LEGISLATIVE COUNCIL

Wednesday 25 August 1982

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

MUSEUM REDEVELOPMENT

The PRESIDENT laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

South Australian Museum Redevelopment—Stage I.

QUESTIONS

COUNTRY FIRE SERVICES

The Hon. B. A. CHATTERTON: I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Agriculture, a question about the Country Fire Services.

Leave granted.

The Hon. B. A. CHATTERTON: All members are aware of the problems that the Country Fire Services Board has had over the past 12 months by overspending about $202 000. The Minister of Agriculture has conducted a very successful campaign in distancing himself from the board and its deficit. He has been informing people in the press that the board has been extravagant and has indulged in expenditure that has not been warranted. Of course, that is turning up in a number of country newspapers. I quote one particular example, where the *Eyre Peninsula Tribune* in its editorial, referring to the Country Fire Services, speaks of 'officers decked out like overdressed tram conductors'. Reference is also made to the leaders looking like five-star South American generals. To my knowledge, the uniforms of the C.F.S. have been in use for a long time.

The Hon. M. B. Cameron: Come on, Brian.

The Hon. B. A. CHATTERTON: I am not defending the design, but they were not introduced in the past 12 months. The other comments that have been made by the Minister of Agriculture's staff refer to the Director of the C.F.S. having mag wheels on his car and velvet seat covers.

Can the Minister of Agriculture substantiate the claims he is making about the extravagance and luxurious fittings of the C.F.S. headquarters staff and say whether, in fact, there are these mag wheels, velvet seat covers and other luxuries that he and his staff have been reported in the press as saying are being used?

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

NURSING HOME CHARGES

The Hon. J. R. CORNWALL: I seek leave to make a short statement before directing a question to the Minister of Community Welfare, representing the Minister of Health, about nursing home charges in country hospitals.

Leave granted.

The Hon. J. R. CORNWALL: I am sure that the Minister, and most honourable members, would be aware of the considerable hardships and anomalies created by changes in funding, instituted by the Minister on 1 July, of chronic, long-stay nursing home patients in country hospitals. From that date, all patients classified as long stay have been obliged to contribute $10.25 daily in fees, whether they are Commonwealth eligible pensioners or privately insured. This has created widespread confusion and considerable hardship.

Patients receiving a single pension plus supplementary assistance are now left with about $8 a week for toiletries and other simple requisites. That is not exactly a fortune, but they are certainly better off than some other classes of patients to whom I will refer in a moment. Where the patient still has a spouse both partners can obtain a single pension and the patient can also obtain supplementary assistance. This has not been well explained. In fact, the onus of explaining has been put on to the country hospitals rather than the Health Commission's administrative officers. My office has received many complaints from spouses of patients who believed that they had to contribute $143.50 a fortnight from their married rate pension.

Serious anomalies further arise where the patient is neither aged nor suffering from brain failure. One such case has recently been drawn to my attention and is occurring at the Tailem Bend Hospital. Before the new arrangements a relatively young man at that hospital, who is suffering from multiple sclerosis and is a permanent patient, was able to look forward to outings with friends and relatives. He was able to derive some pleasure and stimulation from an otherwise unfortunate and sad life and, even more importantly, was able to pay his own way on those outings. All this, unfortunately, has now been changed. The $8 a week is less than subsistance in his case just for simple toiletries.

The position is even worse for so-called insured patients. Anybody who thinks that their insurance covers them for this sort of disaster ought to take note of my remarks. Insured patients are not covered at all for the $10.25 daily charge, despite the fact that individually, or as a marriage partner, they have contributed to a health insurance fund for 25 years or more. This morning I spoke to Mr Colin Ashby of Kongorong whose wife Muriel has been a long-stay patient at the Mount Gambier Hospital for six years. Mr Ashley is a battling fisherman and farmer of limited means. He has not been able to fish or work since he had brain surgery in February, more than eight months ago. Incidentally, the Ashbys have had health insurance for a very long time.

The Mount Gambier Hospital is now demanding $143.50 per fortnight from Mr Ashby. His wife is in receipt of a part invalid pension of $90.80 per fortnight. What is happening is that Mr Ashby is being asked to find $52.70 per fortnight, which he cannot afford and cannot earn.

Do hospital boards have a discretion to remit all or part of the $10.25 daily charge where it is shown to cause undue hardship and, if not, why not? How many applications have been received at country hospitals for remission of the charges? Is it the intention of the Minister or a policy of the Health Commission that hospitals should sue for unpaid charges where the $10.25 per day cannot be met? Will the Minister immediately circulate all non-metropolitan media with a comprehensive statement outlining why the decision was made to raise charges against nursing home patients in country hospitals? Finally, will the Minister explain people's rights under section 28 (1) *aaa* of the Commonwealth Act?

The Hon. J. C. BURDETT: I will refer that question to my colleague in another place and bring back a reply.

F.S. AND U. FRIENDLY SOCIETY

The Hon. C. J. SUMNER: Has the Attorney-General an answer to a question I asked on 10 August about the F.S. and U. Friendly Society?

The Hon. K. T. GRIFFIN: The submission for the registration of the F.S. and U. Friendly Society was received while the Government was considering the savings and life

insurance activities of all friendly societies in this State, and it is believed that such insurances are expected to be an important part of the activities of the F.S. and U. Friendly Society.

On 29 July 1982 the Government prescribed new regulations to the Friendly Societies Act and these new regulations increase the amount of life insurance which friendly societies can provide from $4 000 to $20 000 for savings-type life insurance and $10 000 for other life insurance.

Consideration of the issues involved in the request for the registration of this new society is still being undertaken, as in fact this is the first formal request for a new society that has been received in over 50 years.

There are various details which need to be examined to ensure that any new society commences on a sound financial base which provides security for members' funds. In this regard, further discussions with the proposed society and its actuarial consultants are being arranged with the Public Actuary.

PARLIAMENTARY SUPERANNUATION

The Hon. M. B. CAMERON: I seek leave to make a short explanation before asking the Attorney-General a question about Parliamentary superannuation.

Leave granted.

The Hon. C. J. Sumner: Are you going to retire?

The Hon. M. B. CAMERON: No, I am not going to retire, but I wish to obtain information on a retired member. I have heard reports—and no doubt they are correct—that a former Premier of this State, the Hon. D. A. Dunstan, has just taken a job with a salary of $54 000 a year as the Director of Tourism in Victoria.

The Hon. J. R. Cornwall: That is Victoria's gain and our loss: a sad loss, too.

Members interjecting:

The PRESIDENT: Order!

The Hon. M. B. CAMERON: I recall that the resignation of the Hon. D. A. Dunstan was received with some sadness and I did at the time hear many rumours that he was not quite as ill as everybody said, but I dismissed those rumours immediately as being rubbish. The reason given for his resignation was that he could not take tension, but this seems to have disappeared under the load of $54 000. As a result of this former Premier taking another job after he had retired due to ill health, does his Parliamentary superannuation continue or is it suspended during the time he has an office under the Crown in another State?

The Hon. K. T. GRIFFIN: I have not yet qualified for Parliamentary superannuation, so I am not particularly familiar with the requirements under the Parliamentary Superannuation Act so far as I am concerned and I do not have at my fingertips all of the requirements so far as they affect other members or past members.

I shall make some inquiries in relation to the matter to which the Hon. Martin Cameron has referred. It is somewhat unusual to have a former member drawing such a large salary if he is doing so in conjunction with Parliamentary superannuation.

The Hon. Frank Blevins: What about Jim Forbes?

The PRESIDENT: Order!

The Hon. C. J. Sumner: What about John McLeay?

The PRESIDENT: Order!

The Hon. Frank Blevins: What about Story?

The PRESIDENT: Order! The Hon. Frank Blevins will come to order.

The Hon. K. T. GRIFFIN: Obviously the Opposition is very sensitive on this matter.

Members interjecting:

The PRESIDENT: Order! I ask the honourable Attorney-General to reply to the question.

The Hon. K. T. GRIFFIN: With respect, Sir, that is what I am doing. I shall have some inquiries made and bring back a reply.

The Hon. C. J. SUMNER: When obtaining that information, will the Attorney-General also provide the Council with similar information relating to the Hon. Ross Story, a former member of this Council?

The Hon. D. H. Laidlaw: And the Chief Justice.

The Hon. C. J. SUMNER: There is no problem in relation to the Chief Justice. He does not get a Parliamentary pension. I am sufficiently familiar with the Parliamentary Superannuation Act to understand that. He did not have his six years in. The Attorney-General obviously shows a deficiency in his knowledge in this respect. Will he, when providing the information required by the Hon. Mr Cameron in relation to the former Premier, also include the Hon. Ross Story? Will he ascertain from the Federal Government the situation regarding a former Minister in that Government, the Hon. John McLeay?

The Hon. K. T. GRIFFIN: I do not suffer any deficiency in my knowledge of the law, but I have better things to do than think about my entitlement under the Act. Obviously, there are a number of areas where this question has some relevance, and I will have some general inquiries made and bring back a reply.

RHEOBATRACHUS SILUS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before directing a question to the Attorney-General, as Leader of the Government, on *Rheobatrachus silus.*

Leave granted.

The Hon. ANNE LEVY: *Rheobatrachus silus* is a frog which has received a considerable degree of publicity in various sections of the media as a result of research work being conducted, mainly at Adelaide University, on its rather original method of reproduction. In case honourable members cannot recall the circumstances, the female *Rheobatrachus silus* lays her eggs, they are fertilised externally, as occurs in all frog species, she then swallows the eggs, and the complete tadpole development occurs within the stomach of the female, which then gives birth (if one can put it in inverted commas) a second time to froglets by her mouth. The great scientific interest in this arises not only from this oddity of nature but from the fact that the froglets develop without being digested by the gastric juices of the mother, and a good deal of research is being done to determine why the gastric juices are suppressed. This would have obvious medical implications for the treatment of various types of ulcer.

This work has been continuing at Adelaide University for some time and has been mentioned in this Council before. So far, the finance for this research has come entirely from Federal sources, both general university grants and from the Australian Research Grants Committee. There are financial problems at the moment. This morning the South Australian Savings Bank opened an appeal for further funds for this very important research work, which is in danger of being considerably reduced unless further finance is made available.

The Savings Bank, which in a very public spirited manner has launched this appeal, started the appeal off with a contribution of $4 000. It has prepared an advertisement which will be run as a public service by a number of television stations, requesting people to make donations towards the financing of this very important work. I am sure the Minister of Local Government will endorse every-

thing that I have said, because we both attended the opening of the appeal this morning. The opening ceremony for the appeal (launched by the Premier) was attended by many people. I am sure we all wish the appeal the greatest success. When opening the appeal the Premier appealed to the community at large to generously donate the funds required for this project. However, to my great surprise the Premier did not announce any Government contribution to this appeal.

The Hon. J. R. Cornwall: I thought that's why he went along.

The Hon. ANNE LEVY: We might have expected that, when opening this appeal, he would have indicated a Government contribution, particularly as his remarks clearly recognised the importance of this work.

The Hon. C. M. Hill: He spoke very well.

The Hon. J. R. Cornwall: He didn't put his money where his mouth is.

The Hon. C. J. Sumner: The Premier spoke well—you're joking! I've never heard him speak well in his life.

The PRESIDENT: Order!

The Hon. ANNE LEVY: The Premier certainly made the appropriate remarks for this morning's occasion, but to my great surprise he did not indicate a Government contribution to this appeal. I stress that this work has never received any funding at all from the State Government; it has come entirely from Federal Government sources so far.

The Hon. C. J. Sumner: So much for the 'State Great' campaign.

The Hon. ANNE LEVY: Yes, indeed.

The Hon. C. J. Sumner: There's a big advertisement in the paper—our State's great.

The PRESIDENT: Order!

The Hon. ANNE LEVY: Surely, the Premier agrees that the Government should make a generous contribution to this appeal. Will the Premier please announce a Government contribution to the appeal as soon as possible?

The Hon. K. T. GRIFFIN: I will certainly refer this matter to the Premier and bring down a reply. There can be no criticism of the State Government because the project has so far been funded from Federal research funds. There are many projects in every State of Australia which are financed only by Commonwealth funds.

The Hon. Anne Levy: I am not denying that.

The Hon. K. T. GRIFFIN: The honourable member is using that as a source of criticism of the State Government for not having funded the project.

The Hon. Anne Levy: I am saying that the State is putting nothing into it: the Premier is opening the appeal and surely he can put sixpence in it.

The Hon. K. T. GRIFFIN: It is correct that this programme has been featured in advertisements by the S.A. Great Committee. I have previously answered a question asked by the Hon. Anne Levy on those very advertisements, and I indicated that the S.A. Great Committee is independent of Government, although it does receive a Government contribution.

The Hon. Anne Levy: My question had nothing to do with the S.A. Great Committee.

The Hon. C. M. Hill interjecting:

The PRESIDENT: Order! The Hon. Mr Hill will have his opportunity later.

The Hon. K. T. GRIFFIN: That it is funded by Commonwealth funds is no reason to say that the S.A. Great Committee should not advertise the fact that that is occurring in South Australia and that there are South Australians involved in the research programme. The Hon. Anne Levy, by interjection, rather suggests that money is more important than the people working for the programme, and that is absolute nonsense. Why should not the committee take great pride in publicising this research activity in South Australia by South Australians, regardless of where the money comes from for that research? I believe that the Savings Bank of South Australia ought to be commended for the initiative that it has taken. It is a South Australian institution. It is to be commended also for the donation that it has made. I have no doubt that there will be other South Australian companies and bodies corporate and people who will make contributions to that fund. It may be that the State Government also will make a contribution, but that is something obviously that the Premier will consider, having participated in the opening ceremony this morning.

The Hon. Barbara Wiese: Now that he has had his conscience pricked.

The Hon. K. T. GRIFFIN: That is absolute rubbish. The Premier is asked to many events and many appeals. There are many appeals to which the State does not make a contribution but with which the Premier is associated, either in opening or by his presence. The one that occurred this morning is not unusual: it is only unusual to the extent that the Hon. Anne Levy was there and took a special interest in it.

DECENTRALISATION

The Hon. K. L. MILNE: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Industrial Affairs, a question about decentralisation rebates.

Leave granted.

The Hon. K. L. MILNE: In view of the Federal Government's withdrawing funds for direct assistance in connection with decentralising industry in South Australia, the South Australian Government is to be commended for its policy of pay-roll tax and land tax rebates to certain companies in South Australia to encourage their operation in decentralised areas. I am told that there are 247 companies which have received or are receiving rebates. Can the Minister provide a list showing the type of rebate, the amount of rebate received for each of the companies involved, the names of the companies and the location of each company?

The Hon. J. C. BURDETT: I will refer the question to my colleague and bring down a reply.

SPORTS LEVY

The Hon. BARBARA WIESE: I seek leave to make a short statement before asking the Attorney-General, representing the Minister of Recreation and Sport, a question about a sports levy.

Leave granted.

The Hon. BARBARA WIESE: Recently, I was approached by a constituent who was concerned about a recent decision of the South Australian Netball Association to impose a levy on all its members to cover building costs for its new headquarters. As I understand it, the total cost of the building has been estimated to be about $275 000, and $200 000 of that has been provided by way of a State Government grant.

The Hon. K. T. Griffin: So they have been given something!

The Hon. BARBARA WIESE: Yes, terrific! However, the South Australian Netball Association must find the remaining $75 000, and this special levy is the means by which it intends to raise the extra money. Many State schools in South Australia are affiliated to the association (SANA). This levy will place severe burdens on those schools or on parents of children at those schools who play netball. For example, one primary school of which I know fields five teams in the SANA competition, and the cost to that school will increase from $360 to $500 a year to field these teams.

This far outweighs the cost to primary schools of fielding other sporting teams such as soccer or football teams. It seems that there are no exemptions at all to paying the levy, because the letter which was sent by SANA to schools made that clear and made it clear also that if the amount of money was not paid by the due date, the teams that are currently participating in the competition could not expect to play in the finals this year, and they would not be entitled to play in any other associations either.

I believe the association's actions are unfair. The levy being imposed will act as a disincentive for children to play netball and, as we know, this sport is played overwhelmingly by girls. The Council also knows that girls tend to drop out of sporting activities earlier than do boys, and they need every incentive and encouragement possible to see that they continue their sporting activities. In a situation like this, where a considerable extra financial burden is being placed on the schools, or on the parents of schoolchildren, they may take the decision to withdraw teams from competition because they cannot afford to field them, thus disadvantaging children at those schools.

SANA's actions seem to me to be particularly inappropriate because it received the majority of funds for its new building from taxpayers through a State Government grant. First, as SANA has already received a sizeable Government grant for its building project, does the Minister agree that it is in effect placing a double tax on the taxpayers of this State by further levying schools which participate in its competitions? Secondly, does the Minister agree that this may act as a disincentive to children, particularly girls, to play sport? Thirdly, does the Minister agree that it should be the policy of the Education Department to provide every encouragement possible for children to engage in sporting activities? Finally, will the Minister take action to ensure that organisations like SANA are prevented from taking unilateral decisions in relation to imposing unreasonable financial burdens on State schools?

The Hon. K. T. GRIFFIN: I will refer that question to the Minister of Recreation and Sport and bring down a reply.

RUST-PROOFING

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about rust-proofing.

Leave granted.

The Hon. FRANK BLEVINS: The Council will be aware that the Minister's department has spent much time and effort investigating the claims of firms which rust-proof cars. I commend the department for that action, which just shows what protection can be afforded to consumers by that department. I hope it goes from strength to strength. Apparently some firms give a guarantee of about five years. This is an extensive guarantee which, for most people, would be sufficient to see out the life of the car.

What concerns me is that rust-proofing is needed at all. I find it quite outrageous that cars come out of a factory requiring immediate rust-proofing to ensure that they last for five years. It seems to me that, if rust-proofing of cars is required, it should be done before they leave the factory and that people should not have to go to additional expense to get a five-year guarantee against rust from a firm that may or may not honour that guarantee.

Has the Minister considered compelling car manufacturers, at the time the vehicle is sold, to give at least a five-year guarantee against rust occurring in that vehicle? If he has, has he rejected the proposition? If he has not considered that proposition, will he do so along with his Federal and interstate counterparts, as it would possibly require a uniform standard of rust-proofing to be established throughout Australia?

The Hon. J. C. BURDETT: I do not intend to seek to compel car manufacturers to give a five-year guarantee in this area. That length of guarantee is much longer than is normally required for other aspects of new cars. If there were to be such legislation, it would have to be uniform because it concerns a national industry. I do not really consider that to be a practical suggestion, however. In fact, the standard of rust-proofing by car manufacturers has, in recent years, increased greatly and the question arises of the need to have rust-proofing carried out after purchasing a vehicle, except in special circumstances, such as those in which the owner of a car lives by the seaside, or in which a car will be used in particularly corrosive circumstances. I do not see any justification for attempting to compel manufacturers to provide a five-year guarantee against rusting.

STATE FUEL TAXES

The Hon. B. A. CHATTERTON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about exemption from State fuel taxes.

Leave granted.

The Hon. B. A. CHATTERTON: Following the Federal Budget, there has been some confusion about farmers getting a tax exemption on fuel used in vehicles that do not travel on public roads. The system introduced federally is to replace the exemption from fuel tax with a system of rebates, whereby the farmer gets back the tax already paid on the fuel. My understanding of the statement made by the Treasurer is that the State will continue with the old system of exempting from tax fuel for vehicles travelling off road and that it will not introduce the system of rebates introduced by the Commonwealth.

In order for the State to carry on with the present system I suppose that existing exemption certificates that have been lodged by farmers to claim exemption under the previous Commonwealth arrangement will be used. This will not be satisfactory in the long term, because some farmers will go out of primary production and others come in. Therefore, there will eventually have to be a State system of exemption certificates. Will the Attorney-General ascertain from the Treasurer whether such a system has been developed and whether application forms and administration procedures are available to deal with this situation now that the Commonwealth has changed to a different system of exempting farm fuel from tax?

The Hon. K. T. GRIFFIN: I will refer the honourable member's question to the Treasurer and bring back a reply.

OUT-PATIENT FEES

The Hon. J. R. CORNWALL: I seek leave to make a statement before directing a question to the Minister of Community Welfare, representing the Minister of Health, about out-patients' fees.

Leave granted.

The Hon. J. R. CORNWALL: I notice that recently out-patients' fees at public hospitals in Victoria have been abolished for people belonging to a health fund. The Victorian Minister of Health, Mr Roper, said, when announcing this initiative, that the scrapping of direct billing would relieve enormous pressures at public hospitals and save the Government millions of dollars. The new system is being introduced by imposing a special levy on the health funds to

cover the cost of out-patient visits. This means that people with a fund benefit can attend at out-patients at no direct cost.

The abolition of outpatient fees will make it easier for health fund contributors who will no longer have to pay cash for treatment, or fill out a whole lot of complicated forms—or, indeed, any forms at all. In announcing the scheme, Mr Roper said:

> The new arrangement for collecting fees will cut administrative costs and reduce the number of bad debts. We have spent many millions of dollars to collect small amounts of $15 to $20 for out-patient fees and now this money will be saved.

Members would be aware that I have raised this matter in this Chamber on several occasions since the introduction of the fifth Fraser health scheme on 1 September last year. In fact, there are enormous pressures placed on the administrative sections in our public hospitals in chasing up these relatively small accounts for $10, $15 or $20.

It seems to me that, administratively, the Victorian Government has, with the co-operation of the health funds, taken a major leap in the right direction. Will the Minister examine the sensible and cost-effective scheme introduced in Victoria with a view to introducing it into South Australian public hospitals?

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

BIRTHLINE

The Hon. ANNE LEVY: Has the Minister of Community Welfare an answer to my question of 27 July about Birthline?

The Hon. J. C. BURDETT: According to information produced by the Birthline organisation its arrangements for counselling services offered by it at the Morphett Vale Community Health Centre are as follows:

(a) counselling is available to those with an unplanned pregnancy not just those with an 'unwanted pregnancy'.

(b) Birthline counsellors will discuss all aspects of abortion, but will not make arrangements for it.

(c) The Birthline personnel, the co-ordinator/counsellor and the counsellor, were both volunteers, and currently only the counsellor visits Morphett Vale.

The Minister of Health informs me that the policy of the Morphett Vale Community Health Centre in relation to these matters is as follows:

1. If a woman approaches the Health Centre with an 'unwanted' pregnancy, she is referred to one of the Centre's Health Workers who will assess, counsel and refer as appropriate. The client is given the options as to where she can be referred and she makes that decision. Two of the Centre's Health Workers have attended the Family Planning Training Course and can therefore give informed advice.
2. The Health Centre does not refer clients to Birthline unless the client specifically requests it.
3. If a client comes to the Health Centre specifically to see or speak to a Birthline Counsellor, she is passed immediately on to that service.
4. Agreement was reached between the Health Centre and Birthline that:

   (a) Where a client has been seen by Birthline at the Health Centre and that client does not wish to continue with her pregnancy, then Birthline will direct the client to Health Centre staff.

   (b) Feedback is also provided between the Birthline Counsellor and the Health Centre concerning mutual clients.

Birthline uses one office for two sessions per week at the Health Centre, but maintains its separate identity and role.

I believe it is important to clarify that the 'New Mums Coffee Group' and the 'Who Cares Group' referred to by the Honourable Member are not voluntary organisations using the centre. In fact, both groups are run by professional Health Workers of the Centre in response to a definite need in the local community.

TAFE PROGRAMMES

The Hon. BARBARA WIESE: Has the Minister of Local Government an answer to a question I asked on 27 July about TAFE programmes?

The Hon. C. M. HILL: I provide the following response to the question raised by the Hon. Barbara Wiese in relation to the above topic. The Minister of Education has informed me that it is considered that the only question asked relevant to this subject was a question on how well people who did not speak English at home rated their ability to speak English.

There were 129 726 migrants from non-English speaking countries in South Australia at the 1981 census. Of these 23.4 per cent spoke English at home; 28.2 per cent rated themselves as speaking English very well; 26.4 per cent well; 15.6 per cent not well; 2.7 per cent not at all; and 3.8 per cent not stated. In effect, there were approximately 23 700 migrants in South Australia in 1981 who rated themselves as speaking English not well or not at all. Whether they saw this as a disability is not recorded.

My colleague is aware that in some cases this is a problem. Two major action research projects have been conducted by the Department of Technical and Further Education to identify the needs of migrants in the Goodwood area. Statistics have been kept since the beginning of 1982 in relation to students enrolled in the courses conducted by the department's Migrant Education Centre.

The question of obtaining statistics for all TAFE students has been under discussion both at national and at departmental level. Issues under discussion include—

- clarity of definition of 'non-native English speaker' required to obtain a meaningful response on an enrolment form.
- the need to match A.B.S. census definitions if participation rates are to be calculated.
- issues related to privacy and possible consequent poor response rates.
- the cost of processing additional information on all enrolment forms, particularly if response rates are so low as to render statistical analysis unreliable.
- the pros and cons of one-off surveys to obtain sample statistics, as opposed to the use of student enrolment forms for this purpose.

COMPUTERISED CHECK-OUTS

The Hon. C. J. SUMNER: Can the Minister of Consumer Affairs say, first, whether the draft code on computerised check-out systems, which was made available to the recent meeting of State and Federal Ministers of Consumer Affairs, was approved by that meeting? Secondly, does that code require individual price markings on items kept in supermarkets and, if not, will the Minister consider representations to the national committee of State and Federal Ministers of Consumer Affairs to see whether individual price marking on items can be maintained when this system is introduced?

The Hon. J. C. BURDETT: The code was worked out by the industry. Members will recall that previously, on a motion by me, a working party was set up on the question

of electronic computer check-outs with representation from various States and the Commonwealth, and chaired by a South Australian officer. The working party decided to ask the industry to prepare a code: this was entirely an industry code. The working party did not have any input into the code: it simply asked the industry to prepare it.

The draft code was available at the meeting of Ministers of Consumer Affairs on Friday. It was not submitted for approval, but was submitted as a matter of information, as the working party had decided merely to ask the industry to prepare the code and the code was then available.

The Hon. C. J. Sumner: What did the working party do?

The Hon. J. C. BURDETT: The working party made a number of recommendations to the meeting of Ministers of Consumer Affairs on Friday. The recommendations were approved, but the meeting was not called on either to approve the draft code or otherwise. The meeting noted the fact that the draft code was there. Incidentally, the working party will continue; it has not completed its task and it obviously has a monitoring role.

The Hon. C. J. Sumner: What were the recommendations of the working party?

The Hon. J. C. BURDETT: I do not recall the recommendations in detail and, in any event, there is some measure of confidentiality—

The Hon. J. R. Cornwall: The Minister is back into his short-term memory loss.

The Hon. J. C. BURDETT: There are a number of recommendations and I do not remember them in detail; I do not think that anyone could be expected to remember them. There were many items on the agenda. In any event, there is some measure of confidentiality about the proceedings of the committee.

The Hon. C. J. Sumner: Only when it suits you.

The Hon. J. C. BURDETT: Not when it suits me at all. There is nothing particularly private or secret about the recommendations. They were mainly to the effect of setting up various procedures for monitoring electronic computer check-outs at supermarkets and similar stores. There are very few such check-outs in operation. Two operate in South Australian country areas and one operates in the eastern suburbs, but that is not yet fully computerised. It obviously is something that one lets operate and then sees how it goes.

The code does not require item pricing, and certainly it was recommended by the working party that Ministers do not require item pricing, but register their concern, see how the code and check-outs operate, and then decide what can be done. The code sets up a most impressive system, first, requiring that there be available to all customers at computerised check-outs a complaints officer to hear any complaints. More importantly, there is set up in the code a procedure of arbitration for an independent arbitrator to arbitrate on any problems which arise. The cost of the arbitration is to be paid by the Retail Traders Association, with very heavy penalties applying to members of that association for a breach of the code. As a result of the working party's deliberations and its report—

The Hon. C. J. Sumner: What sort of penalties?

The Hon. J. C. BURDETT: The penalty is $5 000. There is no reason to suppose in advance—

The Hon. C. J. Sumner: What happens if a member of the industry does not agree to abide by the code?

The Hon. J. C. BURDETT: In terms of his membership, as a matter of contract, he does abide by the code and by any conditions imposed by the R.T.A.

The Hon. C. J. Sumner: How many of them are not in the industry?

The Hon. J. C. BURDETT: I do not know how many are not in the industry—

The Hon. C. J. Sumner: Or in the association?

The Hon. J. C. BURDETT: —or in the association. The Government can intervene at any time if there appears to be a need to intervene.

The Hon. C. J. Sumner: How would you do that, by legislation?

The Hon. J. C. BURDETT: If the honourable member will let me answer the question, I will answer it. The Government can intervene at any time if it sees any need to intervene, and this applies to Governments across the Commonwealth.

The Hon. C. J. Sumner: How will you intervene?

The PRESIDENT: Order! The honourable Leader may ask a supplementary question if that is what he wishes. In the meantime, he should listen to the answer.

The Hon. C. J. Sumner: I am listening: I am getting no satisfaction.

The Hon. J. C. BURDETT: If the Leader listens to the answer he will get the information that he requires. Two States (South Australia and New South Wales) have the necessary legislative procedure to enable them to intervene. In South Australia, under the Trade Standards Act there is already the ability to intervene by way of regulation. In New South Wales, there was not that ability when this issue first came up. The New South Wales Government legislated and gave itself that power to intervene by way of regulation, although it has not yet used the power to regulate. So, certainly, in South Australia and New South Wales, the Government is armed with the necessary power. If we find that there is any need to intervene at any time we are able to do so and can do so, but there is no reason for the South Australian Government to decide at this time that it is necessary to intervene in advance.

THIRD-PARTY PREMIUMS

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking a question of the Attorney-General, representing the Minister of Transport, on the subject of third-party premiums.

Leave granted.

The Hon. FRANK BLEVINS: I have been contacted by a constituent who put the proposition to me that he had been paying third-party insurance for his motor vehicle for very many years, had never had a claim, and thought that it was unfair that he should be paying the same amount for third-party insurance as was someone who may have caused several accidents resulting in large claims on the company.

Has the Government considered a system of third-party insurance similar to that applying for comprehensive insurance, that is, a no-claim bonus for careful drivers who are not involved in any accidents and create no call on the fund?

The Hon. K. T. GRIFFIN: I shall refer that question to the Minister of Transport and bring back a reply. I understand that periodically Governments consider such a concept, but generally it is regarded as being unworkable. However, I will bring back some more extensive detail in the reply.

ETHNIC WOMEN PATIENTS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before directing a question to the Minister of Local Government on ethnic women patients.

Leave granted.

The Hon. ANNE LEVY: On 21 July, I asked the Minister a question regarding the report on ethnic women patients in Government hospitals produced by the Womens Advisers Office, and asked whether it was being referred to the Ethnic

Womens Advisory Committee. On 27 July he replied to me saying that certainly it was being referred to the Ethnic Womens Advisory Committee for examination and comment. He said, furthermore, that the Ethnic Womens Advisory Committee was meeting on Monday 9 August. I know that that was only a fortnight or so ago, but I wonder whether the Minister has yet received the report and, if so, whether he will allow me to see it, as he agreed to do on 27 July.

The Hon. C. M. HILL: The Ethnic Affairs Commission met on 10 August and considered the report by Ms J. Connolly and also considered the comments of its committee, the Migrant Womens Advisory Committee, on the report. I have a copy of the comments that have come from the commission as a result of its consideration at its meeting on 10 August. Those comments are quite lengthy, running into five pages in a document I have with me, so I trust that, if I hand a copy of the document to the Hon. Miss Levy, she will be satisfied with that procedure and hopefully with what she reads.

REFERENDUM (DAYLIGHT SAVING) BILL

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

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

This Bill will enable members of the public to express their views on the continuance of daylight saving in South Australia. Honourable members will be aware of the continuing debate, particularly within some sections of the community, on the issue of daylight saving in South Australia. Prior to the last State election, the Government committed itself to allowing the community to express its wishes on the matter by holding a referendum of all electors of the State.

The holding of the referendum independently of the election is not justified because of the cost involved—somewhere in the order of $3/4 million. So that the arguments for and against daylight saving should be put as objectively as possible to the electorate, and not be politicised, the Electoral Commissioner has been asked to prepare leaflets, discussing the issues involved, for distribution to every household in South Australia. The Government is confident the Electoral Commissioner is best placed to analyse these issues and place them before the electorate in an objective way. The final clause of the Bill provides for the expiry of the Act one year after the declaration of the referendum results in the *Government Gazette*. This is in keeping with the Government's commitment to remove from the statutes any legislation which becomes redundant after having served its purpose. I seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides definitions of certain terms used in the Bill. It is intended that all persons entitled to vote at an election for the return of members of the House of Assembly should vote at the referendum. The definition of 'elector' is drawn accordingly. Clause 3 provides that the referendum will be held on the day of the next general election. This will not only save expense but will also reduce inconvenience to electors as they will be able to vote in the referendum at the same time and place at which they vote in the general election.

Clause 4 prescribes the question at the referendum. Subclause (2) requires every elector to cast a vote at the referendum. Subclause (4) sets out the method of voting for or against the question. Clause 5 provides that the Electoral Act, 1929-1982, will apply to the referendum thereby supplying the legal frameworth within which the referendum can take place. Subclause (2) provides for the application of the Electoral Act, 1929-1982, to specific matters. Clause 6 provides for the declaration of the result of the referendum. Clause 7 provides power for the appointment of temporary officers to assist in holding the referendum. Clause 8 is a financial provision. Clause 9 provides a regulation making power. Clause 10 provides for the expiry of the Act after it has served its purpose.

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

LAND TAX ACT AMENDMENT BILL

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

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

It has several objectives, the first of which is to provide that certain kinds of non-profit associations may be declared to be partially or in some cases, totally, exempt from land tax. The promoters of an equity housing scheme for aged persons at West Lakes have pointed out that the existing provisions are not wide enough to cover their housing project. This kind of non-profit development obviously merits the kind of concession envisaged by section 12a of the principal Act which provides that land owned by some non-profit associations is partially exempt from land tax, and by section 10a which deals with land that is wholly exempt from land tax in particular circumstances.

In order to make it possible for the concession to be granted in this case and in other similar cases that may arise in future the Bill provides, first, that a non-profit association that is prescribed, or is of a prescribed kind, may be declared to be partially exempt from land tax; and, secondly, that any part of the land owned by such associations which is used by members of the association as their principal place of residence will attract the benefit of section 10a of the Act, namely, a declaration for a complete exemption, if appropriate.

Another significant proposal in the Bill is a provision enabling intending purchasers of land to obtain a certificate showing the amounts payable or estimated to be payable by way of land tax in respect of the land. If those amounts are paid the purchaser is released from any further liability for land tax which may accrue in relation to the land for the financial years covered by the certificate. Where a vendor holds other land, the information necessary to enable an exact calculation of multiple holding tax is usually not available in the early months of the financial year. The new legislation enables the commissioner to estimate the tax for the purposes of a certificate in these circumstances. The proposal has been discussed in detail with representatives of the Law Society and bodies representing land agents and land brokers and they have indicated that it has their support. It is proposed to charge for each certificate, the same fee as is charged for similar information relating to water and sewer rates. As some time will be required to develop administrative procedures, this particular provision will have effect from a date to be proclaimed.

It is also proposed to exempt from land tax land owned by controlling authorities established under Part XIX of the

Local Government Act. Land owned by municipal and district councils is exempt under existing provisions and this provision is a logical extension of that exemption. Other minor amendments of an administrative nature are proposed: they include a provision by which the commissioner may refuse to recognise that land is held in trust until notice of the trust is given; and a provision imposing time limits in relation to the correction of assessments of tax. 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 that the Bill will be retrospective to 30 June 1982. This does not apply, however, to clause 15 which will be brought into operation on a day to be fixed by proclamation. Clause 3 amends section 4 of the principal Act which deals with the interpretation of expressions used by that Act. A new provision is inserted to bring the definition of 'business of primary production' into line with the definition used in the Valuation of Land Act, 1971-1981. The amendment extends the term to include the propagation and harvesting of fish and other aquatic organisms.

Clause 4 amends section 10 of the principal Act. The purpose of the amendment is to exempt from land tax land held by controlling authorities constituted under Part XIX of the Local Government Act. Clause 5 amends section 10a of the principal Act which deals with land that is wholly exempt from land tax. Section 10a as amended will provide that prescribed associations established solely for the purpose of providing residential accommodation will be exempt from land tax if they satisfy criteria laid down by regulation under subsection (13). The principal criteria to be prescribed under subsection (13) will be that the land be used as the principal place of residence of the occupier.

Clause 6 amends section 12a of the principal Act which deals with land that is partially exempt from land tax. As amended section 12a will provide that land owned by a prescribed association but which is not used as a place of residence of a person may be partially exempt from land tax. This provision will benefit associations referred to in the note to clause 5 in that areas of land owned by such an association that are adjacent to residential land will qualify for partial exemption. Clause 7 amends section 15 of the principal Act. New subsection (2) states the general principle that the value of land owned by two or more persons should not be aggregated for the purpose of calculating land tax with land owned individually by any of the owners or with other land involving different permutations or combinations of owners.

New subsection (3) empowers the commissioner to choose between various categories of owners in assessing tax in respect of land. Thus, where there is a legal and an equitable owner of land, the commissioner may, at his discretion, tax either the legal owner or the equitable owner. This provision should, to some extent, prevent the use of trusts as devices to reduce the incidence of land tax. New subsection (4) protects a trustee from the possibility that the value of land held by him in trust might be aggregated with the value of land to which he is beneficially entitled. New subsection (5) empowers the commissioner to aggregate the value of land where there are different legal owners but the land is held subject to the same trust. This provision may be of some limited use where there are discretionary trusts and the identity of the beneficiary cannot be ascertained with certainty. New subsection (6) contains definitions necessary for the purposes of the new provisions.

Clause 8 repeals section 16 which is rendered redundant by the amendments to section 15. Clauses 9 and 10 make consequential amendments. Clause 11 provides that where there are two or more taxpayers in respect of land, their liability for the tax is to be joint and several. Clauses 12 and 13 make drafting amendments to the principal Act. Clause 14 is a consequential amendment.

Clause 15 empowers the commissioner to issue certificates to purchasers of land as to the amount of land tax outstanding on the land. Where the amount certified is paid the purchaser is absolved from further liability. Because the issuing of these certificates is dependent upon the establishment of a computer system which is not yet complete, the amendment will come into operation on a date to be proclaimed. Clause 16 places a three year limitation on the amendment of land tax assessments. There is an exception to this if a scheme to evade land tax is uncovered, after the expiration of that period.

The Hon. ANNE LEVY secured the adjournment of the debate.

RACING ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

FISHERIES ACT AMENDMENT BILL

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

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

It gives effect to the fisheries part of the off-shore constitutional settlement agreement. The appropriate Commonwealth provisions have already been passed, and the States are introducing complementary provisions based on a model prepared by New South Wales. Until the 1950s, fisheries in Australia were mainly inshore, and were managed by the States. The Constitution had always empowered the Commonwealth Parliament to make laws with respect to fisheries beyond territorial limits. In 1952 the Commonwealth passed a Fisheries Act to manage offshore commercial fisheries. Although this provided much needed management in some fisheries, in others it created two different management authorities over fisheries which were divided by the 3 mile territorial limit. I would point out that that is the correct term. The 3 mile limit is of ancient origin and is widely recognised in international convention. There is no metric equivalent.

As fisheries developed and extended beyond 3 miles, and across several States, the split jurisdiction caused needless complication in management. Several cases came to the High Court, but the judgments did not define the limits to jurisdiction in a way that could be applied in practice. By 1976, State and Commonwealth Ministers responsible for fisheries resolved that a new basis for managing fisheries should be developed. By 1979, Premiers were able to agree to a plan whereby any commercial sea fishery could be managed as an entity. Depending on particular characteristics, a fishery could be managed under State law wherever the fishery occurred; or under Commonwealth law, wherever the fishery occurred. A scheme of management would be developed for the fishery by the State, or the Commonwealth or by a new body to be called the Joint Authority. A Joint Authority would consist of the Ministers responsible for

fisheries in the areas of jurisdiction in which the fishery occurred, but they would function as a single body.

Fisheries would be described by reference to such things as the species of fish, a method of fishing, an area of waters and so on. Thus, a person who held a licence for that fishery would have his rights set out clearly. He could work in that fishery without the inappropriate and artificial constraint of a line on the water, 3 miles from shore, which might pass through the middle of the best fishing grounds. To allow such arrangements, it would be necessary for the Commonwealth, or the States, to show that they did not apply their legislation to the fishery where it had been agreed that the fishery be managed, in accordance with an agreed scheme of management, under the law of the Commonwealth only, or a State, only.

If the fishing activities were not for a commercial purpose, they would remain under State control wherever they were carried out. That is, the States would manage recreational fisheries. States would also retain control of their internal waters as defined. For South Australia this means that the waters in the gulfs and historic bays will not be subject to Commonwealth involvement in management of fisheries. Beyond the limits of internal waters the following management regimes will be possible:

1. Management of specified fisheries by joint authorities either under—
   - *(a)* Commonwealth law applying from the low-water mark where two or more States are involved;

   or

   - *(b)* Commonwealth or State law applying from the low-water mark where only one State is involved;
2. Arrangements whereby either the Commonwealth or a State may manage a fishery under either Commonwealth or State law, that law applying from the low-water mark; and
3. Continuation of the *status quo*, that is, State law applying within the 3 nautical miles and Commonwealth law beyond that distance where no arrangement has been entered into in relation to management of a particular fishery. It is envisaged that this provision would rarely be used especially in the longer term.

At the last meeting of the Standing Committee of Attorneys-General it was agreed that 1 September 1982 was a desirable date upon which national implementation of the basic elements of the offshore constitutional settlement should take place. The Commonwealth was of the view that all prerequisites to proclamation had now been satisfied.

The offshore constitutional settlement so far as fisheries is concerned involves the bringing into operation of the Fisheries Amendment Act 1980 (Commonwealth) and complementary State and Territory legislation to authorise the making of arrangements between the Commonwealth on the one hand and a State or States and the Northern Territory on the other hand for the management of specific fisheries.

Provisions with respect to Commonwealth-State arrangements were included as Part II of the Fisheries Act, 1982. This Act received Royal Assent on 1 July 1982, but it cannot be brought wholly into operation for several months until the task of preparing subordinate legislation under it is completed.

The Crown Solicitor has considered whether it might be possible to bring the Fisheries Act, 1982, into operation on 1 September 1982, but for the operation of section 4 (repeals) and Parts III-V (Administration, Regulation of Fishing, and Miscellaneous) to be suspended pursuant to section 2 (2) of the Act, until the task of preparing the regulations is completed. The Crown Solicitor has formed the opinion that this may not be done. The expression 'this Act' appears throughout Part II of the Fisheries Act, 1982, necessarily referring to the Fisheries Act, 1982, and not to the Fisheries Act, 1971-1980. Part II of the Fisheries Act, 1982, cannot therefore be brought into operation and treated as though it were part of the Fisheries Act, 1971-1980.

On 3 December 1981 the present measure was introduced into this House to amend the Fisheries Act, 1971-1980, by the insertion into it of a new part to deal with Commonwealth-State arrangements as envisaged by the offshore constitutional settlement. The measure was not proceeded with, since identical provisions were included in the Fisheries Act, 1982.

No Joint Authority arrangements involving South Australia are expected to be agreed to for quite some time, but to accord with the agreement at Standing Committee of Attorneys-General to enable early national implementation of the basic elements of the offshore constitutional settlement the Bill to amend the Fisheries Act, 1971-1980, is therefore reintroduced. The provisions in this measure, as I have said, are identical to those in the Fisheries Act, 1982. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on the day on which Part IVA of the Commonwealth Fisheries Act comes into operation. Clause 3 amends section 3 of the principal Act which sets out the arrangement of the Act. The clause inserts the heading for a proposed new Part IA dealing with Commonwealth-State management of fisheries.

Clause 4 amends section 5 which provides definitions of terms used in the Act. The clause inserts definitions of 'the Commonwealth Act' and 'Commonwealth proclaimed waters', Commonwealth proclaimed waters being waters that are seaward of the coastal waters of the State which, in turn, are the waters up to three miles from the low-water mark on the coast of the State or from a proclaimed baseline. The clause also inserts a definition of 'foreign boat' which has the meaning that it has under the Commonwealth Act. Finally, the clause inserts a new definition of the waters to which the Act applies, these being: *(a)* the waters within the limits of the State; *(b)* except for purposes relating to a fishery to be managed under Commonwealth law, waters that are landward of the Commonwealth proclaimed waters adjacent to the State; *(c)* for purposes relating to a fishery to be managed under State law, any waters to which the legislative powers of the State extend with respect to that fishery; and *(d)* for purposes relating to recreational fishing not involving foreign boats, waters to which the legislative powers of the State extend with respect to those activities.

Clause 5 inserts a new Part IA (comprising new sections 6a to 6n) dealing with Commonwealth-State management of fisheries. New section 6a sets out definitions of terms used in the new Part. Attention is drawn to the definition of 'fishery', which is defined in terms of a class of fishing activities identified in an arrangement made under Division III by the State with the Commonwealth or with the Commonwealth and one or more other States. Attention is also drawn to the definition of 'Joint Authority', which is defined to mean the South Eastern Joint Authority (comprising the Commonwealth, New South Wales, Victorian, South Australian and Tasmanian Ministers responsible for fisheries) established under the Commonwealth Act and any other Joint Authority subsequently established under that Act of which the Minister is a member.

New section 6b provides that the Minister may exercise a power conferred on the Minister by Part IVA of the

Commonwealth Act. New section 6c requires judicial notice to be taken of the signatures of members of a Joint Authority or their deputies and of their offices as such. New section 6d provides that a Joint Authority has such functions in relation to a fishery in respect of which an arrangement is in force under Division III as are conferred on it by the law (that is, either Commonwealth law or, as the case may be, South Australian law) in accordance with which pursuant to the arrangement, the fishery is to be managed. New section 6e provides for the delegation by a Joint Authority of any of its powers.

New section 6f provides for the procedure of a Joint Authority. New section 6g requires the Minister to table in Parliament a copy of the annual report of a Joint Authority. New section 6h provides that the State may enter into an arrangement for the management of a fishery. The new section also provides for the termination of an arrangement and the preliminary action required to bring into effect or terminate an arrangement. New section 6i provides for the application of South Australian law in relation to fisheries which are under an arrangement to be regulated by South Australian law. New section 6j sets out the functions of a Joint Authority (that is, one that is to manage a fishery in accordance with South Australian law) of managing the fishery, consulting with other authorities and exercising its statutory powers.

New section 6k provides for the application of the principal Act in relation to a fishery that is to be managed by a Joint Authority in accordance with the Act. New section 61 applies references made to a licence or other authority in an offence under the principal Act to any such licence or other authority issued or renewed by a relevant Joint Authority. New section 6m is an evidentiary provision facilitating proof of the waters to which an arrangement applies. New section 6n provides for the making of regulations in relation to a fishery to be managed by a Joint Authority in accordance with the law of the State. Clause 6 redesignates existing section 6a as section 6o.

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

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 19 August. Page 623.)

The Hon. M. B. DAWKINS: In briefly addressing this Bill, I want to commend the two previous speakers who, I believe, made thoughtful contributions on this legislation. I frequently have to consult with my friend, the Hon. Mr Blevins, as we are both Whips in this Council, but I do not suppose it is usual for either the Hon. Mr Blevins or me to rise in this Council and commend one another. However, I commend the honourable member for what I consider to be fair comment on this legislation. In introducing the Bill, the Attorney stated:

> Clause 4 provides that a probationary driver who breaches a probationary condition may have his probationary conditions extended for an extra three months, or if, by the time that he is convicted of or expiates the offence, he holds a 'clear' licence or does not hold a licence at all, those conditions may be endorsed upon the licence for three months or upon the next licence issued to him. Where a learner driver breaches a probationary condition, the existing situation will prevail, that is, the matter must be referred to the consultative committee for consideration of the question of cancellation.

The Hon. Mr Blevins expressed some concern about that clause and I, too, would like the Minister in his reply to clarify the Government's thinking about that provision.

The honourable member also said, and I thought it was a very fair statement, that he was happy to say that the Government had made a substantial effort to improve the standard of driving on our roads, and thereby reduce the road toll. It has not been totally successful, but that is not the Government's fault. The Government has tried to reduce the road toll, and that is a fair statement. Also, I wish to commend the Government for what it has tried to do. I just wonder whether clause 4 *(b)* really will contribute to the further reduction of the road toll. Further, I hope that this Bill can be dealt with, as it has so far, in a completely non-Party political manner, so that the Government and the Opposition can co-operate. There are no politics in this measure. More importantly, the carnage on our roads today is so great that we need to do everything we can to reduce it.

I understand that Australia loses in a relatively short period on its roads more people than were lost in the Falklands, but where the Falkland loss is regarded, and quite rightly so, as a tragedy, albeit a winning and necessary tragedy, the other, with regard to the road toll, adds up in a couple of years over the whole of Australia to about 7 000 people, and this situation is allowed to pass almost as a matter of course as something that we tend to think cannot be avoided.

This is a matter of the utmost concern, and anything that can be sensibly undertaken to reduce the carnage should be done. The Hon. Mr Cameron also indicated his concern about this legislation, which he supported, particularly with regard to reducing the road carnage. The honourable member indicated that he intends to move amendments to bring the legislation into line somewhat with legislation which has existed in Tasmania for about five years and which has apparently been quite successful. The honourable member has placed amendments on file and I have had an opportunity to examine them. I consider that these amendments should accomplish what the honourable member set out to do, and I commend him for bringing them to the notice of the Council.

Also, I commend the amendments to the serious consideration of the Government and honourable members generally. While the honourable member's move may be considered to be conservative, I am interested in any movement of the Hon. Mr Cameron in that direction, and I believe that limiting the use of alcohol by teenage drivers is a step that needs to be taken in view of the shocking road toll and the tragically heavy involvement of our youth in that toll. After all, South Australia allows young drivers to be licensed at age 16. That has obtained for over half a century whereas in most, if not all, other States, the age is 18 years. At some time I believe it was 17 years in one other State, but we have allowed such early licensing for over 50 years. That is all the more reason why we should consider the amendments that the Hon. Mr Cameron has placed on file, because people between the ages of 16 and 18 years should not be indulging in the use of alcohol, particularly when they are driving. Therefore, it is all the more important to take care of our young people in this age of fast motor cars, in order to reduce the road toll. I may have more to say in Committee but, at present, I indicate my support for the Bill. I will support the Hon. Mr Cameron in moving his amendments.

The Hon. L. H. DAVIS: I, too, indicate my support for the amendments. The probationary licence system which commenced operation on 1 June 1980 was an important step towards controlling young drivers. The purpose of the amendments has been well canvassed by the Hon. Mr Cameron, the Hon. Mr Dawkins, and the Hon. Frank Blevins. I do not intend to discuss these fairly straightforward pro-

posals which seek to correct anomalies resulting from amendments to the Act last year and also to tidy up certain aspects of the probationary licence system as it now exists.

However, it does give us an opportunity to again look at the particular problem relating to probationary licence holders. It makes us aware of the enormous carnage on the roads resulting from accidents, many of which are related to drink driving. To put Australian road deaths into perspective, approximately 3 400 people die each year on Australian roads. That is ten times the number of people accidentally drowned each year, twenty times the number of deaths from poisoning and about fifty times the number of deaths resulting from air accidents in Australia each year. I suggest that 3 400 people dying in Australia each year as a result wholely of uranium mining would cause bedlam in the community.

The probationary licence system provides us with an opportunity to educate a new generation of drivers. For that reason, I indicate my support for the Hon. Mr Cameron's foreshadowed amendments, which seek to prohibit probationary drivers from drinking and driving. Honourable members would be aware that the so-called random breath test legislation provided that learner drivers and probationary drivers should not drive with a blood alcohol level in excess of 0.05 per cent. The Hon. Mr Cameron's foreshadowed amendment seeks to reduce that figure to zero. There have been many expressions of concern about the road toll. One more recent expression of concern came from the State coroner, Mr Barry Ahern, who is in a good position to make a judgment as to the need to continually look at ways of reducing the carnage on our roads.

Mr Ahern made the point that too often there are cases of 16 and 17 year old drivers being involved in fatal road accidents. He believes that perhaps the State Government should review the ease with which young drivers obtain a licence. When one recognises that there are about 30 000 new licences issued annually in South Australia one can see the tremendous potential to improve the education system and to ensure that there is a reduction not only in road deaths but in road accidents and injuries generally. I have some figures I have taken out. I seek leave to have them inserted in *Hansard* without my reading them. I can give an assurance that they are of a purely statistical nature.

Leave granted.

SOME SOUTH AUSTRALIAN ROAD ACCIDENT STATISTICS

Age (at 30 June)	Licensed Drivers, Riders and Permit Holders									All Road Accidents Casualties	
	Licensed (at 30 June)	Involved in Accidents	Involvement Rate (Per 100 Licensed)	Responsible for Accidents	Responsibility Rate (Per 100 Licensed)	Killed	Death Rate (Per 10 000 Licensed)	Injured	Injury Rate (Per 10 000 Licensed)	Persons Killed	Persons Injured
1980:											
16 years	12 841	1 446	11.3								
17 years	16 774	2 503	14.9								
18 years	18 901	2 820	14.9								
19 years	20 282	2 690	13.3	not available	not available						
20 years	20 800	2 518	12.1								
Total, 16-20 years	89 598	11 977	13.4			46	5.1	1 282	143	82	2 656
Total, all ages	756 978	58 558	7.7			141	1.9	5 355	71	269	9 875
1979:											
16 years	12 742	2 307	18.1	1 416	11.1	6	4.7	281	221	12	513
17 years	16 639	3 750	22.5	2 216	13.3	7	4.2	379	228	11	664
18 years	19 302	4 213	21.8	2 343	12.2	14	7.3	443	230	22	674
19 years	20 243	4 046	20.0	2 154	10.6	8	4.0	403	199	14	614
20 years	20 752	3 576	17.7	1 815	8.7	11	5.3	338	163	15	513
Total, 16-20 years	89 678	17 892	19.9	9 944	11.1	46	5.1	1 844	206	74	2 978
Total, all ages	741 388	91 027	12.3	46 559	6.3	160	2.2	6 086	82	309	11 338
1975:											
16 years	12 111	2 521	20.8	1 499	12.4	3	2.5	348	287	7	621
17 years	15 272	3 889	25.5	2 241	14.7	10	6.5	508	333	16	798
18 years	16 831	4 074	24.2	2 275	13.5	19	11.3	504	299	28	773
19 years	17 119	3 930	23.0	2 058	12.0	9	5.3	477	279	18	693
20 years	17 419	3 392	19.5	1 752	10.1	5	2.9	393	226	8	562
Total, 16-20 years	78 752	17 806	22.6	9 825	12.5	46	5.8	2 230	283	77	3 447
Total, all ages	644 559	84 924	13.2	42 841	6.6	166	2.6	6 401	99	339	12 020
1970:											
16 years	9 062	1 171	12.9	766	8.5	2	2.2	198	218	15	449
17 years	12 660	2 052	16.2	1 211	9.6	9	7.1	307	242	20	571
18 years	13 962	2 586	18.5	1 444	10.3	9	6.4	367	263	15	612
19 years	14 689	2 608	17.8	1 426	9.7	11	7.5	338	230	19	536
20 years	15 506	2 629	17.0	1 397	9.0	8	5.2	309	199	13	493
Total, 16-20 years	65 879	11 046	16.8	6 244	9.5	39	5.9	1 519	231	82	2 661
Total, all ages	535 155	56 322	10.5	28 818	5.4	156	2.9	5 127	96	349	10 484

Sources: A.B.S. (Adelaide office) publication *Road traffic accidents* (Cat. No. 9401.4: latest annual issue is for 1980) and Road Traffic Board of S.A. Annual Publication *Road traffic accidents* (Gallery—S.A. collection: latest in for 1979): Pertinent tables of the relevant annual issues.

The Hon. L. H. DAVIS: This statistical table encompasses the period from 1970 until 1980. It specifies the number of licensed drivers in the 16 to 20 year old age group, and the number of people in each age group involved in accidents. Also, it shows the accident involvement rate per hundred persons licensed, the accident responsibility rate for those accidents and the death and injury rate for those age groups. These statistics contain some frightening figures. In 1970, 12.31 per cent of all licensed drivers were in the 16 to 20 year old age group and accounted for some 25 per cent of all drivers killed on the road. However, in 1980, 11.84 per cent of all licensed drivers were aged from 16 to 20 years inclusive and yet accounted for 32 per cent of all drivers killed on the road. In other words, over the past decade there has been a greater percentage of road deaths in that 16 to 20 year old age group as a percentage of those people driving motor vehicles and motor bikes than there has been in other age groups. Unfortunately, the statistics I have taken out do not show one of the more dramatic features, that is, that the road fatalities and serious accidents for motor bike drivers have risen dramatically. That is another matter I hope that the State Government continues to review closely.

I would like to pay tribute to the University of Adelaide Road Accident Research Unit. As a member of the random breath test committee I had an opportunity to form a close link with Dr A. J. McLean and members of that accident research unit. I am pleased to see that the Government has continued to assist, encourage and fund that unit and the very valuable work that it is doing. I seek leave to have inserted in *Hansard* without my reading it material of purely statistical nature representing a sample taken by the Road Accident Advisory Research Unit in the Adelaide area in 1976-77 which highlights the high level of blood alcohol concentration in drivers and riders in the 16 to 20 year old age group and which is again roughly double that for all drivers and riders over the age of 20 years.

Leave granted.

ROAD ACCIDENT STATISTICS

The following data relate to drivers and motorcycle riders involved in an 8 per cent representative sample of road accidents to which an ambulance was called in the inner Adelaide metropolitan area, April 1976 through March 1977.

	Age in years	
	16 to 20	Over 20
Number of drivers and riders	122	288
% with a positive blood alcohol concentration	12.3%	23.3%
% ≥ .05	11.5%	20.1%
% ≥ .08	8.2%	16.3%
Average blood alcohol concentration for those who had been drinking	.12	.13

Note: Total of 410 drivers and riders excludes four drivers of unknown age, two aged less than 16 years and 56 drivers and riders whose BAC was not known.

The Hon. L. H. DAVIS: The Hon. Boyd Dawkins observed quite correctly that there has been a bipartisan approach to this serious matter in this Chamber in recent years. I am pleased to see that this is continuing, hopefully, in respect to these amendments.

One of the matters I hope that the Government takes note of is the need for statistical material to help assess this problem. The new probationary licence system, which came into operation in June 1980 and has now been operating for a little more than two years, involves 25 000 probationary licences currently in South Australia. I hope that statistical information will be readily available in time as to the age of those probationary riders and drivers and their accident rate. That and other information will be of benefit to those people involved in attempting to keep the road toll at a lower level than it is at the moment.

The work of the Road Traffic Board of South Australia in producing statistical details of road traffic accidents is enormous. Often, however, this material tends to come to hand some time after the event. I hope that, in time, some of this information will be more speedily at hand. In supporting the amendments I would like to also support the Hon. Mr Cameron's foreshadowed amendment that in future probationary drivers should not have a blood alcohol level of 0.05 or more when driving.

The Hon. Martin Cameron observed that such legislation has been in operation in Tasmania for some 10 years. Members will be interested to know that in Western Australia earlier this month the Liberal Government introduced legislation to ban probationary drivers from drinking. This followed an inter-departmental committee established by the Western Australian Government last year to examine all aspects of road safety. One of the very strong conclusions that the committee reached was that probationary drivers be banned from drinking.

As a result, legislation has been introduced in Western Australia to provide that, if probationary drivers are detected with a blood alcohol level defined in the legislation as a blood alcohol level in excess of 0.02 per cent, those drivers will be fined up to $100 and have their licences cancelled.

The Hon. R. C. DeGaris interjecting:

The Hon. L. H. DAVIS: That matter may be of interest when the Bill comes to the Committee stage. I have detected a trend around Australia to review this type of legislation, because if a new generation of drivers cannot be encouraged to act responsibly on our roads (as regards their road behaviour and drink driving), there will be a perpetuation of the road carnage which has existed down through the years.

I am encouraged to know that the Government has put a high priority on road safety and driver education, especially amongst young drivers. I am also encouraged to know that the Opposition in this Chamber sees this as a high and important priority, to reduce, not only the fatalities, but also the injuries and the social and economic consequences that flow from road accidents.

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

SURVIVAL OF CAUSES OF ACTION ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 18 August. Page 549.)

The Hon. C. J. SUMNER (Leader of the Opposition): This Bill was introduced by the Attorney-General after a decision by the High Court in the case of *Fitch v. Hyde-Cates,* because the section appearing in South Australia's Survival of Causes of Action Act is equivalent to that appearing in New South Wales, which was subject to interpretation by the High Court. As a result of that interpretation, the Government now believes that both the estate and the dependants of a person killed as a result of negligence of another person may be entitled to damages. The Government is therefore of the view that there may be a double liability. In other words, the deceased person's insurance company would be liable to make payments for some aspects of damage (namely, the future loss of earning capacity), first, to the estate, and, secondly, to the dependants. The dependants of a deceased person have an action under the Wrongs

Act in the case of the death being caused by the negligence of another person. The estate would have an action under the Survival of Causes of Action Act, which is the Act under consideration in this amending Bill.

The present situation which has now been confirmed by the High Court decision is that an estate, as a result of the Survival of Causes of Action Act, is entitled to certain damages that would have accrued to a deceased person. These are not damages at large, and the Survival of Causes of Action Act places certain restrictions on the sorts of damages which can be obtained by the estate, and this does not include damages for pain and suffering, or exemplary damages. However, as a result of the High Court decision in the case of Fitch, an estate is entitled to claim damages for future loss of earning capacity.

As I understand the position, the case of Fitch did not change the existing law, and the existing law as affirmed in the case of Fitch has existed since 1940, when the Survival of Causes of Action Act was passed by the Parliament of this State and provided that certain causes of action should survive for the benefit of the estate of a deceased person. It is law at present, it has been since 1940, and it has not been changed as a result of the case of Fitch.

The amending Bill seeks to alter the situation that has existed since 1940. It will exclude the estate in all circumstances from claiming damages for future loss of earnings. That constitutes—and the Council should be aware of it—a reduction in the rights that citizens of this State now have. It may be that the Council will decide that that reduction in the rights of persons is justified, but there should be no mistake about the fact that the amending Bill restricts the operation of the law as passed in 1940, and restricts the right of an estate to claim damages for future loss of earnings where a deceased person would have had a cause of action for negligence.

The case of Fitch referred to the matter of double liability, and I quote from the decision in that case of Mason J., as follows:

> It leaves extant the possibility that in some cases, notably cases in which the deceased leaves his estate to persons other than his dependants, there will be a duplication of liability. Although this is a matter which may require legislative attention, it is not an argument of sufficient weight to induce me to depart from the interpretation of s.2 (2) *(c)* and *(d)* which I favour for reasons already given.

It is that quote, presumably, on which the Attorney-General is relying to introduce this amending Bill, and I think it would be conceded that we should do away with the situation of double liability. However, this Bill goes further. It excludes the estate from the cause of action which it previously had under the Survival of Causes of Action Act and has had since 1940. We have to ask ourselves whether that is justified, knowing as we do that it is a restriction and a watering down of the rights of citizens in this community at present.

I think that an appropriate solution to the situation is to provide that there should be no double liability, to ensure that the dependants are looked after under the Wrongs Act, but that, if there are no dependants, for instance, then the situation that now applies in relation to the estate should continue to apply. I have placed on file an amendment giving effect to that position: in other words, it does not exclude the estate completely from obtaining damages where a deceased person would have had a cause of action for negligence and would himself have been entitled to damages.

The second aspect of the Bill that I refer to is one that should be dear to the heart of the Attorney-General and certainly to the heart of the Hon. Mr DeGaris, because the legislation clearly is designed to be retrospective. Normally, when a Bill of this kind is introduced, the Act takes effect and acts upon causes of action that arise after the Bill has been passed and has become law, but this Bill attempts to deprive people in the community who already have this right of the opportunity to achieve it, even though they may have started court proceedings and may be so far with those proceedings as to have got to the final date of trial, the only thing missing being that judgment has not been given. That is the effect of the legislation that the Attorney-General has introduced.

Retrospective legislation may be justified in certain circumstances, but this is a very Draconian example of it, because it is taking away rights that people have at present, indeed, rights that they may already have acted upon in the courts. The Bill does not apply only to causes of action that arise after the passage of the Bill. I draw that to the attention of the Council.

Finally, I think that, in drafting terms, there is some doubt as to the meaning of 'judgment' in proposed new section 3 (2). That is the transitional section which means that the Bill applies to all causes of action if judgment has not been given. What is the meaning of 'judgment'? Does it apply to a declaratory judgment so that, if a person has a declaratory judgment with damages to be assessed subsequently, that person is now deprived of his rights? Is that a judgment within the terms of this legislation? My understanding is that a judgment is a final judgment, so we have the extraordinary position where a person could have a judgment under the present law, a declaratory judgment in terms of liability, with damages to be assessed, and now this legislation cuts out any rights that the beneficiaries of that estate might have. That seems undesirable, so I think the Attorney-General should clarify what is meant by the word 'judgment' in the proposed section to which I have referred.

I have some qualms about this legislation, and I think the solution that I have put forward by way of amendment is the more desirable one, namely, that we remove the cause of double liability but still ensure that the policy of the 1940 Act is given some effect by allowing, in the circumstances I have outlined, the estate of a person to continue a cause of action that that deceased person had had prior to his death.

The Hon. K. T. GRIFFIN (Attorney-General): I do not share the concern nor do I agree with the comments of the Leader of the Opposition about this Bill. The case of *Fitch v. Hyde-Cates* did clarify the law with respect to an estate's entitlement to recover for loss of future earnings. It is all very well for the Leader to say that that has been the law since 1940, but that ignores the fact that that principle has not been applied in the judgments that previously have been given. It was only the case of *Fitch v. Hyde-Cates* in the High Court that finally determined that the section of the New South Wales Act equivalent of the Survival of Causes of Action Act was to be considered as entitling an estate to damages for loss of future earnings of a deceased victim of negligence.

It is not as though it removes a well recognised and established right which has been the basis for awards for damages. It is a fact that the High Court found for the first time that this section extends this far in the *Fitch v Hyde-Cates* case. This Bill simply seeks to ensure that the States are placed back in the position that everyone believed they enjoyed before the *Fitch v Hyde-Cates* case. No-one can argue that there is a disadvantage on the basis of a practice which has applied for some four years, only that a right has been established by the High Court which gives something more than a State otherwise would have been entitled to. It really takes us back to the position which applied before the *Fitch v Hyde-Cates* case, before this legislation was put before Parliament.

The Leader of the Opposition also referred to the retrospectivity of the application. I agree that one must be cautious

about the retrospectivity application of Statutes. I repeat that, up until the High Court's decision in the *Fitch v Hyde-Cates* case, no-one believed that a State application could include a claim for loss of future earnings. Except for those who have had judgments awarded since the *Fitch v Hyde-Cates* case on the basis of that decision, no-one is prejudiced by the retrospectivity application of this legislation. Those who do have a judgment in those terms are not affected by this Bill.

In relation to the reference to judgment, that is a matter that I will take advice on. There will be an opportunity to respond to this question in greater detail in Committee. I understand that it is a final judgment. If there has been a judgment but no assessment of damages the legislation would apply; that judgment would not be exempt from these provisions of the legislation. I will check that point and I hope to give a clear answer in Committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

ROYAL COMMISSIONS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 August. Page 550.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition supports this Bill. Indeed, this matter already has something of a history in this Council, as I have questioned the Attorney-General about it on a number of occasions. Indeed, I suggested some 12 months ago that this legislation should be introduced. Quite simply, it provides that the privilege which now attracts to courts for witnesses and judges and other participants in court proceedings should also attract to royal commissions. It was the generally accepted view that absolute privilege applied to the proceedings of royal commissions in this State. Justice Mitchell in the South Australian Supreme Court held in the *Douglass v. Lewis* case that only qualified privilege applied to the proceedings of royal commissions in South Australia.

This Bill will place the law on the basis that was assumed to apply prior to that decision, that is, that everything is privileged before a royal commission. On that basis, the Bill has the Opposition's support. However, I will raise one or two issues which I have previously canvassed in this Council and which should give cause for some concern to Parliament, particularly to those members who are interested in the rights of individuals in the community. In June last year Mr Douglass, an employee of the Department of Correctional Services, brought an action against Mr Lewis, a prison officer at Yatala, alleging that he, Douglass, had been defamed in a document which Mr Lewis submitted to the royal commission into prisons. I raised this issue in the Council at that time because I was concerned about the future conduct of the prisons royal commission. The Attorney-General did not take any action at that stage to correct the position and he did not introduce this Bill at that time, although that would have clarified the position in relation to that royal commission.

The matter proceeded and the Attorney-General expressed the view that privilege did apply. The Attorney-General intervened in the Supreme Court case of *Douglass v. Lewis*, supporting the proposition that absolute privilege did apply. However, as I said, he did not undertake to introduce any legislation at that time. I also asked whether the Attorney was prepared to indemnify Mr Lewis for his costs. There has been no final decision on that matter, although Mr Lewis was indemnified for the costs of the preliminary point, that is, whether absolute privilege applied in these circumstances. To give the Council an idea of the absolutely miserable, penny-pinching decision taken by the Government and the Attorney-General I will relate to the Council—

The Hon. K. T. Griffin: It's *sub judice.*

The Hon. C. J. SUMNER: It is not *sub judice.* I am permitted to outline certain matters pertaining to the case, provided I do not attempt to prejudice the decision that may be forthcoming. I understand that the facts were admitted in relation to the preliminary point. Mr Lewis prepared a statement, which was handed to his solicitor. His solicitor handed the submission to the counsel assisting the royal commission, who distributed it to the other parties.

The Hon. K. T. Griffin: With respect, these facts have not been established. I kept telling you that.

The Hon. C. J. SUMNER: Up to that point the facts have been established. There is only one fact that has not been admitted. My understanding of the facts is that they have been agreed. The only question is whether or not there was any malice involved in Mr Lewis's submission to the royal commission. The fact is that the submission was made to the royal commission and was distributed to other parties by the commission itself and Mr Lewis, having taken that action in response to queries and an invitation from the commission, now finds himself sued for defamation, and this Attorney-General will not lift a finger to help him. The situation is quite disgraceful and scandalous.

The Attorney could have intervened in the situation more than he has done to the present time. He could have intervened and indemnified Mr Lewis, who is now suffering considerable health problems as a result of the stress of this case, but he has not; he has taken no action at all on the matter. The Attorney's actions are miserable to the point of being quite callous. He has hidden behind the fact that there is some decision that still has to be taken on the matter. I believe that the decision will be irrelevant to whether or not the Attorney should indemnify Mr Lewis. The simple fact is that Mr Lewis made his submission to the Royal Commissioner at the invitation of the Royal Commissioner, and everyone in South Australia—the Attorney, the Royal Commissioner, counsel assisting the commission, Crown Law officers—thought that absolute privilege applied in those circumstances. Then, as a result of the decision of Justice Mitchell, we find that absolute privilege did not apply, yet the Attorney is not willing to help Mr Lewis in these circumstances.

I find that attitude quite reprehensible and difficult to understand. Certainly, it is quite callous. As far as Mr Lewis is concerned, the issue could be resolved by the Attorney-General's undertaking to pay the costs of any further court proceedings, and that is just what he should do because, as I have said, the general understanding of the law was that absolute privilege applied. By the introduction of this Bill, the Attorney apparently wants to affirm that absolute privilege applies; that is what this Bill is all about. Yet he is willing to let Mr Lewis hang around and fight his battle through the courts, a battle he has been fighting for over 12 months. The Attorney is willing to let him continue that fight without any assistance whatever, and without coming good with any undertaking as to costs. I would have thought that any reasonable man in this Chamber, faced with those facts, would take the Attorney-General to task. His attitude, as I have said, is quite inexplicable and I believe, at worst, quite callous.

The situation that I tried to explain before was that the facts that I outlined were agreed to for the purposes of the case on the preliminary point. There was no question of Mr Lewis's having published this document in some other forum that may have meant that he was subject to defamation proceedings. The fact is that, in consultation with

his solicitor, all he did was prepare a submission and hand it to counsel assisting the commission, who distributed it. He now finds himself before the courts, and he has been before the courts for 12 months. One preliminary point had to be discussed, and the matter will continue without any assistance from the Attorney-General.

It is now time for the Attorney-General to examine his position. I do not know from where he is getting his advice (perhaps he has not studied the file properly himself). How can anyone who claims any compassion adopt such an attitude in relation to a citizen of this State? I find the situation extraordinary. Although I support the Bill, I trust that the Attorney will take some action to assist Mr Lewis in alleviating the threat, and the continued threat, of legal proceedings, with the enormous cost that could be entailed or incurred by him as a result of those proceedings, all because, as a prison officer at Yatala, he decided to make a submission to the royal commission after having been invited to do so.

The Hon. K. T. GRIFFIN (Attorney-General): The Leader of the Opposition and I have already had some correspondence about this matter, just as I have already had correspondence with the solicitors for Mr Lewis. I do not intend to canvass in great detail that correspondence. The fact is that there was a certain indemnity given as to costs of parties in the argument on the preliminary point. As I indicated in my response to the solicitors for Mr Lewis and the Leader of the Opposition, when the facts of the matter have been established the Government and I will sympathetically consider the request that has been made by him. The Bill before us is a Bill which seeks to clarify the law in the light of the decision of Justice Mitchell on the preliminary point.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Protection to commissioners and witnesses.'

The Hon. C. J. SUMNER: Once again the Attorney has completely stonewalled over this issue. He has not indicated what facts need to be determined by the court that should influence his decision. The facts are quite clear. Poor Mr Lewis got sucked in by the Royal Commission and is now paying the price for having placed a submission before that commission and the Government, for some obscure reason which I find impossible to understand, refuses to act to help him. I would like to know from the Attorney what facts need to be determined.

Surely, if the situation was that, before the submission was put in, absolute privilege applied, then Mr Lewis would not have a worry in the world. That is what the law was thought to be by everyone in the community, including the Attorney. They are the only facts that it seems need to be determined, unless the Attorney is saying, 'If it is determined by the court that Mr Lewis put this submission in maliciously, then he should not be entitled to any damages.' Of course, the question of malice is absolutely irrelevant to absolute privilege.

Is that the fact that the Attorney wants determined by the court? If it is, I repeat that it is irrelevant to the situation as Mr Lewis thought it was before the royal commission when he made his submission. What are the facts that need to be determined to enable the Attorney to make a decision to indemnify Mr Lewis for his costs? Does the privilege that he now purports to give by new section 16b to a Royal Commissioner or witnesses before a royal commission also apply to other participants before a royal commission, such as counsel appearing for parties? They are not mentioned.

The Hon. K. T. GRIFFIN: I believe, in answer to the second question, that the answer is that it does extend to parties appearing before a royal commission.

The Hon. C. J. Sumner: The counsel?

The Hon. K. T. GRIFFIN: Yes.

The Hon. C. J. Sumner: Where?

The Hon. K. T. GRIFFIN: As I understand, this Bill is drafted in the same terms as for a court and, by implication, in court proceedings the statements made by counsel to a court are equally covered by privilege.

The Hon. C. J. Sumner: I think you'd better check that.

The Hon. K. T. GRIFFIN: Let me deal with the first question. I do not intend to canvass the *Douglass v. Lewis* case at length. It may be that there have been agreements reached between the solicitors for the two parties as to the facts of that case, including the question of malice (and not only the question of malice). However, I am not privy to discussions that took place between counsel for those parties. What I will do is ascertain from counsel for both parties what facts were agreed to in those proceedings.

The Hon. C. J. Sumner: What relevance do the facts have if it was absolute privilege that was thought to have applied to the royal commission?

The Hon. K. T. GRIFFIN: The facts are relevant in determining whether privilege, in any event, applied to the statement. What I have indicated is that I am prepared to check.

The Hon. C. J. Sumner: They certainly agreed that there was no publication outside the royal commission, so what other facts are there?

The Hon. K. T. GRIFFIN: I will check with counsel representing both parties as to what facts, if any, have been agreed. I will then certainly be prepared, in the light of that information, to look at this matter again. A preliminary point was not argued on the basis of any facts, but only on the initial point of privilege and whether or not proceedings of a royal commission were absolutely privileged. The Leader recognises that, if there is a report of proceedings of a court, or of Parliament, that report is not absolutely privileged. It is covered by qualified privilege provided it is a fair and accurate report of those proceedings, so there are a number of areas which are relevant to the area of privilege, in this case in particular, and which need to be established.

I will certainly inquire as to what facts, if any, have been agreed by the parties, as to the circumstances in which the statement was made, and also about the question of malice. If the statement was made without malice, then it attracts qualified privilege and there is then no question of an indemnity for costs being required. That is the circumstance in which it is important to determine whether or not there is malice.

The Hon. C. J. Sumner: You can give him an indemnity, but you don't have to indemnify in those circumstances—you can get your costs from the other party.

The Hon. K. T. GRIFFIN: I have indicated to the Leader and the solicitor for Lewis that, when the facts are determined, I am prepared to consider sympathetically the request which has already been made. So far as the question of counsel is concerned, I will look at the principal Act. I cannot quickly find what I am looking for, but my understanding is that it would extend to counsel, probably under the provisions of the Wrongs Act rather than the provisions of the Royal Commissions Act. We will report progress, in order to clarify this particular point.

Progress reported; Committee to sit again.

WRONGS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 19 August. Page 120.)

The Hon. C. J. SUMNER (Leader of the Opposition): I support this Bill, which extends the provisions in the Wrongs Act relating to privilege from defamation proceedings for reports in newspapers, as currently exists, to reports on television and radio. I do not believe that there is any objection to that basic principle. However, I have two queries. First, clause 3 places in the Wrongs Act absolute privilege for contemporaneous reports of the proceedings of either House of Parliament which, for some odd reason, is not now in the Wrongs Act.

Perhaps the Attorney-General can advise why that provision was not initially in the Wrongs Act. It may well be that absolute privilege applies to the proceedings of Parliament in any event. Certainly, qualified privilege would apply. It is curious that absolute privilege applies to proceedings of a select committee of the Parliament, yet there is no specific mention of Parliament itself. Apart from the other matter I have mentioned, this Bill does clarify that absolute privilege attracts to contemporaneous reports of proceedings of the Parliament. It may be that the Attorney-General can clarify why that is necessary and why it has come up at this point in time. Has there been any problem? Has there been any recommendation to the effect that this amendment is necessary?

The second matter I raise deals with clause 5, which amends section 10 of the Wrongs Act. Section 10 provides a defence to an action for libel contained in a newspaper or magazine if it is proved that the libel was published without malice and without gross negligence. Clause 5 extends that to include radio and television. The query I have is whether or not some statements on radio may not be libel but may, in fact, be slander. If that is the case, the drafting of clause 5 needs some correction because it should state that a defence to an action for libel or slander contained in a newspaper or magazine, or uttered on radio or television applies if it is proved that the libel or slander was published without malice and without gross negligence.

I have not had the opportunity to research the point fully, but it has been put to me that whether or not a statement on radio is libel or slander depends on whether or not the statement has been committed to some permanent form. That may well mean that, if a statement is made directly over the radio, it may still be slander, whereas, if it is a recorded statement played over the radio, it may constitute libel, as indeed statements on television constitute libel. If that is the case, there may be some category of radio broadcasts which are in fact slander and not libel. If that is the case, clause 5, which amends section 10 of the principal Act, needs some attention. Subject to those two queries, I am prepared to support the Bill.

The other question I could ask is, given that television and radio have been with us for some considerable time (about 20 years in the case of television in South Australia and, of course, radio much longer than that), why this amendment has not been deemed necessary before. I guess that this may have been previously covered by common law in any event, but there may be a particular reason of which the Attorney-General can advise the Chamber and which brought this matter to his attention.

The Hon. K. T. GRIFFIN (Attorney-General): I am not aware of the reasons why it was not included before this time in the Wrongs Act. I think that the Leader's assumption that common law covered it is probably correct, although there might be questions whether common law applied particularly to television but also radio, because they are, in terms of the development of common law, relatively recent innovations. Perhaps the answer is that everyone presumed that fair and accurate reports on radio and television of the proceedings of Parliament were privileged and no-one took the smart point that they were not subject to such privilege.

I am not aware of a reason, either, why contemporaneous reports of Parliament have never been included in section 7 of the principal Act. Again, it may be that, by virtue of well established practice, it was believed that privilege prevailed over such fair and accurate reports. I have no knowledge of the reasons why it was not specifically included in the Act. I am prepared to have my officers research that. It may be that the answer is best communicated by letter, rather than holding up the Committee stages of the Bill.

The other point to which the Leader of the Opposition referred is the question of whether, for example, what is reported on radio is libel or slander. I think that whether or not there is a permanent record of what is said or displayed determines whether or not it is libel or slander. I suppose that it could be said that on some occasions it might be slander, rather than libel. For that reason, when we come to the Committee stage, I will report progress after dealing with clause 1 and, if there needs to be some minor redrafting, I will bring that up tomorrow. It is a point worth picking up with the Parliamentary Counsel, in particular, and I will undertake to have that done before the Bill passes through the Committee stages.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

PRISONERS (INTERSTATE TRANSFER) BILL

Adjourned debate on second reading.
(Continued from 19 August. Page 622.)

The Hon. C. J. SUMNER (Leader of the Opposition): I support the Bill. Since 1973—believe it or not—the question of reciprocal arrangements for the transfer of prisoners between the States of Australia has been under consideration by the Standing Committee of Attorneys-General and, finally, that standing committee has agreed on a scheme which will become the subject of legislation in each of the States. The fact that it has taken almost 10 years to achieve this result is hardly a compliment to the standing committee and, indeed, it raises the question whether that body can effectively promote and carry out law reform proposals in this country. Indeed, on a previous occasion I think that a Senate select committee on law reform and the implementation of law reform proposals was critical of the role of the Standing Committee of Attorneys-General in the promotion of law reform in this country. All I can say is that the Standing Committee of Attorneys-General seems to move exceedingly slow in relation to any matter that is brought to its attention.

The Hon. K. T. Griffin: It involves getting agreement between seven parties.

The Hon. C. J. SUMNER: I appreciate that there are seven parties and that it would be difficult to obtain agreement amongst them, but that does not in any way lessen the validity of the criticism that, as a body which ought to be effective and be to the forefront in carrying out law reform in this country, it is certainly not satisfactory, as the Senate select committee report emphasised. A perfect example of the tardiness with which the standing committee deals with matters is this legislation, which has taken nigh on 10 years to complete.

I have a number of queries, although I support the legislation in principle, as the Labor Government supported it just before 1979. There is a gap in relation to the question why prisoners under Commonwealth law are not included. The Commonwealth participates in the deliberations of the Standing Committee of Attorneys-General. Why has the standing committee not found it within its powers to come to an agreement with the Commonwealth on this matter?

The second reading explanation indicates that the Commonwealth may legislate at some future stage. I should like the Attorney-General to inform the Council when that can be expected, because at the moment there is a gap in what should be a comprehensive, uniform and reciprocal arrangement for all persons in Australia, no matter in what State or Territory they find themselves, and no matter whether they are sentenced as a result of Commonwealth, State or Territory law. Indeed, I suppose the question could be raised of whether the Bill applies to prisoners in the Territories; it is possible that it does not apply to them. Clearly, there are gaps in the legislation and it is fairly amazing, after 10 years of deliberation on the topic, that the Attorneys-General still cannot come down with a comprehensive package for the whole of Australia. My first query is what are the Commonwealth's intentions in this area, and what is the position in relation to the Territories.

The Bill in clause 4 provides that the Act is to be administered by the Chief Secretary, and yet in some sections of the proposed Act the Attorney-General will have quite a significant role to play in deciding whether prisoners should be transferred from one State to another. I query why the Attorney-General has that right when the Chief Secretary is charged with administering the Act overall. I suppose the answer is that the Attorney-General has a role to play in the transfer of prisoners on trial and, as the Attorney-General has the overriding authority in the area of prosecutions, pre-trial decisions should be taken by him. In this context, I refer also to clause 13 of the Bill, where the Attorney-General is required, when he makes a decision in relation to a prisoner for the purposes of the Act, to advise the prisoner of that decision. However, there is no corresponding obligation on the Chief Secretary, as I understand it, to advise the prisoner of the decision that he makes.

The Attorney-General has an obligation, even though the Act is not to be administered by him, but the Chief Secretary has not. The Chief Secretary has the authority to make decisions in relation to a number of matters, and in particular the question of transfer for the welfare of the prisoner or the transfer of a prisoner back to his original State. For those transfers the Chief Secretary has responsibility, yet I can find nothing in the Bill requiring him to make his decision known to the prisoner, whereas the Attorney-General has that obligation. Perhaps the Attorney-General would like to inform me of the reason for that.

My next question relates to clause 8, dealing with transfers for prisoners' welfare, and providing that the Chief Secretary may issue an order for the transfer of a prisoner to another State. That could mean, for example, that the Minister in South Australia, having got the necessary request from the prisoner, could make a decision to transfer that prisoner to New South Wales. Clause 8 provides that the decision to issue or not to issue an order for the transfer of the prisoner is not reviewable by a court or tribunal, so we have a situation where Ministerial discretion is being removed from the normal administrative procedures that may be available to an individual.

The Hon. K. T. Griffin: And if the Bill was not passed, the prisoner would not have the right, anyway.

The Hon. C. J. SUMNER: That may be so, but it is hardly a point to say that he has no rights at the moment and we are slightly improving that but, in doing so, we will not give the normal administrative remedies or rights of appeal against administrative decisions which now exist, even though they are at present somewhat limited. Prerogative writs do not establish a comprehensive means of reviewing administrative decisions, but clause 8 (2) precludes the courts from participating in any way in a decision of the Minister, so the Minister is completely autonomous in deciding whether or not a prisoner should be transferred from South Australia to New South Wales in the example that I have given.

All honourable members, I am sure, will recall the terrible fuss the Attorney-General kicked up in this Chamber some years ago when we had petrol rationing legislation before us and when there was a clause in the Bill providing that prerogative writs were not available to attack a decision made under that.

The Hon. K. T. Griffin: That's a totally different scene.

The Hon. C. J. SUMNER: That is an administrative decision taken by the Minister.

The Hon. K. T. Griffin: To deprive of rights. This does not deprive. This gives the prisoner rights that he did not have previously.

The Hon. C. J. SUMNER: That is all very well, but if it is decided not to transfer him, basically the right he has under the Act he is not being allowed to exercise.

The Hon. K. T. Griffin: It is discretionary.

The Hon. C. J. SUMNER: Allow me to continue. The Attorney-General kicked up a fuss three years ago when petrol rationing legislation was introduced, saying that it was obnoxious to him, and that it was a denial of democracy to exclude the courts from the capacity to review administrative decisions, in that case the administrative decision being whether or not to grant a permit to a person during a period of restriction. He said that was obnoxious and that the court's normal power to review administrative decisions by way of prerogative writs should remain. I think he changed his mind subsequently when, in Government, he introduced a similar Bill. Leaving that aside, he is now, it seems, accepting his more recent view of the situation, which is that certain Ministerial decisions should be immune from any procedures in the courts of review, and that is what clause 8 (2) does.

Curiously enough, clause 10 deals with the Minister in the receiving State—in my example, the Minister in New South Wales. If he makes a decision not to accept the prisoner, then his decision can be reviewed by the courts, because there is nothing in clause 10 to provide that that administrative decision should not be challenged in the courts by way of prerogative writs. What sort of hotch-potch have we got? We have a position in clause 8 of the Minister in this State deciding that the prisoner should be transferred to another State, where the legislation provides that that decision or refusal to allow him to be transferred cannot be challenged in any way in a court. On the other hand, if the Minister who is acting in South Australia refuses to accept a prisoner from New South Wales, then the decision can be challenged in the courts. There is no exclusion in clause 10. It seems that clause 8 (2) should be deleted in the interests of justice and in the interests of consistency with clause 10. The other question I have relates to clause 5, where it is made clear that the Bill does not apply to sentences of detention being served in training centres.

In other words, the Bill does not apply to children. That seems to be another extraordinary omission. I believe there is more justification for this type of legislation for children than for adults, given the general philosophy that this Government says it applies to child offenders. Indeed, it is generally accepted in this State and the rest of the Commonwealth of Australia that child offenders should be treated differently from adult offenders. However, what appears to

be quite an enlightened piece of legislation which provides for the transfer of prisoners excludes children detained in training centres in South Australia and presumably it excludes children detained in other centres in other States of Australia.

I find that a curious deletion from what appears to be quite a comprehensive piece of legislation. However, it is not that comprehensive, because it excludes children and it excludes persons imprisoned under Commonwealth law. It may also exclude persons imprisoned under territorial law. I support the Bill because it is at least, a first step after 10 hard years of negotiation between the States. That negotiation has managed to produce some degree of uniformity. However, I would like the Attorney-General to give attention to the matters that I have raised.

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

ADJOURNMENT

At 5.4 p.m. the Council adjourned until Thursday 26 August at 2.15 p.m.