LEGISLATIVE COUNCIL

Wednesday 11 November 1981

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

PERSONAL EXPLANATION: GLENELG PLANNING

The Hon. C. M. HILL (Minister of Local Government): I seek leave to make a short personal explanation about a reply that I gave yesterday to a question from the Hon. Mr Sumner about Glenelg planning approval.

Leave granted.

The Hon. C. M. HILL: The name of Mr R. S. McGrath appeared in the second section of the reply that I gave yesterday. I want to make clear that that was an error: the name should have been R. M. McGrath. I make this explanation in the cause of complete accuracy.

QUESTIONS

POLICE INQUIRY

The Hon. C. J. SUMNER: I direct a question to the Attorney-General. On 9 October, the Attorney announced that an investigation would be conducted into police drug racket allegations and, at that time, he said that he expected a report from the investigators in about two weeks. It is now over a month since that announcement was made. Will the Attorney indicate whether he has received that report and, if he has not, when does he expect that the report will be received? Finally, does the Government intend to make the report public?

The Hon. K. T. GRIFFIN: When I saw the reference to two weeks in the newspaper report, I took up the matter with the journalists, because at no stage had I indicated that the report would be available within two weeks of that date. I was asked at the press conference when the report would be available, and I said that it may be a matter of weeks, or it may be longer, but that I was unable to put a time limit on it. Subsequently, the time limit was referred to in another newspaper article, and again I took up the matter with the author to correct the statement that at any stage I had said that the report would be available within a specified period. I have always consistently said to the media (and I think in this Council, too, if I have been asked it) that the inquiry is necessarily complex, and that it was not for me to put pressure on the investigators with a view to obtaining a quick report, if that would compromise the depth of the report. That is still my position.

The Leader of the Opposition asked whether the Government intends making the report public. I am not able to say 'Yes' or 'No' to that; it will depend very largely on the nature of the report. I think the Leader would agree that, if the report draws attention to certain matters which do not establish evidence to prove guilt beyond reasonable doubt, it is likely to be inappropriate to make the report public in those circumstances. I have an open mind on the matter at present; I certainly do not want to prejudge the issue. At this stage, I am not able to indicate whether or not the report will be released.

EAST END MARKET

The Hon. B. A. CHATTERTON: Does the Minister of Community Welfare, representing the Minister of Agriculture, have a reply to a question I asked on 26 August about the East End Market?

The Hon. J. C. BURDETT: The Minister of Agriculture informs me he is well aware that the South Australian Potato Board and the Citrus Organisation Committee operate through the East End Market and are supporters of that market place. The Minister is aware, too, of criticisms by growers, of the merchants and agents at the East End Market but questions whether the term 'many' is appropriate. In fact, the few complaints lodged with the Minister have been vague.

It is pointed out that there are grower representatives on each of the statutory authorities under discussion, and in the absence of criticism from these representatives it would seem they are satisfied that growers' interests are not in jeopardy. However, if the honourable member can give specific examples of alleged malpractices by merchants and agents, the Minister would be happy to investigate them. As to the question of a change in market policy by the Potato Board and the Citrus Organisation Committee, the Minister would only implement such a change if that was the clearly indicated desire and in the demonstrated interests of the potato and citrus industries.

HOME GARDENS ADVISORY SERVICE

The Hon. B. A. CHATTERTON: Does the Minister of Community Welfare, representing the Minister of Agriculture, have a reply to a question I asked on 24 September 1981 about the Home Gardens Advisory Service?

The Hon. J. C. BURDETT: I have been advised by the Minister of Agriculture that the vacant position will be filled as soon as possible. The appropriate documentation is presently in train.

MEAT HYGIENE

The Hon. B. A. CHATTERTON: Does the Minister of Community Welfare, representing the Minister of Agriculture, have a reply to a question I asked on 30 September 1981 about meat hygiene?

The Hon. J. C. BURDETT: The Minister of Agriculture has advised me that no individual exemptions have been granted under section 49 of the Meat Hygiene Act. However, to allow time for the licensing machinery to be put in motion, all slaughtering premises and pet food works were exempted under section 57 from the licensing provisions of the Act on 12 February 1981. This measure was rescinded on 2 April 1981 and replaced by a modified notice which continued the exemption from the licensing provisions but prescribed a formula limiting the throughput of slaughterhouses. This notice expired on 12 May 1981, and no further exemptions have been granted under section 57.

MEDICAL COSTS AND CORRUPTION

The Hon. J. R. CORNWALL: I seek leave to make a brief statement before asking the Attorney-General, representing the Premier, a question about medical costs and corruption.

Leave granted.

The Hon. J. R. CORNWALL: For many months I have been saying that the thrust of the new health insurance arrangements and the so-called user pays principle would have several quite disastrous effects. Already it is clear that those marginally above the means test are particularly disadvantaged.

The PRESIDENT: Order! It is very difficult to hear the question.

The Hon. J. R. CORNWALL: Chronic long-term patients in this category, especially diabetics, asthmatics and epileptics, are finding pharmaceutical charges through public hospitals an intolerable burden. I have recently exposed the complete fallacy of paying an additional Commonwealth subsidy to surgical patients to induce them out of teaching hospitals. The peer review and standards of excellence inherent in medical and surgical procedures in the teaching hospitals simply do not exist in community and private hospitals. As Dr David Crompton has said:

The financial considerations of South Australia are not good enough reasons to tempt the Government to promote the diversion of patients away from the well built and equipped public hospitals where peer group pressure tends to maintain accepted standards of care. Harm may come to patients if forced into the private sector.

I would now like to draw attention to this further statement of Dr Crompton concerning the new arrangements:

Our Federal politicians seem confused. On the one hand they deprecate the ever-increasing costs of health care and on the other hand, with a strange lack of understanding, they both stimulate and facilitate expensive surgical procedures.

Dr Crompton then illustrates this using the example of intraocular lens implantation, as follows:

The health benefit fee in South Australia for a cataract extraction is $380. This is increased by $250 if an (artificial) intraocular lens is inserted at the same time. The temptation is as obvious as the remedy.

In a recent letter to the Editor of the *Medical Journal of Australia*, as yet unpublished, he points out that patient selection, according to age and medical history, is often given little priority in discussion of the vexed and controversial subject of artificial lens implantation. He says:

This is unfortunate as injudicious selection inevitably increases the number of patients who lose vision unnecessarily.

Reverting to incentives offered to ophthalmologists to use intraocular lens implantation, Dr Crompton, in his original letter which he has given me permission to use in the Legislative Council, states:

In the United States some commercial firms add further stimulus by offering as a bribe surgical instruments, such as a slit-lamp (estimated value $A5 000) or a phako-emulsifier (estimated value $A22 000) to an eye surgeon induced to sign an order for, say, 200 intraocular lenses to be supplied during the ensuing two years. This form of corruption may be appearing in this country and the Department of Health should be alerted.

Can the Premier, as an ophthalmologist, say whether this practice is occurring in South Australia? Will he have the matter investigated urgently, and will he inform the Prime Minister and the Federal Minister for Health (Mr MacKellar) of the practice and urge that it be stopped forthwith?

The Hon. K. T. GRIFFIN: I will refer the question to the Premier.

TESTING OF CHEMICALS

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation prior to asking a question of the Minister of Community Welfare, representing the Minister of Health, on the matter of guidelines on the testing of chemicals.

Leave granted.

The Hon. FRANK BLEVINS: It has been drawn to my attention that a problem has arisen in Australia regarding the procedures and guidelines that are supposed to be adhered to in the testing of new chemicals before they are introduced into this country. Apparently, the O.E.C.D. has some guidelines. My information is that resolution 4 of the O.E.C.D. Council sets down firm guidelines to be followed by the O.E.C.D. countries prior to chemicals being introduced into their country. All the chemicals have to be subjected to two full years testing before being introduced, and these tests have to be undertaken under procedures laid down by the O.E.C.D.

If these procedures are adhered to, the companies are issued with licences and there is apparently no further problem. The licence system, to which I have just referred, works reasonably well in relation to pharmaceuticals. This does not present a great problem, although on rare occasions there are some very startling problems, but I suppose this is virtually inevitable. New chemicals are arriving on the Australian market almost daily, possibly without testing—

The Hon. J. E. Dunford: Most of them are banned in America.

The Hon. FRANK BLEVINS: As the honourable Mr Dunford said, some are banned in the country of origin, in America. Some chemicals made in America are not allowed to be used in America. In the industrial field there are numerous chemicals associated with the rubber industry, dye stuffs, plastics and so on, and it has been found that some very adverse effects and reactions have arisen in relation to some of these chemicals, including birth defects and cancer. Australia has so far not agreed to the O.E.C.D. resolutions, not necessarily because it does not agree with the O.E.C.D., but because of the Federal system. Apparently there has to be agreement by all State Governments before it is possible to implement legislation, before the Federal Government can agree to the particular procedure as laid down by the O.E.C.D. for the testing. Can the Minister of Community Welfare, representing the Minister of Health, say whether the Federal Government has approached the South Australian Government seeking its views on whether Australia should ratify the O.E.C.D. guidelines on the testing of new chemicals? If so, has the South Australian Government replied and, if it has, what was the text of that reply?

The Hon. J. C. BURDETT: I will refer the question to the Minister of Health and bring down a reply.

HOME MORTGAGE PAYMENTS

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Housing a question about help with home mortgage payments.

Leave granted.

The Hon. ANNE LEVY: We are all aware of the problems that some people are having in meeting their interest payments on home mortgages, particularly in view of the rising interest rates the Government is permitting to occur. People have problems in meeting their mortgage payments, including the interest payments, for a variety of reasons, including unexpected unemployment or sickness, or other types of social difficulty. Of course, the rising interest rates add to the problem. Can the Minister say whether the Housing Trust has set up any scheme to help people in difficulties with their mortgage payments owing to a crisis situation in their family?

The Hon. C. M. HILL: I point out to the honourable member that we have taken some action in this area, not only relating to clients of the Housing Trust, but indeed relating to all young people in South Australia who have encountered difficulty in repaying instalments, including interest, on their particular mortgages. In the area of general repayment to institutions, such as banks and building societies, the Premier and I have had discussions with senior personnel from these institutions, and very fruitful negotiations have developed, with all of these institutions wanting to assist people who are encountering difficulties. I urge all

young people who are finding great difficulty in making repayments to contact their bank or building society—their lender—and discuss their problems with the mortgagee.

Indeed, banks are most anxious to come to arrangements with borrowers in these circumstances. Of course, I am referring to the circumstances in which increased interest is causing the problem. In some cases, it is more than that but, in the cases in which the increased interest rates are causing the problem, the banks and other lenders are very keen to discuss the situation with the clients and make alternative arrangements with them, so that people can retain their houses and possibly defer payments for a period, or generally come to confidential arrangements between themselves so that for a period of time the crisis situation can be overcome. By 'be overcome', I mean that people do not have to face a forced sale.

The Government and all the lending institutions are most anxious to provide arrangements so that such clients do not lose their homes. Indeed, I am proud to say that I do not know of one example yet in South Australia where, because of the increased interest alone, there has been a forced sale and an individual South Australian has lost his home.

The Hon. J. E. Dunford: You should contact the building societies.

The Hon. C. M. HILL: I am in contact with the societies. As I said a moment ago, the building societies and all the other lenders are keen to come to alternative arrangements with their clients so that this tragedy does not occur. There is a need for much counselling by lending institutions of their clients so that new family budgets can be worked out whereby, through general discussion, the income that households are receiving can provide some repayment for their home and, by this means of negotiation (usually a system of deferred payment is involved, although not totally, since there are other arrangements as well), crisis periods can be overcome.

The Hon. J. E. Dunford: Not under a Liberal Government.

The Hon. C. M. HILL: It is a Liberal Government that has initiated such discussions in order to help the little people, the very people—

The Hon. J. E. Dunford: The rates have increased by—

The PRESIDENT: Order! This must not develop into a debate: the honourable Minister is giving a reply to a question.

The Hon. C. M. HILL: Coming to the point of the question concerning the Housing Trust—

The Hon. Anne Levy: Yes, how about answering my question?

The Hon. C. M. HILL: I thought the other information would be helpful; I was pleased to see that the honourable member was concerned about this matter. The Housing Trust has arrangements, too, whereby if the increased interest rates are placing clients in such a position that there is a likelihood they will have to sell their house, the trust will come to an alternative arrangement with the clients so that the clients can meet reduced payments, at least for a period, and not be in danger of losing their homes.

The Hon. ANNE LEVY: I wish to ask a supplementary question. In view of the answer which the Minister has given about the Housing Trust providing help for some of its buyers in some circumstances, is the Minister aware of a notice sent to certain Government departments which states, amongst other things:

> People who are unable to meet their mortgage payments because of an extended period of crisis may be eligible to receive assistance from the Government through the Housing Trust.

It further states:

> At this stage the scheme has been established as a modest pilot project with strict eligibility criteria. Loans under the scheme will be to a maximum of $1 500 per annum and will be paid in monthly amounts. The loans will be interest-free, secured by a second mortgage and paid directly to the lending body.

Furthermore, the information states, in capitals, that there will not be a public announcement about this scheme. Is the Minister aware of that pilot programme through the Housing Trust? If he is, why did he not say so when answering my question, which was specifically asking about the Housing Trust and not about consultations with building societies? Can he also tell us why there has been no public announcement about this scheme, which obviously is in existence? Furthermore, how much has the Housing Trust allocated for this scheme this financial year?

The Hon. C. M. HILL: I should know about it because I initiated it.

The Hon. Anne Levy: Why didn't you tell me?

The Hon. C. M. HILL: I will tell you about it, as you have pressed the point. The general means of assisting people with a problem in relation to interest was the course which I explained a moment ago. It is true that there is an alternative scheme. The Government has not wanted to give any publicity to the scheme, because we realise that it could cause a great number of people to seek benefits under it. The scheme applies in very few circumstances and in circumstances in which the family tragedy is such that the less publicity given to it, the better. To the best of my knowledge, the scheme has been used only in one instance. That instance dealt with a family in which the husband was dying of cancer, and the wife's health was at a very low ebb. The arrangements for the children were such that one could not wish to hear a more tragic story. That does not deal with Housing Trust clients at all. That scheme deals with a situation in which a person has a mortgage from, say, the State Bank.

The Hon. Anne Levy: My question did not deal with Housing Trust clients, either.

The Hon. C. M. HILL: Now that you have raised the matter you are entitled to know about it.

The Hon. Anne Levy: I raised it, and didn't get an answer.

The PRESIDENT: Order!

The Hon. C. M. HILL: I will continue. The circumstances with which we were dealing in that case and which gave birth to the plan were as follows: the family had a mortgage to a bank, I think, from memory, the State Bank, and a second mortgage to a trading bank. Because the rules of the State Bank prohibit a second mortgage where a first mortgage is held by the bank, and even prohibit the extension of a first mortgage which has already been granted, this lady was in such circumstances that she could not afford to go on, nor could she retain her house in the Adelaide Hills. She hoped that, if she could weather the storm and retain the house instead of selling it and buying a house of lower value elsewhere (which is in itself an expensive business), in a year or two she might be able to go back to her former profession of nursing. Then, as a widow with older children and with help from her family (which, from memory, was forthcoming), she could have found some way of weathering the storm, and ultimately achieving these goals.

After months of negotiation with the State Bank, the Treasury and other institutions, it was found that the only way to help that woman was by involvement of the Housing Trust. As a result, the trust is in the course of helping her. Because that privilege was given to that person in those circumstances, I believed it was proper, where instances as serious as that occurred, that others be able to receive the benefit of it. Of course, if this action was publicised as an overall Government plan, there would be a considerable number of such applications, some of which would be more worthy of extreme help than others. For that reason, bearing

in mind the limited funds that are available to public housing and the 21 000 people who are in the queue for rental housing, it was considered prudent that crisis programmes should not be extended overmuch. That is why I believed it was in the best interests of everyone not to publicise that proposal.

The Housing Trust has formalised the proposal to some extent, and that formalisation is apparent in the details that the Hon. Miss Levy has disclosed. If any members of Parliament know of such extreme cases, I should be very pleased to try to help those people by that means. Obviously, the aggregate amount of money that is available for that kind of help must be limited. From memory, I believe that the Housing Trust suggested to me an aggregate target for this financial year; I cannot quite recall the figure, but I think it would probably be about $100 000. If the honourable member requires any further detail regarding that scheme, I shall be pleased to supply it.

POLICE INQUIRY

The Hon. N. K. FOSTER: I seek leave to make a brief explanation before asking the Attorney-General a question about his inquiries into the police, drugs and other related matters.

Leave granted.

The Hon. N. K. FOSTER: I draw the Attorney-General's attention to an article, under the heading 'Police didn't protect pair, inquiry told', at page 6 of the *Advertiser* this morning. The inquiry referred to was the Stewart Royal Commission into drug trafficking, and the statements were made in Sydney yesterday. The Government should be aware of the following statement:

> The Royal Commission, headed by Mr Justice Stewart of the NSW Supreme Court, was appointed by the Federal, NSW, Victorian and Queensland Governments in July to inquire into drug trafficking in Australia with particular reference to the associates, activities and methods of Clark.

As the Attorney will recall, I have referred to Clark in other questions in relation to this matter. I draw the Attorney's attention to the passages in respect of Clark's being in Adelaide, information about which was given in a book entitled *Greed*, to which I also drew the Attorney's notice. In respect of the Wilsons, who were murdered by being put through the meat choppers in Victoria, subsequently buried in an outer Melbourne suburb, and later found (and I hope this will not make the honourable gentleman's tummy turn if he was eating mince meat at that time), the article stated:

> Mr Justice Stewart said it was not unusual for charges of offences, even as grave as murder, to be laid on the strength of unsigned records of interview.

It was implied that the New South Wales police failed to apprehend certain people in respect of drug related matters. It was further stated:

> Three days later, on 10 March 1979, Douglas Wilson had rung Det. Sen. Const. Dawson and said that he and his wife had just been visited by Clark, who had told Wilson he was going to end up like Harry Lewis.

Det. Sen. Const. Dawson was with the New South Wales police, and Harry Lewis was a crook who was murdered previously at the instigation of Clark, who is now in prison in England. It was further stated:

> Det. Sen. Const. Dawson said he had spoken that morning to police in New Zealand who said they had Clark under surveillance and would notify Sydney police if Clark left the country.

I ask the Attorney to take particular notice of the date—30 March. The article further stated:

> Det.-Sgt McGregor told the commission that at the time he preferred to believe the New Zealand police than someone in the position of Wilson . . . The inquest into the Wilson death decided that they had been lured to Melbourne on 8 April 1979, probably by someone they knew, and killed five days later.

The Attorney will recall from a previous question I asked that Clark and other people who were killed were identified as being in this city between those dates given to the Royal Commission in Sydney yesterday and the date of the Wilsons' murder. I do not want to belabour the question any further, but I want to reiterate that this inquiry follows an inquiry that, because of the leakage of information by the Federal Narcotics Bureau members to Clark, alias Sinclair (he picked a good *nom de plume*), was broken up by the Prime Minister. The bureau was directly involving itself by passing information that it had gathered from the Police Forces in the States directly to those who were engaged in the greatest drug trafficking crime ever to be seen in this country, the United Kingdom or New Zealand. Will the Attorney-General see that the South Australian Government takes part in the Stewart Royal Commission into drug trafficking to ensure the maximum effort in respect of inquiries that will be made towards the protection of the people of this State?

The Hon. K. T. GRIFFIN: I am not aware of any requests from the New South Wales Government—

The Hon. N. K. Foster: I didn't say there were, but I will deal with that in a supplementary question.

The Hon. K. T. GRIFFIN: I am not aware of any requests from the New South Wales Government in regard to our participation in this Royal Commission. If a request is made, as with any other requests, it will be carefully considered. I am not convinced that the South Australian Government should initiate any action in respect of this Royal Commission. Essentially, it is a Royal Commission established in New South Wales, but, if a request is received, the South Australian Government will consider it carefully, as it always considers requests from other Governments.

The Hon. N. K. FOSTER: I wish to ask a supplementary question. I did not imply that there was a request from the New South Wales Government. I ask the Attorney-General why he did not accept the invitation that was made in July or have representations made on behalf of the people of South Australia to become a part of this inquiry, at a time when he had hard evidence of the fact that an inquiry was about to be initiated within the framework of the Police Force in South Australia? Why did the Attorney-General not become involved with the Federal and Victorian Governments at the same time in regard to the meat inquiry scandal, when the appropriate Federal Minister was requesting the South Australian Government to become involved? What does the Attorney have to hide?

The Hon. K. T. GRIFFIN: The answer to the first question is that it was irrelevant to the South Australian inquiry in respect of the Police Force. In reply to the second question, I point out that the South Australian Government indicated that it was prepared to be involved in the meat inquiry if our Federal and interstate counterparts deemed that to be necessary.

The Hon. N. K. FOSTER: I desire to ask a further supplementary question. Will the Attorney-General inform this Council of the date when he first approached the Police Department, any of his departmental officers or Crown Law officers in relation to any matter which eventually led to the current inquiry?

The Hon. K. T. GRIFFIN: No.

INTERSECTIONS

The Hon. N. K. FOSTER: Does the Attorney-General have a reply to a question I asked on 29 September 1981 about intersections?

The Hon. K. T. GRIFFIN: Although the topography of a particular location may appear to lend itself to grade separation of two roads, there are a number of other factors to be considered. These are: land acquisition compensation (including relocation) costs; access to adjoining properties; environmental aspects; estimated construction (including the relocation of public utility services) costs, cost of vehicle delays; and incidence of accidents.

As indicated in the answer of 2 June 1981 to the honourable member's earlier question, the high cost of grade separation precludes their construction at a time when scarce road funds are urgently needed for projects which show greater benefit and are more cost effective in the treatment of traffic delays and accidents. In this regard, it should be noted that the cost of constructing grade separations is substantial, for example, Regency Road—bridge over railway at Islington—cost $3 300 000; bridge over railway on Grand Junction Road, Rosewater—cost estimated at $2 600 000; South Road—bridge over railway and Cross Road at Emerson—cost of the order of $5 000 000. The honourable member may be assured that the provision of traffic signals is the most appropriate treatment for the locations mentioned in his question.

HILLS ACCIDENT

The Hon. N. K. FOSTER: Does the Attorney-General have a reply to questions I asked on 15 and 16 September 1981 about the hills accident?

The Hon. K. T. GRIFFIN: The cause of the fatal accident that occurred during the erection of an electricity pylon near Mount Osmond is not yet known. An intensive investigation is being made by the Electricity Trust in an endeavour to find the cause. The Department of Industrial Affairs and Employment is also making an investigation. Until the results of these investigations are known and in view of the possibility of a coroner's inquiry it would be premature to make any comment at this stage.

I point out that that reply and the previous reply were available a fortnight ago. Therefore, those replies were appropriate at that time.

PETROL SUPPLIES

The Hon. C. J. SUMNER: Can the Minister of Consumer Affairs say what are the terms of reference of the working party which was established to look into the petroleum industry following a meeting of Ministers of Consumer Affairs in Adelaide last week? In particular, will the question of whether retailers will be permitted to purchase petroleum from outlets other than the oil companies for which they are the dealers be included? Will the question of divorcement be considered by the working party? Further, is the Government prepared to take any action on the two matters that I have raised?

The Hon. J. C. BURDETT: The terms of reference were fairly widely stated in the press. I would be quite pleased to inform the honourable member in writing of the exact terms of reference. The two matters raised by the Leader were not specifically included in the terms of reference, but certainly could be comprehended by them. On the question of what the Government is prepared to do, that will obviously depend on the working party's report.

The Hon. C. J. SUMNER: I desire to ask a supplementary question. When will the working party present its report?

The Hon. J. C. BURDETT: That matter was discussed. Certainly it was the feeling of the Standing Committee of Consumer Affairs Ministers that the report was a matter of urgency. We discussed the matter of when the report should be produced and it was decided that it should be as soon as possible. Some Ministers said that they wanted it straight away, because they did not want it after the problem had gone away. I suggested that the problem would not go away.

We are hoping for a preliminary report before Christmas. It is a matter of extreme urgency, because it is a problem throughout Australia. I think one of the main problems is the lack of uniformity in the price paid by motorists at the pumps. One of the specific terms of reference is to see whether it is feasible through any means to ensure that the price of petrol paid by motorists at the pumps is reasonably uniform. It could not be exactly uniform in all States, but all Ministers agreed that there is a fairly dire problem in relation to the question of petrol pricing throughout Australia.

The Hon. C. J. Sumner: Will the working party look at these two issues?

The Hon. J. C. BURDETT: Certainly; there is no doubt about that. However, I do not think those issues are specifically addressed in the terms of reference, but they are certainly comprehended by them. Both of those issues were discussed at the meeting and I am sure they will be looked at.

DRUGS

The Hon. B. A. CHATTERTON: Does the Attorney-General have a reply to a question I asked on 21 October about the growing of drugs in the Riverland?

The Hon. K. T. GRIFFIN: In response to a question regarding the growing of drugs in the Riverland area, I can inform the honourable member that the person concerned was interviewed by two senior commissioned police officers shortly after his letter of 23 February 1980 to the Chief Secretary was received. This person denied at the interview that he had mentioned the growing of marijuana to the honourable member. His statements were recorded in writing and none of them, whether volunteered or in response to questions asked by the officers, contained any information at all concerning the growing or disposing of marijuana.

The person questioned has complained since 1963 of a wide range of matters alleging discrimination and victimisation by solicitors, doctors, bank managers, business men, police officers, and public servants. None of the complaints has ever been substantiated. His last series of complaints to the police resulted in over 100 hours of inquiry by a senior detective who concluded, with the agreement of his inspector, that there was insufficient evidence to substantiate police action.

SUPERANNUATION

The Hon. R. C. DeGARIS: Does the Attorney-General have a reply to a question I asked on 17 September about superannuation?

The Hon. K. T. GRIFFIN: The reply is as follows:

1. Mr Sexton joined the South Australian TAB in December 1966 and was appointed General Manager in December 1971.

2. If the superannuation due to the General Manager was commuted to a lump sum payment this would reasonably be expected to be 9.5 times existing annual salary.

3. The employer contribution was funded from TAB revenue.

4. Currently, seven employees of the Government and four employees of those statutory authorities which participate in the State superannuation fund have credits for service prior to appointment which were granted at the time of their recruitment.

LATE NIGHT BUSES

The Hon. C. W. CREEDON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Transport, a question about late night buses.

Leave granted.

The Hon. C. W. CREEDON: The random breath test units that are now operating have tended to make a good many people cautious about the quantity of alcohol that they consume and about whether they are prepared to drive a motor vehicle after having consumed some alcohol.

Quite recently a number of taxi drivers have told me that a very serious shortage of taxi licences is developing. Since then I have seen an article in the newspaper stating that the number of taxi licences would have to increase by 20 per cent to be able to cater for the demand. I have also been told that on one recent holiday a steam train with hundreds of passengers on board travelled to the Barossa Valley, where the passengers had a very good day. They were wise and left their cars at home. They intended to travel from the train to their homes by taxi, and my informant insists that taxis took nearly three hours to clear the railway station of those waiting passengers.

Another matter to be considered is whether the general public can all afford to travel by taxi. Because of the lack of public transport, many drinking drivers will take the risk and drive their own cars rather than have to pay taxi fares. Travelling by public transport, of course, is out of the question, because most activity on Friday and Saturday nights, when most people tend to go out, continues until the early hours of the morning and, as we all know, public transport ceases before midnight. I believe that it is the Government's responsibility to at least provide buses. Will the Government consider running public transport until a later hour or even all night, on an hourly basis?

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

HOUSING FINANCE

The Hon. FRANK BLEVINS: Will the Minister of Housing say whether it is a fact that the Government intends to raise finance for housing in South Australia by means of promissory notes? If it does, would the Minister explain why such a policy is necessary when $44 000 000 of capital funds are being used for revenue purposes? Can the Minister say what effect such a policy would have upon the Government's standing with the Loan Council, or upon the Commonwealth-State Housing Agreement? How will the promissory notes, when due, be met? What interest rate does the Government intend to pay, and what term will the promissory notes cover?

The Hon. C. M. HILL: It is the Government's hope that the Housing Trust will be able, this financial year, to raise $5 000 000 by promissory notes. Legislation introduced today in the other place provides for the trust to enter into this kind of arrangement, with the Government guaranteeing the repayments. There is provision in the Housing Trust Act for similar finance to be raised by way of debentures with Government guarantee but the Act does not provide for the Government guarantee with the promissory note system. If the legislation passes, the trust intends to supplement its huge volume of South Australian funding this financial year by this means. The reason why we are doing this is that we are looking at every possible method of obtaining more and more money for the trust so that more and more houses can be built for people in need of housing in this State.

All this housing will be on a rental basis. Indeed, the total amount of State funding this financial year will be approximately $100 000 000 and will enable a programme of 1 700 homes to be commenced this financial year, as against the 1 200 last financial year. That volume of funding is an increase of about 30 per cent on last year. The new proposal is just one of the several means by which the trust will be able to raise more funds. The member would have noticed in a report in the press that the trust is also obtaining money through the State Government Insurance Commission and the State Government Superannuation Fund.

The Hon. Frank Blevins: You didn't announce this at the same time.

The Hon. C. M. HILL: No. This was a subsequent scheme. All the schemes were not worked out at the one time. Ways and means are still being looked at. Indeed, I announced today, regarding a shopping centre, that a further $8 500 000 is to be injected into the capital works programme. We in this State spend far more per capita on welfare housing than does any other State, and I think Parliament should be proud of the record of the trust in this welfare housing area. The proposal does not in any way conflict with Loan Council arrangements.

Regarding the question about capital funding that has been allocated to the State Budget, that matter really has not got anything to do with this particular funding through promissory notes by the trust, because this particular promissory note scheme is one negotiated by the trust as a separate statutory body. I do not think there is any conflict at all in those two separate courses. The trust is able to raise funds by this method and is going to attempt to do so. Incidentally, it is the first time any State in Australia has done this.

The Hon. Frank Blevins: If you weren't spending loan money to cover recurring expenses, you could have assisted the trust with that money, rather than through this scheme. That's the problem.

The Hon. C. M. HILL: That may have been so, but it may not have been so. It may well have meant that the amount of money transferred could have been used for capital works other than housing, but that is an entirely separate matter from the main thrust of the question and is simply a political ingredient spiced on to the question to score a political point.

Members interjecting:

The PRESIDENT: Order!

The Hon. C. M. HILL: Regarding the actual interest rate, I can find out for the member what the interest rate will be if he seeks that. It will, of course, be the market rate in the open market at the time of borrowing. Regarding repayment, which the member has raised, there will be a rolling-over process in which new money will be raised when the current promissory notes expire. That may be raised at a higher interest rate and it may be raised at a lower interest rate. Time alone will tell that.

The Hon. Frank Blevins: You will leave a debt around the neck of the next Government.

The Hon. C. M. HILL: What we will leave to the next Government will be about 15 000 houses, and we will go on extending that number as long as people on low incomes who cannot obtain rental accommodation in the private market seek it from our State housing instrumentality. I

cannot exactly answer the question on interest rates, but they will be high. However, the need is great and we are trying to help poor people. We are prepared to pay high interest rates in the interests of the little people of the State.

FARM TREES

The Hon. ANNE LEVY: Has the Minister of Community Welfare a reply to the question I asked on 24 September regarding farm trees?

The Hon. J. C. BURDETT: The Minister of Forests informs me that the Horticultural Branch of the Woods and Forests Department actively encourages rural tree planting of native species throughout the State providing seedlings at reasonable prices and technical advice without cost to the purchaser of those trees. Moreover, that department is currently examining the feasibility of a scheme to assist private property owners in the establishment of on-farm commercial plantations. My colleague suggests that the member bear in mind, too, that the Department of Environment and Planning has developed a heritage agreement under which landholders are encouraged to retain and manage the remaining native vegetation on their properties. Further details of that scheme could be obtained from the Minister of Environment and Planning.

ABORTION

The Hon. ANNE LEVY: Has the Minister of Community Welfare a reply to my question of 30 September about an abortion pamphlet?

The Hon. J. C. BURDETT: I am pleased to inform the honourable member that the draft pamphlet which had been prepared by the committee appointed to report on abortions in South Australia has been market tested and is now in the final stages of preparation.

The Hon. ANNE LEVY: Has the Minister of Community Welfare a reply to my question of 29 September about the abortion committee's report?

The Hon. J. C. BURDETT: The Minister of Health informs me that the Eleventh Annual Report of the committee appointed to examine and report on abortions notified in South Australia will be tabled in Parliament shortly.

LEAVE OF ABSENCE: HON. L. H. DAVIS

The Hon. M. B. DAWKINS: I move:

That five weeks leave of absence be granted to the Hon. L. H. Davis on account of absence overseas on Commonwealth Parliamentary Association business.

Motion carried.

SELECT COMMITTEE ON URANIUM RESOURCES

The Hon. J. C. BURDETT (Minister of Community Welfare) brought up the report of the Select Committee, together with minutes of proceedings, evidence, submissions and additional references.

Report received. Ordered that report be printed.

MEMBERS OF PARLIAMENT (DISCLOSURE OF INTERESTS) BILL

Adjourned debate on second reading.

(Continued from 21 October. Page 1447.)

The Hon. M. B. DAWKINS: I rise to speak briefly to this Bill. In so doing, I support the concept of some disclosure of interests to a responsible officer, but not in the terms of this Bill as set out. I spoke at some length on this matter at the C.P.A. General Conference in New Delhi as long ago as 1975. I do not intend to repeat that speech today. I wish to refer to the main reason for disclosure; the only real question is whether a member's vote on a measure of this Parliament is, or could be, influenced by his interests or his income from such interests. As I said in 1975, the record in South Australia over many years has been very good indeed.

To my knowledge there has not been any hint of scandal or improper practice in this State within living memory. For that fortunate situation, credit must be given to all Parties. I believe that there is some confusion in the minds of some people as to the disclosure of interests of Ministers, who have an executive role to play, as compared with the more limited role of rank-and-file M.P.s. There has been, from time to time, in my term as a Parliamentarian, a very proper disclosure of interests by back-bench members when the occasion has demanded it. However, I believe that there is a case for a properly documented disclosure to be made available to the Presiding Officers of the Parliament. The necessity for this to be available to all and sundry has yet to be proven. This might well inhibit people from standing for office and might embarrass prospective members of Parliament from all sides of politics. In the terms of the present Bill, there could be a quite unwarranted disclosure of private business, including assets and liabilities.

Regarding assets and liabilities, Sir Nigel Bowen, in the inquiry made on behalf of Federal authorities into the possible disclosure of interests in Parliamentary matters, mentioned that liabilities, as well as assets, could well be made public. As I said a moment ago, I believe that this would be an unwarranted disclosure of private business. The disclosure of assets and liabilities that could happen as a result of this might be a real embarrassment to a member or a prospective member. A transient financial situation for a member or for a prospective member might quite unfavourably prejudice his position in the eyes of the public and might unfairly indicate his situation, which might well be only temporary.

I want to look at one or two provisions as set out by the Hon. Mr Sumner in this Bill. Clause 4 provides that there shall be a Registrar to keep a register of members' interests. Personally, I doubt the need for a specific person as Registrar. I believe that the Speaker, the President, or both, could well do what is necessary. In my view, what is necessary is much less than what the honourable member has set out. If we look at clauses 5 and 6 we see that the Registrar will probably need a considerable number of people to help him, and this will mean escalation of the staff of Parliament. Clause 5 provides:

Every person to whom this Act applies shall, on or before each relevant day furnish the Registrar with a return in the prescribed form disclosing—

(a) any income source from which he or a member of his family derived any declarable financial benefit . . .

(b) any body (whether corporate or unincorporate) formed for the purpose of securing profit for its members in which he or a member of his family have a share;

(c) any trust under which he or a member of his family is a beneficiary . . .

(e) any proprietary interest that he or a member of his family has in any real property;

and

(f) any fund in which he or a member of his family has an actual or prospective interest . . .

If all these things are to be disclosed, I believe that it is quite an unnecessary intrusion into the private affairs of any person, and could be an embarrassment to members of the Opposition as well as to members of other Parties. I do not know whether that is the intention: I hope that it is not. It appears to be that way. Clause 6 (2) provides:

The Registrar shall, at the request of any member of the public, permit him to inspect the register and to take a copy of any of its content.

Once again, I believe that this situation is far too wide and is not necessary in the provision of information for the benefit of the Parliament. Therefore, while I have some sympathy with the concept of the Bill, I certainly believe that it is far too wide in its provisions. I oppose the Bill.

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

ADMINISTRATIVE DECISIONS (DISCLOSURE OF REASONS) BILL

Adjourned debate on second reading.

(Continued from 30 September. Page 1268.)

The Hon. K. T. GRIFFIN (Attorney-General): At the outset, I want to say that for some time the Government has been examining the whole area of administrative decisions and what processes should be established for the review of administrative decisions. It is the Government's general view that there ought to be a more rational approach to the general review of administrative decisions. Over the years a number of Acts of Parliament have included appeals from administrative decisions to the Local Court or a judge of the Local Court and those decisions have been decisions of Ministers or tribunals, or other sorts of administrative decisions.

Even in the most recently enacted Community Welfare Act Amendment Bill there was a procedure for review of administrative decisions within the Department for Community Welfare, although there was not an appeal to a judge of the Local Court in that context. Over the years, where provision has been made in particular statutes for review of administrative decisions, the procedure has not always been uniform or consistent. The form of the statutory provision for review or appeal has not been uniform or consistent, nor has the remedy been consistent.

It was in the light of the differing approaches to reviews of administrative decisions that the Government was prompted to undertake a review of the whole basis of the review of administrative decisions. Of course, we know that the Commonwealth has the Administrative Review Tribunal, which has a rather complex mechanism for reviewing administrative decisions. Consideration given in South Australia to this process certainly does not envisage copying the Commonwealth model, because of the complexity of the Commonwealth bureaucracy and the size of it. Certainly, there has been demonstrated a need for review of important administrative decisions and the remedies that may or may not be available as a result of that review.

In this State we also have, in common with the Commonwealth, if not all other States, the Ombudsman, who has under his Act a specific responsibility for the review of administrative acts. It is within the competence of the Ombudsman, having reviewed administrative acts, to recommend certain action if, in fact, there is demonstrated the need for a different approach to the administrative act which is subject to review by the Ombudsman.

In his speech the Hon. Mr Sumner refers to Commonwealth and United Kingdom legislation which compels the giving of reasons for administrative decisions. He refers specifically, I think, to the Commonwealth Administrative Appeals Tribunal Act, 1975, and the Administrative Decisions (Judicial Review) Act, 1977, and the Tribunals and Inquiries Act, 1971, of the United Kingdom.

It is noteworthy, however, that in each case the legislation first provides for a particular body to have jurisdiction to entertain appeals from certain specified administrative decisions and then provides that a person affected by such an administrative decision may obtain a written statement of the reasons for the decision. That is, in each case Parliament determined what administrative decisions ought to be subject to review, and then ensured that the review procedure could not be frustrated by a non-disclosure of the reasons for decision.

The Leader is undoubtedly correct when he says that it is difficult to challenge an administrative decision for which no reasons are given. However, a question of policy is involved in the determination of the extent to which such decisions are to be open to challenge and pursuant to what procedures.

That really is a policy question and ought to be specified in legislation. Different considerations might apply to different categories of decisions. The Bill deals in an indiscriminate way with administrative decisions generally, without seeking to identify the appropriate forum for review or the specific decisions which should be reviewed and for which reasons ought to be disclosed.

Where an appeal or review procedure is not provided for by legislation, prerogative proceedings are the avenue whereby administrative decisions may be challenged. However, the prerogative writs do not extend to all persons or bodies who make decisions of an administrative character, and even where a prerogative writ may issue, the grounds upon which the decision in question may be challenged are limited. The prerogative writs cannot be used, for example, to obtain a review of the merits of a decision. This is, of course, not an argument against a requirement that reasons be given in support of administrative decisions, but it must be recognised that the fact that a person knows the reasons for a decision will not necessarily assist him in challenging that decision. One has to be careful in legislating in this indiscriminate manner affecting all administrative decisions and in this *ad hoc* manner, for the reasons that I have referred to.

I want to turn to some of the specific problems that I see in this wide-ranging Bill. It applies to decisions of an administrative character made under an enactment. An enactment is defined as meaning, 'an Act or instrument (including regulations, rules or by-laws) made under an Act'. I draw attention particularly to the reference which includes 'regulations, rules and by-laws': not only will the Bill apply to administrative decisions of the State Government but it will apply also under that definition to local government, to universities, colleges of advanced education and even to general orders in the Police Force.

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

The Hon. K. T. GRIFFIN: It is wide-ranging. Again, it demonstrates the indiscriminate nature of the application of the Bill.

The Hon. C. J. Sumner: What do you mean?

The Hon. K. T. GRIFFIN: It is not selective in any way. The Leader has used two examples to justify this wide-ranging Bill. I am saying that that is inappropriate. Whilst I have some sympathy with the principle, I believe it ought to be undertaken in a much different way. If one looks at some of the decisions which might be affected under the definition in clause 3 (2), one sees that it may extend to

the tendering and award of contracts, that it may extend to the letting of vacant houses owned by the Government or its instrumentalities, and it may even extend to the refusal to grant licences, perhaps motor vehicle licences. It may extend to promoting an officer. It may apply to decisions of the Local Government Grants Commission, which allocates funds to local government. It is quite conceivable that it will also apply to a decision of the Attorney-General not to apply for a *nolle prosequi* in a criminal case. They are just a few of the decisions which could be covered by that wide-ranging definition.

If one looks at the definition, one sees that the making of a decision refers to 'making, suspending, revoking or refusing to make an order, award or determination'. It refers also to 'giving, suspending, revoking or refusing to give a certificate, direction, approval, consent or permission'. It refers also to 'issuing, suspending, revoking or refusing to issue a licence, authority or other instrument'. It refers to any decision which imposes a condition or restriction. Maybe it even applies to a restriction on a water meter—a failure to pay an account. It extends to making a declaration, a demand or a requirement. It extends also to a demand on a creditor of the Government or local government, or one of the other agencies to which I have referred, for non-payment of a debt, retaining or refusing to deliver up an article or doing or refusing to do any other act or thing. It is an extraordinarily wide definition. It is for that reason and for the reasons to which I have earlier referred that I believe that this piece of legislation in its present form is quite inappropriate.

The Hon. C. J. Sumner: Will you support the second reading?

The Hon. K. T. GRIFFIN: No, I will not even support the second reading. If one looks at another aspect one may ask, 'Who may apply for reasons?' Under clause 3 (4), an aggrieved person may apply for reasons, and reference to that aggrieved person includes reference to a person whose interests are adversely affected by a decision. Does that mean that anybody who might coincidentally be affected by a decision which may have, for example, an environmental consequence is entitled to apply for reasons for that decision? It appears to extend beyond the person immediately involved in the decision taken by either a Minister, a department or some other agency or body covered by the Act. Let us pursue it a little further. If a person gets the reasons, what happens then? This Bill does not give him any more rights and certainly does not broaden the basis on which a prerogative may be founded.

The Hon. C. J. Sumner: That's no answer.

The Hon. K. T. GRIFFIN: It is an answer. The Leader has not been listening, as he has been too busy reading yesterday's proofs. He will get a chance to read the proofs tomorrow and will see the basis on which I believe this Bill is ill-conceived. I can accept, broadly speaking, the principle—

The Hon. C. J. Sumner: Then support the second reading.

The Hon. K. T. GRIFFIN: I will not support the second reading, because I believe that this Bill is incapable of amendment to achieve the sort of review which is likely to be more appropriate where administrative decisions are made.

As I have indicated (and I will close on this point), the Government already has a review under way in respect of administrative decisions. The Leader, in his second reading explanation, referred to the need for that sort of review. I can tell him that it has been under review for some time. It is a review designed to identify those areas in which, appropriately, reasons could be considered to be necessary; to identify the body which would undertake such a review of administrative decisions; and to identify more appropriate remedies for relieving difficulties caused as a result of a wrong administrative act. For those reasons, I am unable to support the second reading of this Bill.

The Hon. J. A. CARNIE secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 October. Page 1621.)

The Hon. ANNE LEVY: I support the second reading of this Bill, which is putting into effect the Select Committee recommendations. As mentioned by the Attorney-General, there has been considerable support from several groups for the abolition of unsworn statements. These groups have expressed views about the abuse of unsworn statements that can occur. What they principally objected to was the ability of a defendant to say anything at all he wishes in an unsworn statement, and to make all sorts of remarks about the victim of a crime, particularly in rape cases. The unsworn statement permits the defendant to drag in all sorts of irrelevancies regarding the victim, in particular comments about her previous sexual experience. It is this undoubted abuse of the unsworn statement which has led numerous people to suggest that the unsworn statement should be abolished.

A few years ago, this Parliament incorporated section 34i in the Evidence Act which was designed to prevent abuses of this nature in rape cases. Part of the legislation before us is designed to tighten up section 34i to make sure that its provisions will cover unsworn statements as well as unsworn evidence. When this Bill becomes law, it will mean that an accused person will not be able to say anything in an unsworn statement that he would not be able to say if he were giving sworn evidence, so that the abuse of the unsworn statement will end.

He can still say a great deal in sworn evidence. I, for one, am of the firm opinion that section 34i needs amending, anyway. It does not seem to be achieving what it intended to achieve. Several authorities agree with me, and their material was considered by the Select Committee. The Select Committee drew attention to the recent provisions in the New South Wales Evidence Act, which are designed to protect the victim from this type of irrelevancy being brought before the court in evidence. Our Select Committee agreed that the wording of section 34i should be looked at, and recommended that the Government do this. The Select Committee did not make a more detailed study of the form that section 34i of the Evidence Act should take, because to do so was believed not to be within the terms of reference of the Select Committee, which was set up specifically to consider the question of the unsworn statement. I hope that the Government will take up this matter and, if it is genuine in its concern for matters raised by women's groups in regard to this issue, it will do so. Whether unsworn statements apply or whether they are abolished does not affect this consideration. The reform of section 34i would deal with the question of irrelevancies being brought before the court by a defendant in a rape case.

This Bill deals with other reforms in regard to the unsworn statement. The right of rebuttal of material that is contained in an unsworn statement is mentioned specifically, as is the fact that all rules of evidence that currently apply to sworn evidence would also apply to the unsworn statement. This includes such matters as hearsay evidence, and so on. When this Bill becomes law, the unsworn state-

ment will be like any other evidence, except that there cannot be cross-examination.

The Select Committee further proposed means whereby this recommendation could be achieved. It suggests that the unsworn statement, which is usually typed up and read in South Australian courts, should be handed to the judge for him to vet before it is read to the court. The judge can check that the unsworn statement conforms to all of the rules of evidence, in particular to section 34i as it presently stands. It is true that any appearance in court will be traumatic for the victim of any crime, and much sympathy is necessary and desirable in the treatment of victims. Sympathy is particularly necessary in a rape case. However, the abolition of the unsworn statement would not solve the problem of trauma for the victim.

The Hon. R. C. DeGaris: Why not?

The Hon. ANNE LEVY: Because she would still have to go through the same procedure.

The Hon. R. C. DeGaris: With a chance of rebuttal.

The Hon. ANNE LEVY: The Bill states that rebuttal of the unsworn statement can occur. It also states that the unsworn statement in the future may not contain any material that could not be given in sworn evidence. The point I am making is that the abolition of the unsworn statement would not affect the trauma suffered by the victim of crime in regard to the court appearance. Only sympathetic consideration of the victim will reduce that trauma. To suggest that abolition of the unsworn statement will do so is to misunderstand the procedures that any witness must undergo in a court trial. By ensuring that the unsworn statement must meet all of the conditions that sworn evidence must meet, particularly in relation to section 34i, one of the main abuses of the unsworn statement that has concerned many people will be removed.

Certainly, if the unsworn statement cannot contain any material that sworn evidence cannot contain, much of the objection to the use of the unsworn statement by many women's groups will be removed. A number of people who gave evidence to the Select Committee in favour of the abolition of unsworn statements are aware of the recommendations of the Select Committee, and in private conversation with me they have agreed that the reforms relating to unsworn statements are a step in the right direction and that further changes, such as the abolition of unsworn statements, would not give the extra protection to the victim that they would like to see. Their aim is laudable and I support the endeavour of giving greater protection to the victim in a rape case, but abolition of the unsworn statement is not the means whereby this can be achieved.

The Hon. R. C. DeGaris: How would you achieve it?

The Hon. ANNE LEVY: There are numerous ways in which to achieve it, but they are not germane to this Bill, which arises from a Select Committee that was set up to consider unsworn statements. I would very much like to see the Government set up another Select Committee to look into the whole question of protection for victims during court trials, but this issue was not within the terms of reference of the Select Committee and therefore it does not form part of the Bill before us. I am sure that the Hon. Mr DeGaris would have been the first to object if the Select Committee had gone beyond its terms of reference.

I will not canvass the other reasons for retention of the unsworn statement, because they have been clearly detailed in the report of the Select Committee. Suffice to say that the Victorian Law Reform Commissioner provided strong legal opinion to enforce the carefully expressed views of groups such as the Aboriginal Legal Services, the Council for Civil Liberties and staff of the Legal Aid Commission. Many of the witnesses from these bodies were themselves legally trained. It is true that this is a contentious area of the law, but on balance the Select Committee recommended retention of the unsworn statement with the important reforms to its use and practice that are detailed in the Bill. I am sure that all careful readers of the report will agree that the Bill is a most humane outcome of consideration of a very delicate matter. I support the second reading.

The Hon. R. C. DeGARIS: At the outset, I wish to make my position quite clear in regard to this Bill. I believe that the existing right of a defendant to make an unsworn statement should not be retained on our Statute Book. I made that position quite clear to the Council during the previous second reading debate. The Council did not take that view, and decided in its wisdom to refer the question to a Select Committee for report. The report is now before the Council, accompanied by a Bill introduced by the chairman of that Select Committee. Whilst I do not agree with the recommendations made by the Select Committee, I would like to extend my congratulations to the committee on the breadth of the report that it has presented to Parliament. As I have said, I do not agree with its recommendations, although they cover a tremendous amount of ground and I extend my congratulations to its members.

The Hon. Frank Blevins: You should have been on it.

The Hon. R. C. DeGARIS: I think what the honourable member has said is probably correct. I do not think any Select Committee can be totally heeded by the Council if it does not contain representation from all sides of the Council. The Select Committee's report is comprehensive and contains information on the position existing in other States and in other countries. The Select Committee's recommendations recognise that the present position in regard to the unsworn statement is unsatisfactory. I think every member of this Council would agree with that point. Although the committee does not agree that the unsworn statement should be abolished, its recommendations do allow for an improvement in the present unsatisfactory position in relation to unsworn statements.

The Council has two options open to it: to reject the Bill at the second reading stage, or to pass it at the second reading stage and allow those who do not agree with its contents to put forward amendments in Committee. I have made it quite clear that I favour the abolition of the unsworn statement. I agree with the recommendations of the Mitchell Committee in relation to unsworn statements. At this stage I can see no advantage in voting against the second reading, because the committee's proposals are an improvement on the existing provisions in relation to unsworn statements.

I understand that nine submissions presented to the committee supported the total abolition of the use of unsworn statements; two submissions recommended retention of the unsworn statement; some submissions recommended further variations to the Government's proposals; two submissions recommended abolition, provided that adequate safeguards were available to the accused, or that the unsworn statement was available in certain circumstances; and two submissions were made to retain the unsworn statement, but to make reforms to the practice surrounding its use.

I believe that the Select Committee's report is a fair summary of the evidence presented to it. The Select Committee's recommendation deals with four options. The statements I have made in relation to the submissions that were presented to the Select Committee deal in particular with those four options. In other words, nine submissions supported option 1, two submissions supported option 2, two submissions supported option 3, and two submissions supported option 4. In its conclusions, the Select Committee decided to adopt option 4. It should be noted by the Council that the two submissions recommending option 4 were made

by the Council for Civil Liberties and the Labour Lawyers Association of South Australia. It should also be noted that the two submissions recommending option 3—one from a person or group who agreed with the abolition of the right to make an unsworn statement, and the other from a person or group that wanted to retain the right to make an unsworn statement—suggested reform as an alternative to their primary submissions. Both of those submissions recommended option 3 as an alternative and not option 4, as recommended by the Select Committee. Therefore, in recommending option 4 the Select Committee did not follow the consensus of the majority of submissions that were presented to it.

The Hon. C. J. Sumner: That's ridiculous.

The Hon. R. C. DeGARIS: I am not even putting that forward as an argument. I am putting before the Council the facts contained in the submissions put before the Select Committee.

The Hon. Frank Blevins: That only proves that you can do anything with statistics.

The Hon. R. C. DeGARIS: Not if you use them correctly; mathematics is the only true science, as the Hon. Anne Levy will undoubtedly agree. I am saying that option 4, which was the option chosen by the Select Committee, was not supported by the weight of evidence presented to the Select Committee.

The Hon. Frank Blevins: Nonsense!

The Hon. C. J. Sumner: Don't be stupid.

The Hon. R. C. DeGARIS: Just let me finish. If honourable members carry on this way they may lose the only vote they have on this side. Out of a total of 15 submissions made to the Select Committee, nine favoured the abolition of the unsworn statement. I will go further and say that, just because there is a weight of submissions before the Select Committee in favour of a certain course of action, that does not mean that a Select Committee should not make its judgment as it sees fit.

The Hon. Anne Levy: Why make any point about it, then? You're wasting our time and yours.

The Hon. R. C. DeGARIS: Because I think it is a reasonable point to make to members of the Council.

The Hon. Frank Blevins: You're trying to fill out an entirely inadequate speech. You're reading from the report.

The Hon. R. C. DeGARIS: I have not read one word from the report. I am saying that the Select Committee did not follow the weight of evidence that was presented to it, and that is clear from the Select Committee's report. I agree with the majority of those who gave evidence before the Select Committee.

The Hon. C. J. Sumner: You're only talking numerically. You're not referring to the subject or the organisations.

The Hon. R. C. DeGARIS: Maybe, but nevertheless it is a fact and I believe the Council should be aware of this rather strange statistic—that the Select Committee did not follow the weight of evidence presented to it.

The Hon. Anne Levy: We followed the weight, not the number.

The Hon. R. C. DeGARIS: Then I would like to know who was doing the weighing. As I have said, the submissions accepted by the committee were from the Council of Civil Liberties and the Labour Lawyers Association of South Australia.

The Hon. Frank Blevins: What about the Legal Services Commission officers? What about the officers from the Aboriginal Legal Rights Movement? What about the Law Society? What about Justice Bray?

The Hon. R. C. DeGARIS: He did not give evidence.

The Hon. Anne Levy: What about Justice Minogue?

The Hon. R. C. DeGARIS: He did not give evidence, either.

The Hon. Anne Levy: He sent us his report.

The Hon. R. C. DeGARIS: This seems to be worrying the Labor Party, and I am sorry about that. The Select Committee received 15 submissions, and nine supported the abolition of the unsworn statement. That is a simple calculation based on the evidence. However, members opposite can only ask, 'What about Justice Bray?' He did not give evidence, nor did Justice Minogue. My speech is quite factual and it is based on the report.

The Hon. Anne Levy: It is fatuous, too.

The Hon. R. C. DeGARIS: It is not fatuous, but factual. In recommending option 4 the Select Committee did not follow the consensus of the majority of the submissions presented to it. That is a clear statement of fact.

The point I am making is that the weight of evidence, if the Government's proposals were to be varied, favoured abolition, with safeguards, rather than retention, with safeguards. That is the crucial point in the Select Committee's report. I do not believe that a case can be substantiated in this modern day and age for the retention of the right to make an unsworn statement. I believe that there should be safeguards if the unsworn statement is to be abolished and I favour that line rather than safeguards and retaining the right to make an unsworn statement.

I freely admit that the Bill is an improvement on the existing position, and for that reason I support the second reading, hoping that I may be able, during the Committee stage, when further amendments are put forward by the Hon. Mr Sumner, to make the position closer to what I believe is the correct position—that is, the abolition of the unsworn statement, with safeguards.

The Hon. BARBARA WIESE: I support the second reading and the Select Committee's report. When the Hon. Mr DeGaris began speaking he said some interesting and positive things about the report, but the later remarks that he made about the report and the evidence were almost as nonsensical as the remarks made by the Attorney-General in his second reading speech when he described the report as being disappointing and weak. I think the report was very constructive and fair, and that the committee was most necessary, in view of the diversity of opinion on this issue. In fact, the committee was able to uncover information that was not previously available to the Parliament, and I think that that was very useful.

I also think that it was disgraceful that Government members decided to boycott this committee. That hollow and cheap action ignored the gravity and importance of the subject. I congratulate the Hon. Mr Milne on not being drawn into this politicking and on agreeing to sit on the committee. I found the task of the committee a complex one. On the one hand, I had total sympathy with the concerns of the women's movement in relation to the use of the unsworn statement in sexual offence cases, but on the other hand I was concerned that we should protect the rights of other people who may be disadvantaged by the abolition of the unsworn statement.

Having sat on the committee and heard the evidence from various interested groups, I am as satisfied as one can be, without having had the opportunity to see our recommendations work in practice, that the committee's recommendations will deal with the majority of the criticisms raised by the opponents of the unsworn statement while at the same time preserving the protection for groups like Aborigines and other disadvantaged people. Having said that, I do not think that we have satisfied all the criticisms that people have levelled against procedures during sexual offence trials, but I think that many of these are not related to the unsworn statement, as the Hon. Miss Levy has pointed out, and therefore they were outside the ambit of

the committee's inquiry. This, in itself, is a very complex problem and I will come back to that later.

I would like to begin by looking at the problem that we were trying to solve. That related to the use and abuse of the unsworn statement in sexual cases. I think that the position of the opponents of the use of the unsworn statement in those trials was best summed up by the Women's Adviser to the Premier, and I will quote briefly from her written evidence, as follows:

I think sexual offences raise special issues with respect to the unsworn statement. The alleged victim, hereafter referred to as the victim, in a sexual offence trial is in a peculiar position different from that of witnesses in trials for other offences. More than in any other type of offence the victim often feels that she (or, presumably, he, as the case may be) is on trial. Where consent is in issue her version of the facts surrounding the event is closely examined in an effort to show she consented to the accused's actions or alternatively to support the inference that the accused might well have believed she was consenting. Apart from the issue of consent, evidence is drawn from the victim in examination and cross-examination as to the physical aspects of what occurred—e.g. to prove penetration by the penis of her vagina, mouth or anus; to cast doubt on the victim's credibility by getting her to contradict herself as to the sequence of the physical events of the alleged assault, etc. The recounting of such intimate details is embarrassing to a greater or lesser degree to all victims. Sex being generally a private activity there are rarely independent witnesses as to what occurred at the time—in real terms, the burden of proving the offence lies on the prosecutrix. Often the question before the jury is whether they believe the victim's version or the accused's. An additional pressure on the victim arises from society's general attitude to sexual matters. In no other area does a witness, or at least a non-police witness, run such a risk of being impugned not only with untruthfulness or unreliability but with immoral behaviour. A victim of a sexual offence faces being regarded as wanton, loose and immoral. I endorse entirely the comment of the Mitchell Committee that:

> . . . it must be a most unedifying spectacle for a jury to see and listen to a young girl, the prosecutrix in a charge of rape, being stringently cross-examined and subsequently to hear the accused merely read a statement giving his version of what happened without being exposed to any questioning at all.

I think that that is a good summary of the concerns that have been expressed by many people, and they are very legitimate concerns. As the Hon. Mr DeGaris has pointed out, I think that all of us agree that there needs to be some change in this area. This view was shared by most of the witnesses, including those who favoured retention of the unsworn statement.

Briefly, I think the problems as expressed are fourfold. First, there is the question of equity and justice. People are concerned that it is not fair that a woman should be subjected to lengthy cross-examination, while the accused is able to read a brief statement and sit down.

Secondly, some people say that truth can only be extracted, or is more likely to be extracted, through cross-examination. Thirdly, some people say that accused persons have been able to get away with all kinds of unfair allegations about prosecution witnesses, without being called to account. Finally, there is the suggestion that by using unsworn statements some people have been acquitted of crimes that they actually committed.

The Select Committee dealt with each of these questions and made recommendations where it considered appropriate. The Select Committee also had to take into account arguments put by people who claimed that accused persons could be disadvantaged by the abolition of the unsworn statement. We had to decide how to bring about change in order to protect the rights of victims in sexual offence cases, without withdrawing rights and protection from other groups in the community.

The Women's Adviser, when giving her evidence, stressed that her recommendation for the abolition of the unsworn statement was based on the examination of the use of that unsworn statement in one area only, and that was in the area of sexual offences. She said that she had not considered the implications of abolishing the statement in other areas. A group that considered the abolition of the unsworn statement in another area was the Aboriginal Legal Rights Movement. To be fair, I should say that they, too, looked at the issue fairly narrowly, and only in relation to its use by Aboriginal members of the community. That organisation gave lengthy written and verbal evidence to the committee on the need to keep the unsworn statement. It set out in great detail the special powers which have been adopted for police to interrogate Aboriginal people and the reason why the procedures must be different from the procedures followed for other people in the community. It also pointed out that, because of cultural and language differences, Aboriginal people were often likely to give answers which they thought the person wanted to hear. The movement's submission quoted His Honour, Forster J., who, in a Northern Territory judgment in 1976, set out guidelines for police interrogation of Aboriginal persons. In part, the submission said:

Great care should be taken in formulating questions so that so far as possible the answer which is wanted or expected is not suggested in any way. Anything in the nature of cross-examination should be scrupulously avoided as answers to it have no probative value. It should be borne in mind that it is not only the wording of the question, which may suggest the answer, but also the manner and tone of voice which are used.

I want to repeat the second sentence because it is so important in this issue. It says:

Anything in the nature of cross-examination should be scrupulously avoided as answers to it have no probative value.

That is a very telling point and it directly conflicts with the view held by people in favour of abolition, including the Attorney-General, who has said that cross-examination on oath is the most likely means by which we can reach the truth. In contrast to this, an eminent judge says that that is the last way we have of reaching the truth in some cases. That view is shared by experienced criminal barristers. One such barrister is Mr Peter Waye, who made the following comments in a submission to the Attorney-General in support of retaining the unsworn statement for Aboriginal people and other people in the community. In part, he said:

As you know, I have had some experience in criminal law for about 30 years. For many years I have defended tribal or semi-tribalised Aboriginals charged with serious crimes—mostly murder. It is my experience that it is not possible for such an Aboriginal to give evidence before a jury in his defence, for the following reasons:

(1) His inability to comprehend even basic English and the nuances of English.

(2) The tribal Aboriginal has such respect and is in such awe of the person in authority, such as a barrister or a judge, that he will endeavour to give any answer which he feels will please the questioner. If a question is put to him he will answer in the affirmative, even if in fact it is not the correct answer as he knows it.

He then goes on to quote a number of cases where this has been a problem. His next point is as follows:

(3) The tribal Aboriginal cannot comprehend the Western or European concept of an idea. If a tribal Aboriginal is asked why he did something, he can explain the facts and describe what he did, but is unable to give his reason or reasons for doing the same.

The whole atmosphere of a trial and the formality of the court and robes of counsel and judge places the tribal Aboriginal in a position of awe and he is completely overcome by the atmosphere. I have seen a tribal Aboriginal charged with murder entering the dock and faint with fear.

There are other sections of the community whom in my opinion would be greatly disadvantaged if they were obliged to enter the witness box and subject themselves to cross-examination in the presentation of their defence. These include a person with an extremely pronounced stutter; European migrants who are obliged to give their evidence through an interpreter; people of subnormal intelligence. I recently acted for a young man charged with murder, who spent all of his early life in Minda Home and was of very low intelligence. It would have been impossible for him to properly present his defence by way of sworn evidence.

That is a clear statement by an experienced barrister in favour of retaining the unsworn statement. As we heard during the debate previously, there is also considerable support for that point of view from other eminently qualified legal people, including South Australia's former Chief Justice.

The evidence that has been presented to the Select Committee on behalf of Aboriginal people in support of retaining the unsworn statement is very persuasive. If the unsworn statement is useful only in a very few cases, it is a right which should be retained and protected. Having resolved the view that, on balance, it was a good thing to keep the unsworn statement for particular categories of persons, the committee also had to investigate possibilities for reform to deal with the problems of sexual offence cases and to weigh up the relative merits of each course of action.

I want to turn back to the criticisms I outlined earlier and then to talk briefly about some recommendations we made to deal with some of these questions. In relation to the criticism that accused persons in rape trials have abused unsworn statements by introducing false information and making unfair assertions about their alleged victims, the committee made two major recommendations. The first was that unsworn statements should be subject to general rules of evidence.

The second recommendation was that section 34i be tightened up to clarify its intention concerning the admissibility of evidence in the case of unsworn statements. The committee believes that this will go a long way towards eradicating many of the abuses, as long as judges police it properly.

In addition, the committee has recommended that evidence about the accused's past convictions may be introduced if he calls into question the character of prosecution witnesses or makes untrue claims about his own good character. There would also be a right of rebuttal of any false information about prosecution witnesses. Of course, the intention was to prevent past abuses of unsworn statements by introducing a penalty for so doing.

In accordance with recommendations received by the committee, it also recommended that the Evidence Act be amended to extend the discretionary power of the judge to prohibit the publication of any material in an unsworn statement which would be considered derogatory to any person. The intention was to minimise distress caused to witnesses, victims and families of victims where such comments made in such statements, whether true or false, and published, caused embarrassment and distress to those people.

Also, a further measure involves an attempt to tidy up the circumstances surrounding the unsworn statement. The committee recommended that suggestions should be made to the Law Society and the South Australian Bar Association concerning the contents and practice relating to unsworn statements, to try and reduce some of the problems and abuses which have taken place in the past. As I said, the committee believes that these recommendations will go a long way towards overcoming those abuses. However, there are some matters which were raised in evidence, as I outlined earlier, particularly in relation to sexual offences cases which cannot be attributed to the unsworn statement.

The Select Committee identified some of these problems and has recommended that some of these areas be further investigated. One major concern relates to general problems apparent in section 34i, as the Hon. Miss Levy has already pointed out. It is argued by some people—and I certainly agree—that this provision does not give sufficient protection to an alleged victim of a sexual attack from irrelevant questioning regarding her sexual behaviour. I do not intend to go through those arguments here, but I do want to draw attention to that area of the committee's report, because it is an extremely important matter that should be further examined.

The whole problem with this area and with sexual offences cases in general relates to the community's attitude to rape, sexual behaviour and sexual morality. In turn, attitudes on these matters determine such legal questions as what constitutes consent in sexual matters; what information is directly relevant in such cases; and what circumstances justify introduction of certain information in cases dealing with sexual offences. I draw attention to the third paragraph on page 24 of the committee's report, which states:

> The committee recognises the problems in attempting to exclude from consideration by a court details of the sexual experience of the victim of an alleged sexual assault, since clearly in many cases it is the alleged victim's sexual experience which may form the central element in the defendant's belief that consent was not refused to the act of intercourse. No evendential or procedural amendment can overcome this difficulty while the defence to the charge of rape remains as it is, and while some social and sexual attitudes towards women are such that it can be regarded as not unreasonable to assume that a woman who has consented to sexual intercourse on one or even many occasions will probably do so on all occasions. However, in the absence of such a change in social attitudes your committee accepts that the sentiments motivating section 34i provide some safeguards to victims of alleged sexual offences if they are clearly and comprehensively legislatively expressed in legislation and judicially applied.

The committee concludes that many of the concerns raised in relation to sexual offences trials indicated a concern more properly directed towards the operation of section 34i than to the unsworn statement itself. Therefore, it recommends that further consideration be given to it.

One such concern which I raised earlier related to equity and justice in rape cases and the problem that women face when they are subjected to lengthy and traumatic cross-examination on personal details relating to sexual behaviour. The problem is, as the Hon. Miss Levy has pointed out, that the embarrassment and trauma caused to women in such a case through cross-examination will not be lessened by subjecting the accused to cross-examination: women still have to endure the process that they presently undergo. It may give some moral satisfaction for people to see the accused suffering as well, but that is not going to solve the problem that she faces. The injustices and indignities which are suffered by women in rape trials have much more to do with the community attitude to sexual assault and the legal responses which follow from it. This whole area needs much more detailed consideration, and I certainly support the Hon. Miss Levy's suggestion that the Government should at some stage set up a further committee of inquiry to examine that question.

In conclusion, I want to make a few general remarks about the use of the unsworn statement and cover some of the gaps that I have missed. One overriding reason for keeping the unsworn statement is that our legal system is based on the principle that an accused must be proven guilty and that he or she should not have to prove innocence. Therefore, people must have access to the most appropriate means of presenting their defence. As I have said, for some people in our community the unsworn statement provides the best means available to them. Although I do not have any legal training and hesitate to make these judgments, as a lay person looking at the evidence which has been presented to the committee, I believe that this principle overrides the other legal principle which suggests that cross-examination is the best way of arriving at the truth. As many witnesses advised the committee, this is certainly not the case for a number of Aboriginal people in our community. On the question of the use of the unsworn statement, the committee's survey of court records for 1979 and

1980 was revealing in that it showed a considerable reduction in the usage of the unsworn statement since the Mitchell Committee report in 1973. This was new information which has been made available to the Parliament and the community as a result of the Select Committee being set up. I think it is very useful information.

At the time of the Mitchell Committee report, 67 per cent of cases heard in the Supreme Court used unsworn statements as part of the procedure, but by 1979 that percentage had dropped to 34 per cent. In 1980 it was 29 per cent. There have been some suggestions that the acquittal rate is higher for those people who give unsworn statements than for accused persons who give sworn evidence. Again, the committee's survey of the 1979 and 1980 information did not confirm that view. The statistical analysis of the figures for 1979 and 1980 showed that for the two years combined those accused persons making an unsworn statement were significantly more likely to be found guilty than those giving sworn evidence. In sexual offence cases the use of the unsworn statement was not significantly different from the cases overall, nor was the acquittal rate.

So, the committee found that the highest number of people who could have avoided conviction by avoiding cross-examination through use of the unsworn statement over the two-year period would be no more than 13 people. These figures would suggest that the assumed high level of use and abuse of the unsworn statement in South Australia is not borne out by the evidence available.

Finally, I repeat that I believe that the Select Committee's report is a very constructive and fair document. The recommendations that the committee made are very reasonable and are based on the most up-to-date information available to us. I am sure that the recommendations made will overcome the majority of criticisms about sexual offence cases which have been made quite rightly by a number of people in the community but, at the same time, protection will be maintained for disadvantaged people in our community. I support the Bill.

The Hon. FRANK BLEVINS: Like all previous speakers, with the exception of the Attorney-General, I also support the second reading of this Bill. I support the Select Committee's report. I wish to congratulate the Hon. Miss Levy and the Hon. Miss Wiese on their speeches. I believe they have covered the ground sufficiently. It will only be necessary for me to make a few comments. In moving that the Government's Bill on the Evidence Act go to a Select Committee, I made the statement that one of the first principles of medicine, if not the first principle of medicine, is first to do no harm—to do good if you can, but not to aggravate the situation further. It is a very good principle. It seemed to me, when this Bill was before the Council, that although it was intended to do some good within the community, it would also do some harm. I was not convinced that the good it would do would outweigh the harm that it would possibly do to certain people. I therefore moved that the Bill be examined by a Select Committee to see whether the various viewpoints put in the Council could be reconciled. After the Select Committee had met and deliberated on the evidence and had delivered its report, I became convinced that the original Bill of the Government would have done some harm to some people and quite unnecessarily so. At times we have to balance some adverse effects on people with the greater good for all. I think that that is a principle we should use very carefully indeed.

After sitting through the Select Committee I am now convinced that the good in the Bill that the Government introduced would not have outweighed the harm that would have occurred to some people. The people who would have been harmed by the Bill have been spelt out clearly by the previous speakers, so it is not necessary for me to detail them again. One of the most contentious areas that we looked at was the question of the use of the unsworn statement in relation to sexual offences. It is fair to say that the biggest contention with the unsworn statement was that people who were accused of sexual offences were abusing the procedure by introducing material into the unsworn statement that would not have been allowed in sworn evidence. It seems to me that that was not legally permitted but the courts, for whatever reason, had allowed that to occur on occasions. Half of the problems with the unsworn statement in my opinion would not have occurred had the court exercised a proper role. It is against Standing Orders to criticise courts but in this area they deserve some criticism because they did not protect some people when an unsworn statement was being used in a manner in which they should. The courts neglected their duty to varying degrees.

Having grappled with what was a very difficult problem, the Select Committee has come up with some recommendations that will assist in the area of accusations of rape and other sexual offences. As has been stated by the Hon. Barbara Wiese and the Hon. Anne Levy, the fears of the women's movement and their anger at the abuse of the unsworn statement were perhaps misdirected. Most of the incidents they drew to our attention should have been properly directed to section 34i. They believed that section 34i was not protecting in the way in which it was intended. To abolish the unsworn statement would have done little or nothing to solve the problem that they put to us.

The Hon. R. C. DeGaris: Do you still think 34i is a problem?

The Hon. FRANK BLEVINS: Again, I think it is. I will have to say that we did not go into the question of section 34i any more than was absolutely necessary to deal with the question of the unsworn statement. I will reserve my judgment in regard to how much of a problem section 34i is until I consider that section carefully, not as an adjunct to the unsworn statement. It certainly appeared that there were a lot of problems in regard to section 34i, but just how real those problems were or how the Parliament could do anything to sort them out was not readily apparent. Again, it seems to me that not all problems are capable of a neat and tidy solution. I wish they were: it would make life a lot easier for legislators. I do not believe that in the real world that is the case, particularly in regard to sexual offences.

If a person who is accused of rape is to have any kind of defence, and I think we would all concede that a person who is accused of any crime must mount some kind of a defence, inevitably things will become unpleasant for the other party. There is absolutely no way out of it. Of course, we must do everything possible to minimise the unpleasantness and trauma that is associated with rape cases but, by the very nature of the crime, there will never be a neat and tidy pleasant solution. With the best will in the world, I do not believe that Parliament is capable of achieving that. That does not mean that we should not do everything possible to achieve that objective, which I would certainly support. This Bill aims at reducing, as much as practicable, the trauma concerned, and I believe that we have achieved that aim. We have taken many significant steps towards improving the present position in relation to the unsworn statement. The Select Committee certainly convinced me that the unsworn statement should be retained. However, it should not give any advantage to anyone in regard to a person not having to go into the witness box to be cross-examined. No comments should be allowed in an unsworn statement that would be disallowed on oath. If that situation occurred, the defendant would have an unnecessary and

unwarranted advantage. I do not believe that it was ever the intention that the unsworn statement should be used to give the defendant an advantage. I am totally opposed to the defendant's being able to use the unsworn statement to gain some advantage before the court.

The Hon. M. B. Cameron: The way to do that is to abolish the unsworn statement.

The Hon. FRANK BLEVINS: No, it is not. Alternatively, I do not believe that anyone should be disadvantaged by the use of an unsworn statement or that anyone who is a witness should be disadvantaged because an accused has used an unsworn statement. We have attempted in this Bill to make provision for that. The purpose of the unsworn statement is merely to give a defendant the opportunity to put his case without being cross-examined, and that is where it should start and end. Every other procedure of the court should apply, such as limitations on what can be said, rebuttal, and so on, so that there is no advantage or disadvantage to any person before the court.

The matter has been extensively covered by previous speakers, so in conclusion I will refer to one further matter—the rather unfortunate boycott of the Select Committee by members of the Liberal Party. I believe that both the Select Committee and Liberal Party members of this Council lost something because of that boycott. Their input into the Select Committee would have been valuable, if my impression of their input on other Select Committees on which I have served is any indication, and I see no reason why things would have been different in this regard. While those members opposed the setting up of the Select Committee, after the Council decided to set it up, their contribution would have been very valuable.

The Hon. M. B. Cameron: It was very straightforward. We had an election policy, and you were denying our policy.

The Hon. FRANK BLEVINS: The Hon. Mr Cameron says that the position is very clear. That is a nice, simplistic attitude.

The Hon. M. B. Cameron: It used to be your attitude.

The Hon. FRANK BLEVINS: It was never our attitude. I know that the member for Elizabeth in another place stated that he was in favour of the abolition of the unsworn statement.

The Hon. K. T. Griffin: As Attorney-General.

The Hon. FRANK BLEVINS: Yes, as Attorney-General. It was never Labor Party policy, so members opposite should get things straight. I believe that another member in this Council has also commented about the abolition of the unsworn statement. However, those people have been big enough, after considering the question—

The Hon. J. A. Carnie: They were doing what they were told.

The Hon. FRANK BLEVINS: They were not doing as they were told at all, and I will come to that in a moment. They were big enough to examine the issue in more detail, and they came to the conclusion that perhaps that was not the best way to tackle the problem after all. It seems to me that, if Legislative Councillors in particular condemn someone who, after further consideration and study, adopted a change of attitude, it is pretty appalling. I understood that Liberal members of this Council claimed that a person should make up his mind only after the fullest possible consideration. That is what occurred in these two cases. Rather than condemning those people, they should be congratulated. The Hon. Mr Carnie stated that they had done as they were told.

The Hon. M. B. Cameron: They were not his exact words.

The Hon. FRANK BLEVINS: They were something very similar.

The Hon. J. A. Carnie: That is accurate enough.

The Hon. FRANK BLEVINS: Of the six members of the Select Committee, I would say that two were in favour of abolition of the unsworn statement, another member believed in retention, and the other three members were neutral, not having given the matter a great deal of consideration to that stage before the Bill came before the Council. I do not see how members opposite can say that people had been told to toe the line. There was no Party line in regard to this matter. If there was a Party line, it was what Peter Duncan said when he was Attorney-General. That was not Party policy but Mr Duncan's personal view. He expressed that view. There was no Party policy; however, some of us were marginally in favour of abolition, some marginally against abolition and other members wanted to see the evidence before they came to any decision, because they had no strong opinion any way.

I am sure that the Hon. Mr Milne will concur with me when I say that that was the way in which the Select Committee operated. As the evidence was presented, I believe that the views ebbed and flowed. If one sits in a court, his opinions differ, whether it is in the Industrial Court or in an ordinary court. Opinions differ as the evidence comes out. One point may be a clincher but, as things develop, one realises that things are not quite as simple as was believed. I regret very much that the Liberal Party did not contribute to the Select Committee.

Once again, I will briefly comment on the Government's attempt to deny the Select Committee the means to carry out its function properly. The Council passed a resolution on that matter, so I will not go over all the details again. There is no doubt in my mind that the Government attempted to restrict the Select Committee from having access to research assistance, secretarial assistance and other assistance. Quite frankly, I believe the Government's action amounted to contempt of Parliament. It was the height of impertinance for the Government to attempt to interfere with a decision of Parliament.

I have my own thoughts about this particular Chamber, and I have expressed those thoughts many times. However, just because I do not particularly like this forum it does not mean that it will go away. Whilst this Chamber is part of the Parliament of South Australia any decision that it takes should not be frustrated by the Government. That is what the Government attempted to do. Like the Hon. Mr DeGaris, I hope that other members of the Liberal Party in this Council will look at this Bill fairly and will agree with the decision made by the Select Committee. The evidence is there to be looked at.

It is a pity that the Hon. Mr DeGaris did not read the evidence. All he has done is to take a few statistics out of the report and then draw up a rather strange balance sheet. He said that nine people made submissions supporting abolition and that six opposed abolition. The overwhelming weight of the evidence presented to the Select Committee, along with other material sought by the committee, favoured retention.

The Hon. M. B. Cameron: In your opinion.

The Hon. FRANK BLEVINS: Everything is in my opinion, and it is my opinion that counts for me.

The Hon. M. B. Cameron: The Hon. Mr DeGaris is allowed to have his opinion, too.

The Hon. FRANK BLEVINS: He is allowed his opinion, but I suggest, with the greatest respect, that his opinion was not formed after reading the evidence presented to the Select Committee.

The Hon. R. C. DeGaris: I did not express an opinion—I quoted what was in the report.

The Hon. FRANK BLEVINS: I just said that. The Hon. Mr DeGaris said that the weight of evidence favoured abolition. That is absolutely untrue. That is using statistics

in a completely unrealistic way. The Hon. Mr DeGaris gave no weight to the depth of the submissions presented to the committee. Has the Hon. Mr DeGaris read the evidence presented to the Select Committee?

The Hon. R. C. DeGaris: No, I read the report.

The Hon. FRANK BLEVINS: Until the Hon. Mr DeGaris has read all the evidence I suggest that he does not say that members of the Select Committee took a decision against the weight of the evidence.

The Hon. R. C. DeGaris: Against the numerical weight of the evidence.

The Hon. FRANK BLEVINS: That is not what the Hon. Mr DeGaris said.

The Hon. R. C. DeGaris: I've corrected that.

The Hon. FRANK BLEVINS: The Hon. Mr DeGaris has corrected himself, because he made a complete hash of it, and in the process he made himself look even sillier than he is. The Hon. Mr DeGaris would have been far better to leave that matter alone until he had read the evidence. The evidence overwhelmingly favoured retention with reforms.

The Hon. R. C. DeGaris: How many submissions favoured the recommendations made by the Select Committee?

The Hon. FRANK BLEVINS: Our recommendation was unique.

The Hon. R. C. DeGaris: Two?

The Hon. FRANK BLEVINS: No, I would argue with that. Our recommendation is unique. It is a product of six members of the committee. I have no idea whether all members of the community will agree with the recommendations 100 per cent, but I know that at least six do, that is, the six members of the Select Committee. Whether it suits other members of the community 100 per cent is entirely a matter for them. The report of the Select Committee and this Bill are completely in line with the evidence presented to the committee. I do not think that any reasonable member, having sat through that Select Committee, could have come to a different conclusion. If there was strong evidence in favour of abolition it did not come before the Select Committee.

The Attorney-General did not put a submission to the Select Committee and, again, that was regretted. Had members of the Liberal Party in this Council been present, any strong case for abolition could have been drawn out by those members. The Select Committee lost something because of that, and so did the Liberal members of this Parliament through their actions. I strongly support the Bill and hope that other members of the Liberal Party besides the Hon. Mr DeGaris will look at it impartially and, like members on this side and the Australian Democrats, will support it.

The Hon. J. A. CARNIE secured the adjournment of the debate.

ELECTORAL ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 28 October. Page 1624).

The Hon. R. C. DeGARIS: In explaining his Bill, the Hon. Mr Sumner pointed out that it makes misleading advertising illegal during an election campaign. The Bill provides that an application may be made to a court for an injunction to prohibit such misleading advertising being published again and to order a correction of the facts that are misleading. That is the purport of the Bill now before the Council. Those comments by the Leader in his second reading explanation illustrate one of the difficulties in legislation of this type. The Leader said that a court can order a correction on the facts which are deemed to be misleading. Perhaps I could ask the leader how a fact could be misleading, yet that is what the Leader of the Labor Party wants us to pass into legislation.

The Hon. Frank Blevins: That's not in the Bill; it's only in the second reading explanation.

The Hon. R. C. DeGARIS: If the Leader cannot explain the Bill in language that we can understand, how can the court interpret what is a misleading statement?

The Hon. G. L. Bruce: If it's untrue.

The Hon. R. C. DeGARIS: Exactly. We all tend to believe that the advertisements by our political opponents are inaccurate and misleading. What is more, we are all probably right.

The Hon. J. E. Dunford: We are, for sure.

The Hon. R. C. DeGARIS: We are all probably right. I remember an advertisement in the 1975 election campaign when the Labor Party claimed that a deal made between Mr Whitlam and Mr Dunstan in relation to our railways was worth $800 000 000 to South Australia. We can argue whether that advertisement was misleading, once again without any resolution of the truth of the advertisement. However, in the 1975 election the Liberal Party outpolled the Labor Party in the preferred vote but did not win a majority of seats.

The Hon. M. B. Cameron: That was when Sumner should not have been here.

The Hon. R. C. DeGARIS: That is true; not only that, but the Labor Party should not have been in office in the House of Assembly.

The Hon. Frank Blevins: Why? An Independent supported the Labor Party, just as Stott supported the Liberal Party—

The Hon. R. C. DeGARIS: You are wrong.

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: In the 1975 election, the Labor Party, in a preferred vote, polled a shade over 49 per cent of the vote and the Liberal Party polled almost 51 per cent of the preferred vote, yet the Liberal Party was in Opposition.

The Hon. J. E. Dunford: What happens in Queensland?

The Hon. R. C. DeGARIS: I am not concerned about that. I am talking about the question of an advertisement in an election campaign relating to a railway deal worth $800 000 000. If, a few months after a Government took office, action was taken and an advertisement was found to be totally misleading, what would be the position of that Government? One of the real reasons for the large shift of support to the Liberal Party was that many people did not believe the Labor Party advertisement, so misleading advertisements often carry with them their own political penalty. People realised how grossly inaccurate that was, and that reacted against the Labor Party. I do not intend to go through all the advertisements and discuss whether they were misleading, but there are many others that one could examine on both sides of politics.

The Hon. N. K. Foster: On all sides.

The Hon. R. C. DeGARIS: That is right. The question we must answer is whether the Bill solves any of the problems that concern all of us, and the answer is 'No'. It is a ridiculous Bill that cannot operate. At present, if anything is done in an election campaign whereby a candidate is defeated because of tactics, there is the Court of Disputed Returns, which was used in the case of the District of Norwood. I suggest that that is the best action to take on an advertisement or in any other way regarding tactics that have been used and regarding whether there should be another election. If the Bill becomes part of our Statutes, it will complicate the situation so that no-one will know

what is the law. Therefore, I have no hesitation in strongly opposing the Bill.

The Hon. N. K. FOSTER: Much has been said in my absence but I think I can guess what it has been. A form of false advertising takes place in the electronic media, the news media, and in respect of banners and things of that kind. It also now takes place with recorded programmes by an individual. I refer to the Galston Gorge case in the Federal election campaign of 1974, where there was some sort of vague understanding that there was a possibility of an airport being built near Galston Gorge. One could not think of a worse place in New South Wales for an airport, but the rumour gained weight.

It was common for the Liberal candidate for the Division of Parramatta to go up and down the streets of most suburbs in a London bus that had a huge loudspeaker on top and he would blare, in highly amplified sound, the noise of a Boeing 747 jet taking off and announce that that was what the Labor Party was going to do to the district. There is no doubt about what that did to the Labor Party. That was a form of false advertising and it should not be permitted.

I also recall that in 1969 I was not falsely advertising my candidature for the Division of Sturt. After being approached to stand for various districts that became available after a redistribution and refusing to do that, the Secretary of the Labor Party asked me whether I would run for the Division of Sturt. I regret that I ever did, but that is by the way. I said that I would stand but that we could not possibly win Sturt.

The Hon. R. C. DeGaris: You didn't win it: he lost it.

The Hon. N. K. FOSTER: That is quite right. The lousy devil did not lift a finger. I worked at getting a committee where none had existed and I got close to 30 per cent of the votes in what is now the District of Davenport. That was no mean task. He was defeated by 43 votes. They had a million and one votes to count until the returning officer said, 'No more, I am satisfied the count is correct.' The Hon. Mr Cameron was out there trying to hook up votes.

The Hon. M. B. Cameron: I never went near the votes.

The Hon. N. K. FOSTER: He shakes his head the wrong way. A fellow by the name of Mr Presley was the Returning Officer for the Division of Sturt.

The Hon. R. C. DeGaris: Elvis?

The Hon. N. K. FOSTER: It wasn't Elvis. We had a couple of caravans where we erected a sign saying who our candidate was for Sturt. This sign by law had to be about 24 inches, by so-and-so. We erected the sign 35 feet long. The Liberal machine was driving the Returning Officer mad about these huge signs. It said that they contravened the Act.

The Hon. R. C. DeGaris: Your signs?

The Hon. N. K. FOSTER: Yes, they contravened the Act. I knew that they contravened the Act. I did not think that we were going to win. When the Liberal Party got worried I started to become frightened, and I knew then we were going to win. I then said to the Returning Officer, 'Those good doctors that are ringing you up and getting you out of the shower at 5 o'clock in the morning are dead right. There is no need for you as Returning Officer to keep telling me that my signs contravene the Act. However, if you look closely at the placards you will find that on the caravans the sign says, "Campaign headquarters".' That got me out of a spot of bother. If we won and the matter was to be contested, that was something they could do in the courts afterwards. Never mind about the losers; if you are the winner it is the losers that have to prove the case against you. Therein lies the difficulty. The Liberals in those days used to accuse me of false advertising.

The Hon. M. B. Cameron: You are backing Mr DeGaris's argument.

The Hon. N. K. FOSTER: I am going through it on the basis of honesty. I have talked about 1969. I want to go over some of the other areas that are far more serious than this. If you want to talk about malpractices in elections, this is one particular aspect of that. What happened in 1974 was more disgraceful. In the Senate elections in New South Wales there were some 90-odd candidates.

The Hon. J. C. Burdett: Is this about this Bill?

The Hon. N. K. FOSTER: Yes, it is. It was an election, and this Bill has something to do with elections, although it relates particularly to false advertising. Advertising, if you look at an Oxford or another good dictionary, is a very broad term, involving many areas. I do not know whether the Bill when carried—and I hope it is carried—will bear any weight. In New South Wales, in the Senate election in 1974, it took three months to count the votes and Federal Parliament could not sit because the position was so confused. This was purposely done by the Liberal Party.

The Hon. J. C. Burdett: Rubbish!

The Hon. N. K. FOSTER: That confirms my story. He said it is rubbish.

The Hon. J. C. Burdett: It was rubbish.

The Hon. N. K. FOSTER: The Liberal Party created a situation in which there were almost 90 candidates. I am not sure of the exact number—it could have been 84.

The Hon. R. C. DeGaris: What year is this?

The Hon. N. K. FOSTER: That was 1974.

The Hon. R. C. DeGaris: The double dissolution? There were 94 candidates.

The Hon. N. K. FOSTER: Yes, what an absolutely ridiculous situation! Most of them were nominated by the Liberal Party.

The Hon. R. C. DeGaris: Why do you say that?

The Hon. N. K. FOSTER: The Liberal Party boasted about it. The whole problem of advertising at elections needs to be looked at. Members of this Chamber should listen to what I have to say in respect of electoral matters in this State. It is all very well for members opposite to jump up and down and say certain things ought to be done in relation to elections in trade unions or wherever, but they never raise their voices about the manner in which members are elected to boards and so on in their own particular arena.

I remind members of what I had to say in respect of a Bill introduced in this place last year regarding local government elections. Members who sit on Government benches saw some merit in that legislation. A few weeks ago we saw a person elected, with less than 1 per cent of the vote, to a position in local government. I think it was in the Hectorville ward of the Campbelltown council that one candidate won with the magnificent total of 32 votes; his nearest rival got 28 votes. I would not want to work out the percentage of votes that that represented in that particular ward. Last year, honourable members sat here and argued the point with me during the Committee stage of that particular Bill regarding the great reforms that it would make to the Local Government Act, in relation to nominations and so forth. They were not prepared to listen to me when I said that the relevant provisions should be lifted directly from the Federal Act and taken as a guide in regard to the calling of nominations.

Today, we hear the Hon. Mr DeGaris talking about advertisements, and so on. I have referred to various matters to draw attention to the fact that this whole ambit of the Electoral Act, in respect of the media, should be looked at more closely. It might well be a matter for a Select Committee of this place to consider. Dr Ritson asked a question about entering tertiary schools and talking to school stu-

dents about political matters. I remember that I was ruled out of order in this place by a previous President, the late Mr Potter, because I asked a question about politics, and he told me that I could not ask that question because it was a political question. That is in *Hansard*. The point I want to make is that aspersions are cast on politicians who go into schools. Dean Jaensch has had something to say about how he feels that political questions should be dealt with in schools. What members fail to realise is that even Matriculation students are of voting age. They have been in the education system since they commenced in kindergarten.

From time to time not only politicians but also officers of electoral departments declare that politics should not be taken into schools or pamphlets handed out at the gate. Yet, at election time pamphlets are handed out at the gates of some school yards, and people who were students there not long before vote at the election. Consideration should be given by a Select Committee of this Chamber to the various abuses that take place under the present legislation in respect of elections at the local government, State Government, and Federal level. I have in mind an organisation that was asked questions by a senior officer of a State Government department as to why it had run a candidate at the more recent elections when it was asking the Government, through the department, to renew or pay an annual grant that this organisation had received for a number of years. The Government should consider a wide-ranging inquiry into these matters perhaps through a Select Committee, and in that way provide us with a much improved Electoral Act.

The Hon. K. L. MILNE: It is rather unfortunate that the Liberal Party said in its defence in this matter that there is a difference between political advertising, where one can do as one likes and in commercial advertising, where the Government has insisted that everyone tells the truth. That is not good enough. If anything, the situation should be the other way around. With the power of the media today, political advertising should be strictly controlled because it can mislead people, as I intend to demonstrate in a moment.

The Government's attitude is that politics is a game, a Liberal-Labor club, and that those Parties can do what they like, but it is not the same game when one is in the Australian Democrats' position. If the Government goes on like this, it will be in our position.

I refer to the situation that obtained in Perth at the last Federal election. In an advertisement, the Liberal Party stated, amongst other things, that a vote for the Democrats could end up as a vote for Labor. In no way would it be a vote for Labor. Did the Liberal Party mean to twist its reference to include preferential voting? If that was so, it should have said so. That was blatant and dishonest advertising. As a result of Charlie Court's putting the fear of God into the people, our candidate lost the last seat by 129 votes. That is what the Liberals did, and I hope that the Government is happy about it.

The Hon. M. B. Cameron: We are.

The Hon. K. L. MILNE: The honourable member would be. He should just remember that when his turn comes. The Liberal Party should not expect any sympathy from me. I hope that Sir Charles Court will also remember it. We took that matter to the High Court for decision, as did the Labor Party which was also aggrieved. The High Court took the extraordinary view that it did not matter how misleading the advertisements were, provided that they did not influence the person actually going into the polling booth to vote. How ridiculous can one get?

The Hon. J. A. Carnie: Are you questioning the High Court's decision?

The Hon. K. L. MILNE: Am I what! So would the honourable member. He should ask Robin Millhouse what he went through.

The Hon. M. B. Cameron: Poor fellow!

The Hon. G. L. Bruce: You'll not get any sympathy over there.

The Hon. K. L. MILNE: I do not want any.

The Hon. J. E. Dunford: They'll want your vote.

The Hon. K. L. MILNE: If they go on like that, that is cancelled forever. The High Court decision may have been correct according to law, but it was a ridiculous decision to a proper grievance from the Australian Democrats and the Australian Labor Party. The High Court has whitewashed the whole thing, and the Liberals can do that again. What should have happened, in my view, is that the High Court should have said that it could not rule that that action was unfair or misleading because of the wording of the Act, and that the Act should be reworded.

I now come to the State election in which I was elected and since which all honourable members have been so pleasant and helpful! I will again refer to an election advertisement, but not at the great length to which I referred to it in my maiden speech. The two crucial sentences in the advertisement for the Legislative Council stated:

> Your vote for any Party other than Liberal or Labor may not be counted.
>
> The peculiar system of voting for the South Australian Legislative Council means that votes cast for any group other than the major Parties may result in preferences not being distributed.

Members interjecting:

The Hon. K. L. MILNE: That was the dirtiest thing you two ever did—

The Hon. J. C. Burdett: We didn't do that.

The Hon. K. L. MILNE: The Labor Party did it and you agreed to it. It is disgraceful.

Members interjecting:

The Hon. K. L. MILNE: Well, you knew it was wrong and you put it straight.

Members interjecting:

The PRESIDENT: Order!

The Hon. K. L. MILNE: What would the uninformed elector think (and that means most of them)? What would they conclude from that first sentence? The Liberal Party should not tell me that it did not deceive them. Robin Millhouse's electorate office, which was the only electorate office we had at that time (it is the only one that we have now), was inundated with complaints. In my maiden speech I said:

> If that is all the Liberal Party meant to convey in that first sentence, it could have done it more accurately by saying that, 'If you vote for any Party other than Liberal or Labor, your second preference may not be counted.'

People did not know that the combined scheme was to defeat the Liberal Movement. It nearly defeated me, but for my good campaign, outstanding personality and ability which got me through that dirty trick. The fact is that the telephones were literally jammed. We could afford two telephones, and they were jammed for days after that, especially when the advertisement appeared twice right near the end—dirty tricks again. People were asking why they could not vote for the Australian Democrats. The advertisement did what it was meant to do—it misled hundreds of people, and our vote in the Lower House, compared with our vote for this Chamber, proved it.

Members interjecting:

The Hon. K. L. MILNE: Your system cancelled anyone else's preferences.

The PRESIDENT: Order! Enough of this has gone on. If the Hon. Mr Milne wants to make his point he ought to do so.

The Hon. K. L. MILNE: I am making it very well. I am asking you, Mr President, to support me when the Government is treating me like this, which is most unfair.

The PRESIDENT: I can support you more easily if you address the Chair.

The Hon. Hon. K. L. MILNE: I have referred to instances that have occurred. Those people with the most money to spend offend the most, yet they have the least excuse, and I hope that for the dignity of Parliament, and the system of this Parliament in particular, they do not do so again.

The Hon. M. B. CAMERON secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

The Hon. C. M. HILL (Minister of Local Government) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received. Ordered that report be printed.

The Hon. C. M. HILL: I move:

That the Bill be not reprinted as amended by the Select Committee and that the Bill be recommitted to a Committee of the Whole on the next day of sitting.

Motion carred.

LICENSING ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Community Welfare) obtained leave and introduced a Bill for an Act to amend the Licensing Act, 1967-1980. Read a first time.

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

That this Bill be now read a second time.

It introduces a rebate for low alcohol liquor, alters the system of liquor licence fees payable under the Licensing Act, 1967-1981, and increases some fees payable under the Act. In February 1981 a departmental working party was established to examine the feasibility and ramifications of reducing the liquor licence fee for low alcohol liquor following initiatives undertaken in Victoria. After considering the issues involved and examining available reports and statistics, the working party concluded that a reduction in liquor licence fees for low alcohol beer and wine is feasible and warranted as a step towards lowering the road toll in South Australia.

The Government is concerned with the carnage occurring on our roads and it is clear that alcohol is a contributing factor. However, the problem of alcohol abuse is much wider and includes health and social problems such as alcoholism, alcoholic illnesses such as brain damage and cirrhosis, drink driving, family disruption, marital breakdowns and ultimately the costs of health and social problems to the community. The report of the Select Committee of the Legislative Council on assessment of random breath tests recommend that licence fees for low alcohol liquor be reduced. On page 20 of the committee's report, it is stated that a lower level of State taxes should apply for l.a. beverages to encourage lower blood alcohol levels for the same amount of liquor consumed. It is clear that Australia's drink associated problems can only be diminished by reducing levels of alcohol consumption. One way to achieve this is to encourage the production of low alcohol drinks.

Two South Australian wineries have marketed low alcohol wine but until recently only one of the wines, described as a blend, was sold locally due to requirements under the Food and Drugs Act regulating the minimum alcohol content of wine and spirits. However, the Food and Drug Advisory Committee last year recommended changes to allow the sale of wine with less than the then required 8 per cent by volume of alcohol. The regulations under the Food and Drug Act have been amended to allow the sale in South Australia of wine with a modified alcohol content. The two wines produced locally contain an alcoholic content of between about 5 per cent to 6.5 per cent compared with 10 per cent to 12 per cent for normal table wines. Both low alcohol wines are now sold in South Australia. In addition, two local breweries produce low alcohol beer, and several other such beers which are produced interstate are available in South Australia.

Although low alcohol beers and wines account for a small percentage of the South Australian liquor market, measures should be introduced to increase the consumption of low alcohol liquor. Therefore, the Government has decided to reduce the licence fees applicable for the sale of such liquor. It is hoped that the introduction of random breath tests in this State, together with the reduction in fees for the sale of low alcohol liquor, will encourage the substitution of low alcohol liquor for stronger drinks.

Licence fees payable under section 37 of the Licensing Act are presently calculated at 8 per cent of the gross amount paid or payable for liquor purchased for the purposes of the licence during the 12 months ending on 30 June preceding the date of application for a grant or renewal of the licence. 'Gross amount' is defined in section 37 as '. . . the amount paid or payable for liquor including any duties other than sales tax thereon but excluding packing, delivery and freight charges.' This Bill provides that, in relation to low alcohol liquor, the licence fee shall be only 2 per cent of the gross amount paid or payable for such liquor. At the same time, the rate of calculating fees on normal liquor wholesale purchases is to be increased by 1 per cent. This will more than cover the shortfall in revenue from the new reduced low alcohol fees and bring South Australian licence fees into line with those charged in Victoria.

The Bill leaves to regulation the prescription of the volume of alcohol which liquor must contain before it can be classed as 'low alcohol'. It is envisaged that the maximum proportion of alcohol allowable will be 3.8 per cent in the case of beer and 6.8 per cent for wine. All low alcohol products now on the market in South Australia fall within these limits. Australian beer and Australian wine do not attract sales tax but imported beer, imported wine and all spirits attract sales tax at a rate of 15 per cent. No other State in Australia excludes sales tax in the definition of the amount paid or payable for liquor for calculating licence fees. This Bill amends the Licensing Act to bring South Australia into line with other States.

The Bill also increases the parameters of several other fees payable under the Act. These parameters have not been altered for several years and are increased to accommodate inflation since their determination, and more realistically to reflect the costs of administering the relevant licences. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the amendments on 1 January 1982. Clause 3 amends section 37 of the principal Act. Paragraph (a) rewrites subsection (1) in a form that is both more concise and comprehensible than the existing provision. The percentage prescribed in paragraph (b) of subsection (1) for the calculation of fees for wholesale storekeepers' licences and the other licences referred to in that paragraph is four-

fifths of the percentage prescribed for other licences. This reflects the existing provisions in respect of these licences. Paragraph (b) increases the fees that may be fixed in respect of club licences. Paragraph (c) adds new subsections (5) and (6) to section 37 of the principal Act. New subsection (5) provides definitions of terms used in the section and subsection (6) prescribes certain requirements in calculating the gross amount under the section.

Clause 4 makes consequential charges to section 39 of the principal Act. Clause 5 increases the limits of fees that may be prescribed under section 66a in respect of reception house permits. Clause 6 increases the limits of fees that may be prescribed under section 67 in respect of permits for the supply of liquor to a club.

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

INDUSTRIAL SAFETY, HEALTH AND WELFARE ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

This short Bill provides for amendments to the principal Act, the Industrial Safety, Health and Welfare Act, 1972-1978, designed to facilitate introduction by the Department of Industrial Affairs and Employment of a system of single annual application and billing for registrations and licences under the various Acts administered by the department.

This proposal results from an examination of the department's registration and licensing procedures conducted in association with bodies representing the interests of businesses affected and has their support. Although the department has received few complaints concerning the paperwork required to comply with existing procedures, it is considered that those procedures may impose a significant burden on small businesses in particular.

To enable the new system to be implemented, it is necessary to make certain legislative amendments. Although most of these changes require amendment only to the relevant regulations, certain minor amendments need to be made to section 24 of the Industrial Safety, Health and Welfare Act that deals with registration of industrial premises. The proposed changes will facilitate registration renewal periods of less than one year with payment of fees on a *pro rata* basis to enable existing registration expiry dates to have a common renewal date in respect of each business. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 24 of the principal Act which provides for the registration of industrial premises. The clause amends this section so that it authorises the granting or renewal of registration for a period fixed by the permanent head and the fixing of fees that vary according to the period for which registration is granted or renewed.

The Hon. FRANK BLEVINS secured the adjournment of the debate.

RIVER TORRENS (LINEAR PARK) BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 1769.)

The Hon. C. M. HILL (Minister of Local Government): I thank honourable members for the attention that they have given to this Bill. When the Hon. Mr Chatterton spoke yesterday for the Opposition, he gave general support to the measure, but he asked questions and sought replies. I hope that the replies that I will now give will convince him, if he listens intently, and will ensure his full support through the Committee stage. First, he asked why the legislation was necessary, and why the powers of acquisition under the previous legislation are inadequate.

The answer is that the River Torrens Land Acquisition Act, 1970-1972, was enacted for the purpose of bringing the 'bed and banks' only (up to a maximum of 60 metres from the centre of the river) into public ownership. The new legislation is quite clearly for a different purpose, that is, the acquisition of the land necessary for the River Torrens linear park and flood mitigation scheme. Obviously, the new Act includes some land covered by the River Torrens Land Acquisition Act but, as shown in the report on the River Torrens linear park scheme, provides for the acquisition of additional land.

The honourable member also asked whether the Minister would confirm that the Bill provides for the acquisition of only that land shown in the report of the Torrens River study as necessary for the River Torrens linear park. The answer is that the co-ordinated development scheme, as shown in the report, is quite clearly a concept proposal. The plans do not, in all instances, precisely define the outer limits of the linear park, although the intent (as to extent) is quite clear. Similarly, the plans do not precisely identify the route and width of the north-east public transport facility but clearly indicate that the land required for the north-east public transport facility is excluded from the scheme.

The planned north-east public transport facility will, in fact, follow very closely the general alignment shown in the report and the intent of the legislation in this respect is again very clear. I also make quite clear that there will be no compulsory acquisition of land beyond the outer boundaries of the linear park as shown in the report. If anything, less land will be acquired because some developments have taken place since the report was completed. However, this will not alter the basic concept of the linear park as described in the report.

A further question was this: how does the Government intend to deal with the situation where additional land is necessary and where the report would have to be amended? The answer is that it is not proposed to compulsorily acquire additional land beyond the outer boundaries of the land shown on the plans. Incidentally, it is possible that an owner may voluntarily offer additional land and a decision on its purchase would have to be made by the Government at that time.

The last question was this: how would such amendments to the report be carried out. The answer is that no amendments are contemplated to the concept contained in the report and which would involve the compulsory acquisition of land outside the outer boundaries of the linear park. If such an unlikely event was to occur, the amended plan would be placed on public display and considered by the Parliament.

It is worthwhile noting, I suggest, that it would have been impractical to survey the land prior to proceeding with this Bill. Obviously, within the concept of the linear park as shown in the report, the Government will attempt to accommodate the wishes of affected landowners during

negotiations to precisely identify the boundaries of land to be acquired.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

FORESTRY ACT AMENDMENT BILL

In Committee.

(Continued from 10 November. Page 1770.)

Clauses 2 and 3 passed.

Clause 4—'Forest reserves and native forest reserves.'

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

Page 2, line 15—Before 'declare' insert 'for purposes relating to the conservation, development and management of land supporting native flora and fauna,'.

There is an amendment on file in the name of the Hon. Anne Levy that addresses the same matter. I discussed this question with the honourable member yesterday and she agreed not to move her amendment. Therefore, I have moved my amendment. The amendment takes care of the matter that the Hon. Anne Levy raised during the second reading stage, namely, in what circumstances a declaration could be made. Her amendment dealt with flora only, but this amendment deals also with fauna. It makes the distinction of managing the land which supports the flora, and that seems to be more accurate. Because questions were raised in the second reading stage, I will answer them now. They relate to the Bill in general.

The Hon. Anne Levy raised a question in regard to warden staffing, and the answer is that the situation at present is that the Public Service employees of the Woods and Forests Department carry out the very specific function of acting as wardens on site, both on working weekdays and in some cases on weekends to ensure that the sort of property that the Bill addresses is not unduly damaged by the public.

Whether or not, as a result of acquiring or proclaiming additional lands for this purpose the Government will need to employ more wardens in that category will undoubtedly be determined at that time, but the Minister of Forests is not aware of any proposed advertisement seeking additional employees in the immediate future.

The Hon. ANNE LEVY: I concur with the Minister's comments. I will not proceed with my amendment, because the Government amendment encompasses the object of my amendment. The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 5 to 7 passed.

Clause 8—'Appointment of forest wardens.'

The Hon. B. A. CHATTERTON: I refer to the seizure of material that could be regarded as evidence in the commission of an offence. This clause allows a person to recover damages from the Minister if any seized material is damaged or has deteriorated whilst in the care of the Minister. However, that must be done through a court. Is it necessary to refer such a matter to a court if it can be settled amicably between the Minister and the person concerned? Is it always necessary for a claimant to take action in a court to recover any loss that he may suffer through damage to any of his property seized by the Minister?

The Hon. J. C. BURDETT: It is always possible to settle a matter without going to court if the Minister and the party aggrieved can arrive at a settlement that can be dealt with, if possible, through *ex gratia* payments.

The Hon. B. A. Chatterton: That is not the way I read the clause.

The Hon. J. C. BURDETT: That can always be done. This clause preserves the right of the subject. As a last resort an aggrieved person can obtain an order against the Minister in a court, and it must be paid if the court so orders. There is nothing to stop an *ex gratia* payment, which must go before Cabinet, from being arrived at. This clause does not restrict the rights of a subject: it expands the rights of a subject. It makes it quite clear that as a last resort a subject has the right to go to court and if he obtains a favourable judgment it will be paid.

Clause passed.

Clauses 9 to 15 passed.

Clause 16—'Repeal of section 22.'

The Hon. J. C. BURDETT: Yesterday the Hon. Miss Levy and the Hon. Mr Chatterton both raised questions in relation to this clause. The Minister of Agriculture has provided the following answer: in recent past years and certainly in the current year and in the foreseeable future the Woods and Forests Department will be self-generating in its financial areas, for the purpose of its own expenditure, plus, indeed, as has been demonstrated in this financial year, a contributor to the general revenue fund. I can further say to the Committee that as of the end of next financial year it is not anticipated to require any further loan funds for the purposes of maintaining and expanding our forestry operations in South Australia. So, against the current and foreseeable financial background, there is no need for section 22 to remain in the Act; hence its repeal at this time.

Recent amendments to the Public Finance Act allowed provision for the operation of deposit account transactions of deposit accounts by Government departments. There is no longer any need for a provision in the Forestry Act to cover appropriation of funds utilised by the Woods and Forests Department. All of the funding, apart from some loan borrowings for capital works, is provided from moneys the department receives from the sale of its products and is processed through a deposit account authorised by section 36 of the Public Finance Act.

The Hon. B. A. CHATTERTON: During debate on the Public Finance Act I questioned the extent of public scrutiny of those deposit accounts. How will Parliament scrutinise deposit accounts?

The Hon. J. C. BURDETT: I cannot say how those accounts will be scrutinised by Parliament. However, I assure the honourable member that that will be done. Obviously, it is proper that accounts of this magnitude should be scrutinised. I assure the honourable member that that will be done.

Clause passed.

Title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 1775.)

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate the indication that the Leader has given that the Opposition will support the Bill to implement a rationalisation of penalties in certain areas of the criminal law as well as to increase penalties for crimes of violence and related crimes. The Leader has said that it is implied in the second reading explanation that this Bill will automatically reduce the crime rate. There is nothing in the Bill implying that, nor can that be claimed expressly as a reason for the measure.

It is quite clear that the penalties for some crimes of violence are inadequate and that some parts of the Criminal Law Consolidation Act are overdue for rationalisation. This is what the Bill is directed towards doing. It is also important to recognise that this measure is only one part of many initiatives to deal with the whole area of crime and punishment. The Government does not claim that, by this legislation alone, crime will fall, but it is one of the ingredients that form a parcel of initiatives, which I have outlined in this Council on a number of occasions and more recently before the Estimates Committee, that the Government is implementing, designed to reassure the public of its concern to deal appropriately with offenders. It is an initiative towards relieving the difficult consequences of crime. However, I say once again that it is one initiative of many that this Government is taking in that area.

Towards the end of his speech the Leader raised the question about the offence of common assault, suggesting that because the penalty is being increased from 12 months to three years the Magistrates Court will no longer have jurisdiction to deal with at least some part of those offences summarily. What was not made clear by me (and I regret that this was so) was that, in a Bill that I will introduce tomorrow, that matter will be addressed. There will be an adjustment of the definition of minor indictable offences, which will be related more to group 3 offences, so for many common assaults it will still be possible for the offence to be dealt with in the Magistrates Court summarily, although the accused may elect to go to trial by jury in the District Court.

I believe that the difficulty to which quite properly the Leader has drawn attention will be overcome in the Bill that will be introduced tomorrow. Whilst I expect to move to the Committee stage this afternoon, I would intend that progress be reported at an early stage and that the matter remain at that stage until the Leader has had an opportunity to examine the Bill that is introduced tomorrow and to satisfy himself that the problem has been adequately dealt with. I give that indication at this stage because I want to ensure that that problem is adequately dealt with from everyone's point of view. I thank members for their attention to the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

BUILDING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October. Page 1711.)

The Hon. C. W. CREEDON: This Bill seeks to give the Minister a power that at present he does not have. What I am surprised about is that the Minister did not make a fuss about this matter when the present legislation was introduced in 1970 and finally went through this Council in about March 1971. The Minister must have realised then that a Minister usually likes to make some decisions, even if only of a political nature, without the need to wait for a committee to make such recommendations for him. Perhaps I could ask the Minister what he has in mind.

After all, the Building Advisory Committee has worked apparently successfully for 10 years and one has cause to wonder why a successful committee should be overturned, or is it the intention of the Government to weaken the committee to such an extent that it will not any longer be an effective committee and only a decision of a Minister will be of consequence?

We can also be very critical of the other amendment, which increases the size of the board from six members to 10. It could easily make the board unwieldy. The present board is made up of very qualified people and it would seem that the broad or overall interests of the industry are now amply covered. The board members are: Mr Stewart Hart, Director of Planning, who is Chairman; Mr Van Der Pennen, a building surveyor with the Adelaide City Council; Mr Allan Phillip, Principal Architect, Housing Trust; Mr Stan Ralph, who, although retired, is an architect and was Deputy Director of Public Buildings Department; Dr David Brookes, who is a reader in Civil Engineering at the University of Adelaide; and Mr Peter Boros, who is a civil engineer and who has a great deal of experience in the building industry.

These people have a lot of expertise and experience between them but they could hardly be said to be representative of narrow sectional views. Consequently, I would expect their decisions to be in the interests of the industry as a whole. I have noted that the Hon. Mr Hill, when speaking on the original Bill in the Committee stage on 17 March 1971, moved an amendment to provide that at least one member must be a member of the Master Builders Association of South Australia.

The Hon. C. M. Hill: Who moved that?

The Hon. C. W. CREEDON: You did.

The Hon. C. M. Hill: It was defeated, was it?

The Hon. C. W. CREEDON: Yes. The Hon. Mr Hill was not successful on that occasion but he is now the Minister and is attempting to do what he could not do then; that is, give credence to the parochial views of one small section of the industry.

I have explained who the current members of the board are, and those members are not short in the right kind of qualifications. Can the Minister tell us who the other four members will be and what are their qualifications? The Minister, in his second reading explanation, stated:

> Consideration will also be given to appointing a person who is an elected member of local government and who has experience in the building industry and a good working knowledge of the building regulations.

Can the Minister tell us whether he has such a person in view? I am sure that, if he were to appoint somebody from local government, that appointment would be well received by local government. Can the Minister tell us what other expertise he is looking for? The Minister will be aware that, although the members of the committee may be small in number, they have a wide field of information and expertise from which to draw. I believe that the committee is constantly in touch with these parochial interests in order that all views may be assessed. Committees can become too large, and then their value is greatly reduced because of their inability to reach decisions. Although we are critical of the lack of information relating to the people who will serve in these cases, and about who the members are to be, we intend to support the amendments.

The Hon. C. M. HILL (Minister of Local Government): I thank the honourable member for his comments and views on this Bill. The main point I make in reply is that we are not trying to weaken the committee at all by this change: we are endeavouring to strengthen it. I cannot stress that too strongly. Experience has proven in the past two years that the concept I had in 1971, as the Hon. Mr Creedon stated, of having some direct involvement from the private sector, is beneficial to the deliberations of the committee. In saying this, I do not intend any criticism of the present committee or any of its membership, but in the past two years strong representations have been made to the Government, for example, from the Institute of Architects,

professional consultants and representatives from the building industry, that in their opinion the best possible committee for the drawing-up of regulations would have some input from such people. That is what the Government is trying to do, rather than endeavouring to interfere with committee membership. Therefore, we are simply adding new people to the committee.

At this moment I do not have any specific persons in mind. I have the general concept in mind, as I stated in my second reading explanation, that experienced people in the building industry, either building contractors or professionals involved in building design, ought to play some part in this particular work. That is what I seek to do—improve the committee and not in any way weaken it.

The Hon. Frank Blevins: Do committee members get paid?

The Hon. C. M. HILL: Yes, they receive moderate fees. Some of the public servants sitting on the committee during the day would not be paid. I can assure the Hon. Mr Creedon that he need not fear, and that the committee will benefit by the change. Indeed, in my view it will be a better committee than it was previously.

The first point stressed by the honourable member was in relation to the need to ensure that the committee must consult with me, and that the Government should have the final say in alterations of regulations. That is a procedure that any Government would support. Change must not be construed as criticism. It is proper that the Government does have the ultimate say.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Building Advisory Committee.'

The Hon. ANNE LEVY: Can the Minister indicate whether there are currently any women members on this committee and, if there are not, whether by enlarging the committee he is proposing to put women on it, as women are obviously concerned with standards in buildings, since most women spend longer inside houses than do men?

The Hon. C. M. HILL: I will endeavour to do that. I hasten to say that in this particular area of building construction I find it difficult to obtain the names of women who have had the experience in relevant professions, such as architecture and building construction. I was recently confronted with the same problem in the composition of the Housing Advisory Council that I established. Women have spoken to me since it was announced and I am endeavouring to solve that problem now. Not surprisingly, it is not easy to find women who have the support of institutions, such as the Institute of Architects, and who have reached senior positions within the professions for consideration. I will give the point every possible consideration.

The Hon. ANNE LEVY: The Minister may not be aware that there are a number of women who have great qualifications in architecture from the University of Adelaide. There is a woman staff member of the Architecture Department of the University of Adelaide who obviously is very qualified.

The Hon. C. M. HILL: I stress that I must be guided somewhat by the Institute of Architects and the suggested names they submit to me. That is the usual procedure. Nevertheless, I will give consideration to the further material that the honourable member has brought forward.

Clause passed.

Title passed.

Bill reported without amendment; Committee's report adopted.

ADJOURNMENT

At 6.24 p.m. the Council adjourned until Thursday 12 November at 2.15 p.m.