the factory—all in favour of private enterprise.

Let us remember that the factory has paid no sales tax on the equipment for the factory, no council rates or land tax, and it will pay no company taxes on its profits (not that we expect it to have any profits at any stage). Furthermore, we see that the only allowance for working capital for the factory was $250 000, as outlined in the Public Works Committee's report. We found that in the first six months of the operation it did not need $250 000 but $683 000—in six months. Again, that shows the extent to which the Parliament has been misled by the Government, not by the Public Works Committee's report, because it was Cabinet and the Minister of Health who had the detailed information that the costs of this factory were escalating alarmingly.

The Premier claimed this afternoon that this Parliament, without dissent, voted for the lines to enable the factory to be built. Having examined *Hansard,* I point out that at no stage has the Parliament been informed of these major cost escalations. Until 1976, Parliament still assumed that the cost of building the factory would be $4 200 000. In late 1976, a reply to a question I asked showed a slight increase in that. In 1977, we found that it had increased to $7 000 000, and earlier this year to $8 600 000. Only now are we told that it will be $9 200 000. But it goes well beyond that: major structural problems exist in the operation of the factory.

I understand that the Public Buildings Department and the management committee are currently looking at what further major alterations need to be made to the factory. I understand that correspondence and reports are available which show that further major charges, adding to the already existing high cost, will need to be made.

Furthermore, the Premier has claimed in the House that, in the current financial year, it has been calculated that the average cost of meals from the factory will be $1·25. I understand that the management committee of the factory knows that the cost will be $1·50 to $1·60 a meal, not the $1·25 as claimed by the Premier. Moreover, I put to the House some figures, which the Deputy Premier claimed he would answer, about some meals costing as much as $2·09. There has not been an answer, despite the three weeks the Goverment has had that information.

The Minister of Health stands condemned for his inefficiency, and this House has an obligation to ensure that it passes a vote of no confidence in him. The Minister of Health and Cabinet have been very negligent on this matter. They have wasted millions of dollars of taxpayers' funds; they have created this white elephant, as has been outlined by the Leader of the Opposition, and they now defend themselves.

The SPEAKER: Order! The honourable member's time has expired.

The Hon. HUGH HUDSON (Minister of Mines and Energy): I do not think that I have ever listened to two speeches from the Opposition that have involved a greater degree of distortion than those we have just experienced this afternoon. The member for Davenport tries to tell us that this is a vote of no confidence: it is nothing of the sort. No vote will be taken, because this is an urgency motion and it will be withdrawn at 3.15 p.m. and not voted on. The reason it is not a vote of no confidence is that the Opposition did not wish to sit this evening. That is how serious it is in relation to the matter.

The member for Davenport had the outright gall to tell us that, during the construction period 1976-77, the cost escalation was only 21 per cent and that therefore the Premier was talking a lot of nonsense in saying that escalation explained the increase in costs since the time of the Public Works Standing Committee recommendation. The member for Davenport must have known that he was distorting the truth. He knows that the Public Works Committee estimate of $4 500 000 was an estimate as at January 1974. At the time of the start of the project, when funds approval was sought in April, 1975, the estimate was $7 000 000.

The bulk of the escalation in costs occurred in the maximum period of inflation in 1974-75. As the Premier said in his speech, the escalation during 1976-77 was only 17 per cent, not the 21 per cent suggested by the member for Davenport. How can the member for Davenport be so dishonest, when the bulk of the escalation had already occurred before construction commenced and during the planning period (which he knows to be the case), and still

try to say that the only escalation that we can allow legitimately is for that which occurred during the construction period and that we cannot allow for escalation from January 1974, prior to the commencement of construction?

The honourable member constantly abuses and misuses statistics in this House, and he stands condemned for the way in which he will use any argument to try to prove his point. I have never been so appalled by such a disgraceful explanation as that which has been given this afternoon.

Mr. Dean Brown: But—

The SPEAKER: Order! The honourable member for Davenport has already spoken.

The Hon. HUGH HUDSON: The member for Davenport took no account of the escalation that occurred in costs from the beginning of 1974 before commencement of construction. He and other members know that, but this afternoon he deliberatly misled the House. If he did not do it deliberately, he is a fool; he can take his pick.

In 1965 the group laundry was commenced. We heard about the group laundry this afternoon, because the Leader told us that the profits of the group laundry were being used to finance the Frozen Food Factory. I thought it would be an interesting exercise to look at the Auditor-General's Report for the first year after the group laundry opened. Strange to relate, there was a deficit of $66 261 when it had been operating for only portion of a year. I suppose $66 000 in 1965-66 would be a sum of the order of the magnitude of $122 000 in 1977-78.

The cost per pound for the operation of the group laundry in its first seven months of operation was 11·7c, but the very next year the group laundry moved from a deficit of $66 000 to a profit of $204 000 and the cost per pound decreased from 11·7c to 8·45c. I wonder how such a decline took place. The member for Davenport was probably in the Agriculture Department at the time waving a magic wand.

Members interjecting:

The SPEAKER: Order! I hope honourable members will stop interjecting. Most honourable members have been heard in silence.

The Hon. HUGH HUDSON: It is perfectly obvious why that improvement took place. Whenever an operation is commenced, it does not work at full capacity from the word "go". Any new factory has a break-even capacity. If it does not operate at that capacity one does not get the reductions in unit cost and the economies of scale for which the factory was designed. That is perfectly obvious to any sane citizen. The only difference was that in 1965-66 and 1966-67 Sir Thomas Playford was Leader of the Opposition, and he was a relatively sane citizen, even as Leader of the Opposition. Unfortunately, the same cannot be said of the situation today.

Let us see what is the scale of operation at the Frozen Food Factory at the present time. Is it operating anywhere near capacity and would it be legitimate to expect that its operations were fully efficient at the present time? The present participants in the Frozen Food Factory are Flinders Medical Centre, Northfield Wards, Modbury Hospital, Strathmont, Glenside, Hillcrest, Regency Park, Ru Rua, Enfield, the Alcohol and Drug Addicts Treatment Board, and the Phoenix Society. It produces an average requirement of 1 330 cartons a week.

The participants who are yet to enter the scheme but who will enter the scheme, presumably over the next 12 months, are the Royal Adelaide Hospital, the Queen Elizabeth Hospital, the expansion for Hillcrest and Glenside, and the other Government-supported institutions. The expected requirement for those further participants in the scheme amounts to 2 770 cartons a week, so the current production, plus the increase, will result in a trebling of production at the Frozen Food Factory.

I ask whether any member opposite is prepared to stand in this House and be honest, if he knows anything about the operation of any kind of factory, about what will happen to unit costs when production is trebled. What will happen when one spreads overheads after production is trebled? What will happen to overall economies of operation when production is trebled? What happened in 1966-67 when the group laundry operated for a full year for the first time? Its costs of production per unit came down by 30 per cent—that is what happened. That is pointed out by the Auditor-General in his current Report when he states:

> The frozen food service was established to cater for the supply of pre-cooked frozen food to metropolitan Government hospitals and Government-assisted institutions. The factory was handed over in October, but actual production of pre-cooked frozen food for sale was not commenced until 1 January 1978, and then only on a limited scale.

During the early stages of operations, charge rates were determined at reasonable levels by management because it would be inappropriate to include all fixed expenses until a reasonable production capacity was reached. The Auditor-General accepts that.

Did we get any emphasis on that point from the Leader or the member for Davenport? Not on your Nelly? They are only interested in distorting the truth. They are not interested in making any constructive contribution to any development in this State. I have never seen worse leadership of an Opposition in this State, more irresponsible leadership, more knocking, or more distortion of truth than has been provided by the present Leader. He is the worst example—

The SPEAKER: "The honourable member" is the worst.

The Hon. HUGH HUDSON: Yes. You said it, Mr. Speaker. To quote you, Mr. Speaker, "The honourable member is the worst" Leader of the Opposition, the most irresponsible, the man who has talked down the State and who tries to damage everything that occurs in this State purely to take advantage—

Mr. Harrison: Even the—

The SPEAKER: Order!

The Hon. HUGH HUDSON: I think the Spanish have a useful expression to describe people like the Leader: they would call somebody like him *le boca grande*—big mouth—and the honourable member for Davenport is Little Sir Echo (he is not so *boca grande,* but is still pretty vocal).

There has been no allowance by the Opposition for the fact that any operation, even if conducted by private enterprise, has growing pains when it is first introduced. Everyone is aware of that, and there are innumerable examples in company reports, when new things are started, of difficulties when production is not of sufficient scale to bring about proper economics, and stating that when those matters are corrected unit costs will fall.

The Opposition is concerned purely to try to score a political point if it can. While it is getting publicity it thinks it is scoring a political point. The Opposition makes no constructive contribution to debate. In no circumstances does it make any positive statements about actions that are involved in Government or about actions that involve the welfare of the State. The only things one hears from the Leader of the Liberal Party in this State are statements designed to damage the State. The Liberal Party is probably the best agent that the member for Mitcham ever had in acting in the interest of the Australian Democrats.

It is absolutely extraordinary, and to have effective Opposition left to the member for Mitcham is even more extraordinary.

Mr. Wotton: How about getting back to the subject.

The SPEAKER: Order!

The Hon. HUGH HUDSON: The relevant issue is—

Mr. Allison: You put Mitcham in.

The Hon. HUGH HUDSON: Do you think we are going to put another idiot like some of you in instead of him? Whatever one says about the member for Mitcham, whatever appalling things he does and however appalling some of his arguments are, he is an improvement—

Members interjecting:

Mr. MATHWIN: On a point of order, Mr. Speaker—

Members interjecting:

The SPEAKER: Order! The honourable Minister must resume his seat.

Mr. MATHWIN: I suggest it is unparliamentary for the Minister to be referring to members on this side of the House as "he", "you", and "they", Sir.

The SPEAKER: I think I did point that out to the honourable Minister at one stage. During the course of the past minute or so it has been difficult for me to hear the Minister, because there have been so many interjections, and I hope they will cease.

Mr. TONKIN: On a point of order, Sir, I should like to assure you, on behalf of the Opposition, that we fully appreciate your protection.

Members interjecting:

The SPEAKER: Order!

Mr. EVANS: On a point of order, Sir, I wonder whether the Minister's referring to members on this side of the House as idiots is unparliamentary.

The SPEAKER: There is no point of order. I have heard worse than that on previous occasions.

Mr. GOLDSWORTHY (Kavel): For the Minister of Mines and Energy to call anyone in this House a big mouth is the height of hypocrisy. The biggest mouth in this place is that of the Minister of Mines and Energy. The grins of members opposite verify that. In the four minutes available to me I wish to make at least four points.

The Hon. Hugh Hudson: You've never made four points in your life.

The SPEAKER: Order! The honourable Minister was not heard in silence, but I hope he will not interject now.

Mr. Gunn interjecting:

The SPEAKER: Order! I have already spoken to the member for Eyre, and I now warn him.

Mr. GOLDSWORTHY: This Frozen Food Factory ranks with the passenger terminal at Outer Harbor and the container terminal as one of the great white elephants of this Government. That is the first point. We have a passenger terminal used once a year and an $11 000 000 container terminal used once a week. Now we have a Frozen Food Factory costing more than $9 000 000, which is not doing the job for which it was constructed, and which has cost more than twice what it was supposed to cost. It is all very well for the Premier to say that the Public Works Standing Committee approved this. Of course it did, on the basis of what now appears to be false evidence —perhaps not deliberately false, but it was said that the factory would produce 50 000 meals a day, on the basis that all staff would use two meals a day and all patients three meals a day.

Mr. Dean Brown: It was 25 000 meals.

Mr. GOLDSWORTHY: Well, the evidence I have indicates 50 000, but the best it can do is 12 000 meals a day. The factory cost more than twice the purported cost. The Public Works Standing Committee voted for a project costing less than half the final cost. Once a thing is under way it does not come back to Parliament for a vote, and the Premier knows that.

Secondly, we are not yet out of the woods. The factory requires modification, at considerable expense. Some of the hospitals are not using it. The Queen Elizabeth Hospital, Lyell McEwin Hospital, and the Children's Hospital are not using it. It will cost $500 000 to convert the facilities at Queen Elizabeth Hospital to use this food. There is an argument about the cost of the food. The Premier has not dealt with the information given by the member for Davenport. He quoted the cost of a typical meal as more than $2, but the Premier gave a figure of about $1.

Mr. Venning: Are you—

The SPEAKER: Order! I have already called the honourable member for Rocky River to order, and I have given him every opportunity to cease interjecting. I warn him, and I shall take the necessary action if he continues to interject.

Mr. GOLDSWORTHY: The information in relation to the cost of meals given to this House is inaccurate. The cost given to the Public Works Committee appears inaccurate. There is no gainsaying the fact that the factory cost more than twice the proposed cost. What sort of interest could be obtained on $9 000 000 a year? This alone has cost the taxpayers more than $1 000 000 a year. We are accused of being knockers but we will continue to point out—

Mr. Whitten: You're always rubbishing—

The SPEAKER: Order! I call the honourable member for Price to order.

Mr. GOLDSWORTHY: We will continue to point out the Government's deficiencies. This project can cost the taxpayers $1 000 000 a year, on a capital expenditure of $10 000 000 a year which is not being used. We should make no apologies for saying this.

At 3.15 p.m., the bells having been rung, the motion was withdrawn.

ADMINISTRATION OF ACTS ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

STATE LOTTERIES ACT AMENDMENT BILL

The Hon. D. A. DUNSTAN (Premier and Treasurer) obtained leave and introduced a Bill for an Act to amend the State Lotteries Act, 1966-75. Read a first time.

The Hon. D. A. DUNSTAN: I move:

That this Bill be now read a second time.

This short Bill amends the principal Act, the State Lotteries Act, 1966-75, by reserving the words "Lotto", "Cross Lotto" or "X Lotto" for the exclusive use of the Lotteries Commission as a title or description of a lottery. The amendment has been sought by the Lotteries Commission in order to prevent any confusion by the public of the commission's lottery, known as "Cross Lotto", with privately conducted lotteries using the same or a similar title. There have been a number of instances of interstate concerns particularly trying to cash in on the success of Cross Lotto in South Australia, to get people involved in an operation which uses a similar title.

Clause 1 is formal. Clause 2 amends section 19 of the principal Act by making it an offence for any person, without the authority of the commission, to use the words

"Lotto", "Cross Lotto" or "X Lotto" in any advertisement or notice as a title or description of a privately conducted lottery.

Mr. EVANS secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL

The Hon. PETER DUNCAN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Evidence Act, 1929-1976. Read a first time.

The Hon. PETER DUNCAN: 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

The purpose of this Bill is to ensure that witnesses who appear before the Parliamentary Select Committee of Inquiry into Prostitution can be guaranteed immunity from prosecution in respect of offences that may be disclosed by evidence given, or submissions made to the Select Committee. The Bill thus seeks to ensure that the Select Committee will have available to it evidence from the widest possible range of sources. The proposed amendment is in this respect similar to a recent amendment to the Narcotic and Psychotropic Drugs Act relating to the Royal Commission into the Non-Medical Use of Drugs. The present Bill contains a further provision protecting the identity of witnesses to the Select Committee from publication. This is likewise designed to ensure that potential witnesses will not be deterred by the risk of publicity from appearing to give evidence, or make submissions, to the Select Committee.

Clause 1 is formal. Clause 2 enacts new section 67b in the principal Act. The new section prevents the prosecution of a witness for an offence disclosed in evidence to the Select Committee unless the Attorney-General authorises the prosecution. Such an authorisation will not be given unless it appears that a witness has deliberately set out to gain the benefit of the exemption. New subsection (3) makes it an offence for a person to publish without the authority of the Select Committee evidence tending to identify witnesses appearing before the Select Committee.

Mr. VENNING secured the adjournment of the debate.

OLD ANGASTON CEMETERY (VESTING) BILL

The Hon. D. A. DUNSTAN (Premier and Treasurer) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received.

LEVI PARK ACT AMENDMENT BILL

Mr. WHITTEN (Price) moved:

> That the time for bringing up the report of the Select Committee on the Bill be extended until Thursday 28 September 1978.

Motion carried.

SPICER COTTAGES TRUST BILL

The Hon. PETER DUNCAN (Attorney-General) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS BILL

In Committee.

(Continued from 13 September. Page 901.)

Clause 8—"Constitution of Children's Court."

The ACTING CHAIRMAN (Mr. Whitten): Does the member for Mitcham wish to proceed with his amendments to this clause?

Mr. MILLHOUSE: No, because they are consequential on the amendment that was knocked out last evening. However, I would like the opportunity to say something about clause 8 as it stands. In its unamended form, this clause is in my view thoroughly undesirable. I will not canvass all the arguments I made last evening in favour of my amendment, but the clause perpetuates a system of appointment of judges which has led us into trouble in this State and in fact is responsible for this Bill. That is a happy good result, but we are debating this matter today because Judge Andrew Wilson had a row with the Government and there was a Royal Commission into certain allegations that he made, and concomitant with the terms of reference of the Royal Commissioner to deal with that there was a term of reference to report on the operation of the Juvenile Courts Act in this State. While it is a good thing that we have a new Bill (and no-one denies that), this all arose out of the same unhappy system of appointment of judges as we are perpetuating in this clause. In my view, the clause unamended is so bad as to warrant being struck out altogether, and I believe the Bill could live without having the clause in it. I propose, therefore, because of the loss of my principal amendment to oppose this clause.

The Committee divided on the clause:

Ayes (23)—Messrs. Abbott, Bannon, Broomhill, Max Brown, and Mrs. Byrne, Messrs. Drury, Duncan (teller), Dunstan, Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Klunder, McRae, Olson, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Noes (18)—Mrs. Adamson, Messrs. Allison, Arnold, Dean Brown, Chapman, Eastick, Evans, Goldsworthy, Gunn, Mathwin, Millhouse (teller), Nankivell, Rodda, Russack, Tonkin, Venning, Wilson, and Wotton.

Pairs—Ayes—Messrs. Corcoran and Payne. Noes—Messrs. Becker and Blacker.

Majority of 5 for the Ayes.

Clause thus passed.

Clause 9 passed.

Clause 10—"How jurisdiction of Court is exercisable."

The Hon. PETER DUNCAN (Attorney-General): I move:

> Page 6, line 1—After "Subject to this Act" insert "or any other Act".

The intention is not to override the provisions of the Guardianship of Infants Act vesting the jurisdiction under that Act on the Judge of the Children's Court.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12—"Minister may apply for declaration that child is in need of care."

Mr. MATHWIN: How will the Minister know that a child is in need of care, and at whose request will the declaration be made? It appears to me that the police will

have no power to act if they are needed to take a child into custody for its own welfare and protection.

The Hon. PETER DUNCAN: As to the first matter, the Minister would become aware of such matters as a result of information supplied to him by officers of the department, and on such reports he would form his opinion of whether it was desirable or necessary to apply to the court. Regarding the second matter, I refer the honourable member to clause 19.

Clause passed.

Clauses 13 and 14 passed.

Clause 15—"Variation or discharge of orders."

The Hon. PETER DUNCAN: I move:

> Page 9, lines 12-15 inclusive—Delete all words in these lines.

I will explain the amendment when we reach clause 17.

Amendment carried; clause as amended passed.

Clause 16 passed.

Clause 17—"Provisions as to procedure."

The Hon. PETER DUNCAN: I move:

> Page 9, after line 42—Insert new subclause as follows:
>
> (5) Where the Minister makes any application under this Part, and the court is satisfied that no other party to the proceedings wishes to dispute the application, the court may proceed to hear and determine the application in the absence of those other parties.

This and the previous amendment are really a drafting and tidying-up exercise. It is more appropriate to have that statement in this clause than it would have been to have a similar statement in clause 15.

Amendment carried; clause as amended passed.

Clause 18 passed.

Clause 19—"Detention of children suspected to be in need of care."

Mr. MATHWIN: In his explanation of clause 12, the Attorney-General related it to this clause. Does he mean that subclause (3) covers the situation? However, I refer him to subclause (1). There appears to be a conflict.

The Hon. PETER DUNCAN: There is no conflict. Subclauses (2) and (3) are the appropriate subclauses that give the necessary powers to enable departmental officers or police officers to take the necessary steps to protect a child physically.

Clause passed.

Clauses 20 to 22 passed.

Clause 23—"Powers of Director-General."

Mr. MATHWIN: This clause no doubt covers the INC scheme, under which foster parents will be paid $105 a week, plus side benefits of medical, dental and optical expenses, and compensation where needed. Is this clause to cover the INC scheme specifically? If it is, I relate the situation to normal fostering of children whereby foster parents are paid $22·70 for each child, plus $3·20 for a clothing allowance, and certain pocket money, according to the age of the child, ranging from 70c for a nine-year-old to $2·85 a week for a 15-year-old to 18-year-old. By the same reasoning, the standard set for children fostered out under the INC scheme will provide $15 a day to the foster parents, together with side benefits, and such children will be eligible for pocket money ranging from $1·05 a week for a 10-year-old to $2·85 a week for a 15-year-old to 18-year-old. This seems grossly unfair to one section of the community who wishes to foster children for the benefit of the children.

The Hon. PETER DUNCAN: The provision is not specifically to cover the INC scheme, but to cover the general fostering scheme.

Clause passed.

Clause 24 passed.

Clause 25—"Application of this Division."

Mr. MATHWIN: I move:

> Page 12, line 5—Delete "homicide" and insert "a group I offence or any other prescribed offence".

For a group I offence, as laid down under the Local and District Criminal Courts Act, the maximum penalty is imprisonment for a term not exceeding 10 years. I hope that the Attorney will accept my amendment and will agree that the crimes of rape, armed robbery and arson should be referred to the Supreme Court. I do not generally agree to legislation by regulation but, in this case, I believe that we should regulate what type of offence is serious enough to be referred to the Supreme Court, thus removing it from the hands of the screening panel constituted under Division I. I am concerned that what I call capital or serious offences should go to the Supreme Court and not a screening panel.

The Hon. PETER DUNCAN: The Government cannot accept the suggestion. It was rejected specifically by the Royal Commissioner in his report. Apart from that, the Government believes (along with the honourable member in general terms) that determinations as to where offences should be dealt with and which offences are to go to which courts should not be dealt with by regulation but should be dealt with in the primary legislation. For that reason we do not accept the suggestion that power should be granted in the legislation to determine simply by prescription which offences go to the Supreme Court and which go to the Juvenile Court.

Regarding our basic objection to group 1 offences being dealt with in the Supreme Court, the situation is that there could be serious examples of group 1 offences and quite minor examples of them. Where children are involved, it is more desirable that they should go to the specialist court, the Juvenile Court, set up under this legislation to deal with such matters. A minor example could relate to a child who punches another child in a school ground, grabs that child's free milk, runs off with it, and consumes it. He is committing robbery with violence, but it is unlikely that a charge would be laid for such a trivial factual situation. I could go into many other circumstances in which it seems to me undesirable that the Supreme Court should become involved in trying children. It is the Government's intention that homicide, the most serious crime in the criminal calendar (where another person's life has been taken), is the only instance where the Supreme Court should become involved.

Mr. MATHWIN: I was afraid that that was the way the Attorney would take the amendment. I am extremely disappointed at his decision. In effect, the Attorney is saying that rape is not a serious crime.

The Hon. Peter Duncan: I am not saying that.

Mr. MATHWIN: The Attorney is suggesting that there is little difference between someone stealing milk money and someone raping a young lady. Regarding serious offences, the Royal Commissioner states on page 66 of his report:

> Persistent Recidivists—Very Serious Offences—Joint Offences with Adults:
>
> In many jurisdictions dealing with children both in Australia and overseas the problem is seen of children who are alleged to have committed crimes of such a serious nature or whose record shows them to be so incorrigible or a combination of both that it is felt that it is not appropriate that they be dealt with by the "kindlier" or more "benevolent" juvenile justice system but that they should face the rigors of the adult courts.

That is, in part, what the Royal Commissioner recommended, yet the Attorney states that it was not recommended by the Royal Commissioner. He is misleading the Chamber. If he has not read the report on

this matter, I suggest that he should do it forthwith, and adjourn consideration of the Bill until he does read it. In relation to serious crimes and robberies with violence, the Commissioner on page 67 of the report states:

> Incidentally, I favour the retention of the mandatory trial in the Supreme Court on charges of murder and manslaughter.

That is the only part that the Attorney saw fit to pick up and relate to this Chamber. It was convenient for him to forget the other parts of the report.

The Government has also seen fit not to bother with motor vehicle and traffic offences. The Royal Commissioner stated that people who are old enough to drive and commit offences were accordingly old enough to face an adult court for committing those offences. The most taboo question that a member of the Opposition can ask some of the Ministers in this Chamber relates to drunken driving by juveniles. The Government seems to accept (and I do not believe that the statistics are not available on this matter) that the offence is not serious enough for statistics to be kept. I believe that the Government has refused to give information on this matter because it reflects on the system that is working in this State. I am sure that statistics are kept either by the Police Department or the Community Welfare Department.

Justice Mohr was adamant about where those young offenders should go. I should like the Attorney, if he dares, to deny that. The judge has mentioned it many times and I think it was reported in the press. It is time that the Attorney reassessed this situation, instead of putting everything he can in punishing the victim more than the offender, in punishing the law keeper more than the law breaker.

Regarding rape, I refer the Attorney to the case of *Marklew v. Walker.* Under section 70 of the relevant Act, Mr. Walker was removed from McNally Training Centre and taken to Yatala. The Chief Justice, when sitting on the Full Court of South Australia, stated:

> Rape could have and perhaps should have gone to the Supreme Court for trial.

The Chief Justice was obviously concerned about rape in the community, even if the Attorney-General is not. I believe rape is a serious offence. Section 48 of the Criminal Law Consolidation Act provides that a person who commits rape shall be guilty of a felony and liable to imprisonment for life. The penalty for attempted rape is imprisonment for a term not exceeding seven years and, for carnal knowledge of a person under 12 years, the penalty is imprisonment for life.

I recommend to the Attorney-General that he read a book entitled *The Other Side of Rape* by Paul R. Wilson from Queensland. Ross Barber, who has supplied information for that book, claims that most solo rapists are in the 25 years age group. They attack young girls and elderly women, who obviously cannot protect themselves. He says that pack rapists are, in the main, under the age of 20 years. He says that in many cases they are aged from 15 to 18 years. He states that 72 per cent of the victims are teenagers who have been picked up in milk bars, hotels or the like. This situation is becoming well known as a gang bang.

Detainees who have escaped, walked out or have been released from institutions to see their parents and friends for an afternoon have been involved with friends using cars for the specific sport of seeking a gang bang. They drive along a street and try to find a young girl or an old lady. Sometimes girls who are little more than children are pulled into cars and taken somewhere to be subjected to a gang bang. They are brutally attacked and in many cases punched, choked, or kicked and beaten. If that is not a serious offence, I do not know what is.

This book says that there is a long-term effect on nearly every victim. There are feelings of guilt and shame, and dreams, nightmares and feelings of inadequacy. It says that the short terms effects are physical and emotional and can change the whole lifestyle of a person caught up in this situation. The person's attitude to society completely changes after this sort of calamity. If the Attorney-General believes that this type of crime is not on the increase, let him read *The Australian Criminal Justice System,* written by Duncan Chappell and Paul R. Wilson, second edition. At page 156 (second edition), it states:

> With regard to capital offences, i.e., offences punishable by imprisonment for life, the findings indicated that during the 14-year period under study (from 1956 to 1969) there was no systematic change in the rates of murder and manslaughter committed by juveniles. There was, however, statistically a high, significant upward trend in the rates of rape. The mean rate for the first three years of the series was 2·2 for every 100 000 males aged 14 to 17. The mean rate for the last three years was 19·2 per cent while the Juvenile rates of rape increased during that period by 773 per cent.

Adult rape committed by males aged 18 to 34 increased by only 102 per cent. There was a drastic increase in juvenile pack-rape figures. When juvenile figures were broken down, pack rape figures were found to increase 2½ times faster than other types of rape. The proportion of pack rape increased from zero per cent in the first three years of the figures being compiled to 61 per cent in the past three years.

The other matters I envisaged being included in this area were some group 1 offences, which could have been dealt with by regulation. That would certainly include rape and armed robbery. As I said earlier, at the moment all members of Parliament on both sides of the House, and in both Houses, are receiving many petitions relating to armed robbery in this State and the way those lawbreakers are dealt with. It would be wrong of me to suggest that all armed robberies committed by juveniles, but there are many armed robberies committed by them. I believe that offence should also be included in this clause. Several other areas should be included.

The Act referred to homicide, murder, and soliciting to commit murder. Causing death by negligent driving was withdrawn by the Government because it did not think this was serious enough. Treason, and murder when death happens outside the State could well be in the prescribed areas in this provision. I hope that the Attorney-General will have second thoughts about this matter. He must surely believe that a defendant over the age of 16 years should be tried in the Supreme Court, notwithstanding any other provision where a child is charged. A judge and jury should be able to handle those matters.

Mrs. ADAMSON: I am especially concerned about the Attorney-General's refusal to admit this amendment in relation to the crime of rape. The table of Juvenile Court appearances for 1976-77, set out in the sixth annual report of the administration of the Juvenile Courts, shows that 16 rapes were committed by juveniles during that year. One was committed by a male aged 13 years, one by a male aged 14 years, two by males aged 15 years, six by males aged 16 years, five by males aged 17 years, and one by a female aged 17 years. How seriously does the Attorney-General rate the crime of rape when he is not prepared to have it heard, as a matter of course, by an adult court? I acknowledge that the Royal Commissioner said that he favoured a scheme whereby the Attorney-General is given the right to apply in chambers to a judge of the Supreme Court for an order that a child be deemed, for the purposes of trial and sentence, to be an adult. However,

the Royal Commissioner states:

> One major disadvantage is seen and that is that, if a particular child appears before a jury on a comparatively minor offence, the jury may deduce that the child has a bad record.

In the case of rape, I suggest it is immaterial whether the child has a record or not. The offence itself is so serious that it should be tried in an adult court. The report continues:

> One other use could be made of this procedure—

that is, the Attorney-General's right to apply in chambers to a judge of the Supreme Court—

> and that is in the case of joint offenders where some are over the age of 18 years and one or more under that age. It may be that in appropriate cases an order that all accused be tried together in an adult court and on conviction be sentenced on the same basis would be highly desirable.

He says it is not unknown sometimes for juvenile ringleaders to escape relatively scotfree, whilst adult companions receive sentences of imprisonment. Surely, it should be a matter of course rather than a matter of application that anyone who has committed the crime of rape should be tried in the Supreme Court. Why will the Attorney-General not admit rape along with homicide as an offence that automatically should be tried in the Supreme Court?

Mr. MILLHOUSE: I have found it difficult to work out the scheme in this part of the Bill.

We are debating not the mode of trial at this stage but at a preliminary stage as to whether or not there should be a trial at all. The screening panel will decide whether something shall go to the Juvenile Aid Panel or whether there shall be a prosecution. Clause 28 provides that the decision on that matter by the screening panel shall be final. In effect, Division I gives the screening panel the right to make a final decision on whether or not there should be a prosecution.

Of course, a panel can decide, even in the most serious cases except homicide, that there will be no prosecution. However, if we have responsible people as members of screening panels, it is almost inconceivable that if there were a complaint for the offence of rape (and I use the word "complaint" in a non-technical sense), or armed robbery, or some other serious offence, the screening panel would say there would not be any court proceedings and send the child to the Juvenile Aid Panel.

But that argument works both ways. The Government obviously believes that there must be some chance of that happening, or it would not have put in "homicide" at all. That is regarded in the popular mind as more serious than the other group I offences. As a matter of practical common sense, it is most unlikely that a screening panel, in the case of a group I offence, if there was even a scintilla of evidence behind it, would decide that there should not be proceedings. That would be an equally good argument to knock out placitum *(a)* as well, and say that it is not necessary to except an offence from this.

The Government has made two exceptions—homicide and Road Traffic Act offences. The fact that it has made any exceptions at all leads me to think that we are probably justified in making an exception for all group I offences. For that reason, unless I have misunderstood the scheme in this Part of the Bill and what the member for Glenelg is trying to do, I am prepared to accept the amendment. It will reduce the real, even if it is theoretical only, right of veto which screening panels would be given against any prosecution (the member for Coles characteristically has used the offence of rape as her example) for rape. On a very slim balance, I am prepared to accept the amendment, but in practice I do not think it matters all that much.

Mrs. ADAMSON: The member for Mitcham has repeated that he does not think that it matters that much, and that it is "most unlikely", but it is interesting to hear a lawyer say it is most unlikely when he knows it is legally possible.

Mr. Millhouse: I acknowledge that.

Mrs. ADAMSON: The honourable member acknowledges that. Therefore, I think the law also should acknowledge it. If rape is to be if not stamped out then at least reduced, people must know that Parliament regards it as the heinous crime that it is. Therefore, I believe that rape, along with other group I offences, should be included in clause 25, that the amendment should be accepted, and that people should have clearly in their minds that Parliament regards this offence as extremely serious, whether committed by young people or by adults. I think the Attorney-General would find himself on the wrong side of public opinion if he refused to provide for rape, alongside homicide, needing to be dealt with by the Supreme Court rather than by the Children's Court.

Mr. GOLDSWORTHY: I support the amendment, and my support is more clear-cut than is that of the member for Mitcham. The Bill seeks to make a division of offences, and it has singled out homicide for special mention. That is not the only serious crime which alarms the community, as the member for Coles has pointed out. We need little imagination to know that the public is concerned at the increase in crimes of violence and other crimes.

Of course, they are concerned at the increase in crimes of violence among young offenders. The Bill is quite clear. If refers to the group 1 offences and singles out particularly homicide. Group 1 offences are the most serious of the offences and they include felonies or misdemeanours which carry a penalty exceeding 10 years. That would have to be a serious crime indeed and, (without enumerating those crimes, it is obvious that if the Bill singles out homicide it should also include offences which are classed in the Local and District Criminal Courts Act as being group 1 offences. It is a matter of heavy balance on one side in view of the fact that the Bill makes a distinction, and I am clear in my mind as to the seriousness which which the public view such offences no matter who commits them and regardless of the age of the offender. For those reasons I believe Parliament has a responsibility to make that distinction clear, and this amendment seeks to do that.

The Hon. PETER DUNCAN: The member for Mitcham quite rightly pointed out that this clause deals with screening panels, not with which matters are to be heard in the Supreme Court. Those matters are dealt with in clause 45 and other clauses. I think I ought to describe briefly some of the procedures that occur when a report of a serious offence is received. If a person is an adult, the police generally (I will leave aside the question of private prosecutions) receive a complaint. The police investigate the matter and, if they can determine that a person is suspected of committing an offence, they then decide to charge the person. The charge is then laid, and the matter goes to a court of summary jurisdiction sitting as a preliminary hearing. That preliminary hearing then decides whether to recommend to effect to the Attorney-General that indictment should be made against a person for trial in either the Local and District Court or the Supreme Court.

In this instance, the position of the preliminary hearing is to be determined in effect by a screening panel, but that does not in any way fetter the Attorney-General's power under clause 47 to lay any information in an adult court against a juvenile. That is what clause 47 is intended to do.

In appropriate cases certainly serious crimes will be dealt with in adult courts; that is why the power is being given.

Mr. Mathwin: If it is not in paragraph *(a)*, it has to go through the screening panel, doesn't it?

The Hon. PETER DUNCAN: No. What I am suggesting is that any child can be indicted to the Supreme Court.

Mrs. Adamson: Before or after the screening panel?

The Hon. PETER DUNCAN: Either.

Mrs. Adamson: Where does it say that?

The Hon. PETER DUNCAN: Simply because of the fact that the Attorney-General has power to indict people regardless of whether or not there has in fact been a preliminary hearing.

Mr. Mathwin: There's provision that a plea of the child be taken by the Children's Court.

The Hon. PETER DUNCAN: That is to ensure that the child has not pleaded guilty and been dealt with by the Children's Court. Once that has occurred then the Attorney-General's power is *functus*.

Mrs. ADAMSON: If what the Attorney-General is saying is so, why include clause 25 at all, in view of the provisions of clause 46? At this stage, we have not even got to the Children's Court; the child has been charged but he has to go to a screening panel to determine whether he goes to the Children's Court. It seems to me that clause 25, if it is to be there at all and if homicide is to be cited, should also include other group I offences because, if it does not, it does not matter how remote the chance is there is still a chance that a screening panel will choose to deal with those offences rather than refer them to the Children's Court. That is how I read the Bill. Can the Attorney-General satisfy the Committee about which comes first—the screening panel or his decision that the child shall go to the Supreme Court?

The Hon. PETER DUNCAN: I do not think I can satisfy the member for Coles but nevertheless the committee itself will no doubt be satisfied in a few moments that, whilst the Government considers rape to be a serious problem and a great difficulty, we do not believe that ultimately any crime stands alongside wilful homicide and, as a result of that, we believe that homicide should stand alone in being the only crime where the matter automatically goes directly to the Supreme Court.

As to the Attorney-General's power under this Bill, in normal circumstances matters would go to the screening panels. The police refer a matter to a screening panel. The Police Force has one officer representing it on the screening panel as has the Community Welfare Department. Where there is disagreement the matter must be referred to a judge of the Juvenile Court for determination whether the matter goes to the Juvenile Court. In those circumstances, if the police are serious about wanting to pursue a matter, obviously it will go to a judge of the Children's Court for determination of whether it is to be proceeded with there.

Mr. Millhouse: Isn't that only if there's disagreement among members of the screening panel?

The Hon. PETER DUNCAN: One of the members is a member of the Police Force.

Mr. MILLHOUSE: He may not always bat for his own team. If he does, that changes the idea of the screening panel, does it not? That panel is to decide whether there should be a prosecution. If the police refer a matter to a screening panel and believe that there should be a prosecution, they are half-way towards enforcing their own view if their representative on the screening panel will always accept the view of his brothers in the Police Force.

That could lead to a disagreement between two members of the screening panel, and then the matter has to go to a Children's Court judge for decision. I hope the Attorney is not implying that the Children's Court judge would necessarily bow to the pressure of the police in the matter. I think that the Attorney means to say that the Children's Court judge would have a better idea of what was the better course to follow than other members of the screening panel, but it does not seem to me to be quite right. It is a small matter and I do not think that whether the amendment passes or fails will sink the Bill, but I favour the amendment.

The explanations that the Attorney has given for opposing the amendment have not convinced me. I concede that the matter is extraordinarily complex when we get to a point like this. It is as complex as matters get in court, and it is difficult to see all the ramifications. However, one thing that sticks out is that the screening panel has a right of veto, a right of absolute decision on whether there should be a prosecution.

Mr. MATHWIN: The Attorney has not convinced me. He has made it more obvious that all the power will rest with the screening panel. We must see the reality. We are not talking only of rape: there are other areas, such as armed robbery. The amendment contains the words "and other prescribed offences", which means that the Government could pick out other offences that it considered serious enough to go straight to the Supreme Court. Regulations come before Parliament and are reviewed by members. The people know what they are about and, if they believe that the regulations do not cover enough offences or that offences are covered that should not be covered, then the people can give evidence to the Subordinate Legislation Committee and ask that the regulations be changed. I do not see what the Attorney-General is frightened of: I cannot see any problems for the Government.

Arson could be one serious offence that could be prescribed in the Criminal Law Consolidation Act. That is a fairly serious offence. Perhaps sometimes one could be flexible with young people who commit arson, when those people have psychological problems. However, recently one second offender set fire to a factory or school. That is a serious offence and should be tried by jury in the Supreme Court. Again, armed robbery could be a prescribed offence. The figures that I have given show that it is serious enough to be prescribed. Two absconders from McNally got a man who was more than 90 years of age in the parklands and beat him up. They had a knife, and they robbed him of $1·20. They were recidivists and had been in McNally for a long time. It is time that the Government considered the general public, the law keepers, and the victims of the criminals.

I refer again to the offences of driving under the influence of liquor and driving in a manner dangerous to the public. Some young drivers drive without having a licence, and are potential killers, but they could go scot free. Judge Mohr, in his report, mentioned the case of a person aged 17 (and we would call him a child) driving with a blood alcohol level of 0·16. He was required only to pay $35 costs and to enter into a bond allowing him to drive the car to or from work for three months. Would any other member of the community be treated like that?

I suggest that, under the Act, that person would get a minimum of three months imprisonment and have his licence suspended and, for the second offence, he would go to gaol. Judge Mohr said that many bonds included conditions not to drive except in the course of employment, but they were a joke to those concerned, because the offenders realised that the worst that could happen to them for breaking the bond would be the forfeiture of $30, $40 or $50, and the end result would be an unrestricted licence to drive.

These offences must be referred to the screening panel initially, and that procedure could cause problems. If the member of the Police Force and the departmental officer comprising the screening panel fail to agree, the third member of the panel, namely the judge, makes the final decision. Some reports from the assessment panels have given a glowing account of certain young offenders, but they have subsequently been found to be incorrect. I believe that these offences are serious enough to be referred to the Supreme Court to be dealt with.

Dr. EASTICK: I introduce a comment passed to me by a person to whom I referred last evening who has had a long experience in this area. He makes the point that the screening panel decides whether a person suspected of an offence shall be dealt with by the court or by the aid panel. In effect, the decision could be made by the same members, because the constitution of the two bodies is the same. We would have Caesar looking on Caesar, to paraphrase. The decision of the screening panel is final. Once a child has been dealt with by the panel, that is, by themselves if the case should arise, no criminal proceedings may be brought against him for the alleged offence.

Whilst that may be satisfactory for the young, particularly first, offenders, and there is doubt about that if we have regard for what has been said by the Judiciary in this State, from the Chief Justice down, it is totally against the situation that should exist for procedures applying when offenders are 16 years or 17 years of age and who, in many instances, are living away from parental control and who may be real criminals in the making. The panel does not permit lawyers to take part in the proceedings, nor is the press present. What the Attorney is asking us to accept, under the position that he wants to see maintained, is that Parliament should abrogate its responsibility to the community and not have a proper and total recognition of the concern which we, as members, feel against these group I acts, although there is no opportunity for scrutiny at the time or subsequently.

Proceedings before an aid or screening panel may not be disclosed to the Supreme Court at any subsequent trial of the person concerned. Whilst that provision was inserted for protection initially, we place ourselves in the position, by the Attorney's not accepting the amendment, that real knowledge of the criminal activities of a person will be denied presentation before the Supreme Court, when, regrettably, that person may be before it on a more serious offence. I believe that a case has been made out. The statements by the Attorney, in which he indicated that the position was not precisely as he had imagined it to be, call for the amendment to be accepted. I will vote for the amendment, and I hope that the Committee will accept it.

The Committee divided on the amendment:

Ayes (17)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Dean Brown, Eastick, Goldsworthy, Gunn, Mathwin (teller), Millhouse, Nankivell, Rodda, Russack, Tonkin, Venning, Wilson, and Wotton.

Noes (23)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Drury, Duncan (teller), Dunstan, Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Klunder, McRae, Olson, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Pairs—Ayes—Messrs. Blacker and Evans. Noes—Messrs. Corcoran and Payne.

Majority of 6 for the Noes.

Amendment thus negatived; clause passed.

Clause 26 passed.

Clause 27—"Constitution of screening panels."

Mrs. ADAMSON: Will the Attorney-General say what arrangements, if any, are provided in this Bill for disqualification of a member of a screening panel from being on the panel list? In view of the Attorney-General's refusal to accept the member for Glenelg's amendment, it is possible that an officer of the department and a member of the Police Force on the screening panel would be in a position to decide whether group I offences are dealt with by the panel or go to the court. It is quite possible that a member of the screening panel could be prejudiced one way or the other. What arrangements, if any, are provided to ensure that this does not occur?

The Hon. PETER DUNCAN: The persons who are to be appointed to the screening panel list will be put on the list in accordance with section 26. Individuals who will constitute a particular screening panel will be persons nominated for that purpose by either the police or the department, in the appropriate case. If either of those persons is biased, if you like, in favour of or against the defendant, and if the matter proceeds and a deadlock is reached, it is dealt with in accordance with clause 29. The honourable member is putting a question which might be asked of any judge, magistrate or any other person who makes a decision of this sort. No-one knows, unless some evidence comes to light, whether a judge, magistrate or any other person in a position to arbitrate a situation is biased. Accordingly, unless such information comes to light, no action can be taken. If such information comes to light, the Police Department or the Community Welfare Department would be in a position to nominate someone else to the panel.

Clause passed.

Clause 28—"Function of screening panels."

Mr. MATHWIN: I move:

> Page 12, after line 35—Insert new subclause as follows:
>
> (2a) In determining whether a matter is to be brought before the Children's Court or dealt with by a children's aid panel, a screening panel shall take into consideration, together with all other factors the panel is required by this Act to consider, the following factors:
>
> (*a*) the age of the child;
>
> (*b*) the degree of gravity of the offence alleged to have been committed by the child, and the circumstances in which the offence was committed;
>
> (*c*) any previous findings of guilt against the child, and any previous appearances before a children's aid panel; and
>
> (*d*) the behaviour of the child in relation to any previous sentence, penalty, recognizance or undertaking.

I believe that guidelines should be set down for the screening panel; otherwise it will be to its detriment.

The Hon. PETER DUNCAN: The Government opposes this amendment. I refer the honourable member to the Royal Commissioner's report at page 41, as follows:

> Having rejected the concept of a classification of offences and number of appearances before a children's aid panel as the criteria for the decision as to whether or not a particular matter should automatically be referred to court, I have considered whether or not the Act should lay down some and, if so, what guidelines. I have come to the conclusion that this would be impractical in the same way as the setting of arbitrary limits would be impractical.

For those reasons, the Government decided not to do what the honourable member is now attempting to do.

Mr. MATHWIN: I ask the Attorney-General to reconsider the situation. The panel has to have some guidelines set out, and the gravity of the offences must be taken into consideration. Although the Attorney-General pointed out some of the remarks of the Royal Commissioner, he could well have second thoughts on this matter. It is a matter of getting in some reports. It is obvious that the behaviour of a child in relation to

previous sentence and penalty should be taken into account.

The Committee divided on the amendment:

Ayes (17)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Dean Brown, Chapman, Eastick, Goldsworthy, Gunn, Mathwin (teller), Nankivell, Rodda, Russack, Tonkin, Venning, Wilson, and Wotton.

Noes (24)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Drury, Duncan (teller), Dunstan, Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Klunder, McRae, Millhouse, Olson, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Pairs—Ayes—Messrs. Blacker and Evans. Noes —Messrs. Corcoran and Payne.

Majority of 7 for the Noes.

Amendment thus negatived.

The Hon. HUGH HUDSON (Minister of Mines and Energy) moved:

That the time for moving the adjournment of the House be extended beyond 5 p.m.

Motion carried.

Mrs. ADAMSON: Will the Attorney say what "forthwith" means in subclause (1) *(b)* and what arrangements will be made in remote areas in attending to children who offend?

The Hon. PETER DUNCAN: It is intended that the matter will be dealt with as soon as possible. I imagine that, in remote areas, it will take a little longer. There must be flexibility, and that is why we have used the term "forthwith" rather than "immediately" or any other term.

Mr. MATHWIN: I take it that subclause (3) provides that the injured party has no right to go before or make any representations to a screening panel; is that correct?

The Hon. PETER DUNCAN: Subclause (3) provides:

No person is to be required or is entitled to appear before, or make representations to, a screening panel.

The honourable member should read that subclause more closely, because it does not mean that a person will not be able to make representations. The provision is intended to ensure that the screening panel does not have power to subpoena people and act with the normal trappings of a court.

Clause passed.

Clause 29—"Where screening panel cannot reach agreement."

Mr. MATHWIN: Is it expected that the judge or special magistrate will give reasons for his decision if one or both members of the panel wish to have those reasons?

The Hon. PETER DUNCAN: That would not be necessary, because the judge would sit in chambers and discuss the matter with members of the screening panel. It would be more or less a round-table conference, at which members of the screening panel would become aware of the reasons why the judge or special magistrate reached a decision.

Clause passed.

Clauses 30 to 34 passed.

Clause 35—"Duties and powers of children's aid panels."

Mr. MATHWIN moved:

Page 15, line 14—After "six months, " insert "or, where the child is of or above the age of sixteen years, not exceeding twelve months,".

The Hon. PETER DUNCAN: I cannot accept the amendment, because it introduces a distinction between children under the age of 16 years and those over that age. This is something that the Royal Commission sought to avoid in its recommendations, and it would breach the underlying philosophy of the Bill if persons under the age of 16 years were dealt with as a group apart from those who are over 16 years. Because the amendment would not fit in with the philosophy of the rest of the Bill and because I cannot see much merit in the amendment anyway, I cannot accept it.

Amendment negatived; clause passed.

Clause 36—"Panel to refer matter to Children's Court in certain circumstances."

Mr. MATHWIN: I move:

Page 15—

Line 28—Delete "or".

After line 30 insert new paragraph as follows:

or

(d) the panel is of the opinion that it is in the interests of the child, or the public interest, that he be brought before the Children's Court upon complaint.

As it is in the best interest of the child and the public that these matters be referred to the court, I ask the Minister to accept the amendment.

Amendment negatived; clause passed.

Clauses 37 to 40 passed.

Clause 41—"Places at which children's aid panels shall not sit."

Mr. WOTTON: I move:

Page 16, line 19—After "office of police" insert ", or in any office of the Department of Community Welfare".

I agree that children's aid panels should not sit in a court or police station. However, it is equally as important that they should not sit in an office of the Community Welfare Department. It is also important that the panel should dispense with any stigma tht might be associated with a child's appearance before the panel. Just as much stigma and unease is associated with a panel's sitting in a Community Welfare Department office as would apply if it sat in a police station or local court.

Mr. Millhouse: Where do you think they should sit, at the local picture theatre?

Mr. WOTTON: There are plenty of places at which a panel could sit.

Mr. Millhouse: Tell me, I cannot think what they would be.

The CHAIRMAN: Order!

Mr. WOTTON: I believe that places are available to the public. The Government has suggested that it is wrong to meet in a police station, hall, or court, and I agree. I also agree that it would be wrong to meet in an office of the Community Welfare Department.

The Hon. PETER DUNCAN: The reason for this is that in many places there may not be alternative accommodation. In many regional offices developed by the Community Welfare Department, pursuant to the present Act, special juvenile panel aid accommodation has been constructed. However, one can think of places in remote areas of the State for which it would be infeasible and unreasonable to include this provision.

Mr. WOTTON: That being the case, why was it decided that a police station should not be used? There would be more police stations, particularly in country areas, than there would be department offices.

The Hon. PETER DUNCAN: Because the Police Department is seen as the prosecuting authority, and it is quite improper that an adjudicating panel of this sort, a court, or any other body associated with the independent judicial arm of government should be perceived in the public mind to be associated with the Police Department. The member for Mitcham would appreciate the fact that over a long period both this Government and previous Liberal Governments have generally followed a policy, where possible, of separating police premises from court

premises. That is the most desirable situation, and this Government has tried to continue that policy wherever possible. For that reason we sought to include a similar provision in this Bill ensuring that these panels would not be perceived by the public as being part of the police function.

Amendment negatived; clause passed.

Clause 42—"Apprehension."

Mr. MATHWIN: Clause 42 (4) provides:

> Any child who is apprehended, whether under this section or any other Act or law, shall, if he is not granted bail under section 43 of this Act, be detained by the Director-General with a person, or in a place (other than a prison), approved by the Minister and shall (unless he has been released from detention pursuant to a decision of a screening panel) be brought before the Children's Court for the purpose of remand not later than the next working day following the day on which he was apprehended.

In many cases children will be arrested by police in circumstances where it may not be possible for them to be immediately detained by the Director-General. These circumstances would apply in country towns where departmental officers may not be stationed; only police officers would be available.

The Hon. PETER DUNCAN: I imagine that in those circumstances police officers would be approved as authorised persons. Subclause (4) provides:

> Any child who is apprehended, whether under this section or any other Act or law, shall, if he is not granted bail under section 43 of this Act, be detained by the Director-General with a person, or in a place (other than a prison), approved by the Minister . . .

Clause passed.

Clause 43 passed.

Clause 44—"Powers of court upon remand."

Mr. MATHWIN: I move:

> Page 17, after line 17 insert new subclauses as follows:
>
> (2a) Where the court releases a child pursuant to paragraph *(a)* or *(b)* of subsection (1) of this section, the court may require any guardian of the child to enter into a written undertaking as to the supervision or control of the child for such period of time as the court thinks fit.
>
> (2b) A person who breaches an undertaking entered into pursuant to subsection (2a) of this section shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

Will the Attorney-General accept the amendment?

The Hon. PETER DUNCAN: It is not acceptable.

Mr. MATHWIN: That is disappointing. The Attorney-General has not accepted any amendments, except his own. It appears that he is going to be defiant.

The CHAIRMAN: Order! The honourable member for Glenelg should confine himself to the clause. He should not refer to provisions that have already been dealt with.

Mr. MATHWIN: We are dealing with the welfare of the child; that is the whole basis of the Bill.

The CHAIRMAN: Order! I ask the honourable member for Glenelg to confine his comments to the clause. I remind him in a kindly manner that this is not a second reading debate.

Mr. MATHWIN: Mr. Chairman, I am speaking to the clause. The paramount consideration is the welfare of the child. Another Bill provides that the Minister is to be known as a guardian. The Minister would have to be responsible for the child. A guardian would have to guarantee that he would look after the child in whatever circumstances the court laid down.

The Attorney-General would know, probably better than most of us, that it does not always occur. Time and time again, parents fall down in this situation. Someone must be given the responsibility and pushed along a little. The Bill is concerned with the benefit and safety of the child, and that is why I have asked for this provision to be included. The child will know that the person responsible, whoever it may be, has some incentive to stick to what has been suggested by the court. It is imperative that my amendment be accepted by the Government.

The Hon. PETER DUNCAN: I hope I do not have to continue running a tutorial for the whole afternoon to educate the honourable member. If he refers to clause 44 (1) *(b)* he will see the words "release the child on bail upon such conditions as the court thinks fit". We accept the principle of everything he has been delaying the Committee with for the past 10 minutes. The court also has power, as the Bill stands, to require the guardian of the child to enter a surety to ensure that the child complies with certain conditions and turns up at the court. If the guardian will not sign such an undertaking, the child does not go at large.

Mr. MATHWIN: Now we are getting to it. The Attorney is upset that the Bill has not been bulldozed through this Parliament in the way he wanted.

The CHAIRMAN: Order! The honourable member should confine his comments to the clause.

Mr. MATHWIN: The Attorney referred me to subclause (1) *(b)*. Take the case of Seaforth Home. What happens with juveniles aged 13 years and 14 years? They are allowed out in many cases until 2 a.m.

The Hon. PETER DUNCAN: On a point of order, Mr. Chairman, this clause deals with bail and not with children in custody once the matters have been determined, which are the matters to which the honourable is referring.

The CHAIRMAN: I uphold the point of order. The honourable member should relate his comments to the clause.

Mr. MATHWIN: I relate my comments to the amendment, which requires the parent or guardian to have a written undertaking to supervise and control the child.

I am referring now to the people who are the guardians at present, and asking the Attorney what is that situation when people in the department who are supposed to be looking after juveniles at Seaforth openly allow young children of 12, 13 or 14 years to go out until midnight or 2 a.m. The officers do not pick the children up and, when they are approached, they say, "This is the type of life they have led, anyway."

I would be surprised if the court knew that this sort of thing was happening. My amendment asks that the rule set down by the court be carried out. If the parents or the department have nothing to worry about, there is nothing to fear from my amendment. Those concerned could say, "We will undertake the duties laid down by the court and, if we break those commitments, we will be liable to a fine not exceeding $500." I cannot see anything wrong with that. Why is the department concerned about our laying down that it, too, has responsibilities towards children? I do not condemn the department generally, but I am condeming it in respect of Seaforth. It has failed in its duty to the court, irrespective of whether the Minister or departmental officers are involved.

The Committee divided on the amendment:

Ayes (13)—Mrs. Adamson, Messrs. Arnold, Becker, Dean Brown, Chapman, Eastick, Gunn, Mathwin (teller), Nankivell, Rodda, Russack, Wilson, and Wotton.

Noes (23)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Drury, Duncan (teller), Dunstan, Groom, Groth, Harrison, Hopgood, Hudson, Klunder, McRae, Millhouse, Olson, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Pairs—Ayes—Messrs. Blacker, Evans, and Venning.
Noes—Messrs. Corcoran, Hemmings, and Payne.
Majority of 10 for the Noes.
Amendment thus negatived; clause passed.
Clauses 45 to 48 passed.
Clause 49—"Provisions relating to verdict of court."

Dr. EASTICK: I move:

> Page 18, lines 16 and 17—Delete "five o'clock in the afternoon of the first working day" and insert "fourteen days".

The Royal Commissioner's report, under the heading "Summary trials", clearly indicates the consideration he gave to this matter. Indeed, paragraphs 27.4.1 to 27.4.4 contain four alternatives that the Commissioner had considered. Paragraph 27.5 states:

> Of the schemes considered it is the last which has the most attraction. It is the closest to the procedure followed with a jury trial and although it will throw some pressure on those presiding it should be little more than that imposed on a judge and jury in an adult court. The judge or magistrate would, of course, be allowed to have with him the notes of evidence and the exhibits.

We have looked at this measure and, on advice from some areas of the public, we believe that it is unreal. When dealing with the future life of a young person, it is extremely important that the right decision is made. Of course older people are important, too, but there is some doubt whether a decision made under pressure, a time schedule, is necessary in the best interests of the child. I could have increased the time to one month; I could have reduced it to one week. I have settled for two weeks. If the Attorney-General is unable to accept this amendment, we may be able to accept an alternative suggestion. However, we do believe that it is against the best interests of the child to have the restrictive period contained within the Bill.

The Hon. PETER DUNCAN: I understand the sincerity with which the honourable member has moved the amendment. I think from the comments he made last night and the comments he made earlier in this debate that he has sought advice on the contents of this Bill from a person or persons either in the magistracy or in the Judiciary.

Dr. Eastick: No longer.

The Hon. PETER DUNCAN: Well, from somebody who has had experience in that area. It is understandable that persons who are either members of the Judiciary or members of the magistracy or former members thereof would be somewhat concerned by this type of provision. His opposition to it is not dissimilar to the opposition that was raised in certain quarters to the requirements under the Residential Tenancies Act that the decision of the Tenancy Tribunal should be brought in quick smart.

Notwithstanding that, from the best interests of the community at large, surely it is undesirable that a child who has had the ordeal of going through a trial should possibly in certain circumstances be kept in custody for up to 14 days, waiting to know whether he is to be found guilty. That is an ordeal we do not generally ask any adult to go through, because in all these serious matters the jury goes out, deliberates and returns its verdict. Surely the same right ought to be available to a juvenile.

I believe that the provision of the next working day at 5 p.m. is an adequate time for the judicial officer concerned to bring in his finding of guilt or innocence. It is quite important for us to place some time limit on members of the Judiciary. Given the efficiency of the Juvenile Court, with its present staff, I think it is an unlikely situation that a child would be kept in custody for a period of 14 days. Notwithstanding that, I do not believe that this Parliament should give any judicial officer the opportunity to do that. Therefore, we should leave the clause as it stands.

Dr. EASTICK: During the Attorney's reply I interjected and indicated that the person with whom I had had discussions was a former member of the Judiciary. I did not want it considered that I had been having discussions with people whom I had failed to name and who, as a result, might come under scrutiny. I accept that the general intent would be to have the child put out of his misery as quickly as possible; I believe that the officer concerned would see that that was done. By no means is the inclusion of the two-week period suggesting that it will become the norm. I am suggesting that it would allow an opportunity for serious cases to be considered totally as they demand and deserve.

Although the Attorney has gone part way in accepting the nature of my appeal, he is failing the system that we are creating by not at least accepting the point half-way. I believe that we are imposing on the the system a stricture that we may yet regret. As I indicated last evening, we do not want in this measure any situation that will require a series of amendments in the foreseeable future. We need to provide a flexibility that is real, a measure which will be worthy of this Parliament and which will assist young people from 1978 onwards.

Mr. MILLHOUSE: I appreciate the member for Light's intention but I could not possibly accept his amendment. I am afraid that, because of the difficulty his amendment raises (which would really be a legislative encouragement to delay by giving 14 days), while I appreciate that it has that problem, I can see problems in the clause as it is drawn. Whilst it may be desirable to have such a provision in the Act, the practical difficulties are so great that we would do better to leave it to the good sense of those persons who are to be appointed Juvenile Court judges not to delay it, rather than to try to write into the measure something that I am afraid will not work.

The problem we have lies in subclause (5). The difference between that provision and the proceedings in a jury trial is that the jury is locked up for a maximum of four hours. All it must do after that time is come out and say "guilty" or "not guilty". It does not give reasons for the verdict, which members of the jury probably could not do anyway. That system has the virtue of a definite result and is short, sharp and shiny. Here we say not only that the judge, who is acting as both judge and jury in a Children's Court, must come to a decision but that he must also write a judgment. That is what will take him time. It is highly unlikely that, at the end of the evidence and the end of counsels' addresses, the judge will not have made up his mind one way or another.

In 99·9 per cent of cases he could say at the end of the hearing, "Guilty" or "Not Guilty", but his problem is that, because of the question of appeal, and so on, he will have to be super careful in writing a judgment. Why that provision has been included, I cannot imagine, but that is the difficulty with which we are saddling the court. That is why, if we leave the provision as it is now, and a trial finishes at, say, 4.30 p.m., and the judge has only until the end of the next working day not only to give his verdict but also to write a judgment, the list will be completely ruined, because the judge will have to spend the next day writing his judgment. This is completely superfluous and more than is required in an adult court and a jury trial, and I cannot see the reason for it. I do not think this amendment will get us out of the problem.

My solution, if this amendment fails, would be to cut out subclauses (2) to (5), and I have drafted an amendment for that purpose. It is really too hard to do anything like the

member for Light suggests. Despite his good intentions, that honourable member is really making the position worse than it is now, because it would be a legislative encouragement to delay giving judgment after coming to a verdict. I must therefore oppose the amendment.

Amendment negatived.

Mr. MILLHOUSE: I move:

> Page 18, lines 15 to 25—Leave out subclauses (2), (3), (4), and (5).

The amendment will cut out altogether the fetter that we are putting on the Juvenile Court with regard to bringing in a speedy verdict. It does, however, preserve subclause (1), which is a rather separate matter, relating to the recording of an alternative verdict. That is required, and there is no problem regarding it. It is rather strange drafting that the two things have been put in the same clause. They really should have been in separate clauses.

My amendment will simply leave the matter to the good sense of the court to bring in a decision as quickly as possible. We are certainly not reducing the status of the Children's Court from that which the Juvenile Court now enjoys. We are simply providing for presiding officers, who are, without any question, Local Court judges, to take part in serious trials. These people are in the second rank of seniority of the Judiciary in this State and, if we cannot trust them to do the right thing and bring in a speedy verdict, they should not be appointed judges.

No judicial officer in his right mind wants to keep any person in suspense regarding the result of a decision, and I cannot believe that in practice a Children's Court judge would delay, for days and days, in coming to a decision. As I have said, I have no doubt that in nearly every, if not every, case he has made up his mind probably before the end of the trial, although he cannot say so until he has heard the last of the addresses and considered the matter himself.

However, that is not the difficult thing. After all, a jury must make up its mind in four hours. So, why cannot a judge do the same thing in a similar time. The problem is that under subclause (5) he must, in effect, give a judgment, and that is what will take him the time and cause the delay. So far as I can see, the only purpose of doing this is to give a prisoner, if he is potted, a chance of appealing. The course of the trial is what should be the subject of the appeal, just as it should be so in criminal cases that are tried by judge and jury.

We should leave this question to the good sense of the court. If I am wrong and the Government makes such poor appointments to this court (and I am not suggesting that it is; I hope it will not) and the judges hesitate and take a week or fortnight to make up their minds, then maybe the thing will have to come back to us and we will have to put some such provision in. By putting this provision in now, we are showing a want of confidence in those who are already exercising this jurisdiction and will exercise the new jurisdiction. Because of the impracticality of writing into the Act any satisfactory solution, I suggest that we leave the whole thing out. That is the purport of my amendment.

The Hon. PETER DUNCAN: I cannot accept this amendment for reasons similar to those I stated in opposing the previous amendment.

Dr. EASTICK: I did not divide on the previous amendment, because I took the point of view the member for Mitcham brought forward concerning the word "difficulties". The honourable member has given additional information to the Committee about the complexity of this provision. I hope that, even if the Attorney is not going to give due consideration to either this amendment or the amendment the member for Mitcham has brought forward, he will, between this place and another place, consider seriously the various features introduced by the member for Mitcham and me. I think that the Attorney, in shaking his head, is saying that he is undertaking to do just that. I believe the Committee has advanced the cause of this Bill by receiving that assurance from the Attorney. I am pleased that at least we can see the reality of the propositions.

Mr. MILLHOUSE: I am by no means as easily pleased as the member for Light.

The Hon. G. R. Broomhill: We know that.

Mr. MILLHOUSE: I am glad that the member for Henley Beach knows that. These things should go out. The Attorney did nothing more than he has done all the afternoon to the amendments principally moved by the member for Glenelg, saying that the Government cannot accept them. Why has subclause (5) been included? That provision is not a requirement in an adult court in a jury trial; why is it a requirement here? As I said earlier, all it will do is give additional opportunity for an appeal because that will be one thing that can be scrutinised if the verdict is one of "guilty". Why was that subclause included and what is its purpose?

Progress reported; Committee to sit again.

SITTINGS AND BUSINESS

The Hon. HUGH HUDSON (Minister of Mines and Energy) moved:

> That the sitting of the House be extended beyond 6 p.m.

Motion carried.

PUBLIC WORKS COMMITTEE

The Hon. HUGH HUDSON (Minister of Mines and Energy), by leave, moved:

> Pursuant to section 18 of the Public Works Standing Committee Act, 1972-1978, that the members of this House appointed to the Parliamentary Standing Committee on Public Works under the Public Works Standing Committee Act have leave to sit on that committee during the sittings of the House this evening.

Mr. MILLHOUSE (Mitcham): What power have we got to suspend the operation of sections of the Public Works Standing Committee Act?

The Hon. HUGH HUDSON: I have moved this motion pursuant to section 18, which provides that, if the House passes a resolution to permit the Public Works Standing Committee to meet whilst the House is in session, the committee can do that.

Mr. Millhouse: You are asking me to take your assurance on that?

The Hon. HUGH HUDSON: I am telling the honourable member what is in section 18 of the Act.

Mr. Millhouse: They might all be liable to prosecution if you are wrong.

The DEPUTY SPEAKER: The honourable member can address himself to the question if he wishes, but he should not interject.

Motion carried.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS BILL

Adjourned debate in Committee (resumed on motion).
(Continued from page 929.)

The Hon. PETER DUNCAN: The clause is to ensure

that a procedure similar to that applying in summary courts is brought into play in relation to this legislation. Just as a magistrate gives reasons for his decisions, so a judge in this instance will be required to give reasons.

Mr. MILLHOUSE: I am obliged for that part explanation, but why was it considered desirable to equate the Children's Court down to a magistrates court rather than up to a criminal court, which sits with a jury?

The Hon. Peter Duncan: Because there is no jury.

Mr. MILLHOUSE: Why does that mean that the judge, when sitting without a jury, should have to give reasons when, if he were sitting with a jury, neither he nor the jury would have to give reasons? It sounds like an idea from a tidy bureaucratic mind. That is what is causing the problem, and that is what is going to mean delay practically in dealing with cases. If we cannot trust a judge to come to a decision as a jury would come to a decision, I think the whole Bill is a waste of time, and nugatory.

The Hon. PETER DUNCAN: I have been described as many things, but I do not recall having been described as a possessor of a tidy bureaucratic mind.

Mr. Millhouse: I'm not suggesting this is your idea.

The Hon. PETER DUNCAN: It is my idea. In numerous other jurisdictions (where, for example, juries have been abolished in serious fraud cases because of the difficulties involved), the judge is required to give reasons according to summary practice.

The Committee divided on the amendment:

Ayes (13)—Mrs. Adamson, Messrs. Arnold, Becker, Dean Brown, Eastick, Gunn, Mathwin, Millhouse (teller), Nankivell, Russack, Venning, Wilson, and Wotton.

Noes (22)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Drury, Duncan (teller), Groom, Groth, Harrison, Hopgood, Hudson, Klunder, Langley, McRae, Olson, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Pairs—Ayes—Messrs. Blacker, Evans, and Tonkin. Noes—Messrs. Corcoran, Hemmings, and Payne.

Majority of 9 for the Noes.

Amendment thus negatived; clause passed.

Clauses 50 to 53 passed.

Clause 54—"How children who have committed murder are to be dealt with."

Mr. MATHWIN: I move:

Page 21, after line 41—Insert new subclause as follows:

(5a) The Commissioner of Police shall, forthwith upon the discharge of a child upon licence, be informed of the discharge and of the conditions of the licence.

I ask that that be accepted by the Government for a number of reasons, but first I ask the Minister whether he is prepared to accept the amendment.

The Hon. PETER DUNCAN: This is not acceptable to the Government. The proposal is more adequately and appropriately dealt with by regulation, and that is the way the Government intends to deal with the matter.

Mr. MATHWIN: The Director-General of the department can call the Review Board together at any time. A younger person can come before the board, even though a sentence has been given only weeks before. It has the ability to release the person at any time after that. The police should know if these people are released into the community. Some young people aged 17 or 17½ years are hard-core criminals, and they may be released without the police knowing of this. We will have panels, and the Review Board can meet whenever a decision is made by the Director-General.

I ask the Attorney-General to reconsider the situation. He did not give any reason why he would not accept my amendment. This is among the most serious legislation that has come before this House since I became a member in 1970, and it deserves proper scrutiny and consideration. I am sincere in my desire for protection of the public and of the children involved. I am not trying to delay the House, but I would like to be given reasons for the Government's attitude.

Mr. Millhouse: You may have a surprise in a few clauses time.

Mr. MATHWIN: We have yet to see whether we have a surprise or two. The Attorney-General should give some reason. I speak on behalf of the Opposition and the people of South Australia. They want to know.

Concerned people have got in touch with members on both sides of the Chamber about this matter. It is time the Attorney gave us reasonable answers to our amendments.

Amendment negatived; clause passed.

Clause 55—"Sentencing of children guilty of homicide or committed to adult court on application of Attorney-General."

Mr. MATHWIN: I feel inclined to continue the debate because of the 15 minutes I have lost as a result of the Attorney's attitude. I will not move the amendment I intended to move, because it is consequential on one not carried. However, I do ask the Attorney to give a reasonable explanation on some of these matters and not to act like a spoilt child.

Clause passed.

Clause 56—"Powers of adult court on conviction in certain circumstances."

Mr. MATHWIN: I move:

Page 22, lines 27 and 28—Delete all words in these lines.

I understand that this practice has been unsatisfactory in the past. The court that has heard the evidence and is familiar with the case is in the best position to sentence the child. It is right and proper that, if the Supreme Court has heard the evidence, it should sentence the child rather than hand the matter down and transfer the responsibility for sentencing to the Children's Court.

The Hon. PETER DUNCAN: The Government cannot support this amendment. It is perfectly proper, where an adult court deals with the matter and believes it is out of touch with the sentencing policies applied in the juvenile jurisdiction, that it should have the opportunity to refer the matter back to the Juvenile Court for sentencing. This provision gives the court the opportunity to do that. However, if the court feels competent to undertake the sentencing, no doubt it will do so. This is a good opportunity for the honourable member to put his faith in the court, as he has been suggesting all afternoon.

Amendment negatived; clause passed.

Clauses 57 to 60 passed.

Clause 61—"The Training Centre Review Board."

Mr. MATHWIN: I move:

Page 24, after line 42—Insert new paragraph as follows:

(ba) two persons with appropriate skills and experience in working with young people, appointed by the Governor upon the recommendation of the Commissioner of Police;

The review board is to comprise, as well as the judges of the Children's Court, two persons recommended by the Attorney-General and two nominated by the Minister of Community Welfare. I believe that persons experienced with juveniles should also be appointed to the board on the Police Commissioner's recommendation, and my amendment provides accordingly.

The Hon. PETER DUNCAN: The Government cannot accept the amendment. The review board, will, in effect, act as the Parole Board acts in relation to adults. The police really do not have a function in this sort of situation. They are there to maintain law and order and to fulfil various other functions. However, once an offender has

been apprehended and the evidence given to the court, the police should properly bow out of the situation. It is not a proper function for the police to review the progress of juvenile detainees.

Mr. MATHWIN: It seems a pity that the Government will not be more flexible in relation to the police. I pointed out in the second reading debate the advantages experienced in other parts of the world, particularly in Liverpool, England, when certain police officers act as liaison officers with the department in this area. I have seen this sort of scheme operating and, indeed, it works extremely well. The people who work in areas to which offenders have been committed for, say, weekends or Saturday afternoons are working well indeed and are accepted by young offenders. Their work is appreciated not only by the young people but also by their parents.

I think it is a shame that throughout the Bill the Government has opposed the police working in co-ordination with the department. The situation that now prevails where there are two points of view, that of the Community Welfare Department and that of the Police Department, working against each other, has to be broken down. It is a shame that the Minister will not support this amendment. I do not think it would do any harm; it would do good, because it would involve the police. The Attorney-General should reconsider this amendment and accept it. There might not always be a police officer on the board.

Amendment negatived.

Mr. MATHWIN: Because the Government has not accepted my previous amendment, I do not intend to move the other amendment I have on file.

Mrs. ADAMSON: On behalf of the member for Light, I move:

> Page 25, after line 36—Insert new subclause as follows:
> (11) When sitting to review the progress and circumstances of a child, the Training Centre Review Board shall permit the legal representative, or a guardian, of the child to make submissions to the Board.

The Attorney-General has indicated that the Government will accept this amendment. That indicates that the Attorney recognises that simple justice demands that any person be permitted representation when his or her future is being considered.

Amendment carried; clause as amended passed.

Clause 62—"Review of detention by Training Centre Review Board."

Mr. MATHWIN: I move:

> Page 25, lines 39 and 40—Delete "and at any other time upon the request of the Director-General".

Does the Minister accept this amendment?

The Hon. PETER DUNCAN: The Government intends to oppose this amendment. Surely the honourable member can see that it is necessary that the Training Centre Review Board should have sufficient flexibility that, when particular matters arise involving the welfare of a child, the Training Centre Review Board ought to be able to consider the matter quickly and appropiately in the circumstances. For example, something might happen and the child's family may move from the country to the city and establish itself in an appropriate domestic surrounding where it might be most desirable that the child be released to live with the family. Any number of matters could arise from time to time, and it is desirable that the Director-General should have some discretion to bring the matters before the Training Centre Review Board as soon as possible in such circumstances.

Amendment negatived; clause passed.

Clause 63—"Conditional release from detention by Training Centre Review Board."

Mr. WOTTON: I move:

> Page 25, line 44—After "The" insert "Court, upon application by the Minister pursuant to a recommendation of the".
> Page 26—
> Line 4—Delete "Board" and insert "Court".
> Line 9—Delete "Training Centre Review Board" and insert "Court".
> Line 10—Delete "Board" and insert "Court".
> Line 16—Delete "Board" and insert "Court".
> Line 17—Delete "Board" and insert "Court".
> Line 21—Delete "Board" and insert "Court".
> Line 24—Delete "Board" and insert "Court".
> Line 25—Delete "Board" and insert "Court".

I believe that subclause (2) *(b)* makes a complete mockery of the power of the court to facilitate a determinate sentence. Paragraph *(b)* is extremely wide. Before an order is made for the release of a child sentenced to detention in a training centre, the matter should go back to the court for final assessment. The court should have the right to make the final decision about the release of the child.

The Hon. PETER DUNCAN: The Government opposes the amendments. The Training Centre Review Board is chaired by a judge of the Juvenile Court. Surely the honourable member can see that that means that the Juvenile Court will have a significant input into determining when children are released from training centres. This provision follows the recommendation of the Commission and is in line with the operation and practice of the Parole Board in dealing with adults.

It is completely proper that the board should be the appropriate authority for dealing with questions of when to release children who have been placed in training centres, particularly because of the input from the fact that a judge chairs these boards. If the judges exercise an influence on these boards similar to that exercised by the Chairman of the Parole Board, the input from the Judiciary will be most significant.

Amendments negatived.

Mr. MATHWIN moved:

> Page 26, line 25—After "the allegation proved" insert "on the balance of probabilities".

The Hon. PETER DUNCAN: The Government believes the amendment to be unnecessary. We are not violently opposed to it, but we believe it would tend to turn the board totally into a court, and we do not think that is necessary. Many matters which can be dealt with in relation to this would not necessarily involve matters where we would want to have criminal standards of proof.

Amendment negatived.

Mr. MATHWIN: Subclause (6) mentions "any member of the board". Surely it should be the Chairman.

The Hon. PETER DUNCAN: It is simply a matter of administrative convenience. If the child does not appear before the board, it is necessary to issue a warrant, and I understand warrants would be issued administratively rather than formally by the board. This is simply to ensure that a member of the board can be found at a convenient time to sign the warrant.

Clause passed.

Clause 64 passed.

Clause 65—"Age of criminal responsibility."

Mr. MATHWIN: I understand that in Denmark the age is eight years and in the United Kingdom it is 10 years. How does the Attorney treat the situation in relation to an uncontrollable child?

The Hon. PETER DUNCAN: This applies only to offences. It does not apply to children in need of care. If a child under 10 years was making a nuisance of himself, we

would put an "In need of care" order on him and put him in an institution where he could be kept out of harm's way. This is not a new provision. It is a continuation of an existing provision, and continuation was recommended by the Royal Commissioner.

Mrs. ADAMSON: In the second reading debate I quoted figures and referred to two brothers, aged 10 years and nine years, who had been declared habitual housebreakers. They robbed at least 40 houses in a period of 18 months. How many similar cases occur, and how does the law deal with these children if they cannot be presumed to be committing an offence?

The Hon. PETER DUNCAN: I haven't got the information with me, but I will get if for the honourable member.

Clause passed.

Clauses 66 to 68 passed.

Clause 69—"Counsellors, etc., may make submissions to court."

Mr. WOTTON moved:

Page 27—

Line 24—After "of the proceedings," insert "or upon application of any guardian of the child,".

After "that person" insert "or guardian".

The Hon. PETER DUNCAN: We accept that amendment.

Amendment carried; clause as amended passed.

Clauses 70 and 71 passed.

Clause 72—"Power of court to order compensation or restitution."

Mr. MATHWIN: There appears to be nothing in the Bill that could prevent the victim from taking civil action against a child or the parent or guardian of such child, unless this is covered in clause 9. I would like some assurance from the Attorney-General on that matter. If offenders have no money, it is an extreme loss to the victim.

The Hon. PETER DUNCAN: Unless a claim can be made under *Rylands v. Fletcher* for allowing something that is dangerous to escape, or something extraordinary like that, I do not imagine that a claim can be made against a guardian.

Clause passed.

Clauses 73 to 82 passed.

[Sitting suspended from 6.34 to 7.30 p.m.]

Clause 83—"Functions of the Advisory Committee."

Mrs. ADAMSON: I move:

Page 32, line 4—After "collected" insert "as it thinks fit, or".

During the second reading debate I emphasised the need for objective decisions to be made about the collection of data and statistics. I understand that the Attorney will accept this amendment.

Amendment carried; clause as amended passed.

Clause 84—"Reports."

Mr. MATHWIN moved:

Page 32, after line 15—Insert new subclause as follows:

(1a) Without limiting the generality of subsection (1) of this section, in its annual report the Advisory Committee shall give the following particulars:

(*a*) the total amount of damage caused to property by children found guilty of offences during the year;

(*b*) the total value of property stolen or otherwise unlawfully acquired by children found guilty of offences during the year;

(*c*) the total amount ordered by the courts during the year for compensation or restitution under section 72 of this Act;

(*d*) the total number of children found guilty during the year of an offence under the Road Traffic Act, 1961-1976, that involves the use of alcohol or drugs, and the number of such findings of guilt in relation to each of those particular offences; and

(*e*) the number of children who have received legal assistance during the year in respect of any proceedings before the Children's Court, or before an adult court pursuant to this Act, the amount of money expended in respect of each child so assisted, and the total amount of money expended on such legal assistance.

The Hon. PETER DUNCAN: The Government cannot accept the amendment. The honourable member is saying that we should ask the advisory committee to give particulars that will be impossible to compute. First, he wants particulars on the total amount of damage caused to property by children found guilty of offences during the year. That figure would be difficult to compute and would involve much Government time and effort. In any event, the figures may turn out to be inaccurate.

The honourable member also wants particulars on the total value of property stolen or otherwise unlawfully acquired by children found quilty of offences, to which the same comment applies. The information he seeks regarding the total amount ordered by courts during the year for compensation or restitution could be obtained by any member's simply asking a question. The details for which the honourable member asks relating to paragraph (*d*) of his amendment would also be available from the crimes statistics section. The honourable member may be aware, as no doubt the member for Davenport is, that the crime statistics section is drafting the necessary administrative directions to ensure that proper statistics are kept in South Australia so that we will be able accurately to ascertain exactly what are the trends in juvenile crime and other types of crime.

Mr. MATHWIN: It is disappointing that the Attorney will not accept the amendment. Although I realise that parts of it could be embarrassing to certain sections of the Minister's department or to other departments, I should have thought that, if the Government and its Ministers, in their responsible positions, were to do anything to combat this type of crime, it was imperative that statistics be kept. Whether or not we like the answers to the sums when they are added up at the end of each year does not matter.

Any book dealing with child crime that the Attorney got from the Library or any other place would state emphatically that, if we are to combat crime, we must have statistics, which must be compiled in a similar manner thoughout Australia. It is therefore important that statistics are kept, that being the only way in which we can know that the system under which we are working is ineffective. Had the Government been compiling statistics for which members have so many times asked, we would have known before now that the system operating in this State since 1971 is not working at all. Indeed, it is providing far more difficulties than the experts would have us believe.

The only way in which we, as members of Parliament, can know of problems in the community is by seeing statistical data. If members ask Ministers questions and the Ministers say they do not have the answers, because they do not regard the matter as important enough to keep statistics, then we will get nowhere at all. The system then becomes one that protects a certain section of the community or a certain department.

It is imperative that these statistics be available. I have outlined the reasons for that. Unless we have data that has been compiled properly, and unless the people receiving

the data consider it not as a rebuff but as a matter of importance to combat problems in the State, we will never get anywhere with the mounting problem of juvenile delinquency in this State.

Amendment negatived; clause passed.

Clause 85—"Determination of a person's age."

Mr. MATHWIN: Why has subclause (3) been inserted? What would happen if there was a mistake about a person's age?

The Hon. PETER DUNCAN: We believe that once proceedings have taken place in court that they should be final. It may well be, as the honourable member pointed out, that in certain circumstances mistakes could be made as a result of an accused lying about his age, or there could be some other reason why the court was misled as to the age of the person. However, once the court has made its determination and imposed the penalty (and in many instances the penalty may have been carried out), the Government believes that that should be the end of the matter.

I know this is a matter where, in a sense, the application will be somewhat arbitrary and I appreciate the honourable member's concern because I think it is a real concern. Overall, when one looks at the situation, I think it is better that the court's determination should be final. It is not as if this is a mistake as to an appropriate charge, or anything of that nature. It relates to a mistake as to the particular court in which a person should appear. For that reason there has to be a finality about the matter or the situation could arise where a person was found guilty, committed to a training centre for the period, released, and the mistake then discovered. If this provision did not exist, it would be possible to put that person before a court again. That would be highly undesirable.

Clause passed.

Clause 86 passed.

Clause 87—"Certain reports must be made available to child."

Mr. MATHWIN: I move:

> Page 33, after line 30—Insert new subclause as follows:
>
> (1a) Copies of reports received by the court in any proceedings shall be furnished to the persons referred to in subsection (1) of this section at least two days before the court hearing at which those persons will have the opportunity to cross-examine in respect of the reports.

Will the Attorney-General accept my amendment or has he reason to oppose it?

The Hon. PETER DUNCAN: I have reason to oppose it. The amendment would not fit in comfortably with the rest of the Bill. The amendment provides that copies of reports received by the court shall be furnished to the persons referred to (parents and guardians of children) at least two days before the court hearing. That is logically inconsistent, because the court does not receive the reports until they are handed up to the bench, so the proceedings are in operation when they are handed up.

Mr. Mathwin: You get them a couple of days beforehand.

The Hon. PETER DUNCAN: The courts do not get them beforehand. They are handed up by the welfare officer at the proceedings. Clause 67 provides that no report relating to the social background or personal circumstances of a child shall be tendered to the court before the court has found an offence proved against the child. The proceedings continue to the point of a finding of guilty before the reports are presented.

Mr. MATHWIN: I understand that the system is the adversary system, and if anyone is to object that objection must be pointed out to the court. If the report is given to the prosecutor, for instance, it could not be assessed in the brief time available. It would not be possible to check whether any mistakes had been made. I understand that mistakes have occurred in reports in the past. If one is to object, one must be confident beyond any reasonable doubt, and it would be impossible to assess the situation in the time available.

I should like the Attorney to look at some recent reports. I can mention two, particularly a recent one, that I would like him to see. We can talk about Walker and perhaps Shaw. I would like the Attorney to look at the reports and see whether he agrees that they were correct. I also would like to see the reports on the records of those people who have been before the courts several times.

The Hon. PETER DUNCAN: We could talk all night about individual cases, as the honourable member apparently wants to do. In clause 87, the power is there for counsel representing the young offender to cross-examine on the substance of the report. Furthermore, in any proceedings it is open to counsel to apply for an adjournment if he considers that necessary. This Bill provides much greater protection, since the reports cannot be presented or received by the courts until the determination of "guilty" has been reached. That is better than the present situation.

Mr. MATHWIN: Will the Minister look at the reports to which I have referred and balance them with the cases? I ask for the same privilege. I have named Walker and Shaw, and I think Gage. To be able to look at them would probably satisfy me.

The Hon. PETER DUNCAN: I am surprised at the suggestion, because not many days ago the member for Light explained at length that he did not want to look at Government reports because he felt he would be compromised by doing that on a confidential basis. I would be prepared to look at the reports that the member for Glenelg has referred to. I am not sure what he wants me to satisfy myself about, but I will look at those reports in light of the subsequent history of the offenders and I will advise the honourable member of my opinion.

Clause passed.

Clauses 88 and 89 passed.

Clause 90—"Procedure where child is not represented."

Mrs. ADAMSON: I move:

> Page 34, after line 21—Insert new subclause as follows:
>
> (4) Where a child has been charged with an offence, he shall be furnished, as soon as reasonably practicable after being so charged, with a written statement in the prescribed form of his rights in respect of legal representation, and of the manner in which he may obtain legal advice, representation or assistance.

The Attorney-General has said this amendment is acceptable, presumably on the basis that it implements paragraph 25 of the Royal Commission report.

Amendment carried; clause as amended passed.

Clause 91—"Persons who may be in court."

Mr. WOTTON: I move:

> Page 34, line 27—Delete "lawyers" and insert "counsel and solicitors".

In reading the amendment, it would appear that there is a typographical error. It should read "counsel or solicitors." I bring this amendment before the Committee because it is a technical amendment. I am informed that the use of "and their lawyers," is unusual drafting.

Mr. Millhouse: Sloppy drafting.

Mr. WOTTON: It is sloppy drafting. I notice that, in the Mohr recommendations regarding persons who may enter the court, His Honour said:

> The more balanced views came down in favour of something more akin to the provision of the Juvenile Courts Act of 1941, of which the relevant sections read—

reading from subparagraph *(b)*—

> parties to the case before the court, their counsel and solicitors.

The Hon. PETER DUNCAN: The Government strongly opposes this amendment. In South Australia there is virtually no distinction between barristers and solicitors, and I am surprised—

Mr. Millhouse: Don't be silly.

The Hon. PETER DUNCAN: I know that the honourable member who interjected has vested interests in the matter. I am surprised that he should enter into the debate at all. To my knowledge the word "counsel" historically refers to solicitors rather than barristers. The precise legal language to be used, if one wanted to be absolutely precise, would be "barrister and solicitor". Notwithstanding that, the situation in South Australia has been for a long period that barristers and solicitors can each undertake the other's work at law. It may be that by signing the barristers' roll they enter a private arrangement that as barristers they will not undertake solicitors' work, and it may be that various solicitors enter private arrangements that they will not undertake barristers' work. Nevertheless, any admitted legal practitioner here can appear in the courts of South Australia, provided that he is in private practice as a principal. That has nothing to do with whether he be barrister or solicitor or whatever title he likes to operate under.

The situation seems to me to be this: that the public at large knows members of the legal profession as lawyers. Whether the honourable member for Mitcham finds that sloppy or not, that is the way the public styles members of the legal profession. It is about time that this Parliament got down to the stage of accepting what is widely accepted in the community and stopped accepting pressure from a relatively few members of the legal profession who like to consider themselves a little bit aloof and want to know themselves as either barristers or solicitors. It is for this reason that the Government proposes to use the word "lawyers" in this context, and in any other context where it is appropriate to do so.

In law, as far as I am aware, the only distinction between barristers and solicitors in South Australia (apart from the traditional things that barristers go to court about, and solicitors do the office work side of legal practice), is that barristers cannot be sued for negligence. That, as I have said before, is a quite scandalous situation. Solicitors can be sued. I think that the quicker we abolish that distinction the better off the community at large will be in South Australia, and the better the protection it will have from the laws of this Parliament.

Mr. MILLHOUSE: I do not propose to debate the last point raised by the Attorney: it was entirely irrelevant to this clause. However, I will debate it with him, as I have done previously, at the appropriate time. He has drawn me into the debate by some of the things he has said which reflected on me and those of us who practise only as barristers. He should remember the generic term, the overall term that should be used in South Australia if he wants to use only one term, is "legal practitioner". He, as I, was admitted to practice as a barrister, solicitor, attorney and proctor. They are the four descriptions that legal practitioners technically can use in South Australia. "Lawyer" is never used.

Until the Legal Practitioners Act is amended and we have under that Act the appellation of "lawyer", I do not believe that it should be used in any other Act. The better point, the one made originally by the member for Murray which the Attorney skated over, relates to the 1941 Act (before there was a separate bar in South Australia). Section 11 (1) of the Juvenile Courts Act provides:

> No person shall be present at any sitting of a juvenile court except—
>
> *(b)* parties to the case before the court, their counsel—

not barristers—

> and solicitors.

That is the correct usage of the term. I have no doubt that the Hon. Mr. Burdett, who assisted the member for Murray, lifted that phraseology from that section of the 1941 Act. I say those things only to put the Attorney-General right. Had I been silent I believe that, in future, he would have said that I said nothing about it and therefore assented to the nonsense he talked.

Having said that, it is only fair to say that even with that amendment and the one proposed by the member for Murray, this clause is absolute anathema to me, and I intend to vote against it in due course.

Amendment negatived.

Mr. WOTTON: The drafting of the amendment in my name does not reflect the original intention I had in moving it. My purpose was not only to admit the press and the media but also to allow media reporting. As stated previously, the Opposition believes that there should be press and media access to the courts, the principle being (an old and honoured principle) that justice should be administered in the light of public scrutiny. I hasten to add that the Opposition agrees completely with Judge Mohr's recommendations that young offenders would still be entitled to the protection of having their name and identification suppressed. Paragraph 34.14 of the Royal Commission report states:

> After careful consideration of all the material before me, I have come to the conclusion that public scrutiny by means of publication in press, radio and television is a healthy thing for any court to face, and can only operate for the good of public confidence in the process of justice.

The Government should now consider carefully the fact that much of the misunderstanding of the Juvenile Court's role and the adequacy of the treatment of juvenile offenders would have been avoided had the press not been denied access to court hearings in the past. Finally, I refer to the *Advertiser* editorial of 4 February 1977, part of which states:

> It is to be hoped that the Commissioner and the Government will eventually come to accept the view that any imagined benefit to young offenders by restricting press reporting is heavily outweighed by the harm in denying the public's right to know how justice is being administered in the courts. Any person, juvenile or adult, charged with an offence should have the right of public trial.

The Commissioner, in his report and recommendations, accepted that view, and I sincerely hope that the Government will do likewise. As there has been a misunderstanding of the purpose of this amendment, which does not reflect the true Opposition intention, I will withdraw it, but will support the member for Mitcham, whose amendment, we believe, implements the original intention of my amendment.

Mrs. ADAMSON: I support the amendment. It is an essential element of justice that it be seen to be done.

The Hon. PETER DUNCAN: On a point of order, an amendment is not before the Committee.

The CHAIRMAN: I uphold the point of order. An amendment has not been moved.

Mr. MILLHOUSE: I should like now to get on to what is really the guts of this important matter, involving the fundamental question whether the court should be open or closed. I propose that clause 91 and clause 92 be knocked out and that we should instead rely on the provisions of section 69 of the Evidence Act, to which I referred last

evening in the second reading debate and to which I will refer again soon. I should like the Committee to knock out this clause and clause 92 and to make a small consequential amendment to the Evidence Act to knock out section 69 (3).

Last evening, when dealing with the matter of open or closed courts, I read some extracts from the Royal Commissioner's report, because the Attorney-General, when it suits him in this debate, relies on what the Royal Commissioner has said. However, when it does not suit him, he says, "No, that is all wrong." In other words, he tries to have his cake and eat it, too.

I am pleased to see the member for Morphett in the Chamber. I am sorry that he has not participated in the Committee debate because, with respect to the Attorney-General, apart from the Minister of Community Welfare the member for Morphett knows more about this jurisdiction than does anyone else in the Committee. Maybe he will come into the debate on this matter, because it is, to me, of some fundamental importance. Paragraph 34.22 states:

> The effect of these two sections—

sections 68 and 76 of the Juvenile Courts Act—

> has been that the public has been excluded from Juvenile Courts both as a body and in so far as the "bona fide" press represents the public.

Of course, it does represent the public; the press is the eyes and ears of the public in places such as courts, and even here in Parliament. The report continues:

> In other words to all intents and purposes Juvenile Courts have been courts which have sat in secret and the provisions of section 76 (1) have not been availed of because the reporting of the bare result or proceedings is not seen as being of any public interest. The secrecy surrounding Juvenile Court proceedings has given rise to considerable public disquiet.

I pause there to say that, undoubtedly, that subparagraph is based on evidence the Royal Commissioner received during the course of his inquiry. In my own experience it is well justified; there is disquiet about the fact that these courts are closed. He goes on at 34.4 to state:

> In this area competing interests must be weighed.

It was this subparagraph that caused me to say something last evening about on the one hand and then on the other. The first sentence in paragraph 34.5 was the reason for another remark I made last night. It states:

> In so far as absolute or almost absolute secrecy is advocated the Department for Community Welfare has been the strongest proponent, both in this field and others. In so far as court proceedings are concerned the strongest submission put forward is that the presence of an outsider in the court would in some way inhibit the full and frank discussions between the court, the child and parents.

I said last night (and I am afraid it caused the Minister of Community Welfare some concern, because he spoke to me about it after) that I believed that, since this report was made and the recommendations became known, the Government had been nobbled by the department on matters such as this. It is in the nature of things, because they are the people who are advising and they have views that are sincerely held. May I assure, through you, Mr. Chairman, the distinguished representative of the department at the draftsman's table that I do not reflect on him or any other officers of the department, but they have their views and are in a position to peddle them to the Government. They can do that right up until this time, whereas the Royal Commissioner made his report and recommendations, and that was the end of it.

One of the major reasons why this recommendation has not been accepted (in fact it has been totally rejected) by the Government is the influence and pressure of officers of the Community Welfare Department. There is another reason (and I must be fair, particularly to officers of the department, in saying this), and that is that this Government, not only the present Attorney-General and the Minister of Community Welfare but their predecessor Mr. King, seems, despite the philosophy the Labor Party espouses of open government, to have an absolute obsession about having closed juvenile courts. Whether that is a philosophical hang-up, I do not know, but that is the fact. Having canvassed the arguments pro and con, the Royal Commissioner then states:

> The more balanced views came down in favour of something akin to the provisions of the Juvenile Courts Act of 1941 of which the relevant sections read:
>
> 11. (1) No person shall be present at any sitting of a juvenile court except:
>
> (*a*) members and officers of the court and officers of the board;
>
> (*b*) parties to the case before the court, their counsel, and solicitors;
>
> (*c*) witnesses whilst giving evidence and whilst permitted by the court to remain in court;
>
> (*d*) any parent or guardian of a child who is a party to the case before the court;
>
> (*e*) bona fide representatives of newspapers or news agencies;
>
> (*f*) such other persons as the court specially authorises to be present.
>
> (2) A juvenile court may, in its discretion, order a child to retire from the court-room while any evidence is being given concerning the neglect or destitute condition of that child.
>
> 12. (1) Subject as hereinafter provided, no newspaper report of any proceedings in a juvenile court or of any proceedings in the Supreme Court on appeal from a juvenile court shall reveal the name, address, or school, or include any particulars calculated to lead to the identification of any child concerned in those proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein, nor shall any picture be published in any newspaper as being or including the picture of any child so concerned in any such proceedings as aforesaid: Provided that the court may in any case, if satisfied that it is in the interests of justice so to do, by order dispense with the requirements of this section to such extent as may be specified in the order.
>
> (2) Any person who publishes any matter in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine of not more than fifty pounds.

That was the provision in the 1941 Act and it obtained, if I remember rightly, until the present Premier, when he was Attorney-General and Minister of Community Welfare, brought in the Act of 1965 or 1966. Only then, when we had a Labor Government, did the emphasis change and the court became closed. That was carried on in the King Act which we are now scrapping. Paragraph 34.9 of the report states:

> It is an axiom of the law that "justice must not only be done, but be seen to be done" and it is the application of that axiom to this problem of access to and publication of proceedings before Children's Courts which causes concern.

I hope that honourable members opposite will take note of the next sentence in the report, because in so many other ways this report and recommendations have been regarded as sacrosanct. The report continues:

> Secret courts have traditionally been looked at askance under systems founded on British law and have only been seen to be justified where there are overriding matters of

> public policy which justify them. Is there such a consideration of public policy, which justified such a restriction when Children's Courts are considered?

Without going through the whole lot, the Royal Commissioner states:

> After careful consideration of all the material before me I have come to the conclusion that public scrutiny by means of publication in press, radio and television is a healthy thing for any court to face, and can only operate for the good of public confidence in the process of justice, and that, if in engendering that public confidence and trust some individual or individuals suffer publicity which they would rather avoid, then that is a price which must be paid.

That is what the Royal Commissioner said after due consideration of arguments, pro and con, which were put to him. He then said:

> I therefore recommend that the present provisions be repealed and that sections 11 and 12 of the 1941 Juvenile Courts Act, but so as to include radio and television or something very much akin to them, be re-enacted with one proviso and that is that the monetary penalty in section 12 of the 1941 Juvenile Courts Act be increased to $2 000.

The only part of that that we have got is an increase in penalty but it is an increase to $10 000, not to $2 000, for reasons that are not clear. There you have a considered discussion and recommendation on this thorny matter. The Attorney tried to pick me up last night on the fact that under clause 92 (4) the court can dispense with these matters, and he makes it quite clear from the other subclauses that the provisions in the present legislation are worthless, because they are never used. That is why the exception, such as it is, would cause much confusion in its interpretation. The provisions in clauses 91 and 92 are Draconian and, because of the influence of the department, paternalistic. I speak with first-hand knowledge of the department and the officers.

The Hon. Peter Duncan: It's fading, though.

Mr. MILLHOUSE: When I see Gordon Bruff over there, it does not fade too much. I have pleasant memories of the department, but I had to stand up to them and make my own judgments. The only point I make is to reiterate what I said last night, namely, that the provisions of section 69 of the Evidence Act are sufficient not only for adults but also for juveniles, except that there is no need in my view for reports to be made whenever an order excluding persons from the court is made. That is in section 69 (3) of the Evidence Act. If my amendments are accepted, it will mean that the Children's Court will be an open court, but I would expect that, because of the interests of justice, the judges of the court far more frequently would use section 69 of the Evidence Act than would other courts.

Mrs. ADAMSON: I support the member for Mitcham in opposing the clause. It is an essential element of justice that it be seen to be done, and this can happen only if the court proceedings are open to the press. Doubtless, overriding public opinion favours open court reporting, and the legal profession and police officers also favour it. There is an analogy here with the Family Court. Many members of the Commonwealth Parliament who supported the motion that the Family Court should not be open to reporting now see the error of that decision, in the public interest. I must not occur with the Children's Court.

Mr. MATHWIN: I support the case presented by the member for Mitcham. He has referred to important evidence from the report of the Royal Commission on the matter. There is no doubt that the Attorney-General will support the recommendations of Judge Mohr only where it suits him. Judge Mohr made it quite obvious that the press should have free access, that there should be open court. The reasons given in paragraphs 34.3 and 34.5 are worth noting. I hope that the Attorney-General agrees to this recommendation of the Royal Commission. I would not go as far as the suggestion of the editors of the *Advertiser* and the *News* that there be no secrecy and no restrictions on publishing any matter arising in court, including publication of the child's name and address. A more balanced view is something akin to the provisions of the Juvenile Courts Act, 1941, which was fully explained by the member for Mitcham.

The Hon. PETER DUNCAN: I think the comments of the member for Coles and the member for Glenelg were simply in support of the member for Mitcham, and I do not intend to deal with those in any detail. The member for Mitcham has proposed that we should delete clauses 91 and 92, and that we should simply apply the rules relating to court access for the media that apply to the adult criminal courts. He described this as the "guts" of the matter. I am amazed to hear him use that term in dealing with the whole of the Bill.

Mr. Millhouse: That is this matter, not the whole of the Bill.

The Hon. PETER DUNCAN: The honourable member described the amendment as the "guts" of the matter. That illustrates only too well the sort of attitude that the honourable member generally reflects in debates in this place. He does not concern himself with the principles involved, or with the overwhelming interests of the community. He concerns himself generally with those matters that will get a few headlines tomorrow. He knows quite well that by speaking on this matter, by moving an amendment, and by raising the issue of media presence in the courts he would get headlines in tomorrow's *Advertiser.* I suppose as the arch politican that he is one can hardly be surprised to hear him describe the amendment as the "guts" of the matter.

The Government's point of view is that we should take an attitude towards these matters that endeavours to protect the whole of the community, not simply the interests of one section of the community. I am referring here to the obvious pecuniary interests of the media in wanting to report the matters that occur in the Juvenile Court. One can understand the interest. There are no doubt a lot of headlines to be written as a result of proceedings in juvenile courts.

Nonetheless, that does not mean that we as a Government simply at the behest, the beckoning and the urging of the press, should throw out the responsibility that we have to the community to endeavour to balance the interests of the community, the press, and the protection of individuals, etc.

Clauses 91 and 92 are a reasonable balance between the interests of the press on the one hand wanting, for its own interests, to report the proceedings of the Juvenile Court and, on the other hand, the interests of the public and the juveniles concerned, the best interests of whom are served by the least possible publicity. The honourable member says, "Open courts are the only courts that truly represent the tradition of British justice, etc." The interests of British justice have been fairly poorly served by the presence of the press in the courts. I do not simply limit that to the Juvenile Courts.

Mr. Millhouse: You'd like—

The Hon. PETER DUNCAN: I am not saying that I want the press removed from adults courts; I deny that insinuation. If one reads the newspapers day by day one sees that the matters reported are the more lewd, pornographic and sensational. The sorts of matter that are sensationalised are rape, murder and any type of violent or sadistic crime. They are reported in great detail and depth.

It is most unfortunate that the press takes that attitude. It is in the interests of the community that the press should have some access to the Children's Court, as we have now provided, but that it should report only the results of court hearings.

Mr. Millhouse: What do you mean by "results"?

The Hon. PETER DUNCAN: The press is entitled to publish the results now; that is, the document that is issued by the court at the end of each proceeding. It can continue to publish the result. The Government and I believe that that is in the best interests of the community. I know that we will be under considerable pressure from the media and will have lots of press tomorrow. No doubt the *Advertiser* will run another editorial on this matter, as it has run several already.

Frankly, the Government and I will not be cowed by that sort of pressure. We have a duty and a responsibility to act in the interests of the community; we have been elected to do that, and that is what we intend to do. The member for Mitcham can go on a headline-hunting expedition, but the Government does not intend to be cowed by such tactics. As far as we are concerned, we believe that the Bill as it stands provides a reasonable compromise in all the circumstances.

Mr. MILLHOUSE: That was a most revealing reply. In the whole reply not one reference was made to the Royal Commissioner, his arguments or his recommendations. In itself, that is revealing coming from a man who repeatedly this afternoon, in opposing other amendments, has relied implicitly on the arguments and recommendations of the Royal Commissioner. Why could he not be man enough this time to say that the judge was wrong or a fool to make such a recommendation? He presented a thin argument for the Government on this matter.

The Attorney did exactly what the Premier always does when he does not have an answer to an argument and indulged in personal abuse. I am one of the victims of that from time to time, as I was this time.

I was supposed to be headline hunting, and doing this, that and the other thing. My motives were impugned for raising this matter. However, that does not matter. The fact is that I put arguments in favour of a case, and one would expect the Attorney, in rebutting the case, to use arguments and not merely personal abuse. The fact that he used personal abuse, only shows conclusively, as with his Leader, that he had no arguments to use against me.

However, in view of some of the things that he did say, I should like to refer to a couple more sentences from the Royal Commissioner's report that I omitted previously because these are the direct answers to what he said. The Attorney must know that these sentences are in the report, but he must be blandly ignoring them. First, in paragraph 34.10 the Royal Commissioner canvasses the sort of children who will come before a court and who will be subject or not subject to publicity. He says that they are the more hardened ones, because those who are offending for the first time will almost certainly go before a juvenile aid panel and not the court. The Commissioner said:

> They will firstly be children who have repeatedly offended and shown themselves to be non-responsive to the efforts of children's aid panels to bring about a change in their criminal behaviour and, secondly, those children who are alleged to have committed very serious crimes or some combination of the two. In other words, it is hoped that a smaller number will be appearing and that those who do appear will be for matters which merit the consideration of a court as it proposed it be constituted.

That is one point. The Attorney also talked about the interest of the public and so on. I hope, when he gets up, that the Attorney will answer the point made by the Royal Commissioner, who said that in some cases it is in the best interests of the community that there be publicity. He gave the following example:

> For example, the identity of a 17-year-old male who sexually assaults young females and who lives in a suburban environment or indeed in a country town. Are not those people whose children are at risk, if he be allowed to be at large, entitled to know his identity? Would not a court, knowing that the offender's identity would be published, be more likely to release him into the community rather than adopt the "safer" course of making a custodial order?

Of course, the answer is, I think, irresistible, but that is the sort of thing that the Attorney has ignored in rebutting this argument. I hope that he will not ignore it now. I will be judging him on the reply, if any, that he gives on this point. Either the Attorney should accept this recommendation, which is made on a matter of fundamental importance, or he should not rely at all on the Royal Commissioner.

The Attorney chided me for saying that this was the guts of the matter. I meant that the amendment that the member for Murray had moved was a peripheral one to this important one relating to whether or not the court should be open or closed. It is no good my debating this matter any further. I can only say (having used every argument that I can use) that the Government is against publicity, despite all we hear about open Government. It was clear from what the Attorney said that, if he could, he would restrict the press, even in other courts. Of course, he denied it when we started to take him up on the matter. There is no doubt, however, that he and his colleagues do not like the press. They regard it as their political enemy, wrongly, I thought, on most occasions, and they would restrict it if they could.

This is an area in which they have found a plausible excuse for doing it. Why there should be a difference between a 17-year-old who goes about assaulting girls and somebody a few months older, who is 18 and whose name will be published, I do not know; I suppose the line has to be drawn somewhere.

It has yet to be shown that in the majority of cases a juvenile suffers more than an adult would suffer from publicity. I believe that there should be open courts, unless there is some good reason to close them. I do not believe that the system laid down in these sections, of closed courts (with some exceptions, which from experience of the present Act will not be used), should be the way we tackle the problem.

I will vote against the clause. If it is lost I will not go on with my opposition to the next clause, because it will obviously be useless, but that will not mean I am any the less opposed to clause 92 than I am to clause 91.

The Committee divided on the clause:

Ayes (17)—Messrs. Bannon, Broomhill, Max Brown, Drury, Duncan (teller), Groom, Harrison, Hopgood, Hudson, Langley, McRae, Olson, Slater, Virgo, Wells, Whitten, and Wright.

Noes (11)—Mrs. Adamson, Messrs. Dean Brown, Chapman, Evans, Goldsworthy, Mathwin, Millhouse (teller), Nankivell, Tonkin, Wilson, and Wotton.

Pairs—Ayes—Messrs. Abbott, Corcoran, Dunstan, Hemmings, Klunder, Payne, and Simmons. Noes —Messrs. Allison, Becker, Blacker, Gunn, Rodda, Russack, and Venning.

Majority of 6 for the Ayes.

Clause thus passed.

Clause 92 passed.

Clause 93—"Detention and search by officers of Department."

Mr. MATHWIN: I move:

Page 35, line 15—After "for the purpose" insert "or any member of the Police Force".

Does the Attorney-General support my amendment?

The Hon. PETER DUNCAN: No, it is not necessary. The police already have this power.

Mr. MATHWIN: I am under the impression that the police do not have this power, and that in situations of a remand from court in custody the person goes into police custody. The mandate is made out to the Commissioner of Police to take them to the institution. I ask the Attorney to reconsider and to accept my amendment.

The Hon. PETER DUNCAN: I can only assure the honourable member that the police have this power when a person is in lawful custody as a result of an order of the court.

Amendment negatived; clause passed.

Clauses 94 to 99 passed.

New clause 99a —"Crown liable for tortious acts of absconders."

Mr. WOTTON: I move:

Page 36, after line 42—Insert new clause as follows:

99a. Notwithstanding any Act or law to the contrary, where a child who has been detained in a training centre or any other place pursuant to an order of a court escapes from lawful custody, and, while at large, causes damage, by any tortious act or omission, to the property of another person, an action in tort shall lie against the Crown in respect of that damage.

Speaking in another place, the shadow Minister, the Hon. Mr. Burdett, said:

It appears there is adequate evidence to show that in some cases escapes should never have occurred or leave should never have been given and that in some cases while juveniles have been at large, having escaped or having been given leave, people have suffered damage. My suggestion (and it is not a major issue or a matter where a great deal of money would be involved) is that, in those limited circumstances, and where such circumstances can be proved, compensation should be paid to the person who really, in the ultimate analysis, has suffered because of neglect in this area.

I need do no more than refer to that speech, which was made by the Hon. Mr. Burdett in 1974.

The Hon. PETER DUNCAN: The Government does not accept this new clause. However, it is Government policy to undertake the effect of this provision, but we believe it more appropriate to do so in the Community Welfare Act. I understand that, in pursuance of our election undertaking, something to the effect of this provision will be introduced, along with amendments that are more general, soon. There is no definition in the proposed new clause of absconders and there are technical matters in the amendment that would need correction.

Mr. WOTTON: I am pleased to hear the Attorney-General's remarks, and we will be looking forward to seeing a provision in the new community welfare legislation.

New clause negatived.

New clause 99 (b)—"Attorney-General's powers and functions may *not* be delegated, etc., to any other Minister."

Mr. WOTTON: I move to insert the following new clause:

99b. Notwithstanding any Act or law to the contrary, a power or function vested in, or assigned to, the Attorney-General by or under this Act—

(a) shall not, by Executive act, be vested in, or assigned to, any other Minister; and

(b) shall not be delegated to any other Minister.

Clause 80 (2) *(b)* provides:

One shall be a person who, in the opinion of the Attorney-General, has wide knowledge or experience in the field of law enforcement, and who is nominated by the Attorney-General.

That refers particularly to the establishment of the Children's Court Advisory Committee. I have selected that provision as an example because I believe it is the main reason why the new clause is necessary. Last evening, in another place, a Bill to amend the Administration of Acts Act, 1910-1973, was passed. Clause 3 of that Bill provides:

Section 6 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:

(1) A Minister may, by notice published in the *Gazette*, delegate any of his powers or functions under any Act to any other Minister.

Under the Bill now before the Committee, the Attorney-General could delegate his powers or functions to another Minister, say, to the Minister of Community Welfare. I am not saying that that Minister would not act responsibly, but we have to consider the matter in regard to a possible future Minister.

The Hon. PETER DUNCAN: We accept the amendment.

Mr. WOTTON: I am pleased that the Minister has agreed to accept this provision.

New clause inserted.

Clauses 100 to 102 passed.

Schedule.

Mr. MATHWIN moved:

Page 39, in the item headed "Justices Act, 1921-1977" after "1961-1976"—Insert "or the Motor Vehicles Act, 1959-1976".

The Hon. PETER DUNCAN: As much as I would like to provide the honourable member with some joy in this debate, I am unable to accept the amendment.

Amendment negatived; schedule passed.

Title.

Mr. WOTTON: I move:

Page 1, after "rehabilitation of children;" —Insert "to provide for the treatment of young offenders and for the protection of the community against the wrongful acts of children;".

It is essential that the purpose of this legislation should be spelt out in the title. I will not go into great detail on this now, except to point out that the two purposes of this legislation, I believe, are to provide for young offenders and to assure protection to the community.

The Hon. PETER DUNCAN: The Government is not prepared to accept the amendment to the long title. Its intention is to provide emphasis that I do not believe is in the Bill at present. It is undesirable that we should give in the long title a false emphasis to the policy set out in the Bill. It seems that this is some window dressing by the Opposition. The Government believes it is better to leave the long title as it is now, reflecting the policy now contained in the Bill, rather than including something that would not accurately reflect the policy of the Bill as it now stands.

Amendment negatived; title passed.

Clause 62—"Review of detention by Training Centre Review Board"—reconsidered.

The Hon. PETER DUNCAN: I move:

Page 25, line 39—After the words "of the child" add "whilst he is in the training centre".

The intention is to ensure that the clause is quite clear in its meaning, that where a child has been released from a

training centre his progress will be reviewed by a departmental review board.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

DOG FENCE ACT AMENDMENT BILL

Returned from the Legislative Council with suggested amendments.

STATE TRANSPORT AUTHORITY ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

COMMUNITY WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 August. Page 732.)

Mr. WOTTON (Murray): I support the Bill, which is consequential on the Bill that we have just debated. No major substantive amendments are proposed in the Bill. The Minister said in his second reading explanation that the principal Act is now being subjected to a general review that probably will result in proposals for further legislative changes. Members of the House and people of this State, especially those working in the community in association with the department, are looking forward to the introduction of the new community welfare legislation. It is hoped that the Government will see fit to introduce the Bill as soon as possible. As it will be a large and complex Bill, we hope that when it is introduced the Government will give the Opposition adequate time to consider and debate properly this extremely important legislation.

Bill read a second time.

In Committee.

Clauses 1 to 22 passed.

Clause 23—"Interpretation."

Mr. MATHWIN: Will the Attorney say whether this clause applies particularly to the intensive neighbourhood care system and what are termed "care givers" (in other words, the foster parents of former inmates of Vaughan House, McNally, and other institutions) in the report known throughout the department as the blue book?

The Hon. PETER DUNCAN (Attorney-General): That is an interesting question on which I could say much and, indeed, about which much ought to be said. If we had the time to go on at length, I could do so, as honourable members would realise, as I have taken many lessons from Senator Margaret Guilfoyle, who is a past master at filling in time while her officers ascertain the position. However, I will undertake to obtain the information for the honourable member because it is not at my fingertips.

Mr. MATHWIN: This is an important matter and, if one reads the blue book, one sees what will happen regarding custodial care facilities, particularly in relation to some institutions, and in relation to those children who are fostered out.

From a financial point of view, there is a colossal difference between the rate of foster care money provided to parents and the sum paid to the parents of the normal foster child. These people get $22·70 a week plus $3·20 clothing allowance. Also, of course, the children get normal pocket money. However, the parents of children who come within the intensive neighbourhood care system will receive up to $105 a week (or $15 a day) and, on top of that, pocket money will pe paid. Also, they will be covered for necessary medical, dental and optical expenses that are not covered by the approved hospital and medical benefits funds and, indeed, they will be covered by insurance. One can see, therefore, that in relation to finance there is a considerable difference.

One could take many quotations from the blue book, which is put out by the department but which has not been made readily available to members of Parliament. Indeed, I should be surprised if any other Opposition member has seen it.

If the Attorney cannot say whether this involves the intensive neighbourhood care system, someone must warn the public of what is in store for it in future. I realise that this is not the Attorney's Bill but that of the Minister of Community Welfare and, for that reason, we can perhaps excuse the Attorney for not giving the Committee information when it is requested. However, this information should be provided.

Clause passed.

Clauses 24 to 34 passed.

Clause 35—"Limitation upon tortious liability."

Mr. MATHWIN: Regarding the intensive neighbourhood care system, the Minister of Community Welfare and members of his department are going to be guardians of these children who come from Vaughan House and McNally Training Centre and are farmed out to foster parents in the community who are going to be known as care givers. The Minister is making sure that he will not be liable for compensation. On 8 August, I asked whether any compensation would be available, and the Minister answered:

> Yes, outside of what is covered by normal insurances. It is intended that this will be written into the contract with the care givers. The scheme is not foster care.

What is the situation here? The Minister of Community Welfare is going to use this Bill to opt out of paying compensation. In that answer to me, the Minister said that they would provide compensation for families taking people from institutions. Is the Minister going to allow compensation for young children who are taken into homes and perhaps kick the front out of the colour television set or throw it out of the window? Can the care giver say it does not matter if they beat him up, because he will be compensated by the Government? Are we to believe clause 35 or the answer given to the question I asked the Minister on 8 August?

The Hon. PETER DUNCAN: I did not expect to have to continue the tutorial of this afternoon at a quarter past nine this evening. I do not know a lot about this area of the law or administration. I can see the logical inconsistency in what the honourable member is arguing. The two matters he refers to are not mutually exclusive. On the one hand, section 236 of the principal Act deals with compensation, relieving the Minister of the obligation to pay compensation where damage is done by juveniles who escape from the Minister's custody. In the INC scheme cases (and what the honourable member is referring to now is damage to the foster parents or their property by the children in their trust) the Minister, as I understand it, has entered into a contract with the people concerned to compensate them for any damage caused. The two situations are entirely different. I am sorry that at this time of the night I have to take up time explaining this matter.

Mr. MATHWIN: I am satisfied and understand the situation so far as the Attorney-General is concerned. He may be sorry about taking up time on this matter, but I stress that this is an important matter and that we are

talking about situations that will occur when some of these people are released into the community. It has to be paid for by the taxpayer. If the Attorney and the Government believe there is cause for concern in this area, the Bill should have been brought on earlier when there was time to debate it. It is useless for the Government to moan that the Bill is dragging on.

Clause passed.

Remaining clauses (36 to 39) and title passed.

Bill read a third time and passed.

SOIL CONSERVATION ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 23 August. Page 715.)

Mr. EVANS (Fisher): I support the Bill.

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

ADJOURNMENT

At 9.18 p.m. the House adjourned until Tuesday 19 September at 2 p.m.