LEGISLATIVE COUNCIL

Wednesday 27 August 1980

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

NUGAN HAND BANKING GROUP

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about the Nugan Hand Merchant Bank and Mr. Schuller.

Leave granted.

The Hon. C. J. SUMNER: Yesterday I asked the Attorney-General a number of questions about the Nugan Hand Merchant Banking group and its Adelaide agent Karl Fritz Schuller. The effect of those questions was whether the Government had ordered a report about Mr. Schuller's activities, whether the Attorney-General would obtain a report from the Corporate Affairs Commission and whether the police would be asked to investigate the affairs of this gentleman and the Nugan Hand Bank in South Australia.

While the Attorney-General's reply indicated that the South Australian Corporate Affairs Commission would co-operate with the New South Wales Corporate Affairs Commission and that documents now with the Federal Police would be made available to the South Australian Police, he did not answer my questions. Indeed, I find it reprehensible that the Government, now knowing of Mr. Schuller's connection with the Nugan Hand Bank and the allegations against that bank regarding its involvement with criminals, drug trafficking and the disappearance of Mr. Schuller, has not required an investigation and report from either the police or the Corporate Affairs Commission. It is further reprehensible, because there is an allegation of the disappearance of South Australian investors' funds, along with Mr. Schuller, from this State. It is particularly disturbing in view of the continuing speculation about documents in the hands of an Adelaide newspaper which have also been given to the Federal Police and which indicate that some Liberal Party members, including M.P.'s, were associated with Mr. Schuller and that support was given by some of these people to Mr. Schuller's activities. Will the Attorney-General now answer the questions that I asked yesterday, namely:

> First, has the Government ordered a report on the disappearance of Mr. Schuller and the financial affairs of his companies or other business activities in South Australia? Secondly, will the Attorney-General obtain a report from the Commissioner of Corporate Affairs on Mr. Schuller's activities and those of his business organisations and advise the Council of the result of that report? Thirdly, will the police be asked to investigate any possible breaches of the law by Mr. Schuller and others associated with the Nugan Hand group in South Australia?

Further, why will the Government not require an investigation by and report from either the police or the Corporate Affairs Commission on Mr. Schuller and the Nugan Hand Bank in South Australia?

The Hon. K. T. GRIFFIN: The Leader of the Opposition has been suggesting this continuing speculation about documents in the hands of the Federal police and about those documents being in the hands of an Adelaide newspaper, yet nowhere in the press has there been any reference to any papers being in the hands of the media, and it looks to me to be a very much beat-up operation by the Labor Party to draw attention to the disappearance of Mr. Schuller in conjunction with the Nugan Hand operation.

The Federal police, as I understand, have indicated that they do not at this stage require any assistance from the South Australian police and that their own inquiries will be conducted expeditiously. I indicated yesterday, and I repeat today, that the South Australian police and the Corporate Affairs Commission are available to assist the Federal police or the New South Wales Corporate Affairs Commission in any inquiries that they may wish to undertake in connection with Mr. Schuller or the Nugan Hand Bank. One must remember, of course, that the Nugan Hand Bank is a New South Wales company and, as I indicated yesterday, where a company is in difficulties or is under inquiry, it is the Corporate Affairs Commission in the place of incorporation of that company or group of companies that takes the initiative with respect to any inquiry.

Regarding Mr. Schuller, I indicated yesterday that there was a business name Karl F. Schuller and Associates registered at the Corporate Affairs Commission in South Australia but it gave the address of both Messrs. Schuller as being Western Australia. There is also a business name registered in South Australia, Western Silver Commodities S.A., which is not a company as indicated in the newspaper as being a proprietary limited company. Again, the proprietors of that business are the two Messrs. Schuller who were the applicants for the registration of the business name Karl F. Schuller and Associates. So far as our inquiries to this stage are concerned, there is nothing in South Australia upon which any inquiries can be based.

I have received from my Corporate Affairs Commissioner's office advice that his officers have made a preliminary examination of papers held by the Federal police. On the basis of that examination, I have been informed that those documents do not reveal any business transactions, or anything else, that might connect a past or present member of Parliament, Liberal or Labor, with the Nugan Hand group of companies. The documents do make mention of a number of politicians, business men and others in a number of newspaper clippings, and those newspaper clippings basically refer to decisions and policies of Governments and Oppositions on estate duties and estate planning. I indicated yesterday that one of the business activities described in the business name Karl F. Schuller and Associates was advice on estate planning, and that, from the preliminary examination by officers of the Corporate Affairs Commission, is the only reference that can be found in the papers to members of Parliament and prominent business men in a number of newspaper clippings.

MATTHEW FLINDERS

The Hon. K. L. MILNE: I seek leave to make a brief explanation before asking the Minister of Arts a question about making a film on Captain Matthew Flinders' exploration along the South Australian coast.

Leave granted.

The Hon. K. L. MILNE: A few months ago I was guest speaker at the annual general meeting of the Radiologists Association of South Australia, and Professor G. T. Benness, Chairman of the Department of Radiology at Flinders University, put to me the possibility of making a film on the exploration of Captain Matthew Flinders. Professor Benness has become very interested in the

explorations of Flinders and had a great deal of material that he has studied in detail. He suggested (and I agree entirely) that there are still many landmarks standing which were present in Flinders' day and that these should be recorded on film before they disappear or change. Also, a very interesting interlude could involve the meeting between Flinders and Baudin at Encounter Bay.

If the film was done properly and accurately it would never be out of date because it would be historical. The film would be used for teaching in schools, for tourism, and historical societies, and the list of uses would be much greater than that. I would hope that the film would be of sufficient standard to sell or hire to other State Governments or bodies even outside Australia. Other States might then follow suit, or the Film Corporation might include the whole of the Australian coast in a production, because Flinders was as important to other States as he was to ours. It might be possible to discuss the matter on a Federal basis so that all States could take part with a subsidy from the Commonwealth Government. Will the Minister refer the matter to State Cabinet and inform us in due course of the decision taken?

The Hon. C. M. HILL: The more appropriate action might be for me to refer the matter directly to the Director of the South Australian Film Corporation and obtain from him a report on the overall proposal which I shall be pleased to show to the honourable member. Something positive might come out of that report, and a film similar to that suggested by the honourable member might be made. Rather than going through Cabinet on this matter, I think I should go directly to the Film Corporation.

NUGAN HAND BANKING GROUP

The Hon. C. J. SUMNER: Will the Minister of Community Welfare say whether he was associated or acquainted in any way with Karl F. Schuller, the Adelaide agent for the Nugan Hand Bank? If so, what was the nature of that association or acquaintance?

The Hon. J. C. BURDETT: I am not sure whether or not I have ever met him. Whether one would call it an association, if I have met him, I am not sure. It may have been (I think it probably was) Karl Heinz Schuller whom I met, but the Council can draw its own conclusions from what I have to say. The Premier said in another place yesterday, when questioned on this matter:

> There is no question at all of any members of Cabinet being involved with the activities of Nugan Hand. However, I am unable to give any guarantee that Mr. Schuller was not at any time examined by me and had spectacles prescribed by me, or that the Attorney-General may not have given some legal advice in relation to an estate that was the business of Mr. Schuller's, or that the Minister of Transport may not at some time perhaps have dispensed some medication for Mr. Schuller.

If I have ever met Karl F. Schuller (and I doubt whether I have) the association (if it can be called such) was only a contact of that kind. Yesterday, in answer to a question, the Attorney-General said:

> I am advised that Mr. Schuller carried on business in South Australia under the business name of Karl F. Schuller and Associates. The business name was registered on 9 September 1974, and the applicants for registration who were then the proprietors of that business name . . . were Karl Fritz Schuller and Karl Heinz Schuller, whose addresses are shown to be in Western Australia.

In 1975 a Mr. Schuller (and which one it was, I am not sure) sold an estate planning scheme to a client of mine. I knew nothing about the matter previously. The first I knew about it was when Mr. Schuller (or whoever it was) called at my office with an authority from the client to examine documents held by the office on behalf of that client. I saw him, and enabled him to examine the documents and take some away where he had authority to do so. The only reason I recall the matter, which occurred in 1975, about five years ago—I have no reason to particularly recall it—is that I resented what I thought to be his interference in the estate planning of my client's affairs, because I thought I was doing that quite efficiently myself.

I have had no other communication from him, and no other contact with him, except that my office does hold a letter from him saying that he had returned all the documents and held no others. That letter was signed by Karl H. Schuller, not Karl F. Schuller. Also, I note in the *News* this afternoon two photographs on page 5 of Karl Fritz Schuller. That is not my recognition of the person. The person I recall was somebody far less personable than this person. I do not think it was this person at all.

The Hon. N. K. Foster: You just don't think. Is that what you said?

The Hon. J. C. BURDETT: I said that I do not think—

The Hon. N. K Foster: You don't think!

The PRESIDENT: Order! This is quite a serious matter, and interjections are out of order.

The Hon. J. C. BURDETT: I had never heard of the Nugan Hand Bank until the matter appeared in the press recently in the way in which it has now come up. I had never heard of that bank before that at all. The Mr. Schuller (whoever he was) who saw me briefly on that occasion in the office did not refer to the Nugan Hand Bank. I would certainly regard any suggestion of trying to involve me with that bank as being despicable and malicious in the extreme. I would hope that the Labor Party would have more honour than to undertake such a course.

WOOD CHIPS

The Hon. B. A. CHATTERTON: I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Forests, a question about wood chips.

Leave granted.

The Hon. B. A. CHATTERTON: I think that most members would be familiar with the contract signed to export surplus logs from the South-East to India. The original negotiations for that contract were completed in March 1979 when I was Minister of Forests. The present Minister of Forests recycled that agreement and announced it as his own in December 1979. At that time, the agreement was only for the export of wood chips and it included an agreement that there would be a feasibility study carried out into the possibility of having a pulp plant as well to process those chips in South Australia and then export them in the form of pulp.

I think it is important to note that at that stage the South Australian Government, through the South Australian Timber Corporation, had a 60 per cent share in that venture which, after all, involved the processing of the products from our own State forests. On 5 March this year, the Minister of Forests announced triumphantly that he had got an agreement for a pulp plant in addition to the wood chip exports that had been previously negotiated. Not many weeks ago, the Premier said in Parliament that this was a most significant project in terms of employment in this State.

However, it is important to note that on 5 March that

agreement also included the fact that the South Australian Government would sell its 60 per cent shareholding in Punwood, which was the company that was to carry out the chipping of the log and the company which was to build the pulp plant in the future. What the Government did not check at the time it announced that it was selling its 60 per cent shareholding was that the Commonwealth Overseas Investment Review Board would not sanction the holding of 100 per cent of the shares by the Indian company.

In fact, the Indian company has now found an Australian partner, H. C. Sleigh Limited, which is a wellknown and reputable Australian company and which has been involved in the Australian oil industry for a long time. Now the Minister of Forests has in fact cancelled that agreement on the technicality that the Punwood Company did not provide the $50 000 000 needed to build the pulp plant by 31 July 1980, as required. Of course, that task was quite impossible, and the Government knows full well that it was impossible. How was it possible for Punwood to borrow $50 000 000 to build a plant when 60 per cent of its shares were in limbo? It was just an impossible situation for the company to try to undertake borrowings of that magnitude when a buyer had not in fact been found for what was the Government's shareholding.

The original agreement which I signed and which was endorsed by the present Minister of Forests did provide flexible pricing arrangements for the chips. It also provided a long-term contract, and the profits from that come back to the people of South Australia. It would have provided 150 jobs immediately in the forests and transport industries. That was an immediate and a tangible benefit to South Australia. Now that has all been lost by the cancellation of that contract. There are no immediate jobs. There may be some jobs in the future if someone else can be found, but there will not be the profits coming back to the South Australian Government in the way that we had before.

The cancellation of the contract certainly reinforces the bad reputation of the Government in business dealings, and I think that it is fairly obvious to all of us that the aim is to sell the surplus wood to the Japanese, because of the deals that have already been done for the sale of the wood from the Adelaide Hills to the Mererbeni Company of Japan. It is obvious to anyone who has studied the woodchip market in the world that to commit all our sales to the Japanese is foolish indeed. The Japanese already control nearly all the wood chip exports from Australia and, indeed, control most of the wood chips produced in the Pacific basin. We have now joined a long queue of other people who are in the position of supplying chips to that particular market. Now the deal has been cancelled, and it is obvious that the Government has been secretly undermining the deal for some time.

I referred in this Council a few weeks ago to the lack of assistance that has been provided by the Government in purchasing land in the South-East for the chip and pulp plant. The sale to Mererbeni of the Adelaide Hills surplus timber, which could have been used in that pulp plant, has been another indication. People have reported to me that the Government and its officers have been badmouthing the Indian company in Mount Gambier in spite of their own checks on the Indian company and the indications they had that the company is completely reputable.

What were the reasons behind the Minister's cancelling the project, and why did the Minister refuse to provide reasonable time for the Indian company and H. C. Sleigh to provide the $50 000 000 that was required for building the pulp plant? Have negotiations in fact been taking place with the Japanese company?

The Hon. J. C. BURDETT: I will refer the honourable member's questions to my colleague and bring down a reply.

SALISBURY REZONING

The Hon. J. R. CORNWALL: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Planning, a question about rezoning at Salisbury.

Leave granted.

The Hon. J. R. CORNWALL: I have before me a copy of a letter written by Donaldson and Murdoch Investments Pty. Limited to the Mayor and all councillors of the City of Salisbury. The copy I received was sent to me by Donaldson and Murdoch. With the council's indulgence, I would like to quote at some length from this letter by way of explaining my question. The letter refers to the proposed rezoning at Salisbury which is currently very much in the news. Among other things, the letter states:

> With the proposed Myer additions, Salisbury's total retail space will be double that of the Marion centre with a trade area having a population of just over half the Marion area; that is, Salisbury will have four times as much retail space per head of population as the Marion area. Undoubtedly, the Myer proposal of 300 000 square feet, including a major discount store, over 40 specialty shops and department store, will have a devastating effect on trading patterns throughout and beyond your city's areas.

Of course, this letter is addressed to the councillors. It continues:

> If Myer proceeds, it will make an expenditure of somewhere in the region of $16 000 000 in land, buildings and associated costs. This figure could rise to $20 000 000 with the fitting out and stocking of the stores envisaged. Quite obviously, once commenced, this development and the effects it will have on other retail venues is quite irreversible. The proposed Myer centre will also have an alarming effect on trade at the Elizabeth shopping centre. This may not concern you as a representative of the City of Salisbury, but we believe it is a factor which should be taken into account purely as a matter of fairness, as good planning is undoubtedly based on the premise that each area looks after its own services without purposely inducing major traffic from outlying areas.
>
> The Myer proposal has apparently been sold to councillors as a "departmental complex" (minutes of meeting of the corporation—24.3.80) and throughout our conversation with councillors the theme recurred that at last Salisbury was getting a department store. This approach seems to have been a ploy used by Myer and some leading councillors to other councillors and citizens. It is apparent in council's own documents (see agenda for special council meeting for 24 March 1980) that Myer, as they frequently told us, have no real interest in establishing a department store at Salisbury. Quite the contrary, as high staff and other costs have meant that major department stores cannot now be economically justified. It would seem that the only reason a department store is included at this stage in discussions is so that Myer can get approval for that which it really seeks—a major Target discount store which, since retailers and developers became aware that most authorities would like to see a department store, has been renamed a discount department store. It cannot be considered good town planning when a new and huge centre is allowed to locate in an interceptor position on the edge of an existing established retail city as a self-contained unit with no apparent connection with that city centre laboriously built up by the efforts of many over a century. It is not only not good town planning, it is not

> planning at all, but merely providing Myer with exactly what they and any other shopping centre developer would wish.

Referring to the agenda I mentioned previously, the letter states:

> The report mentions previous meetings with the Minister of Planning and already envisages compulsory acquisition of any property required by Myer which that company is unable to achieve in the market place. It talks of using an "expedient method" by re-zoning first and discussing Myer's detailed requirements later. This of course is quite the opposite of the procedure enforced on Parabanks, which in our view is clearly the correct procedure. The dealings with Myer appear to have been conducted in great secrecy.

The PRESIDENT: Order! I hope the explanation that you are making contains some information pertinent to your question, because it appears to be merely one person's opinion. The opinions expressed by other people are not necessarily explanatory to a question.

The Hon. J. R. CORNWALL: Yes, Mr. President, the letter is quite relevant to the question that I wish to ask. The letter continues:

> Retailers and the general public have, wherever possible, been kept uninformed on the magnitude of the proposal, and even councillors with whom I spoke almost unanimously agreed that they did not fully know the extent of the proposal, had never seen a layout of the proposed building, and had never seen a report justifying the need for the extra retail facilities, or commenting in any way on the effect this massive development would have on other retail facilities in the region. It is quite unbelievable that in 1980 a council could move to re-zone such a huge parcel of land without being sure of what will be developed on it.

The letter goes on to say that the firm Donaldson and Murdoch Investments Pty. Ltd., who are the agents at Parabanks, intend to take whatever legal action is possible to resist compulsory acquisition and to fight the whole matter through the courts in what will undoubtedly be a very protracted and very expensive exercise. That view is reinforced by a document before me which was prepared by Hassell Planning Consultants Pty. Ltd. on the Salisbury proposal for Collier Duncan and Cook Pty. Ltd. In summary, that report states:

> Consequently, to allow this possibility, the Salisbury Council and the State Government would be acting contrary to:
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> *(a)* the findings and recommendations contained in the Salisbury Centres Study Report;
>
> *(b)* the policies, guidelines and intent of the Salisbury Supplementary Development Plan—Centres and Metropolitan Development Plan;
>
> *(c)* the independent professional advice concerning the need for retail facilities as described in this report.

The point I was trying to make (and I apologise if I took up a little more time than you considered reasonable, Mr. President) was that the whole proposition flies against all the accepted parameters that should be used in sensible retail development. In fact, at this stage there are certain sinister overtones: the manner in which the original re-zoning proposal was displayed (in an almost dark corner at the Salisbury Council Chambers), and the manner in which negotiations have been conducted between Myer and the Minister of Planning, and indeed with senior Salisbury councillors, have caused a great deal of unease in the public mind.

That is the point that I was getting to, and that is the reason why I found it necessary to quote from that letter at some length. Has the Minister of Planning met and, indeed, conspired with representatives of Myer several times during the past nine months? Is the Minister aware of the legal consequences of the proposed course of action in Salisbury for himself, the Government and Salisbury council? Finally, will the Minister outline those legal consequences to the council?

The Hon. J. C. BURDETT: I am quite sure that the Minister of Planning has not conspired with anyone. However, I will refer the honourable member's questions to my colleague and bring down a reply.

EDUCATION SYSTEM

The Hon. G. L. BRUCE: I seek leave to make a short explanation before asking the Minister of Local Government, representing the Minister of Education, a question about the education system in South Australia.

Leave granted.

The Hon. G. L. BRUCE: In yesterday's *Australian* an article headed "Prime Minister blames system of education for job problems of young" stated:

> Serious failings in the education system have been a major contributor to youth unemployment, the Prime Minister, Mr. Fraser, said yesterday. Schools have placed far too much emphasis on academic qualities, Mr. Fraser told a lunch meeting of the Metal Trades Industry Association at Sydney's Wentworth Hotel.
>
> Mr. Fraser said it was paradoxical that Australia had high youth unemployment co-existing with a growing shortage of skilled labour.
>
> Schools were largely to blame because they concentrated on academic achievements and ignored those students whose talents lay in different vocational directions, especially those requiring trade training and manual skills.
>
> Mr. Fraser said his Government recognised the need to encourage young people to bridge the gap between school and jobs as skilled tradesmen.
>
> A $250 000 000 five-year school-to-work transition programme was announced in December, and the 1980 Budget provided a 22 per cent increase in funds for apprenticeships and employment training.
>
> But Mr. Fraser said this assistance would not be necessary if schools did their job properly.

I believe that that should be nailed to the post for the lie that it is. I understand, from moving around the community, that jobs are not available for apprentices. People just do not take the young on and give them that chance.

First, I ask whether the Minister of Education considers that the high rate of unemployment in South Australia (some 7½ per cent) is due to the education system in this State. Is he satisfied that that system is doing all it can to ensure that all schoolgoers receive the best education possible to ensure their future employment and acceptance into society? If he believes what the Prime Minister has said, what is he going to do about the matter?

The Hon. C. M. HILL: I will refer those questions to the Minister of Education and bring back a reply.

ECONOMIC THEORIES

The Hon. BARBARA WIESE: I wish to ask the Attorney-General, as Leader of the Government in the Council, a question regarding Friedmanite economic theories, and I seek leave to make a brief explanation before asking the question.

Leave granted.

The Hon. BARBARA WIESE: In the latest issue of the *National Times* the Premier is reported as having said that he supported the economic policies or economic theories of Professor Milton Friedman, of Chicago University. Can

the Leader of the Government advise the Council whether the Premier was stating a personal view or whether the Government as a whole adheres to Professor Friedman's theories? Secondly, can the Leader tell the Council of any country in which Friedmanite monetary theories have been applied successfully? Further, does the Premier believe that the Friedmanite economic policies of the barbarous regime of Chile, Mrs. Thatcher's Britain, and Brazil (where inflation runs at 100 per cent) provide good examples for South Australia to follow?

The Hon. K. T. GRIFFIN: I will refer the question to the Premier and bring back a reply.

POWER GENERATION

The Hon. N. K. FOSTER: I seek leave to make a statement before directing a question to the Attorney-General, as Leader of the Government, representing the Premier, on the matter of coal and power generation.

Leave granted.

The Hon. N. K. FOSTER: Most members would have received a second rather hefty volume of a report by Paul Everingham, M.L.C., Chief Minister and Attorney-General of the Northern Territory, on the Alice Springs to Darwin railway link.

The Hon. J. C. Burdett: Hear, hear!

The Hon. N. K. FOSTER: The member who just interjected will recall that on a recent trip to Darwin, where we met officers of the Mines and Energy Department of the Northern Territory, there was a hasty retreat from that meeting by two of the principal officers of that department, who informed the visitors that they had to leave in a hurry because they were engaged in work of a proposal that would involve the South Australian Mines and Energy Department, but we were not informed of what the proposal was. We were to learn about a week later in Alice Springs from an outburst by Paul Everingham.

Since then, I have done some work on the matter of deposits of coal in South Australia. At that meeting to which I have referred, we were told that the Northern Territory regarded one of its short-term great expectations as being to have sufficient power to refine bauxite. Members of this Council (and this is very relevant to the question I will ask) may be aware that the proposed bauxite refinery at Portland, in Victoria, will require as much electricity as that State's output in total, so it is a large consumer of electricity.

The Hon. B. A. Chatterton: What is the price?

The Hon. N. K. FOSTER: The price is considerable. There are no coal deposits in the Northern Territory, and oil is imported to run their only power generation station, so my interest was indeed great. Research into the project leads me to believe that there is a report to a particular Government department to which the Government must have access and which deals with a number of very vital questions and reports and studies regarding Lake Phillipson. I will deal more intimately with those matters in my question. Mr. Everingham's latest report to the people of South Australia states:

> Your Premier, David Tonkin, has already taken several initiatives to strengthen the ties between the territory and your State . . . The Northern Territory, despite its large energy potential in the form of uranium, presently relies on that volatile commodity, oil, for its power supply. Conversion to coal would substantially reduce our power bill but our reliance on road transport is a considerable hindrance to conversion.

He goes on to mention the Lake Phillipson deposit. From reports available, I understand that some billions of tons of coal a year are available. As from 1985, some 70 000 million tonnes are required for power generation in this State. To ensure that you do not say that I am making a speech on this matter, Mr. President, and so that I do not abuse the privileges of this Council merely to use my leave to explain the question as a vehicle—

Members interjecting:

The Hon. N. K. FOSTER: If the shouting nitwit opposite—

The PRESIDENT: Order! You have done extremely well until now and I think you should ask the question.

The Hon. N. K. FOSTER: I want some information from the Government on this matter.

The Hon. R. C. DeGaris: Did you mention 70 000 million tonnes of coal?

The Hon. N. K. FOSTER: I could deal with this later in a chat with the member, either inside or outside the Chamber.

The PRESIDENT: Order!

The Hon. N. K. FOSTER: Will the Minister inform this Council whether the Utah Development company still has any interest in the Lake Phillipson coal deposits? Is the Attorney-General, as a senior member of the Cabinet, aware of a report from Utah Development regarding mining and using Lake Phillipson coal? If the answers to the above questions are in the affirmative, will the Minister ascertain whether the study envisages supply of 10 000 000 tonnes of steaming coal per annum for power generation?

Is the Minister aware that a study has estimated that to fuel a 2 000-megawatt power station for 25 years would require 225 000 000 tonnes of coal? Will the Minister confirm whether such a report deals with a study on gaseous and liquid fuel, using Lake Phillipson coal as a fuel stock? There are shades of nuclear power in that question. Further, to what extent were the Electricity Trut, the Department of Mines and Energy, and the Department of Industrial Development used by Utah Development to estimate that 70 000 000 tonnes of coal would be required after 1985 to meet expected demand for increased power generation? I think that the figure I gave should be 70 000 million tonnes. The deposit is so vast that the mind boggles.

The Hon. L. H. Davis: Go and do your homework.

The Hon. N. K. FOSTER: I stand to be corrected. If the foregoing projections are factual, will the Government consider that all South Australian coal deposits not be exported but be developed by South Australia for this State? I understand that the Utah report suggests that the coal ought to be exported.

The Hon. K. T. GRIFFIN: These matters are properly the responsibility of the Minister of Mines and Energy. I will refer the questions to him and bring back a reply.

The Hon. N. K. FOSTER: As a supplementary question, is the Minister aware of the supply of steaming coal to the Electricity Trust of South Australia to supplement the future requirement of fuels required for the domestic growth in power generation? Will the Minister reply as to whether or not the following is factual: the results of the option would now have to be compared with supplies of other coals and fuels available to satisfy the expected demand for increased power generation; the estimated coal requirement, as provided by the Electricity Trust of South Australia, for a 14-year period starting in 1985 would be 70 600 000 tonnes.

The Hon. K. T. GRIFFIN: I will refer those questions to the Minister of Mines and Energy and bring back a reply.

PLANNING AND DEVELOPMENT

The Hon. C. W. CREEDON: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Planning, a question on building near airports.

Leave granted.

The Hon. C. W. CREEDON: In this morning's *Advertiser*, with its explicit photograph, an article detailed the ridiculous situation of a home being constructed at the end of a runway of a military aerodrome at Salisbury. I have visited this place and I know that there are a number of other occupied houses close by whose position would cause considerable concern should there be, by some mischance, an aircraft accident on take-off or landing. The staggering thing about the situation is that the aerodrome has been there for about 30 years and our planning system still allows developers and others to purchase and develop land for sale in an area with a noise level dangerous to health. There is obviously a weakness in the Act that allows planning and development of this kind. Will the Minister amend the Act to make it obligatory on local government to refuse planning approval in situations such as this or where it is detrimental to people's health?

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

ELECTORAL REDISTRIBUTION

The Hon. C. J. SUMNER: I seek leave to make a brief statement prior to asking the Attorney-General a question on the possibility of an electoral redistribution.

Leave granted.

The Hon. C. J. SUMNER: Recently, I asked the Attorney-General, in view of speculation and comments at the time by the Premier that he intended to have a redistribution of boundaries in the Lower House, whether that was in fact the Government's intention. He explained that that was not the Government's intention. There were a few more rumours. So, on 14 August I again asked the Attorney-General whether there was any truth in the rumours of a redistribution of electoral boundaries. The Attorney-General told the Council that there was no substance in the rumours. Last Saturday in the *Advertiser* the rumour mill started again with an article by Mr. Greg Kelton indicating that perhaps the Government was considering a redistribution of boundaries. Just to cap it off, yesterday in the House of Assembly, when asked to confirm or deny reports as to whether or not the Government intended to introduce legislation to increase or decrease the number of members in the House of Assembly and thereby forcing an electoral redistribution, the Premier said that he would not confirm or deny these reports. That is quite clearly different from the categorical denials that the Attorney-General, as Minister responsible for the Electoral Act, has given in this Council. I therefore ask again whether he will clarify the Government's position on a redistribution of electoral boundaries in the House of Assembly. Secondly, will he confirm that there is no intention to have a redistribution before the end of the Parliament?

The Hon. K. T. GRIFFIN: The Leader must be short of questions if we have to go over this ground again. I took the Premier's reply to be that there is no intention of a redistribution. That is the view: there is no intention to have a redistribution.

WHYALLA REGIONAL CULTURAL CENTRE

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation prior to asking the Minister of Arts a question on the Whyalla Regional Cultural Centre.

Leave granted.

The Hon. FRANK BLEVINS: I am sure that the Minister is aware of the present controversy in Whyalla in regard to the site where the proposed Whyalla Regional Cultural Centre is to be built. A brief history of this project would enlighten the Council and hopefully assist the Minister in answering the question. The project was first announced in 1975.

The Hon. M. B. Cameron: An election promise?

The Hon. FRANK BLEVINS: Yes. This was in December 1975 after one of our victories. The then Premier, Mr. Dunstan, went to Whyalla and unveiled a concept plan of the Whyalla Regional Cultural Centre. One of the important points he made related to the site of the centre. That site was adjacent to Nicholson Avenue in the western part of the city. Things progressed from there. The Whyalla Regional Cultural Centre Trust was set up and got on with the job of organising the building and running of the centre. Between then and now a discordant note was introduced in the city regarding siting of the centre. A group of citizens in the eastern part of the city, where the old established business area is and not the bulk of the population, started some agitation as they wanted the centre built there for reasons best known to themselves. It is not unreasonable to suggest that they wanted it close to their area for business purposes. Then, Sir, the controversy raged and raged until it was decided to solve the problem by having a household poll to see where the people of Whyalla preferred to have the centre built. A few weeks ago this poll took place, and not surprisingly the people of Whyalla, particularly those people living in the western area of the city, voted overwhelmingly in favour of having the centre built in the western area. I am sure that everyone here would agree that they would be quite happy to say that that would be the end of that, but it is not so. The *Whyalla News* on 15 August 1980 contained an article headed "Site in doubt" and there was also an editorial headed "The wrong site".

The basis of that story was that the site that was advocated by those residents living in the western area, the Nicholson Avenue site, was not the proposed site at all: it was actually several metres away. Indeed, it was on land held by the Housing Trust and not the city council. There had, apparently, been a proposed arrangement made in 1976 to transfer this particular piece of land from the Housing Trust to the Corporation of the City of Whyalla with the hope that the centre could be built. That has not taken place, so now there is doubt about the site again. I could go on with this matter at length, because it is quite a saga.

I am quite sure that everybody in the Council now knows more about the siting of the Whyalla Regional Cultural Centre than they ever wanted to know, so I shall leave the matter there. Will the Minister of Arts say what is the present position regarding the transfer of land in Nicholson Avenue held by the South Australian Housing Trust and required by the Whyalla Regional Cultural Centre Trust to build its cultural centre? Is the transfer in progress, and how long will it take? Will the Minister expedite the transfer of this land so that the cultural centre can be built? Will the Minister demand that the Whyalla Regional Cultural Centre Trust get on with the job of building the cultural centre before this matter develops into a saga of opera house proportions?

The Hon. C. M. HILL: I cannot really get on with the

job because I am still waiting for the local people to make up their minds.

I would very much like to know how the leaders of that community, namely the two members of Parliament who reside in that town, feel about this matter. If they tell me how they feel, it must be on one condition, and that is that I can make their views public.

I know there has been much controversy at Whyalla regarding the site, but the Government's attitude on a question such as this is that it wants the local people to make a decision, and to be quite firm about that decision.

Honourable members know that we had months and months of delay in Port Pirie on a similar question as to where the site for the cultural centre would be. The Government consistently took the view with regards to that controversy that the local people must make up their minds, because it takes a great deal of notice of the opinion of the local council. The situation in Port Pirie was such that the protestors who came to see us were told that, if they really felt that the town supported their attitude in this dispute, they should stand as candidates at the local election and let the issue be fought out in a local poll. That is the democratic way for this kind of issue to be settled, but no candidate stood on that particular issue at Port Pirie.

The Hon. FRANK BLEVINS: On a point of order, Mr. President. The answer to the question is clearly unrelated to the question, which did not mention Port Pirie. The question refers specifically to Whyalla. I hope you, Mr. President, will tell the Minister of Arts to restrict his answer to the question asked.

The PRESIDENT: The point of order is not taken. The Minister was making a comparison. He is also almost out of time.

The Hon. C. M. HILL: I will not pursue the matter of the centre at Port Pirie. I was, in fact, going to turn to Mount Gambier. We also have a scheme in the Riverland which is interesting in the same general way. Returning to the subject of the Whyalla Regional Cultural Centre, the Government has not yet absolutely decided where the development will occur. It is still waiting for public opinion to become a little stronger.

The Hon. Frank Blevins: What about the household poll?

The Hon. C. M. HILL: The poll was only one thing.

The Hon. Frank Blevins: It is democracy.

The Hon. C. M. HILL: It was a voluntary poll. Certainly, the Government will take a great deal of notice of that poll, but it would like local opinion to be a little firmer than it is at present as to the site, and then the Government will make that final decision.

Turning to the question of difficulties or delays which might occur regarding the unexpected ownership of the site by the Housing Trust, if that is the situation I will most certainly look into that matter. If that site is chosen, I will do my best to hasten any transfer of land from the Housing Trust.

PORTUS HOUSE

Adjourned debate on the motion of the Hon. J. R. Cornwall:

> That in the opinion of this Council any decision by the Government to demolish the property at 1 Park Terrace, Gilberton, known as Portus House, is premature. Portus House is a significant part of the built heritage of South Australia and must be retained while any option exists for alternative transport corridors to meet the need of the residents of the north-eastern suburbs.

(Continued from 20 August. Page 485.)

The Hon. J. A. CARNIE: I declare an interest in this matter because I live in Northcote Terrace and know the intersection involved very well. Also, it is in my interest that the traffic flow at this intersection be expedited as quickly as possible. Also, living in Northcote Terrace, I believe I am well qualified to speak on this matter. I probably know this area better than, or as well as, any member of this Council, with the possible exception of the Hon. Mr. Laidlaw—certainly better than the Hon. Dr. Cornwall, who said in introducing this motion that he had stood on the corner of that intersection and monitored the traffic flow frequently in the past 10 days. I have used that intersection at least twice a day for several years.

The Hon. Dr. Cornwall says that it is a busy intersection and that a significant bank-up of traffic occurs for only relatively short periods twice a day. I do not know what the honourable member calls a "relatively busy intersection", but I frequently have occasion to wait for two changes of the lights, and on occasion for three changes of those lights. This morning at 8.15 a.m. I waited for two changes of those lights to move from Northcote Terrace to Mann Terrace. I think what we need to look at is actual figures of traffic using that intersection. The Attorney-General, when he spoke in this debate last week, used the same figures. They would certainly be much more accurate than figures arrived at by the Hon. Dr. Cornwall standing on the corner of that intersection and counting the traffic on his fingers.

It is a fact that daily there are over 900 buses and 46 000 other vehicles using that intersection which, by any standard, is a busy intersection. The Hon. Dr. Cornwall said that the intersection is busy for about 30 minutes in the morning and 30 minutes in the evening. I question those times to some extent, although I am not making an issue of it, but I believe it is busy between about 8 a.m. to 9 a.m., which is an hour in the morning, and it is busy again from about 4.30 p.m. to 6 p.m., which is about an hour and a half in the evening. The Hon. Dr. Cornwall spoke as if this was an unusual thing, that it was busy only in the morning and the evening. All intersections have their busy times, usually in the morning and again in the evening.

This is what traffic planning must allow for, not for when it is quiet in the middle of the day. Traffic planning must allow for the busy times which, as I have said, come usually in the morning and the evening. Further, no-one likes demolishing old houses, and I am sure that I can speak for all honourable members. I must confess that I have not seen the interior of Portus House. I had every intention of going the day that the tenants held open house, but something prevented me at the last minute, so I could not go.

The Hon. J. R. Cornwall: They will welcome you at any time.

The Hon. J. A. CARNIE: I am not arguing about that or that it is a beautiful house inside. I have seen some photos of it although, as the Attorney stated, there is some salt damp and some white ant damage. I accept that it is a beautiful house of that period, but it is certainly not a beautiful house outside. In fact, it can presently be described only as being an eyesore. It is surrounded by a singularly unattractive corrugated iron fence, which is a target for all the bill posters not only in the area but also from all over Adelaide, and it is also the target of the users of that dreadful invention of spray paint. What can be seen over the fence is badly neglected.

I have no argument with the statements that Portus House is a beautiful house inside and is classic for that particular period, but it has no particular merit, and there are a dozen homes like it in Walkerville. Indeed, there are probably dozens of homes like it throughout the metropolitan area. I do not intend to go over the history or saga of Portus House, which has been covered by the two previous speakers and, I may say, a little more accurately by the Attorney-General than by the Hon. Dr. Cornwall. However, there are one or two matters regarding that history to which I should like to refer.

The upgrading of the Buckingham Arms and Portus House intersection has been mooted for some time. Apparently the previous owner, Mr. Portus, heard of this and approached the Highways Department in 1975 requesting that it purchase his home. I refer to a letter to the Editor published on 8 August in the *Advertiser* from a Mr. Martin Portus. I do not know what relation he is—

The Hon. J. R. Cornwall: He is the son.

The Hon. J. A. CARNIE: I thank the honourable member for that information. Mr. Martin Portus writes:

> I would like to join my protest against its destruction and add another reason. Since my family left it four years ago it has provided accommodation for a far larger "family" of young adults and children. As a spontaneous community centre, the house has provided a valuable venue for readings, exhibitions, bands, meetings and just simply as a place for a lot of people to live together.

Is Mr. Martin Portus suggesting that the department should purchase houses and run them as community centres? That is what he seems to be suggesting, that the department should allow Portus House to continue as it is. When Mr. Portus senior approached the department he knew that the house was for demolition—that is why he sold it to the department. He probably realised that it was his only real hope of being able to sell the place anyway. It is a very noisy intersection and it would not be a great place in which to live. I am sure that Mr. Portus would have had great trouble in selling the home. He approached the department knowing all along that it was for demolition.

The tenants whom the department allowed in also knew that the house was for demolition and that one day they would be given notice to quit. In 1976 the Walkerville council requested that Portus House be demolished to provide for a "turn left" lane because of the bad traffic flow down Walkerville Terrace in particular and Northcote Terrace as well. In 1978 the Walkerville council and the Adelaide City Council both agreed to plans of the department to upgrade that intersection and to provide for one-way traffic flow along Park Terrace towards the city, and along Mann Terrace away from the city.

These councils and all these people knew that the planning involved the demolition of Portus House. It is now a little late for any of them to complain about the demolition. I can understand the attitude of the tenants. It is a convenient place for them to live in. It is obviously fairly cheap in respect of rent, but I emphasise that they knew when they became tenants that the house was to be demolished.

Another point I wish to raise will, I hope, be answered by the Hon. Dr. Cornwall when he gives his reply to this debate. In his speech the Attorney-General stated that the head of the Department for the Environment wrote to the Commissioner of Highways on 4 May 1979 saying that the department had no objection to the demolition of Portus House. The Hon. Dr. Cornwall was the Minister at that time and as such, as the Attorney stated, he has to accept that responsibility.

If I remember correctly, the Hon. Dr. Cornwall interjected during the Attorney's speech claiming that he had then been a Minister for only three days. I accept that he had been a Minister for three days when the letter was written, which means that the decision made to instruct the departmental head to write the letter came from the honourable member's predecessor, the previous Minister.

Can the Hon. Dr. Cornwall say whether, if he had been the Minister, he would have rescinded that decision? This matter has been going on since 1974 and right through all the negotiations between Mr. Portus, the Highways Department and the council the Labor Government was in office. I presume that all the processes of Government had been gone through, presumably as far as Cabinet. Therefore, the decision to demolish Portus House was approved by the previous Government. Would the Hon. Dr. Cornwall have instructed that that letter not be sent if he had been Minister at the time? Despite all the decisions made to that date, would he have reversed those decisions? Of course he would not have reversed those decisions.

This is an example of political opportunism of the worst kind. The honourable member knows that he can hop on this band waggon and grab some cheap publicity, although he must be disappointed about the lack of headlines that he has got on this matter. He knows he can take this stand without having to accept any responsibility at all, yet 12 months ago he would have been in the hot seat. The honourable member should not mislead this Council by pretending that he would do anything other than what this Government is doing.

The Liberal Government is following on, and agrees with, an initiative of the Labor Government. The Hon. Dr. Cornwall is being extremely hypocritical in this matter. He says that Portus House must be saved, but he has not come up with any constructive suggestion about what to do with it when it has been saved. Does he believe that the department should follow the suggestion of Mr. Martin Portus?

He knows perfectly well that that is not the function of the Highways Department. The Hon. Mr. Milne suggested that the property become a museum and that traffic turning left from Walkerville Terrace into Park Terrace should go behind it. I do not agree with that, because it would be impractical, but at least it was a suggestion which is more than the Hon. Dr. Cornwall has made. The Hon. Dr. Cornwall made some vague reference to the fact that several alternatives are available, including upgrading the intersection by other means. He said:

> But I will not canvass that, because I am not an expert in that area. However, I do not accept that the present plan is the only one or that it represents the ultimate wisdom.

That is really a bad reflection on the Highways Department. The Hon. Dr. Cornwall has suggested that the Highways Department has gone into this matter without thought, that it has not examined all the possible alternatives, and that it has come up with this suggestion without thoroughly examining any other possibilities. The Highways Department has looked at all other possibilities. It looked at the possibility of moving the intersection to the west, but that would involve the demolition of three shops. On top of that, it would not have provided a straight flow from Mann Terrace into Northcote Terrace or Park Terrace.

The Highways Department does not like demolishing houses, particularly old houses, because it recognises their historical merit. Apart from anything else, it is a costly exercise to demolish houses, and the Highways Department avoids doing that wherever it possibly can. The Highways Department came to a considered opinion after many years of study, and that opinion, which was agreed

to by the Hon. Dr. Cornwall's colleagues in the previous Government, was that this was the only practical alternative. The Hon. Dr. Cornwall also tried to tie the upgrading of this intersection in with the north-east transport option. Since he spoke on this matter that decision has been announced and it is obvious that the north-east busway, as it now is, has no bearing whatever on this intersection. In a letter to the Editor of the *Advertiser,* Mr. Martin Portus stated:

> Portus House (begun in 1853) has been unequivocally recommended for preservation by the Heritage Commission, both for its own magnificence and its context.

That is completely wrong, because no such recommendation has been made. A reply to a question asked of the Minister of Environment was referred to in last Friday's Advertiser, as follows:

> The South Australian Heritage Committee did not think the Portus house in Gilberton warranted registration as a heritage item, the Assembly was told yesterday. But the Minister of Environment, Mr. Wotton, told the House the committee had recommended that fixtures and items in the house be retained and used.

I thoroughly agree with that, and I am sure that the Highways Department would also happily concur. The Highways Department intends to keep an architectural record of the house, complete with photographs, so at least something will be retained. Once again, no-one likes to demolish old houses, but there are times when the effect on a majority must over-ride the opinion of a few. This is one of those times. In the interests of traffic flow at that intersection, it is vital that Portus House be demolished as quickly as possible. I oppose the motion.

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

> That the debate be now adjourned.

The Council divided on the motion:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, L. H. Davis, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall (teller), J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. M. B. Dawkins. No—The Hon. C. W. Creedon.

Majority of 1 for the Noes.

Motion thus negatived.

The Hon. J. C. BURDETT: I oppose the motion. The Minister of Environment has already said that he is sensitive to ensure the promotion of the environmentally sound development of South Australia and the conservation of its natural resources. He has referred to the —

The Hon. J. R. Cornwall interjecting:

The Hon. J. C. BURDETT: He has done a lot more than the Hon. Dr. Cornwall ever did. The Minister has referred to the South Australian Heritage Committee, which advises him on matters such as that relating to Portus House. The Minister also referred to the fact that the committee has advised him not to retain Portus House. Although it is considered that buildings of heritage significance to our State and community should be preserved in the future, the question raised by the committee was whether or not the building in question was of such a nature.

In relation to Portus House specifically, the South Australian Heritage Committee considered whether to include Portus House on the Register of State Heritage

Items at its meeting on 20 August, and I have with me a letter from the Chairman of the committee advising that Portus House does not warrant registration. The Minister has said that several members of the committee inspected Portus House, Walkerville, accompanied by officers of the Heritage Unit of the Department for the Environment. The heritage significance of the house was carefully considered by the committee, as I have said, at its meeting on Wednesday 20 August. The committee informed me that it is of the opinion that the interest of Portus House is mainly in the 1890 wing rather than the remnants of the 1850's house, which could no longer be regarded as a house in its own right.

Portus House today is thus predominantly a building of the 1890's, and it is the individual fittings and interior rather than the fabric of the house that are impressive. The house, then, is of little historical significance. I therefore oppose the motion. Some of the contents ought to be preserved, and will be preserved. I have been informed that one of the staircases ought to be pulled out and preserved but, from what I have been told, the house is one not of the 1850's but of the 1890's. It is just a house and has no historical significance.

The Hon. J. R. CORNWALL: I will be fairly brief in reply, because, frankly, there is not a great deal to reply to. The remarks made by the Minister of Community Welfare indicate that his knowledge of the house, on his own admission, is nil. That was shown by the fact that he referred to it as a house, and a very ordinary house at that, I think, to paraphrase what he said. It is certainly accepted by everyone else in this Chamber, regardless of what side of the fence one is on, that it is indeed a mansion of very considerable proportions.

The Attorney-General's remarks were more in the nature of a vicious personal attack on me than remarks containing any substance. I do hope that the Hon. Mr. Milne took note of what the Attorney-General had to say, because that certainly fitted in with the remarks that the honourable member made some time ago about the standards of conduct in this Chamber. It distresses me that the Attorney-General took the opportunity not to discuss the merits or otherwise of the case but to indulge in a very vicious personal attack on me, and I must say that I was hurt by it. I hope that is not the sort of conduct that we can expect from the Attorney in future.

The Hon. D. H. Laidlaw: You're getting thin-skinned.

The Hon. J. R. CORNWALL: I am a sensitive, decent person, and I do not like to see that sort of thing happen. This motion is even more pertinent now than it was when I first moved it on 13 August. That is because the mysterious polluting, semi-fixed, rail/diesel, part hybrid, part whatever system, known around the place as the O'Bahn, has since been announced. I assume that the "O'Bahn" is the Irish bit and the makers and its origin are the German bit. It has turned out to be a very strange cross-breed. The motion states:

> Portus House is a significant part of the built heritage of South Australia and must be retained while any option exists for alternative transport corridors to meet the needs of the residents of the north-eastern suburbs.

I was careful in phrasing the motion not to say that Portus House must be preserved for all time and at all cost. My submission at that time was that it was quite ridiculous to knock down this magnificent old mansion only to find, among other things, that the proposed north-east transport system ran into that ring route. That is precisely what happened. These king-size buses will run down the Modbury corridor and, will come into Park Terrace, at the starting point of inner-city congestion, run along Hackney

Road and finish up, I think, in Grenfell Street. They will run along spilling and spewing their fumes as they go. We have been told that 900 buses a day will use the Walkerville Terrace intersection.

The Hon. J. A. Carnie: They do now.

The Hon. J. R. CORNWALL: All right. When they get to Park Terrace, they will meet these huge O'Bahn monsters, so it is important that we should be reconsidering the future of that intersection. My argument has been very much reinforced by the Government's accouncement that it is going ahead with this O'Bahn monster. It was said that I was indulging in cynical opportunism. I reject that entirely, because I said at the outset that I acknowledged what the whole position was. Certainly, the house was purchased by the Highways Department in 1976, under the previous Administration, and there were plans to demolish it. Some people in the Environment Department (not the Heritage Unit) did make some assessment of the mansion in 1978, but that was well before I was Minister. It was then said that I was guilty of a great dereliction of duty, because I should have done something about saving it when I was Minister.

The Attorney-General said clearly that there was a dereliction of duty because the permanent head of the Environment Department had written to the Highways Department on 4 May and that I, as Minister, should have known of that and taken action at the time. The Attorney knew well that I was sworn in on 1 May. That was such a piece of trivia that it does the Attorney no credit at all. The way it was put was that I should have sat there fully in control of all the bits and pieces in my entire department within a few days of becoming Minister. The Hon. Mr. Carnie specifically asked whether, if I had known of the proposals at the time, I would have rescinded the decision. If I had known of the proposals at the time, I certainly would have taken the matter to Cabinet and argued against the proposal in Cabinet. I have no idea of whether I would have been successful but I would have been prepared to take the matter to Cabinet at that time.

The Hon. M. B. Cameron: I think Virgo may have beaten you.

The Hon. J. R. CORNWALL: I had a victory or two in Cabinet during the short time I was Minister.

The Hon. C. J. Sumner: That's more than can be said for the present Minister of Environment.

The Hon. J. R. CORNWALL: Yes, the present Minister has been rolled time after time after time. I believe that I was able to accomplish a great deal more. I do not want to get into a slanging match and I do not want to displease the Hon. Mr. Milne or to lower the tone of the Council, but in four months I achieved more than my successor has achieved in 12 months. I reject the charge that I have engaged in cynical opportunism. I can see the position shaping up now in such a way that this will be yet another case of the bureaucrats rolling over the little people, of Government being seen to be remote and not caring. The great majority of people support the retention of the house, and young people particularly have a concern for their heritage. As we advance towards the autumn of our lives, we ought to have a great deal of concern. What encouragement do young people get when others like the Attorney-General and the Minister of Community Welfare treat them with cynical neglect for their efforts to save this great mansion?

As stated previously, it comes down to the question of the great God car versus the irreplacable heritage of our State. It is as simple as that. In this case I most certainly and unequivocally support the notion that we should be retaining the built heritage and letting the motor car run second.

The Hon. L. H. Davis: What about the Heritage Committee?

The Hon. J. R. CORNWALL: Now that the Hon. Mr. Davis had interjected, as he does so often, I point out that the Heritage Committee in this instance has been used in a disgraceful political way.

Members interjecting:

The Hon. J. R. CORNWALL: It has been politicised and used in a most disgraceful way by the Minister of Environment and by other members of Cabinet. I return to the question of air pollution. I never tire of repeating this point, because one of the most serious problems in Australia, and possibly in the world, is that of air pollution. I am trying to point out to people, rather like a prophet crying in the wilderness, that we are rapidly approaching crisis point. We are not far behind Los Angeles or Sydney in this regard.

The Hon. L. H. Davis: Don't talk rubbish.

The Hon. J. R. CORNWALL: The Hon. Mr. Davis does not believe that we are approaching crisis point and that we have a severe air pollution problem. The Hon. Mr. Davis is a knave and a fool.

Members interjecting:

The Hon. J. R. CORNWALL: I do not intend to adopt the Hon. Mr. Cameron's technique of trying to scream over stupid interjections. I prefer to let them subside and then go on quietly.

The PRESIDENT: Order! There have been enough interjections. The Hon. Dr. Cornwall.

The Hon. J. R. CORNWALL: Only a few months ago I asked the Minister to supply exact figures on this. However, there is no doubt that, as regards the amount of air pollution, of carbon monoxide, oxides of nitrogen and all the other parameters that are used for measuring pollution, Adelaide is at least 75 per cent as bad as it currently is in Sydney. That is a matter of statistical fact and a matter of record, and anybody can go and look it up. I suggest that the Hon. Mr. Davis has no concern at all for our environment. All he has done since he came into this place is sit here with dollar signs in front of his eyes. We could see the gleam on this face the day we travelled to Roxby Downs. He could not believe that it was possible for people to dig so many holes in the ground. The Hon. Mr. Davis does not give a damn about our environment. That is indicated by his speeches, his record and the stupid nature of his interjections. He does not care one iota. All he cares about is the dollar.

The Hon. L. H. Davis: You are a very desperate man.

The Hon. J. R. CORNWALL: Dig or die! That is what he is about.

The Hon. M. B. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr. Cameron is now interjecting. I have allowed interjections from the Hon. Mr. Davis, but I must now ask honourable members to cease interjecting.

The Hon. J. R. CORNWALL: I was about to say that the intellectual capacity of the Hon. Mr. Davis—

The Hon. Frank Blevins: Is exceeded only by his arrogance.

The Hon. J. R. CORNWALL: Yes, thank you for your help. Upgrading the intersection does not increase safety. That is statistically proven. Improved traffic flow encourages the use of private vehicles, and there are fewer than two people in each of those private vehicles. I was shocked to hear the Hon. Mr. Carnie, who lives within walking distance of the city, say that he is held up every morning by two or three sets of traffic lights. If he had any concern at all for environmental matters, or matters relating to air pollution, he would not be so foolish and insensitive as to drive a motor vehicle through that

intersection at least twice a day. That is not the sort of thing that I would like to admit in this Council. If indeed I had a motor vehicle (and my wife is the only person in our family who owns one these days) I would not admit to the Council that I drove it through an intersection like that and contributed to inner-city pollution.

I now return to the subject of Portus House. It has been said by the Attorney-General, who is not particularly knowledgeable in these matters, that it is in very poor condition indeed. He said that it is full of salt damp, full of white ants and good for nothing at all. It is doubtful whether there is any salt damp in Portus House. I am not an expert, but the only damp that I was able to find in the entire structure was some water that had come in through one of the gutters. The gutters were in a dilapidated condition, as there had been no maintenance carried out on the house in the four years since the Highways Department purchased it. Bearing that in mind, and considering the age of the house, I believe the interior is in splendid condition and certainly worthy of retention.

I do not need to detain the Council any longer on this matter. I was absolutely delighted that, when I first moved this motion, the Hon. Mr. Lance Milne, who is the balance of reason in this place and who helps us adjudicate in the more important matters that come before the Council from time to time, heartily leapt to his feet, not only to second my motion but also to speak to it. In the circumstances, it is very likely that this motion will succeed, as it should, and I commend it very sincerely to all members of the Council.

The Council divided on the motion:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall (teller), J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner, and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, L. H. Davis, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Dawkins.

Majority of 1 for the Ayes.

Motion thus carried.

The Hon. J. R. CORNWALL: I move:

> That a message be sent to the House of Assembly transmitting the resolution and requesting its concurrence thereto.

Motion carried.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 21 August. Page 550.)

The Hon. K. T. GRIFFIN (Attorney-General): I thank honourable members for their contributions to the debate on this Bill, which is a significant measure, whose principal provision is to abolish the unsworn statement. There are, of course, other matters dealt with in the Bill, but they appear not to have attracted the controversy that the abolition of the unsworn statement has attracted. There are a number of matters to which I should direct my attention in this reply. Representatives of the Law Society have had discussions with me and, as a result of those discussions, amendments will be proposed in Committee. If those amendments are carried (and in light of the Government's policy to abolish unsworn statements), those representatives of the Law Society will then agree with the Bill.

The Government's policy objective of abolishing the unsworn statement will then be achieved while maintaining some measure of protection for the accused against the sort of questioning which the Mitchell Committee was concerned about when it recommended abolition of the unsworn statement. The Leader of the Opposition has indicated that he would see five options which could be considered by the Select Committee in determining whether or not the unsworn statement should be abolished and, if it should be so abolished, then protections which could be incorporated.

I want to spend a few moments talking about those options. The first is the abolition of the unsworn statement, but with some discretion retained by the trial judge to allow the unsworn statement in some circumstances. I think that, here, the Leader was taking into consideration the representations that have been made by the Aboriginal Legal Rights Movement, which suggested that there would be some prejudice to Aboriginal defendants, because they would not be able to fully and adequately express themselves, either in evidence-in-chief or, more particularly, in cross-examination. It is important to remember that the Mitchell Committee made some reference to the question of prejudice to Aboriginals, in particular, and is quoted at page 126, as follows:

> We have been concerned particularly with the case of the unsophisticated type of Aborigine who tends to give the answer which he believes will please his questioner. We think, however, that the judge and jury, in their respective ways, can be relied upon to appreciate and to make allowances for the witness who may be at a disadvantage for lack of education or lack of comprehension. One danger with the illiterate or semi-literate witness is always that he may answer a question as he did not intend to answer it merely because he did not comprehend all the words in the question. It is for the judge and for counsel for the accused to be alert to appreciate any difficulties which the witness may have in understanding what is put to him and to see that such difficulty is corrected.

The Leader's suggestion with respect to abolition, but with a judicial discretion in some circumstances, is I think unworkable in practice. No satisfactory criteria can be laid down for the exercise of a discretion. In effect, it would give rise to lengthy trials within the principal trial.

The Leader's next option was retention of the unsworn statement with a prohibition on imputation. This really overlooks the prime reason for abolition, which is that the defendant making the unsworn statement is not subjected to cross-examination where the allegations made in the unsworn statement are tested and any imputations made can be challenged. The Leader also suggested that another option was retention of the right to make an unsworn statement, but with some stricter control. There is, of course, the difficulty of criteria for the exercise of that control. It also overlooks the prime reason for abolition to which I have just referred, namely, that persons making unsworn statements are not subjected to cross-examination as to any statements contained within such an unsworn statement.

The Leader also suggested that there may be an opportunity to distinguish between certain offences; that is, some offences allow an unsworn statement while others do not. It seems to me that there really is no logical distinction between any of the various offences, and that there can be no logical basis for suggesting that in some cases an unsworn statement is appropriate, yet not so in others. There is also the suggestion that the unsworn statement should be retained, but with the prosecution being given the right to comment. Of course, the judge at

present has an opportunity to comment when making his remarks to the jury. However much the prosecution might comment, the accused's story has not been tested by cross-examination, and cross-examination is, after all, the only really effective way of testing the accused's story.

There is an additional alternative to which the Leader has referred, that is, retention of the right to make an unsworn statement but with an opportunity for the prosecution to rebut the statements made in the unsworn statement. Again, I note the point that what is not required is the right to rebut but the right to test an accused's statement by cross-examination.

The suggested options somewhat surprise me, because the Opposition when in Government and since I have been Attorney-General has indicated publicly that it is in favour of the principle of the abolition of the unsworn statement, yet the options that have been floated for possible consideration are much less than the abolition of the unsworn statement.

The Hon. C. J. Sumner: Some of them are—

The Hon. K. T. GRIFFIN: Only one is directed towards abolition, and the others are directed towards retention or some distinction between various offences.

The Hon. C. J. Sumner: I was putting them only as options.

The Hon. K. T. GRIFFIN: Notwithstanding that, the fact that they are floated as options for possible consideration by the Select Committee suggests considerable backtracking.

The Hon. C. J. Sumner: They are suggestions that have been put to me by interested people. I have put them forward as having come from people interested in the matter as potential options to be considered by a Select Committee.

The Hon. K. T. GRIFFIN: But do you not support them?

The Hon. C. J. Sumner: At this stage we are prepared to have the matter referred to a Select Committee, and then we will consider those options along with the option of abolition of the unsworn statement.

The Hon. K. T. GRIFFIN: That still backtracks substantially from the commitment to abolition of the unsworn statement. When we are debating the question of a Select Committee I will have the opportunity to make some more comments on that way of dealing with this important policy question. The other matter to which I want to refer in relation to the submission from the Aboriginal Legal Rights Movement is this: if we are to give some special consideration to Aborigines, then should we not also give further consideration to persons of other ethnic origins, persons who may have difficulty with the English language and who may have difficulty understanding what is being put to them in court? Should we perhaps consider the disabled and the native Australians who are illiterate or semi-literate? The list is lengthy. The moment one starts to compromise the principle of the abolition of the unsworn statement it becomes an almost impossible task to ascertain what should be the cut-off point.

If it is cut off for one group then one is criticised for not cutting it off for another group. Also, I draw the attention of the Council to the fact that already in the Evidence Act there is provision for a judicial discretion. Even if the amendments that I am proposing are passed, and I hope that they will be, there will still be a judicial discretion set out in sections 23, 24 and 25 of the Evidence Act.

The judge will continue to have a discretion about whether or not those discretions that affect the credibility of a witness are allowable or not. We still have a measure of judicial oversight and, in the amendments that I am proposing and will be proposing during Committee, we maintain protection for the accused in the area in which the Mitchell Committee had its own concerns.

They relate principally to accusations by the accused persons in the witness box against the prosecution that statements that have been made under duress or that statements have not been made yet the accused has been assaulted by police. They are the principal areas of concern which I intend to embody in the legislation and which after discussion with representatives of the Law Society they now accept in the light of the Government's policy as being reasonable protection for the accused.

The other matter to which I should perhaps direct some attention is a reference made by the Hon. Mr. DeGaris when speaking on this Bill. He questioned why the whole of the Mitchell Committee package was not accepted. The reason for that was that I and the Government see it as undesirable that in no circumstances could an accused be cross-examined about his character, however wildly, indiscriminately or gratuitously he attacked the prosecution witnesses. The Mitchell Committee's main concern was that "where an accused can present his defence fully only by making imputations against witnesses for the Crown, he should not thereby be put in danger of having his prior convictions recorded."

That concern is one that I and the Government share. Hence the proposed amendment to which I have referred and which I believe will protect an accused in that instance. It should be remembered that on a vote on an amendment to the Evidence Act in 1976 when section 18 was being considered, the same sorts of concern were then being expressed by the Hon. Mr. Burdett, who indicated that, unless there was some limit placed upon the accused, some jurisdictional oversight of questions put to him, we could see the accused making all sorts of statements about the prosecution and its witnesses with impunity without being able to be cross-examined so that he could be tested, and without his own record and character being put in issue.

I believe that the Bill is a significant policy Bill, that it ought to be considered in Committee forthwith and, whilst I will have the opportunity to comment about the motion to refer it to a Select Committee at a later time, it is quite inappropriate to refer this Bill to a Select Committee. I believe that the policy initiative should be tackled now by this Council, by this Parliament and should be passed into law as quickly as possible.

Bill read a second time.

The Hon. C. J. SUMNER (Leader of the Opposition): I move:

(a) That this Bill be referred to a Select Committee.

(b) That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order 389 be so far suspended as to enable the Chairman of the Select Committee to have a deliberative vote only.

(c) That this Council permit the Select Committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

The Hon. G. L. BRUCE seconded the motion.

The Hon. C. J. SUMNER: The Attorney-General has said that this is not an appropriate matter to refer to a Select Committee, but that it is a policy matter that should be determined immediately. I do not accept that. This matter is very appropriate for referral to a Select Committee, because it is a technical matter about which there are many different points of view. There are many different points of view not only within the community but

also amongst those people who have looked at the question of the abolition of unsworn statements. One can refer to the Mitchell Committee, which supported the abolition of unsworn statements, but that can be contrasted with the Chief Justices Committee on Law Reform in Victoria, which said that unsworn statements should be maintained. Many different opinions have been expressed throughout the academic and judicial world.

I particularly emphasise that only this year a discussion paper was prepared by the New South Wales Law Reform Commission on this topic. That paper has been distributed to interested parties in that State for submission and consideration. It is highly appropriate that a Select Committee of this Council should consider the comments in that discussion paper at the same time as hearing evidence and involving itself in deliberations on this topic. I do not believe that the Select Committee would be of long duration, because there is no reason for it to be. There is no need to collect a lot of factual evidence as there clearly was in relation to the Uranium Select Committee or, indeed, the Random Breath Tests Select Committee. However, as I have said, it is a matter of fairly narrow ambit that involves differences of opinion amongst lawyers and academics interested in law reform.

It is a complex matter and I have explained the options that I believe should be considered. In doing that, I was not attempting to pre-empt any decision of a Select Committee on any of those options, but I was merely putting them to the Council as suggestions that have been put to me as to how this matter might be resolved. Clearly, one of the options is the abolition of the unsworn statement without any strings attached. Another option is the abolition of the unsworn statement with the qualifications suggested by the Mitchell Committee; the present Bill and the amendments foreshadowed do not do that. I have also mentioned other options regarding the retention of the unsworn statement in some form and in some circumstances (perhaps much more limited circumstances than exist at the present time).

The arguments on this matter were fully canvassed in the second reading debate. This is a matter where, rather than going into Committee immediately and having a normal discussion, I believe a slight delay for further consideration is desirable. The Council has a chance of obtaining evidence through a Select Committee, which, after all, is a procedure that the Council uses when it feels that there is some desirability in not having a matter simply debated between the politicians in this Chamber, but obtaining some kind of input from the community at large and interested people. In effect, it is an extension of the Committee of the whole Council, and that procedure is used quite often. As I have said, I do not believe that the Select Committee would sit for any great length of time. What harm is there to this Council, the community, or to anyone else if further consideration is given to this Bill? In two or three months time we will have the recommendations before us knowing that they have been fully considered, that the matter has been properly debated and that the end result is acceptable to Parliament and the community.

The Hon. K. T. GRIFFIN (Attorney-General): I do not support the proposal for a Select Committee. It seems to me that, whilst this question of abolition of the unsworn statement is complex, the community's point of view has been canvassed for the past 10 years: in 1974 the Mitchell Committee recommended the abolition of the unsworn statement; in Western Australia the unsworn statement has been abolished; in the United Kingdom a recommendation has been made for abolition; in Victoria two reports have been completed, one in favour of abolition and one with reservations; and there have also been many other inquiries into whether the unsworn statement should be abolished. In fact, a discussion paper has just been released by the New South Wales Law Reform Commission on unsworn statements of accused persons, which puts the arguments both for and against abolition of the unsworn statement.

The Hon. C. J. Sumner: I have said that the Select Committee could consider that information.

The Hon. K. T. GRIFFIN: There is already a wealth of material available in the community that puts the various points of view on whether or not the unsworn statement should be abolished, and if it should be abolished, the conditions upon which that should be done. I do not believe that a Select Committee of this Council will any more effectively come to grips with those issues. No matter how long the Select Committee sits, I do not believe that we will be any nearer to a resolution of the different points of view than we are now. The real danger is that, although the Leader of the Opposition has said that he does not expect such a Select Committee to take more than a few months, it could drift on until next year and we will still be no closer to resolving the different points of view in the community and achieving the abolition of the unsworn statement, which has been a matter of policy for the Government whilst in Opposition for many years.

The Hon. R. C. DeGaris: It was also a policy of the previous Government.

The Hon. K. T. GRIFFIN: Yes, it was the policy of the then Government, which is now in Opposition. There is no doubt that within the community there is very strong pressure, particularly from women's groups and other groups, for the abolition of the unsworn statement. To postpone this matter for another six months or possibly longer would serve no useful purpose in achieving this reform. The Leader asked what harm it would do to the community if we do not move on this matter immediately. The harm is that the expectations of the community in relation to the abolition of the unsworn statement will be thwarted further, and no good will come of that. I believe that there are very good reasons for the Council making its decision now and for Parliament proceeding to enact legislation to abolish the unsworn statement. We cannot possibly achieve anything by referring the matter to yet another committee of inquiry in the nature of a Select Committee, and for those reasons I oppose the proposition to refer the matter to a Select Committee.

The Hon. R. C. DeGARIS: If there were any grounds for the matter to be referred to a Select Committee, I would be in favour of such a reference. However, I pointed out in my second reading speech exactly what the Attorney-General has pointed out. This matter has been examined by commission after commission and by law reform agency after law reform agency. The unsworn statement has been abolished in New Zealand and Western Australia and is in the throes of being abolished elsewhere in Australia. It does not exist anywhere in the American system and I believe that no good would be served by delaying any further. The Government's policy was quite clear at the election, as was the Opposition's policy: the unsworn statement should be abolished.

The Hon. Mr. Sumner asked what harm could be done by reference to a Select Committee. I suppose the answer is "None", but I would also pose the question as to what good could be done, and I would answer that, again, "None". I cannot see that any further evidence can be made available to a Select Committee that would change any person's mind. I believe that the explanation given by

the Attorney-General as to why the Mitchell Committee Report was not followed is quite adequate.

The point he was making was a point I have raised in debates previously. That is that, where the accused in an unsworn statement make scurrilous accusations and allegations against witnesses, he should not be able to stand without being cross-examined on that question and without his own character being known to the jury so that the jury knows what sort of person is making these particular allegations. Therefore, I support what the Attorney-General has said and I do not believe that there is any cause for this Bill to be referred to a Select Committee.

The Hon. FRANK BLEVINS: I want to speak strongly in favour of this Bill being referred to a Select Committee, for a number of reasons. I do not in any way condone anyone making an unsworn statement and including in that statement matters that cast aspersions on the nature of prosecution witnesses or indeed the prosecution evidence. I think that it is quite wrong that unsworn statements of that nature are allowed. However, I do not think it is correct to go on and say that that unsworn statement can be refuted; I do not think that that is correct.

The Hon. L. H. Davis: It cannot be denied.

The Hon. FRANK BLEVINS: Government members are saying that it cannot be denied, but all members have received submissions from the Aboriginal Legal Rights Movement and on that precise point the material conflicts with what the Government is saying. A press release was issued on 12 August 1980 by the Aboriginal Legal Rights Movement, and on this point it states:

> The suggestion that an accused person was entitled to say what he liked without contradiction when making an unsworn statement was false. The Crown already could rebut what an accused said in an unsworn statement and did on occasions do so. The accused when making an unsworn statement was bound not to include material which was of a hearsay character or which otherwise would be inadmissible if it were evidence given on oath.

We have a conflict. The Government is saying unsworn statements cannot be rebutted—

The Hon. R. C. DeGaris: I said that.

The Hon. FRANK BLEVINS: Members of the Government are saying one thing and a submission put to us on behalf of the Aboriginal Legal Rights Movement is saying another.

The Hon. R. C. DeGaris: You are saying what you think I said.

The Hon. FRANK BLEVINS: What I am saying (and I will appreciate the Hon. Mr. DeGaris's allowing me to continue) is that the statement by Government members that an unsworn statement cannot be rebutted could be incorrect. I say "could be" because, quite frankly, I do not know. We have at least two conflicting views, one from the Government and one from the Aboriginal Legal Rights Movement.

I have an interest in this matter and I would like a Select Committee to examine which is the correct view. Is it that judges are too lax in allowing unsworn statements in the context of those statements, when they have authority to restrict them to a certain format and choose not to do so? Again, not being engaged in legal work, I do not know, and I do not believe that most people in this Council know, either.

Again, the reasons for a Select Committee are very clear. All members could find out about that particular point and possibly others. Mention was made by the Attorney-General that there was strong agitation in the community for abolition of the unsworn statement. It was claimed that certain women's groups were quite hostile about unsworn statements, particularly when they are used in rape cases and cases of that kind.

I repeat that I do not condone anyone having the right to make, in an unsworn statement, all kinds of scurrilous accusations against another witness and not having to justify that statement. However, it seems to me that, to some extent, we are throwing out the baby with the bathwater. Knowing a few women who are active in the women's movement, I am sure that they do not want this wrong righted at the expense of a third party, and I feel that if the Bill as amended by the Attorney is passed, that will happen.

The injustice done, through the unsworn statement, to certain women who have been raped could be at the expense of other groups who need the unsworn statement because of illiteracy or inability, for whatever reason, to cope with very complex court procedures. To suggest that women's groups want this wrong righted at any cost is, I think, not accepted by those groups. Again, the Parks Legal Service, in a press release a few days ago, expressed its concern on the question of the unsworn statement. The Chairperson of the service, Ms. Shirley Patyl, has written to the Attorney-General asking him to reconsider the legislation and possibly make an amendment. I do not know whether the Attorney has replied. The article states:

> "The service believes the amendment could mean a position where they cannot make unsworn statements may not do justice to themselves," Ms. Patyl said.
>
> This might be because of lack of education, inability to express themselves, limited intellectual capacity or different cultural background.
>
> "The amendment will particularly affect children charged with serious offences who are to be dealt with as adults, people of a non-English-speaking background and Aborigines."
>
> Ms. Patyl said the proposed amendment would mean the law favoured "intelligent, educated and articulate persons, at the expense of those who have difficulty expressing themselves".

The Hon. Mr. DeGaris in an earlier contribution to this debate gave us a little of the history of the unsworn statement. I found, as he did, some of the contributions from members of the House of Lords very informative and entertaining. These learned gentlemen, irrespective of what we might believe about the House of Lords, certainly have a flair and style that is so often lacking in legal literature. History tells us that unsworn statements primarily came about in an attempt to assist people who, for a variety of reasons (some of which I have spelt out) were unable to cope with a complicated legal system. This particularly applies today to Aborigines. In the Aboriginal culture, as I am sure you, Mr. President, are aware from your dealings with the Aboriginal people, there is a tendency to agree with everything that a person in authority says to them. If someone in authority puts a question to them in a particular way, they answer "Yes". Also, if someone in authority puts the proposition in entirely the opposite way, the Aboriginal is again inclined to say "Yes".

The Hon. R. J. Ritson: You can see that with the land rights issue, can't you?

The Hon. FRANK BLEVINS: This is far too serious a matter for the Hon. Dr. Ritson to be making remarks of that nature. We are dealing with a sensitive area of the Aboriginal culture. The percentage of Aborigines in our gaols compared to the percentage of Aborigines in our

community is something that we should be ashamed of. It is not something to be made a joke of, as the Hon. Dr. Ritson is trying to do.

When we are confronted with this position, of putting on oath an Aboriginal who still has a large part of his tribal culture in him and abides by it, if he is asked a question by the prosecuting counsel and answers "Yes", he may be perjuring himself, not because he wants to tell the court lies but simply because it is in his nature to agree with matters put to him in this manner. Again, there is a very real need to keep the unsworn statement in some form or another. The question of Aborigines and other groups in the community can become complicated with our complex court procedures, and it is a difficult question. It is not justice to say that the strict formalities of the court must be adhered to and any transgressions from that will be dealt with severely. It is not good enough to say that. I can see here and now that I am in somewhat of a dilemma over this issue. On the one hand, the way unsworn statements are apparently over-used or abused is quite wrong; something in that area certainly needs tidying up. On the other hand, it may well be that the position of the unsworn statement is incapable of being tidied up to stop the abuse and it would be necessary to do away with it altogether. I would like to hear evidence on it from the Aboriginal Legal Rights Movement, the Law Society, members of the legal profession, and representatives of groups in the community who believe that they would have something to contribute to a Select Committee.

That is why it is very necessary for us to have a Select Committee on this issue. The Aboriginal Legal Rights Movement put to us another proposition worthy of consideration. Very briefly the proposition is that it has called upon the Government to allow an amendment to its proposal to permit an accused person to make application to a judge at the conclusion of the prosecution case for leave to make an unsworn statement. I find that a very interesting suggestion. In effect, it would be up to the court to decide whether it was an appropriate case for the unsworn statement. There would not be a blanket right to make an unsworn statement but a person who believed that his case would be prejudiced by not having the right to make an unsworn statement could apply to the court for that right. The court in its wisdom could agree or disagree with that defendant's request. Again, I believe that everyone in the Council would have to agree that on the surface that amendment has some merit. It would certainly take away some of the abuse that apparently exists in the unsworn statement system yet, at the same time, it would allow a defendant to make an unsworn statement if the court thought that the defendant's position would be prejudiced unless he made an unsworn statement.

The submission appears on the surface to have some merit. I am sure that there are many other arguments that could be put to witnesses to enable all of us who have some doubt to be helped by the report of a Select Committee. That Select Committee would take evidence, and nobody could deny that the procedure of a Select Committee is one of the best forms that this Council has for receiving evidence, clearing up contentious points, and arriving at a consensus of all members of the Council.

I am quite sure that six Legislative Councillors could hear evidence as a Select Committee and come down with a unanimous report, which would mean that the legislation was fair to everybody and did not prejudice anyone's position, particularly those in the community who are most disadvantaged and in the worst position to deal with a complicated legal system. I strongly support my Leader's call for a Select Committee on this issue.

The Hon. ANNE LEVY: I, too, strongly support the setting up of a Select Committee on this question. Much has been said in this debate presenting different points of view. The very fact that so many different points of view have been presented strongly indicates to me the necessity for a Select Committee. People have spoken about the various inquiries that have taken place on this topic of unsworn statements but, with the different practices that occur around the world, the inquiries that have taken place have been strictly legal inquiries, with legal points of view predominating overwhelmingly as input to those inquiries.

My guess is that a large number of people in the community know little of the arguments and counter-arguments in this issue and are unaware that legal minds have been turning to this question for a considerable time. Ordinary people certainly have a right to have their point of view stated on something which is as fundamental as this to our system of justice. Its origins obviously have nothing to do with the reasons for maintaining or abolishing the unsworn statement, or maintaining it in a modified form.

The quaint historical reasons for its existence, as enumerated by the Hon. Mr. DeGaris, are incidental to the main question whether or not we should pass this legislation. So that, obviously, considerations other than those simply of historical value are important. It seems to me that there are many ordinary people in the community who have not had their point of view heard on such an important issue. I am sure that they would welcome a Select Committee, which would enable them to come and give their point of view in a non-threatening situation, and to have their point of view considered, along with that of the legal experts.

The legal experts are far from being unanimous on this issue. There are certainly very eminent members of the legal profession in this city who are strongly opposed to the abolition of unsworn statements. There are people dealing with legal matters, such as the Aboriginal Legal Rights Movement, who are also opposed to the abolition of unsworn statements or who would suggest a modified form of unsworn statement, rather than the legislation before us. There is concern in the community, and I am prepared to bet that anyone who has followed the debate in this Council would see that many valid points of view can be presented, and that during the debate questions have been raised which mean the issue is not a clear-cut one, as many of us might have thought it was in the past.

I am sure that there are numerous members here who thought that this question was clear-cut when it first came before us and who accepted the legislation as being highly desirable. However, I am sure that, if people are honest, they will realise that matters have been brought up in debate and by members of the community which would indicate that this is not a clear-cut issue, that deep and fundamental issues are involved, that we must be very careful that justice is done to all members of the community, and that by correcting a wrong done to some individuals we must not create a new wrong concerning other individuals.

It is for those reasons that it seems to me highly desirable that we should set up a Select Committee, which can consider all points of view put before it (not just points of view translated through the mouths of people here who may or may not be able to do justice to those points of view) and which can take evidence and hear witnesses present their own points of view in their own words, evaluating those points of view and arriving at a suitable decision for the people of this State.

It would seem to me that it is undesirable to rush into

this legislation, and that, whether or not wrongs have been perpetrated because of it in the past, to delay its passage by a few weeks so that the matter can be properly considered and all members of the community can present their points of view would be desirable and something which this Council should not ignore. I support the setting up of a Select Committee.

The Hon. C. J. SUMNER (Leader of the Opposition): I thank honourable members for their contributions to this debate which were of varying degrees of significance and ability. I am pleased to see that the Australian Democrats representative, the Hon. Mr. Milne, has returned to this Chamber. I thought for a while—

The Hon. R. C. DeGaris: He was here to make an interjection.

The Hon. C. J. SUMNER: I do not know about that. I was worried for a while that perhaps he was doing the same as his colleague in the other place does. This is an important debate, and I am pleased that the Hon. Mr. Milne is present to hear my reply, because I moved for this Select Committee after consultation with the Australian Democrats representative, the Hon. Mr. Milne, during which he expressed his support for a Select Committee. His views, as put to me, were that the matter was complex and that, provided we got to an end result which was satisfactory to the whole Council, rushing the matter through at this time would not be justifiable. I do not know why members of the Government have gone in for such a spirited opposition to this proposition, knowing as they do that the numbers are not with them. Before moving this motion, I obtained a commitment from the Hon. Mr. Milne that the matter was appropriate to be referred to a Select Committee.

The Hon. Frank Blevins: A firm commitment?

The Hon. C. J. SUMNER: That was the understanding I had. Knowing how the numbers lie in this Chamber, I would not have tried it on if I had not thought that a victory would be ours. I say that in all seriousness: this matter was discussed, and intimations were given that there was support in the Council for a Select Committee.

The argument has been put that there are too many Select Committees. I reject that argument. There are only two significant Select Committees now before the Council, the Select Committee on Uranium Resources and the Select Committee on Assessment of Random Breath Tests, together with the Select Committee on Natural Death Bill, which has nearly concluded. We have another inquiry into local government boundaries, which is important but which will not be of great duration. The Council is not overburdened with committees, that is the simple position. It has two major committees that are likely to continue for some time, and I do not believe that this committee would continue for a great length of time because, as I said, it is of narrow ambit. Even if it takes six months, what harm is there if in the final analysis we produce a result acceptable to the whole Parliament?

The Hon. Mr. Blevins has put persuasively to the Council the position relating to the submissions from the Aboriginal Legal Rights Movement. In this respect I direct my remarks to the Hon. Mr. Milne, because the Australian Democrats took a positive stand on Aboriginal land rights and were in the forefront, along with the Labor Party, in promoting the Aboriginal Land Rights Bill and in hoping that the Government would take steps to implement Aboriginal land rights legislation at an early time. It was partly as a result of the pressure that the Hon. Mr. Milne exerted that the Government finally committed itself to Aboriginal land rights legislation. It would be a tragedy and a slur on the Australian Democrats if now the representation made by the Aboriginal Legal Rights Movement is pushed aside by that Party and by the Council by not having that submission referred to a Select Committee.

The problems of Aboriginal people before the courts and in relation to unsworn statements was referred to by the Mitchell Committee, which pointed out the particular problems involved. We have now received a submission from that group, and I believe it deserves consideration by this Council in a Select Committee, because the Attorney has said that he has not foreshadowed any amendments to take into account the Aboriginal Legal Rights Movement's submission. The only way that that submission can be sensibly considered is by a Select Committee. I would be surprised if the Australian Democrats representative, after taking the lead along with the Labor Party, on Aboriginal land rights, was now prepared to throw out submissions on this issue by the Aboriginal Legal Rights Movement. That is what will happen if the matter is not referred to a Select Committee. There will be no consideration.

The Hon. K. T. Griffin: The Mitchell Committee has already considered that.

The Hon. C. J. SUMNER: As I have already pointed out to the Attorney, the Mitchell Committee has had doubts about the situation relating to Aborigines giving evidence. It said that it is a problem. Not only do we have that committee saying that it is a problem, but we have a specific submission from the Aboriginal Legal Rights Movement. If this Bill is not referred to a Select Committee it is tantamount to throwing those submissions out the window.

The Hon. M. B. Cameron: Come on!

The Hon. C. J. SUMNER: How else would they be considered? The Government is certainly not going to take up the submission, and there is no amendment on file from the Government to give effect to the submission. Certainly, if the Government is unwilling to do it, we can move amendments to the Bill but there is no guarantee that they would be supported by the Government. If the Council wants this issue looked at, the only way to do that in a serious manner is to have the Bill referred to a committee. I would be disappointed if the submissions put by the movement were discarded in that way.

The Hon. M. B. Cameron: You just cannot make up your mind.

The Hon. C. J. SUMNER: It is not a question of being unable to make up one's mind: it is a question of wanting to get the best legislation out of this Council and Parliament. If the best legislation will be facilitated by a committee, then we should refer the Bill to a committee.

The Hon. R. J. Ritson: You say that about every Bill.

The Hon. C. J. SUMNER: I do not say it about every Bill. I indicated the number of Select Committees before this Council now, and there is not a great number. If honourable members seek a solution to this problem that has the support of the whole Parliament, where people, including Aborigines, in the community feel that the propositions have received serious consideration and have not been just thrown out the window, the only sensible course to adopt is to refer the Bill to a Select Committee. I ask the Council to support my motion.

The Council divided on the motion:

Ayes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner (teller).

Noes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, L. H. Davis, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pair—Aye—The Hon. Barbara Wiese. No—The Hon. M. B. Dawkins.

Majority of 1 for the Noes.

Motion thus negatived.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

In Committee.

(Continued from 13 August. Page 301.)

Clause 2—"Commencement."

The Hon. C. J. SUMNER: I have a couple of general questions to ask, and it may be appropriate to do that now. In my second reading speech I mentioned the recommendation of the Mitchell Committee that, where cumulative sentences are ordered by the court, for parole purposes they should be taken as one sentence. That was to ensure the situation whereby a person who had a number of cumulative sentences—even up to two on top of the original sentence—would be eligible for parole at the same time as a person who had received one sentence for the same duration as the cumulative sentences. If that were not done, a person who had received one sentence for a certain period would be eligible for parole before a person who had received cumulative sentences for exactly the same period. Therefore, the Mitchell Committee recommended that for parole purposes cumulative sentences should be treated as one sentence. I had intended to move an amendment to that effect but, following discussions with the Attorney, I understand that the Government intends to take some other action. Perhaps the Attorney could explain that action to the Council.

The Hon. K. T. GRIFFIN: Where cumulative sentences are imposed by a court, for parole purposes the total of the cumulative sentences will be the period upon which the Parole Board will act in determining when parole should be given. It is intended that legislation will be introduced in this session by the Chief Secretary in another place, and that measure will deal with this matter, among others, regarding the question of parole. Until that legislation is enacted, I propose that the position of prisoners who are the subject of a number of cumulative sentences should be preserved according to the principle, probably by not proclaiming this part of the present legislation.

There may be other ways to get around it in an administrative sense, but if there is no other way the Government will not proceed to proclaim this part of the Bill until the position is covered by the legislation that will be enacted at the request of the Chief Secretary.

The Hon. C. J. SUMNER: I thank the Attorney-General for that information. My second question arises from the comments made by Mr. Justice Wells in *Queen v. Wilson,* reported in the 1978-79 South Australian State Reports at page 311. At page 320, Mr. Justice Wells discusses the desirability of an amendment dealing with cumulative sentences in general, and in fact he supports the Government position on that issue, namely, that there should be no limit to the number of cumulative sentences awarded. However, after expressing that opinion, the judge said:

> If such an amendment were made, it would be an appropriate occasion for explicitly recognising and integrating into the judicial system of sentencing, the power to take into consideration offences in respect of which no formal information has been laid.

I raised this matter in my second reading speech, because it is now common practice for courts to take into account a number of offences, even though there may be no specific charge laid in relation to them. Once a prosecutor and defendant make a request to have these offences taken into account, the judge makes some kind of loading on to the sentence without any necessity for each individual matter to be separately prosecuted and brought before a court. That is obviously a convenient procedure that has been in practical operation in the courts for some considerable time.

However, members can see that at least one judge of the Supreme Court has indicated that that position, which occurs now by convention and has no legislative authority, ought to be legitimised through some Act of Parliament. I had intended to move an amendment to that effect, and in fact I had drafted such an amendment. However, I have discussed the matter with the Attorney and he provided me with some information in relation to the Government's view on this matter. I would appreciate it if he could now explain the Government's stand.

The Hon. K. T. GRIFFIN: Since this matter was first raised by the Leader of the Opposition, I have not had an opportunity to have it fully researched. However, I will ensure that that is done. At present I am informed that the practice is a convention of long standing and that there is no reason to suggest that anything in this Bill will not allow that convention to continue.

When the matter has been fully researched and if there is a need to enact the convention as law, at an appropriate time I will cause legislation to be introduced to enable that to be done. If I am able to have the matter fully researched before this Bill passes in the House of Assembly and if any legislative change is recommended to me, that will be an opportunity to do that and I will take that opportunity.

The Hon. C. J. SUMNER: I appreciate the fact that the Attorney-General has indicated that, if there is any problem after he has carried out his research, he will consider the judicial opinion that it ought to be legitimised. In view of that information, I will not proceed with the other amendments but will consider the matter after the Attorney has carried out his investigation.

Clause passed.

Clause 3—"Sentences of imprisonment may be made cumulative."

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

> Page 1—
>
> Line 20—After "person" insert:
>
> , if—
>
> *(a)* the giving of the direction would not result in the convicted person serving or being required to serve more than two accumulative sentences; or
>
> *(b)* the offence in respect of which that sentence of imprisonment is imposed was committed after the imposition of the sentence upon which that sentence is to be cumulative.
>
> Lines 21 to 27—Leave out all words in these lines and insert subsections as follow:
>
> (2) A direction may be given in the circumstances referred to in subsection (1) *(b)* irrespective of the number of cumulative sentences that the convicted person has served, is serving or is liable to serve, or will in consequence of the direction be liable to serve.
>
> (3) A direction may be given under subsection (1) irrespective of whether the offence for which the convicted person has been sentenced is, or is not, a felony.
>
> (4) In this section, "cumulative sentence" means a sentence that is, or is to be, served upon the expiration of another sentence.

The clause deals with the power to be given to the court to

impose cumulative sentences. As presently drafted, there is no limit on the number of cumulative sentences that may be imposed in relation to a series of offences. That is the Government's policy in this matter. The Opposition takes the view that there ought to be some limit on the number of cumulative sentences that can be imposed. We have taken the view that there ought to be no more than three sentences at one time.

There ought to be only two cumulative sentences permitted on top of one that has been ordered or is being served, except where an offence is committed while a prisoner is in detention. If a prisoner escapes and is in prison on his third consecutive sentence, and if the general proposition put by the Opposition were adopted, there would be no power in the courts to punish that prisoner for escaping. Therefore, it was felt that there ought to be that exception.

It was felt that there ought to be three consecutive sentences, or no more than two on one already ordered or being served. The exception is in the case of a prisoner who commits an offence while in prison. Escape is the most obvious offence and, in that case, a further sentence could be imposed. The arguments in favour of the position taken by the Opposition were canvassed fully by the Mitchell Committee, and the Opposition is specifically adopting the opinion of that committee, although I understand that the committee said that there ought to be only one sentence cumulative on one being served.

We believe that there is adequate scope for punishment under our proposal, and it guards against the crushing and overwhelming sentences in the United States that one sometimes reads about. Those sentences could end up by being more than life imprisonment.

The Hon. K. T. GRIFFIN: I cannot support the amendment. Whilst the Mitchell Committee was anxious to impose some limit on the number of cumulative sentences, the Government takes the view that the attention of the Legislature ought to be directed towards removing the limit on cumulative sentences at present provided for in the Criminal Law Consolidation Act. That is supported by the present Chief Justice and a former Attorney-General of this State in his reference in Spiero's case. The Chief Justice indicated in that case that he was of the view that the removal of the present constraints in the Act would be of advantage and would give the courts a wide discretion when multiple offenders appeared. The Chief Justice stated:

> I do not think that the danger that such an amendment might result in crushing aggregate sentences is a real one. A judge should take into account the total period of imprisonment which would result from his sentence and from other current sentences imposed by him or other judges, and an appellate court is clearly entitled to moderate the sentences on the ground that, although each individual sentence can be justified in isolation, the total effect of the sentences is unduly burdensome.

I believe that the Court of Criminal Appeal and the High Court, if the matter goes that far, or the Privy Council would not be insensitive to the sentiments of the Chief Justice when considering the aggregate of sentences imposed on multiple offenders. To give courts a wide discretion and the capacity to impose reasonable sentences, taking into consideration other offences, is an important matter that ought to be supported by rejecting the amendment. We do not believe that the Bill, by removing the maximum number of cumulative sentences that may be imposed, will create undue hardship.

I might also say that in my second reading explanation I indicated that I envisaged some changes to the Justices Act, but upon reflection I am moving back from that position by taking the view that, in the hands of magistrates (that is, those who reside over courts of summary jurisdiction), the power to award unlimited numbers of cumulative sentences is not the appropriate course of action. Presently, magistrates are able, under the Justices Act, to impose two sentences each of a maximum of two years, so that the cumulative effect will be four years. If there are offences of a serious enough nature which warrant higher penalties, there is the opportunity to refer the matters to higher courts with wider judicial discretion. So, it is not proposed that this sort of amendment which we are considering in this Bill will pass through to courts of summary jurisdiction.

The Hon. C. J. SUMNER: I appreciate the Attorney-General's comments in relation to courts of summary jurisdiction. Nevertheless, while that does, to some extent, meet the Opposition's objections, we believe that the Mitchell Committee's recommendations ought to be adhered to, while recognising that there are differences of judicial opinion on the matter. Although the risk of crushing cumulative sentences may be slight there is the potential for someone charged with a number of offences to end up receiving a sentence that could amount in practice to life imprisonment. Despite the concession of the Attorney-General, the Opposition believes that it must insist upon its amendment.

The Committee divided on the amendment:

Ayes (8)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, and C. J. Sumner (teller).

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. Anne Levy and Barbara Wiese. Noes—The Hons. L. H. Davis and M. B. Dawkins.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. C. J. SUMNER: In view of the vote on the previous amendment, my next amendment will not be proceeded with as it is consequential upon the earlier amendment.

Clause passed.

Clauses 4 to 6 passed.

Clause 7—"Case to be stated by trial judge."

The Hon. C. J. SUMNER: This clause provides for a referral of a matter to the Full Court following the acquittal of a defendant where the Crown believes that, in the summing up which led to that acquittal, there had been some mistake of law. It provides that the Crown can take that summing up to the Court of Criminal Appeal (the Full Court) for a correction of the point of law. The only query that I have in relation to this matter is that it provides for a referral to the Court of Criminal Appeal upon acquittal in the new sections (2a) and (2b). Does the Attorney-General believe that the drafting of this section (and it is really a drafting point) applies to the situation where a person has been acquitted on a charge of murder but has been convicted on a charge of manslaughter? If someone has been acquitted on one charge but not acquitted completely it could be that the acquittal on the charge of murder and the conviction on the charge of manslaughter might mean that in these circumstances there had not been an acquittal in the terms of the section and therefore the Crown could not take the matter to the Court of Criminal Appeal. I merely draw that drafting problem to the attention of the Attorney-General and ask him whether he has given consideration to it and, if so, what his response is.

The Hon. K. T. GRIFFIN: I am advised that the words in the clause cover the situation to which the Leader referred. Where a person has been tried upon information and acquitted of the charge in that information but nevertheless convicted of a lesser offence, there is still the opportunity to refer a question of law to the Full Court. The Crown's right is not breached by the fact that the accused has been acquitted of the charge in the information but convicted of a lesser offence. The advice I have satisfies me that there is no difficulty with this clause.

Clause passed.

Clause 8—"Restriction upon reporting proceedings relating to reservation of question of law upon trial of acquitted person."

The Hon. C. J. SUMNER: This clause deals with restrictions upon reporting proceedings relating to the reservation of questions of law upon the trial of an acquitted person. The Government obviously accepts that there should be some degree of anonymity given to a person who is acquitted of an offence, but whose case is then referred to the Court of Criminal Appeal by the Crown for the correction of any mistake that might have appeared in the judge's summing up which led to that acquittal.

It is considered to be unfair, given the general principles upon which our system of justice operates, namely, that a person is presumed innocent until proven guilty, for there to be publicity about a person who has been acquitted, from the Court of Criminal Appeal, which may make comments upon a judge's summing up which led to that acquittal. In the Court of Criminal Appeal's correction of that summing up, there may be comments which adversely reflect upon the acquittal and may, therefore, cast doubts upon the acquittal and, therefore, may be a reflection on the person who has been acquitted by the court and, therefore, is deemed to be innocent.

Accordingly, the proposition is that there should be some anonymity. The disagreement that we have with the Government is the degree of that anonymity. The present clause, in effect, follows the formulation in the Evidence Act Amendment Act, 1976, whereby there was a prohibition or limitation inserted on the publication of any statement, or other matter, which would lead to the identity of a person being revealed, or from which the identity of a person might be reasonably inferred. That was inserted in the Evidence Act to deal with the case of witnesses, for instance, in rape cases. That formulation has been followed by the Government in this Bill. I have two comments to make about it. First, I think that there is some problem with the definition of "newspaper", which it is defined in the clause as follows:

> In this section, "newspaper" means any newspaper, journal, magazine or other publication that is published daily or at periodic intervals.

There is a prohibition or limitation on publication by way of newspaper, radio, or television of any report of the proceedings that would lead to the identity of the person being revealed, or from which it might be reasonably inferred. It is important to know what is meant by "newspaper". There are two queries I have. First, the definition of "newspaper" would seem to me to exclude, for instance, the Law Society *Bulletin,* which is published at periodic intervals. I would like the Attorney-General's comments on that. Secondly, and this is where I will move a specific amendment, I believe that the limitation on publication in the Government's Bill applies to newspapers, radio or television, with newspapers defined as I have indicated. That would not cover the situation of someone who felt that an acquittal was unjustified and who found some support for that contention in the Court of Criminal Appeal's judgment on the summing up and who wished to distribute a one-off pamphlet. That could occur.

The CHAIRMAN: The Hon. Mr. Sumner is speaking to the second amendment.

The Hon. C. J. SUMNER: To page 3, line 22.

The CHAIRMAN: The honourable member's first amendment is really the test for the amendment in line 33. If the honourable member were to get that out of the way, then I believe that the other amendment is separate.

The Hon. C. J. SUMNER: I think, with due respect, that the amendment to line 22 ought to be dealt with before the amendment to line 18, because the amendment to line 18 relates to the amendment to line 33, not to the amendment to line 22.

The CHAIRMAN: We cannot take your proposed amendment to line 22 ahead of the proposed amendment to line 18. I suggest that we deal with the amendment concerning line 18.

The Hon. C. J. SUMNER: I seek leave to deal with the amendment relating to line 22 before the amendment relating to line 18.

Leave granted.

The Hon. C. J. SUMNER: My remarks have been directed to line 22, and most of them dealt with the question of pamphlets. As I said, there is a risk that a vindictive person who may feel aggrieved by a particular acquittal could distribute a pamphlet containing the name of a person acquitted of an offence. The purpose of this clause is to maintain a degree of anonymity, which could be defeated by such a pamphlet. I move:

> Page 3, line 22—After "newspaper," insert "pamphlet,".

The Hon. K. T. GRIFFIN: I am prepared to consider the amendment overnight and to obtain further advice on it. For that reason, I ask that progress be reported.

Progress reported; Committee to sit again.

ADJOURNMENT

At 5.50 p.m. the Council adjourned until Thursday 28 August at 2.15 p.m.