LEGISLATIVE COUNCIL

Thursday 3 December 1987

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

POLICE COMMUNICATIONS CENTRE

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

Police Communications Centre, Adelaide (Establishment and Equipping).

PAPERS TABLED

The following papers were laid on the table:

By the Hon. Barbara Wiese on behalf of the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Food Act, 1985—Report, 1986-87.

By the Minister of Local Government (Hon. Barbara Wiese):

Pursuant to Statute—

Libraries Board of South Australia—Report, 1986-87.

QUESTIONS

MARIJUANA

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Attorney-General a question about random marijuana testing of motorists.

Leave granted.

The Hon. M.B. CAMERON: Members will no doubt be aware of some articles in the press this week detailing legislative changes in New South Wales which allow police in that State to obtain blood or urine samples from motorists reasonably suspected of driving while under the influence of a drug. At the same time there was a report in the Adelaide press about South Australian police having compiled a report for the Department of Transport's Road Safety Division on a proposed survey of drivers suspected of being under the influence of marijuana. The article says that if the survey shows marijuana use is contributing towards road accidents in this State then a recommendation that a permanent screening test be established could be put to the Government.

As I understand it, the existing legislation in this State prevents police demanding a blood test of a driver who is believed to be under the influence of drugs. The exceptions are where a motorist has been involved in an accident, and police may also obtain a blood test under a provision of the Summary Offences Act, but the officer must first be reasonably sure he has enough evidence so that he can at first charge the person with driving under the influence.

In Tasmania the Road Safety (Alcohol and Drugs) Act was amended in 1982 to allow for blood or urine testing of road users by a medical practitioner in cases where police believe the person is driving in a dangerous manner. Police there do not have to wait for a driver to be involved in an accident, and do not have to charge the driver with driving under the influence before they can do that test. Police in South Australia do not have the same ability to check drivers for being under the influence of drugs, yet the smoking of marijuana and driving a vehicle does occur.

No doubt members of the select committee on random breath testing would recall that evidence was given to the effect that marijuana can have a devastating effect on a person's driving ability. In fact, we were told that a rainbow effect is possible after having just one or two drinks and then smoking marijuana: the marijuana increases the effects of intoxication from alcohol than would be the case if the person only had a drink. I gather that the effects from one drink can increase four-fold if consumed while smoking marijuana.

It would appear that, if we are to be serious about reducing the State's road toll, we must seriously consider giving the police power to check randomly motorists for being under the influence of marijuana, in the same way as we have accepted alcohol testing. My questions to the Attorney are:

1. Has the Government considered introducing voluntary blood testing for drivers in cases where police reasonably believe the driver to be under the influence of marijuana or other drugs?

2. Is the Government intending at any stage to introduce random marijuana testing of drivers in South Australia?

The Hon. C.J. SUMNER: Those matters have not been formally considered, as far as I am aware. I saw the press speculation yesterday. I expect that if there was a suggestion within Government—including the police—that this should happen it would be assessed in the appropriate way, including having the matter examined by the Road Safety Division of the Department of Transport. At this stage no decisions have been taken on this proposition raised by the honourable member. I can only assume that if there is a suggestion that a report be prepared by the police it will be considered by the Road Safety Division and the Government in due course.

BAIL

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about bail.

Leave granted.

The Hon. K.T. GRIFFIN: Madam President, an extraordinary situation has been drawn to my attention. A person (whose name I can give to the Attorney-General) was arrested on 2 November 1987 for house breaking and bail was granted. Whilst on bail, the person is alleged to have committed further offences. He was rearrested on 11 November 1987 for three more house breakings. He admitted to police that he needed the money to feed a $3 000 a week heroin habit. For these reasons, the police opposed bail, but it was granted by the court. On 30 November 1987 the same individual was rearrested and had in his possession $17 000 worth of cash, jewellery and goods. When he appeared before the Adelaide Magistrates Court on 1 December 1987 he was once again granted bail, despite police opposition.

This person has a long history of drug addiction and antisocial behaviour as a juvenile. Because of the certainty that

this person will reoffend, I understand that the police have now sought a review of the magistrate's decision on this last occasion. This case raises some important questions about the attitudes of the courts towards bail and the protection of the public and the extent to which bail reviews are initiated by the police or the Crown. My questions to the Attorney-General are as follows:

1. Will the Attorney-General investigate this case with a view to determining why bail was granted on each occasion and why, despite police opposition to bail on the second occasion, no review of the granting of bail on that occasion was sought?

2. Is there a policy followed by the Police Department with respect to application for review of bail orders where bail has been granted notwithstanding police opposition? That is, where there has been police opposition to the granting of bail, but bail has nevertheless been granted, is there an automatic procedure or policy by which a review of the bail order is initiated? If there is any policy, can the Attorney indicate what that policy may be?

The Hon. C.J. SUMNER: As the honourable member knows full well, the question whether bail is to be granted is a matter for the courts. I am not sure what he has in mind when he suggests that I should investigate why a court decided to grant bail in a particular case. Is he suggesting that I should investigate the court?

The Hon. K.T. Griffin: The reasons why—

The Hon. C.J. SUMNER: Well, if he is suggesting that I investigate the court, obviously it is not something that would be appropriate, because courts are independent, and they make their decision with respect to bail after hearing submissions from the police or the Crown on the one hand and the defendant on the other.

However, I can ascertain from the police why bail was granted on the first two occasions. The police follow certain guidelines to determine whether bail should be supported or opposed. Obviously, the policy must be to try to ensure that where there is no likelihood of persons reoffending or of their absconding, they should be granted bail. If they were not, our prison system would be under even greater strain than it is now.

It has to be remembered that people are deemed to be innocent until proven guilty and, in those circumstances, bail should be granted unless there are reasons relating to the likelihood of absconding or reoffending or the seriousness of the offence that would mean that it is inappropriate to grant bail. In every case in which the police oppose bail, they do not seek a review of the decision to grant it. I believe that would not be a satisfactory procedure to follow. If superior courts were being confronted with review applications almost daily, they would probably consider that the system was not working.

In answer to the honourable member's question, the decision, at least before the courts of summary jurisdiction, as to whether a bail review should be sought by the Crown is a decision made by the police because the Crown Prosecutors are not there. It has to be made immediately so that the person granted bail is not in fact released from custody; otherwise, if the application for review is not made immediately, the defendant is released from custody and might abscond.

The police have to make a decision in the Magistrates Court virtually immediately as to whether to seek a review of a bail decision. Certain guidelines apply. I do not have them with me at present, but the principles are that people should not be incarcerated awaiting trial except where that is absolutely necessary for the protection of the public. However, I will make some inquiries about this matter, and let the honourable member know.

ROAD MARKINGS

The Hon. DIANA LAIDLAW: I seek leave to make an explanation prior to asking the Attorney-General, in the absence of the Minister of Health who represents the Minister of Transport, a question on the subject of lines painted on the roads.

Leave granted.

The Hon. DIANA LAIDLAW: Earlier this week Adelaide was hit with violent winds, lightning and extremely heavy rain. Fortunately, I was not on any roads at the time—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Yes, I was probably in this place—I feel as though I have not left it, but friends of mine were on the roads, and they have complained to me that the very frightening conditions were aggravated by the fact that the painted lines on the road were impossible to see. They recounted their experience and also that of one other couple of near head-on collisions, because drivers were unable to discern the middle of the road. The non-visible lines make the situation very dangerous.

Having considered this subject a little more closely in the past 24 hours, I have found that the quality of paint used for road line marking also causes problems for motor cyclists. Apparently, they have complained that riding over the paint on the road surface is like riding on glass, and that they try to avoid big patches of paint where there are arrows designating right and left turns. However, even the dividing lines down the middle of the road cause dangers from skidding.

Therefore, will the Attorney ask the Minister of Transport whether, due to the legitimate concern in the community for road safety matters, he will conduct an urgent investigation into the type of paint that is used to mark road surfaces, with a view to selecting and using paint that can be clearly seen at night, especially when the road is wet, and preferably a paint that has non-skid qualities? Also, having a paint that remains visible when roads are wet is important not only for the metropolitan areas but also for country roads, which are often unlit. Will the Minister ensure that an urgent investigation of this matter is undertaken?

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

MOTOR CAR INDUSTRY

The Hon. L.H. DAVIS: I seek leave to make an explanation before directing to the Attorney-General a question on the subject of the motor car industry.

Leave granted.

The Hon. L.H. DAVIS: Official Australian Bureau of Statistics figures show that for the first four months of the 1987-88 financial year (that is, July to October) new motor vehicle registrations in South Australia fell by 16.3 per cent. That was the greatest fall of any Australian State. Although South Australia has 8.6 per cent of Australia's population, we have only 7.5 per cent of new motor vehicle registrations. This collapse in sales brings motor vehicle registrations in South Australia to the lowest level for at least 25 years, although South Australia's population in the past 25 years has increased by nearly 42 per cent.

I understand that at least 10 new car dealers have closed their doors in South Australia this year, and that at least

30 used car dealers in the metropolitan area have gone out of business. Quite clearly, hundreds of jobs have been lost in the motor vehicle industry as a result of plummeting sales. I understand from industry sources that fringe benefits tax has had a major and continuing impact on car fleet sales. A further impact has been the continuous hikes in the new car prices.

All cars sold in South Australia have some components from overseas. About 80 per cent of imported vehicles come from Japan or Korea, with the remaining 20 per cent of imported vehicles coming from Europe, many from Germany. The crash of the Australian dollar against the Japanese yen and the German deutschmark has ensured that the price of new cars has continued to rise, and industry sources are forecasting that following an average 15 per cent rise in car prices in 1987, there will be a further 15 per cent rise in car prices in 1988—which, of course, is twice the predicted rate of inflation. I suppose that there is a message in that for all South Australians contemplating buying a new car—they should be doing it sooner rather than later. My questions are as follows:

1. Does the Minister agree that weakening car sales in South Australia, the worst of any Australian State in the first four months of 1987-88, are a source of great concern, and is the Government closely monitoring the motor vehicle industry given its special importance to South Australia?

2. Has the Government reviewed its guidelines for the purchase of motor vehicles for Government departments and authorities in view of the continuing increase in new car prices?

The Hon. C.J. SUMNER: Another question in the same vein as the honourable member usually asks. As he well knows, the ups and downs of the economic cycles in the various States do not always coincide. There is no doubt that there has been a depression in demand for new motor vehicles throughout Australia. At other times, of course, there has been higher demand. Without wishing to go back through the figures again, during the period of the Bannon Government there was considerable activity in the retail car sales area.

At present there is not that same degree of activity. As I said previously, there are ups and downs in the cycle of economic activity, in particular industries that substantially reflect national factors that are operating. I have outlined on previous occasions the general approach of the Government to these sorts of issues and I can only refer the honourable member to the answers to those questions. Again one is faced with the honourable member—and also in today's newspaper—carping on about some aspects of the South Australian economy.

I did not see him congratulating some earlier part of the Bannon Government when there was economic activity in most areas that, according to most indicators, surpassed the rest of Australia. Of course, that—

The Hon. L.H. Davis: When was that?

The Hon. C.J. SUMNER: Well, the honourable member had better go back and study his figures. That was certainly the case. As I said, these things go in—

The Hon. L.H. Davis: One particular day of the year.

The Hon. C.J. SUMNER: No—cycles. Presently in some industries there is a depression of activity and demand. I can only refer the honourable member to previous answers.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: You always want to come in and condemn the Government for everything. It is all the Government's fault.

The Hon. L.H. Davis: I didn't say that.

The Hon. C.J. SUMNER: That is the implication. You ask these sorts of questions every day of the week. The only implication that can be involved is that somehow or other the situation with respect to motor vehicle sales in South Australia is all the fault of the State Government. That, of course, is patently not true. On previous occasions I have outlined the general direction that the Government is taking in South Australia—indeed, directions that have to be taken nationally as well.

The Hon. L.H. Davis: What about the purchasing of cars for Government departments and statutory authorities? In view of increased prices, are you reviewing your policy on that?

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I do not know. I will obtain an answer to that second question for the honourable member. As to the general point he makes, all I can say is that it is in similar vein to previous comments that the honourable member has made. The Government has an overall economic objective designed to diversify the South Australian economy so that it does not have to rely on one particular area of industrial economic activity.

CHLOROFLUOROCARBONS

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking the Attorney-General, representing the Minister for Environment and Planning today, a question about chlorofluorocarbons.

Leave granted.

The Hon. M.J. ELLIOTT: It was only a few months ago that I had a Bill before this Council in relation to chlorofluorocarbons which was rejected by both the Labor and Liberal Parties. Since then further scientific evidence has accumulated which indicates that in 1987 the ozone layer has depleted even further in the Antarctic region and that depletion has spread over a wider area than it had in any previous year on record. I refer the Minister to an article in *The New Scientist*, an eminent English scientific magazine, of 12 November this year, a copy of which can be found in the Parliamentary Library. In part that article states:

> Above the Antarctic, the layer of ozone which screens all life on earth from the harmful effects of the sun's ultraviolet radiation, is shattered.

It then goes into an extremely extensive analysis of the problem and towards the end of the article makes a few pertinent comments. It says:

> The big question is no longer whether the CFCs are responsible for the depletion of the ozone layer, but rather how they do it.

The article refers to a protocol, which was signed early this year in Montreal, and states:

> The protocol set objectives for the next decade, which would cut the consumption of CFCs and related artificial chemicals, and thus curb atmospheric levels of chlorine and bromine. The cuts in the consumption of CFCs agreed at Montreal, however, are hopelessly inadequate to stop the build-up of these chemicals in the Earth's upper atmosphere.

The article goes on to say:

> For every 6 tonnes of CFC that we allow into the atmosphere, 5 tonnes will still be there at the end of the year. We are putting CFCs into the atmosphere five times faster than natural processes can dispose of them. Let us be clear about what is meant by cuts. The emissions of CFCs are so large, and their rates of loss so small, that they are accumulating rapidly. If we wish the amounts of CFCs to remain constant, we must cut emissions so that they are equal to the losses, that is to say to roughly 15 per cent of their current level. Only when larger cuts are imposed will the amounts of CFCs in the atmosphere start to fall. They will, moreover, fall very slowly. If emission ceases tomorrow, about

one-third of the F-11 will still be there in 65 years' time, while the corresponding time for F-12—

which I believe is freon—

is about 120 years. Under the protocol, as it stands, the amounts of CFCs in the atmosphere will still be increasing even after the envisaged cuts of 50 per cent have taken place in 1999.

That article paints an extremely grim picture and there have been no articles in recent times in any scientific journal that I have seen that do anything but paint a very negative picture.

Subsequent to the moving of my Bill and its defeat I have had two interesting contacts, one from a refrigeration manufacturer that designs cooling units for refrigerators and air-conditioners. That company already has in production a refrigeration unit which uses one-fifth of the quantity of CFCs with the same cooling effect. I was also contacted by an association that represents refrigeration mechanics. It is also interested in the Bill because it says that it is quite easy to design refrigerators so that the loss of CFCs can be minimised and so that they have the capacity to trap them. In other words, I have been contacted both by manufacturers and mechanics telling me that without any economic hardship it is possible to substantially reduce the loss of CFCs, at least in relation to refrigerators.

Is the State Government willing to do something about this matter before the situation deteriorates further? I know South Australia is only a small part of the total overall world economy—

An honourable member: You're kidding.

The Hon. M.J. ELLIOTT: Of course we are a small part, but nevertheless we have a responsibility. We cannot expect others to do things that we will not do ourselves. In the light of scientific evidence and the fact that available units do exist which are far more efficient, and the fact that even mechanics are saying that things can be greatly improved, is the Government willing to do something?

The Hon. C.J. SUMNER: We had this debate very recently. Obviously the Government is prepared to do something about a problem that has been identified. But, as the honourable member concedes, South Australia is not on its own. I guess in world terms it probably plays a very small—indeed miniscule—part in the emission into the atmosphere of the fluorocarbons to which the honourable member refers. The matter has been debated in this place before. The Bill introduced by the honourable member was defeated on the basis that the South Australian Government was cooperating with the Australian Government and with other countries to enforce the international convention which has been agreed to in this area.

The Hon. M.J. Elliott: The article says that the convention is nowhere near good enough.

The Hon. C.J. SUMNER: The convention may not be good enough but, if that is the case, it is a matter for the international community to take up to see whether it needs strengthening. The South Australian Government cannot do anything about that matter directly because we have no responsibility in foreign affairs—it is a matter for the Federal Government. I understand that the Federal Government supported the convention which has been entered into. South Australia, as the honourable member pointed out, is a very small—and I would suggest miniscule—contributor to this problem.

I understand from the debate previously that for South Australia to act alone could have quite significant effects on industry and jobs in some areas of South Australia, and that was the basis upon which the Bill was opposed—not because the Government did not agree that a problem had been identified. If anything further can be added in the light of the honourable member having access to this learned journal, I will ascertain whether the Department of Environment and Planning has considered the issues in it and, if so, whether it feels that anything needs to be added to the debate that has already occurred.

PORT LINCOLN GRAIN STRIKE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in this place, a question about a strike at Cooperative Bulk Handling at Port Lincoln.

Leave granted.

The Hon. PETER DUNN: For the past three days workers at the Cooperative Bulk Handling silos in Port Lincoln have not received any wheat into the silo system. They claim that they want the second tier 4 per cent wage increase, and they have chosen this vital stage of the grain season to make their claim. Negotiations began in July. CBH put its case, but the union did not respond until, as I understand it, Monday of this week. As a result, the union has used industrial muscle to stop wheat going into the silo system. At the moment a number of trucks—about 60—are waiting to be unloaded. A number of farmers want to deliver wheat into the silo system, and on top of that a boat in the harbor is waiting to be loaded. I do not know what demurrage would be payable, but it would be quite enormous, and it is being paid by the producers.

Last weekend there was heavy rain, which relieved the pressure on the system a little. However, a lot of wheat must be shifted before it becomes damp. The wheat is being stored in silos out in the open on farms and, therefore, is susceptible to further rain, so the farmers want to shift it. Will the Attorney-General, as Leader of the Government, make every effort to have this serious problem resolved as soon as possible?

The Hon. C.J. SUMNER: I appreciate the honourable member drawing this matter to the attention of the Council. I will certainly refer it to the Minister of Labour (the Minister responsible) as a matter of urgency to see whether steps can be taken to resolve the dispute.

REMAND CENTRE

The Hon. K.T. GRIFFIN: Does the Attorney-General have a reply to a question I asked on 3 November about the Adelaide Remand Centre?

The Hon. C.J. SUMNER: Yes, and I seek leave to have it incorporated in *Hansard* without my reading it.

Leave granted.

The answer to the honourable member's questions regarding members of the legal profession gaining access to the Adelaide Remand Centre are:

1. The Attorney-General has answered this question—refer *Hansard.*

2. During its first six months of operation, the Adelaide Remand Centre did encounter some problems with respect to members of the legal profession gaining access to the centre with the view of taking instructions from their clients. In order to overcome these problems, management of the Adelaide Remand Centre has changed timetables, redeployed staff and has ensured that the best possible service re visiting is in operation, taking into consideration the layout of the institution and staffing resources.

Prisoners at the Adelaide Remand Centre may be visited seven days a week, between the hours of 8.15 a.m. to 11.15 a.m. and 1.15 p.m. to 4.15 p.m. In addition to these visiting

arrangements, professional visits and some domestic visits, by prior appointment, are permitted to 7 p.m. each day.

In addition, management of the Adelaide Remand Centre has issued an instruction whereby arrangements will be made to facilitate professional visits, and prisoners will not be permitted to attend recreational activities if a professional visit appointment has been made. This instruction has been put into practice on numerous occasions.

3. This question has been answered in question No. 2.

DOMESTIC VIOLENCE

The Hon. K.T. GRIFFIN: Does the Attorney-General have a reply to a question I asked on 25 November about domestic violence?

The Hon. C.J. SUMNER: Yes, and I seek leave to have it incorporated in *Hansard* without my reading it.

Leave granted.

The Legal Services Commission has advised me that the guidelines with respect to custody matters allow for assistance in emergency situations involving applications to be made to a court for the protection of children. There is, in any event, an effective remedy available through the Police Force pursuant to section 99 of the Justices Act, a statutory mechanism specifically (although not exclusively) designed to protect women requiring immediate assistance.

Thus, the current guidelines with respect to restrain orders are based on the existence of adequate assistance being available through this mechanism. In cases where the Director of the commission is satisfied that no such adequate assistance is available, legal aid can be granted subject to the usual means requirements. As to the suggestion that before assistance is granted, proof is required by the commission that wives are being 'beaten', I am assured this is not the policy of the commission. There must be some basis upon which the normal merits criteria are satisfied, but this would ordinarily require no more than the real likelihood of injury or damage to property, or like threats having been made. If these are absent then a court would not have a sufficient basis to make interim injunctions in any event.

With respect to applications for assistance in family law matters, I am informed that the 'emergency' criteria also applies, and the counselling requirement refers to applications for custody and access in non-urgent circumstances. The actual guideline is:

The commission will not ordinarily provide assistance in applications for or disputes over custody and access (other than emergency situations or applications by children) unless a genuine attempt to settle the matter has failed.

The commission points out that in many respects the guidelines in South Australia are more favourable than they are interstate. Most other Legal Aid Commissions have an automatic rule that at least six weeks must elapse before an application will be entertained. This is not the case with this commission.

The issue of consent orders is a separate matter. Where a consent order is sought, the emergency no longer pertains. The filing of a consent order is merely a formality and the agreement can be recorded by an exchange of letters. In other circumstances requiring an order, the Department for Community Welfare provides a service which enables orders to be filed. The guidelines have been developed after extensive consultation with the Law Society of South Australia and submissions have been made from time to time through its family law section regarding the commission's guidelines. The commission refutes the suggestions that its policy in this area is harsh.

UNPAID MAINTENANCE

The Hon. K.T. GRIFFIN: Has the Attorney-General a reply to a question I asked on 2 December about unpaid maintenance?

The Hon. C.J. SUMNER: Yes, and I seek leave to have it incorporated in *Hansard* without my reading it.

Leave granted.

The Department for Community Welfare has sought information from both Telecom Australia and Tailgate Taxi Trucks about the financial resources of a person named Phillip Wayne Rogers. Mr Rogers has been in the Family and Adelaide Magistrates Courts on several occasions when applications have been made against him to obtain payment of maintenance arrears for two children from his first marriage. As stated by the honourable member, these arrears now amount to over $5 300.

It should be stressed that Mr Rogers' maintenance commitments—as determined by the Magistrates Court—have been based on superannuation and compensation payments from Telecom. Contrary to the honourable members' allegation in the *News* on 7 September 1987, the information supplied by Tailgate Taxi Trucks on the earnings of a Phillip Rogers has not been taken into account in any court assessment of Phillip Wayne Rogers' maintenance obligations.

The specific facts of this case clearly negate the allegation:

(1) The April 1986 court order to pay arrears preceded the Tailgate information.

(2) Enforcement proceedings in the Adelaide Magistrates Court in November 1986 were adjourned after Mr Rogers denied that he was the person referred to in the letter. The department was subsequently able to verify that the Tailgate information was related to a different person, endorsed its file accordingly and made no reference to any earnings from Tailgate Taxi Trucks when Mr Rogers next appeared in court.

(3) In March 1987, the court found Mr Rogers was in contempt of the April 1986 order, ordered him to pay the maintenance owing and gave him a suspended sentence of 213 days imprisonment. The transcript of the proceedings clearly establishes that the order made by the court was based on Mr Rogers' income from superannuation and compensation payments only.

The following events have occurred since this matter was first raised by the honourable member. During the court hearing on 8 September 1987, Mr Rogers again raised the issue of the Tailgate income, but dropped it when referred to the transcript of the March proceedings. He was strongly urged by the magistrate and the department to seek further legal advice given the seriousness of failure to make the ordered payments.

After an adjournment of 14 days to enable him to again consult the Legal Services Commission, Mr Rogers told the magistrate on 22 September that he was still unable to comply with the order. The magistrate found that Mr Rogers was in contempt of the 1986 court order and ordered that he be immediately imprisoned pursuant to section 108 of the Family Law Act. Most recently, Mr Rogers filed a notice of appeal on 16 October against his imprisonment and was granted bail pending the hearing of his appeal.

Having summarised the pertinent aspects of this case, it is important to stress three salient features. First, the honourable member who raised this matter, the *News* and Mr Rogers, are patently wrong in contending that income from Tailgate Taxi Trucks has been taken into account in assessing the maintenance Mr Rogers has been ordered to pay. Furthermore, the Minister of Community Welfare has advised me that his department has no record of being contacted by Mr Rogers on this matter since November 1986. The honourable member is wrong in his assertion that the department and the court were not

prepared to believe that Mr Rogers does not work for Tailgate Taxi Trucks.

Secondly, because of his continued refusal to meet his maintenance commitments, Mr Rogers was found, after due legal process, to be in contempt of court. The sentence of imprisonment was initially suspended but eventually implemented because of further refusal to pay. I understand this is only the second such case of imprisonment in South Australia since the Family Law Act came into effect on 5 January 1976.

Thirdly, while Mr Rogers continues to refuse to meet the terms of the court order, his two children are further denied the maintenance payments due to them.

Finally, in response to the honourable member's specific question, Mr Rogers has been released from prison on bail pending the hearing of his appeal. It is therefore inappropriate and unnecessary for me to consider any further possible action other than to note that compliance with the court order would appear to be the most expeditious and effective way of removing the possibility of further imprisonment.

TOMATOES

The Hon. M.J. ELLIOTT: Has the Attorney-General a reply to a question I asked on 25 November about tomatoes?

The Hon. C.J. SUMNER: Yes, and I seek leave to have it incorporated in *Hansard* without my reading it.

Leave granted.

The Hon. C.J. SUMNER: When I replied to the honourable member concerning the question of Queensland tomatoes on 25 November, I indicated there may be reasons to expand on that reply. I subsequently found this to be the case and that not unexpectedly things are more complicated than they appear. In the first instance, my colleague the Minister of Agriculture has legal advice stating that refusal under State quarantine law, to allow the entry of Queensland tomatoes treated with dimethoate would infringe section 92 of the Constitution.

I shall elaborate on the chemical's effectiveness later, but in practical terms this means that tomatoes from any area of Australia where the Queensland species of fruitfly exists must be admitted if appropriately treated wtih dimethoate. From the technical viewpoint there are a number of considerations, the first being that in exhaustive experiments conducted by the Queensland Department of Primary Industries dimethoate was found highly if not totally effective against eggs and larvae in tomatoes.

In detail, eight samples totalling 17 822 infested fruit were flood sprayed at the rate of 400 parts per million (p.p.m.) with the chemical. Seven of those samples showed a mortality rate of 100 per cent and the other 99.998 per cent. The trials which were conducted with all the usual scientific integrity also showed that the maximum residue level in those tomatoes was 0.89 p.p.m. within 24 hours. After the passage of seven days at normal temperatures, this had reduced to 0.39 p.p.m. but, more to the point, the maximum residue level of 1 p.p.m. for dimethoate in tomatoes set by the National Health and Medical Research Council was not exceeded.

South Australian plant quarantine recognises a standard known as Probit 9 or 99.9 per cent effectiveness where treatments such as that under discussion are concerned, and in point of fact the worst result with dimethoate exceeded the recognised standard. Now I can anticipate arguments that 99.9 per cent is an unacceptable risk and that 100 per cent effectiveness should be the aim. Placed in the broad context of quarantine, this would entail closing our borders to all trade in fruit and plants, which of course amounts to a practical and constitutional impossibility.

The question which follows is whether, in day-to-day affairs, there are guarantees that dimethoate treatments will be applied in keeping with the scientific findings. There are clear indications that such will be the case and the first of these can be found in the stipulation that each consignment of tomatoes be certified as having undergone the prescribed treatment. That requirement appears in the recent notice under the Fruit and Plant Protection Act, which as a legal measure does not elaborate on certain issues. In particular, it does not show that only certificates issued by the Queensland Department of Primary Industries will qualify a consignment for entry into this State; or that only efficient and reliable grower-packers selected by that department will trade into South Australia under those certificate arrangements.

In all this there must be confidence in the integrity of the inspection service here, in Queensland or elsewhere, and despite what the honourable member might have been told South Australian inspectors are equal to their interstate colleagues in such matters. From this viewpoint, it is as well to consider that a deal of 'reliable' information given to inspectors about smuggled produce (and I do not restrict my remarks to tomatoes) has proved to be inadequate or constructed to put them off the track. I am not saying this has been so recently but it has occurred in the past. Regardless of this, I would predict that had dimethoate treatment not been recognised, smuggling of tomatoes would have continued whenever the returns from these outweighed the punitive risks. In that vein, I would add that certain persons are under investigation for recent activities of this nature.

I also want to make it clear that the product dimethoate is not restricted to the use under discussion. It can be applied as a field spray to other vegetables, and I understand that its residue levels in these is monitored along with other chemicals by the South Australian Health Commission. It is my understanding that the Health Commission sampled a consignment of Queensland tomatoes after their entry became legal and found maximum residues of 0.2 and 0.4 p.p.m. Again, these were below the National Health and Medical Research Council's maximum of 1 p.p.m. which will stand until its full report is tabled in about two months.

I hope that all this demonstrates to the honourable member the dangers of taking up issues, based by his own confession, on implications. More precisely, I hope he looks back on my earlier remarks about the acceptance of dimethoate by other States and New Zealand and adds to that list Western Australia. The latter is most cautious in matters of plant quarantine and would not accept a procedure which according to Dr Raymont 'may not have sufficient penetration to kill the fruitfly already present'. South Australia has approached the matter with equal caution in terms of fruitfly and the health of consumers.

TELEPHONE TAPPING

The Hon. K.T. GRIFFIN: In the light of indications earlier this year that the Government would be introducing legislation complementary to Federal legislation with respect to telephone tapping—and as it has not yet been introduced—can the Attorney-General indicate when the State legislation is likely to be introduced, and can he indicate the reason for the delay in its introduction?

The Hon. C.J. SUMNER: I think the delay relates to a matter of getting two things sorted out—first, getting the

Bill drafted. A draft is available which I have not yet seen, and nor has it been to Cabinet. The second issue that must be resolved is the question of the resources that might be necessary to establish procedures for telephone tapping. The matter is progressing and, as I said, there is a draft Bill. I expect the matter to be resolved when Parliament resumes early next year.

QUESTIONS ON NOTICE

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

Leave granted.

The Hon. M.B. CAMERON: A number of questions on notice are still on the Notice Paper. Some of them go back to 8 October and have been asked by various members, including the Hon. Mr Lucas, the Hon. Mr Griffin, the Hon. Mr Elliott, the Hon. Miss Laidlaw and me. I know that in my own case the questions were taken on notice by the Minister of Health when he was questioned by the Opposition during debate on the Appropriation Bill.

The Hon. K.T. Griffin interjecting:

The Hon. M.B. CAMERON: Yes. A number of questions on notice from that time, asked by the Hon. Mr Griffin, also have not been answered. In fact, at that time the Minister of Health indicated that the Hon. Mr Griffin was more likely to receive replies than I was because the Hon. Mr Griffin had been so polite.

The Hon. Peter Dunn: You paid for yours.

The Hon. M.B. CAMERON: Yes, I had to in the finish. I got mine before the Hon. Mr Griffin because, in a way, I paid for them. Some of these questions go back six weeks. Certainly mine from the Estimates Committee do, and we are now on the last day of the session. I can remember the Attorney, when he was in Opposition, putting on a big act about not receiving answers to questions on notice within a reasonable period. I imagine that he has not changed his view since then. What will occur? Are members entitled to receive these replies when the Council is not sitting? Will the Attorney direct his Ministers and take on board himself the question of forwarding replies to members? Perhaps he could hurry up some of his Ministers, particularly the Minister of Health, who seems to be procrastinating on matters on which he has promised information.

The Hon. C.J. SUMNER: I am sure the Minister of Health would not procrastinate about anything. He is a very decisive Minister, and it is unfortunate that he is attending important Government business today and cannot respond directly to the question, because he would probably do it with more enthusiasm than I am doing now in my current state of indisposition. However, I can assure the honourable member that the processes of government go on. The Opposition may have a lengthy time off over Christmas, but that is not a luxury that is available to the Government. Still, I wish members opposite a pleasant period during the Christmas break. The business of Government will go on, and I expect, in accordance with the usual procedures that are adopted during the recess that, as answers become available, they will be sent to members by letter and members can have the answers inserted in *Hansard* in the normal way when Parliament resumes. I will refer the questions—

The Hon. M.B. Cameron: All of them?

The Hon. C.J. SUMNER: Yes, to all the other Ministers and ask them to answer the questions that are still pending, having been asked without notice, and I will ask them to give whatever attention they can to the questions on notice with a view to answering questions by letter as soon as the answers become available.

TOMATOES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Agriculture, a question about dimethoate dipping of tomatoes.

Leave granted.

The Hon. M.J. ELLIOTT: I have just received a reply to an earlier question that I asked, and it raises a couple of things that appear to really beg further questions. First, the Minister has claimed that there were problems in blocking Queensland tomatoes coming into South Australia under section 92 of the Constitution. I wonder where that legal advice came from because my understanding is that precedent has been set that States can stop certain products from entering if they are acting in good faith for the health or other reasons of citizens.

I understand one case involved Tasmania's banning the entry of certain margarines which contained some additives which were banned in Tasmania and other States. The High Court upheld Tasmania's decision. That seemed to set a precedent for health reasons, and I imagine for protection against fruitfly; likewise, section 92 of the Constitution would not have been upheld. I would like the Minister to respond to that.

Secondly, there has been a claim that the Health Commission sampled a consignment of Queensland tomatoes and found that residues were between .2 p.p.m. and .4 p.p.m., yet the legal max, I understand, is 1 p.p.m. Does the Minister think that checking one consignment gives us any guarantees over how things will go over the next umpteen years if dimethoate is continued to be used. Thirdly, the Minister of Agriculture made a claim in the press in recent days that tomato growers were using dimethoate in glasshouses for aphids and that they are now complaining about it.

I seek the Minister's response to the claim that, first, growers say that they do not use it and, even if they did, that dimethoate has a withholding period of seven to 15 days. If it is used in glasshouses a week or more before use it really does not matter because it has broken down under the influence of sunlight and heat, whereas the Minister is allowing dimethoate dipping of tomatoes that come into South Australia with no withholding period.

As to withholding periods, with the Minister saying that there was no withholding period, there was an article in last Thursday's *News* in the home gardening section that talked about people using Rogor, which is a brand name for dimethoate, and it says quite clearly at the end of the article that people should not use the produce for seven to 15 days. I believe that that article is based on Agriculture Department advice, and I seek the Minister's advice on that as well.

The Hon. C.J. SUMNER: I am not only a lawyer now—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Yes, that is true—I am expected to be everything else as well. I cannot answer the technical questions that the honourable member has raised, but I will refer them to the Minister to see whether he has anything further to add. I have not given detailed consideration to the question of section 92. I assume that the Minister's advice was from the Crown Solicitor. I am not sure, but obviously I can make some inquiries about that. *Prima facie*, trade, commerce and intercourse between the States should be absolutely free and, if it is not, that would pre-

sumably permit the importation of tomatoes from Queensland, Western Australia or wherever else.

If a State Government wants to prohibit that importation, it must have a basis for doing it which is acceptable as a reasonable regulation in the interests of the health of its local community. I suppose if the dimethoate eliminated the risk of the transmission of fruitfly from Queensland to South Australia, that would presumably allow the tomatoes to be brought in freely to South Australia.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Then comes the next question—the public health question. Again, I am not an expert on the effects of dimethoate. The honourable member has asked questions and the Minister of Agriculture, I think through the Minister of Health, has replied, indicating that dimethoate in small quantities on these tomatoes does not constitute a health risk. That is, I suppose, a matter of opinion but, if you are going to use that argument to prohibit the importation of tomatoes, that is, to get around section 92, presumably you would have to establsh to the satisfaction of the courts that dimethoate represented a real danger to the health of people in South Australia.

The Hon. M.J. Elliott: Or a real possibility—

The Hon. C.J. SUMNER: I am not going to go into the technicalities of what you would have to establish without giving it due consideration. You obviously would have to establish some reasonable health risk as a result of dimethoate being used on these tomatoes that are subsequently being consumed by South Australians.

It seems to me, from a practical point of view, the problem with running that argument is apparently the health authorities in most of the other States and New Zealand have not considered dimethoate to be such a risk to health.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Well, that may be, but I am saying that Western Australia, Victoria, New South Wales, and apparently New Zealand—although it is not relevant for section 92 purposes—all permit the importation of tomatoes dipped in dimethoate. If that is the case, presumably their health authorities do not see any problem. If we were to decide that they were to be prohibited because of the risk to the health of South Australians, then we would have to establish that on a scientific basis. As I said, it is a technical question that I am not really in a position to answer. However, I will get further replies to the question the honourable member has asked and, if need be, any elaboration on the legal advice which has been tendered.

EVIDENCE ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Evidence Act 1929.

Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes a number of amendments to the Evidence Act 1929 dealing with the competency of a young child to give evidence, and procedural matters associated with a child giving evidence. The Bill forms part of a package of child protection measures being introduced by the Government. The other Bills in the package are the Community Welfare Act Amendment Bill 1987 and the Children's Protection and Young Offenders Act Amendment Bill 1987. The Bills were prepared as a result of the Report of the Government's Task Force on Child Sexual Abuse and the recent 'In Need of Care Review'. The Justices Act Amendment Act 1987 passed earlier in this session also dealt with matters arising from the Task Force Report.

The three Bills will be introduced and laid on the table until the February sittings of Parliament. It is expected that considerable public debate will occur as a result of the introduction of the Bills. Therefore, the Government has tried to ensure that the community has time to comment on the proposals and that members have an adequate opportunity to consider these very important amendments.

Before dealing with the provisions of this Bill, I propose to deal with some general matters arising from the Task Force Report, for the information of honourable members. In October 1984, the Government established the Task Force to identify problems associated with the existing law on child sexual abuse and to examine aspects of service delivery to sexually abused children and their families. The Task Force was asked to make recommendations on the development of integrated and coordinated policies and services across the sectors—health, welfare, education and law.

The Task Force reported to the Government in November 1986. The report contained over one hundred recommendations dealing with such matters as the coordination of services, the investigation of cases, health and education programs and substantive and procedural aspects of the law affecting child sexual abuse. In preparing its report, the Task Force undertook a program of wide community consultation in order that the views of victims, their families, service providers and agencies were adequately taken into account. Public meetings were held in the metropolitan and country areas and, in addition, special purpose meetings were held with parent action groups, victim support groups and members of the judiciary and the legal profession.

All of the recommendations in the Task Force Report have been, or are in the process of being, assessed with a view to implementation. In its report the Task Force examined the handling of child sexual abuse cases in both the child protection system and the criminal justice system. The recommendations made by the Task Force in this context were aimed at:

- modifying legal procedures to be more sensitive to child victims;
- affording the child greater protection from harassment and abuse;
- improving prosecution and conviction rates without unduly prejudicing defendants;
- facilitating the rehabilitation of the child, the family and where appropriate the offender.

In its report, the Task Force recommended that an interlocutory protection jurisdiction be established in the Children's Court. The Bills currently before Parliament do not include amendments arising from this recommendation. The aim of the interlocutory protection jurisdiction, as proposed by the Task Force, is to provide the Children's Court with a wider range of options to deal with emergency cases of abuse. The interlocutory protection jurisdiction would allow the court to make short-term orders aimed at securing the immediate protection of the child. Under the Task Force proposal the court could, in appropriate cases, order the removal of the alleged offender from the home in which the child is residing. At present, the Children's Protection

and Young Offenders Act only authorises the removal of the child.

The reason for not providing for the new jurisdiction in the Children's Court at this time is so that there can be greater community debate over aspects of the proposed jurisdiction. The first matter that must be stressed is that the non-inclusion of the provisions does not, of itself, put children at a risk. Under the present laws there are already procedures for dealing with emergency cases for the protection of a child. These methods were noted by the Task Force.

The power to remove a child who is suspected of being in need of care or in immediate danger of suffering physical or mental injury currently exists under section 19 of the Children's Protection and Young Offenders Act. A child, at risk, can be removed and placed in the custody of the Director-General, and then brought before the court for the hearing of an application for in need of care. The present practice is to seek an interim guardianship order pursuant to section 16 of the Act. The Children's Protection and Young Offenders Act Amendment Bill 1987 provides for a wider range of orders at the interim stage of in need of care proceedings.

In addition, where further abuse is feared, an order can be sought from a court of summary jurisdiction for an order under section 99 of the Justices Act. These orders can direct an alleged offender to stay away from the complainant. The order can also require the alleged offender to stay away from any place, including his/her own residence. In cases of physical or sexual abuse where the identity of the offender is known, charges could be laid through the criminal justice system. If the alleged offender is released on bail, the court would have power to impose a condition of bail that the alleged offender not contact or visit the alleged victim.

Therefore, the proposed jurisdiction is not the only means of protecting a child. In its report, the Task Force highlighted the need for prompt investigation and for the court to provide immediate and effective protection. The Government shares the view that where possible these matters should be the subject of speedy investigation and resolution. The Government has established a joint Department for Community Welfare/Police Department Working Party to examine the Task Force recommendations regarding the investigation of child abuse matters. In addition, liaison between the Department for Community Welfare, the Crown Solicitor's Office and the Police Department is being strengthened in order that investigations and resultant cases are conducted on a strong footing.

Therefore, the Government has already set in motion steps which should facilitate the handling of child abuse cases, including urgent cases. One of the most controversial aspects of the Task Force Report is the recommendation that the Children's Court be empowered to remove an alleged offender from his/her home during the interlocutory stage of proceedings. This order would have a similar effect to an order under section 99 of the Justices Act. However, it would allow the Children's Court to make the order. The Task Force argues that this ensures that the matter is dealt with in one forum and that experts are making the decisions with the welfare of the child as the paramount consideration.

This met with resistance from some sections of the legal community and groups representing persons accused of child abuse. On the other hand, the suggestion was applauded by groups representing child victims and their families. One of the major criticisms of the current system is that it is usually the child who is removed from the home when an allegation of abuse is made. This is seen as punishing the child instead of the offender. However, it is one means of ensuring that the child is removed from the risk of further abuse. Whereas, an order for the removal of the alleged offender may not necessarily protect the child. Difficulties associated with removing the alleged offender are as follows:

(i) an order requiring the alleged offender to stay away from the child's home may not be observed, especially if the child's parent favours the alleged offender at the expense of the child's interests. Where a breach occurs the offender could be charged for breach of the order, but in the meantime, the child may have suffered further abuse or trauma. If the child is removed from the place of abuse and put in safe keeping, it is less likely that the alleged offender would be able to contact the child.

(ii) the mistaken identity of the alleged offender. When investigating a case of child abuse, there is often no doubt that a child has been abused. However, it is sometimes difficult to prove the identity of the abuser. In the case of young children, a general term such as 'Uncle' may be used to identify the offender. However, after further investigation, it is determined that the child was referring to another person in a position of trust. If in fact, the wrong person is removed, the child will be left at risk, and the person accused of the abuse is likely to become bitter and react against the system.

One of the Government's main concerns relating to the interlocutory protection jurisdiction is that, in practice, it may not improve the means of dealing with emergency cases. Given that a range of orders is proposed at the interlocutory stage, it is likely that lengthy, bitterly fought and emotional contests could arise at the interlocutory stage of proceedings. A magistrate would need to satisfy himself of the evidence forming the basis of the application and give the alleged offender a reasonable opportunity to rebut the evidence. The intent of the Task Force recommendations may be defeated if a high degree of argument and evidence is required at the interlocutory protection proceedings.

Also, it appears that many people who indicated their support for the interlocutory protection jurisdiction did so almost wholly on the basis of the Task Force's proposal to include a power to remove the alleged offender. However, these issues are not necessarily related in that the contemplated jurisdiction can exist without such a power and *vice versa*.

Some of the other matters raised in the Task Force Report such as pre-trial diversion are not being dealt with at this time. Rather, further research will be conducted into treatment programs and other relevant factors before an assessment is made in a couple of years as to whether or not pre-trial diversion should be introduced. Likewise, the Government would like to see more community debate on the introduction of the interlocutory protection jurisdiction.

Therefore, the Government has decided not to include any provision for the interlocutory protection jurisdiction at this stage. However, it welcomes further community comment on the model proposed by the Task Force. The Government undertakes to consider all submissions before the Bills are debated in Parliament early next year.

I now turn my attention to the contents of the Bill before Parliament. The amendments deal with a child giving evidence and associated procedural matters. Currently, section 12 of the Evidence Act 1929 provides that a child under the age of 10 years shall not be required to submit to an

oath and allows the child's evidence to be given without formality. Before the unsworn evidence of a child is admitted, the judge must explain to the child the requirement to be truthful. A recent decision of the Supreme Court ruled that section 12 prohibits a child under 10 years from giving sworn evidence even where the judge may otherwise consider the child to be competent.

Section 13 (1) provides that the unsworn evidence of the child witness carries such weight and credibility as ought to be attached to evidence given without the sanction of an oath. Section 13 (2) provides that an accused shall not be convicted of an offence on the basis of the unsworn evidence of a child where the accused denies the offence on oath and evidence of the child is not corroborated in some material particular by evidence implicating the accused.

The operation of sections 12 and 13 of the Evidence Act 1929 makes it difficult for the evidence of a child under 10 years to result in a successful prosecution against the accused. This matter has been the subject of considerable concern and has been criticised by groups representing victims of child abuse. The Task Force addressed this matter and examined a number of options to amend the law. The Task Force, in its deliberations, was aware of the need to assist the child victim but at the same time to protect the rights of an accused person. The recommendations made by the Task Force were aimed at balancing the interests of victims and accused persons.

The Task Force recommended that the age at which a child should be able to give sworn evidence should be lowered. The majority thought that the age of seven years was the age which should be adopted. The Task Force also recommended that children under that age should be able to give sworn evidence where the judge considers them to be competent. It also recommended that the means of swearing in a child should be simplified.

Clause 5 of the Bill sets out the new provisions dealing with the reception of evidence of a young child. The Bill lowers the age for a child to give evidence on oath to seven years. It also allows the evidence of young children, that is, children aged 12 years or under to be assimilated to sworn evidence. Proposed section 12 (2) allows for the reception of evidence of a young child where the child appears to the judge to have reached a level of cognitive development enabling him/her:

- to understand and respond rationally to questions; and
- to give an intelligible account of his or her experiences;

provided that the child promises to tell the truth and appears to the judge to understand the obligation entailed by that promise.

Where evidence is received under this subsection, it is to be treated in the same way as evidence given on oath, and therefore it will not need to be corroborated before a conviction can be made.

In cases where a child cannot satisfy the requirements in section 12 (2) the child could only give unsworn evidence; evidence which would continue to require corroboration as a matter of law. The effect of the new provision would be to allow more children to give evidence in court and for such evidence to be treated on an equal basis with the evidence of adults.

Clause 5 also provides for a support person to be present during the time that a young child is giving evidence. This provision is aimed at assisting a young child to deal with the traumatic experience of attending at a court to give evidence. The support person would be able to sit in close proximity to the child during the giving of the child's evidence provided he/she did not interfere with the proceedings in any way.

Clause 6 of the Bill provides for the insertion of a new provision into the Evidence Act 1929 which would permit certain out of court statements made by a young child to be introduced as evidence at the trial of an accused. This exception to the 'hearsay rule' would allow a witness to introduce the contents of a complaint of a child victim into evidence provided certain requirements of reliability were fulfilled. The exception would only operate where the child was available as a witness so that, if necessary, he or she could be cross-examined on the contents of the evidence.

The Bill also inserts a new section into the Evidence Act 1929 which would assist in proving the age of a child. This provision did not arise from a recommendation of the Task Force but rather from the practical problems faced by prosecutors. Prosecutions in child abuse matters can be set by problems of proof of age of the child victim, particularly when the alleged offender is one or both parents. The amendment provides an evidential aid for proof of age based on the tender of a certified birth certificate and ensures a more consistent approach to this exception to the hearsay rule.

The Bill further provides for the mandatory closure of courts where the child victim of a sexual offence is giving evidence. The only persons permitted to remain in the court would be those required for the purposes of the proceedings and a support person for the child. The Bill also amends section 71a of the Evidence Act 1929 to prohibit the publication by the media of information tending to identify the alleged victim of a sexual offence.

The legislation set out in this Bill is based on the recommendations of the Task Force. In examining the recommendations, it was noted that many of them could have a wider application and that they should not be limited to cases of child sexual abuse. Therefore, where appropriate, the amendments have been extended to deal with matters affecting children generally.

I commend this Bill to honourable members. The provisions of the Bill are as follows: clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 includes definitions of 'child' and 'young child' for the purposes of the principal Act; a young child is to be a child of or under the age of 12 years.

Clause 4 contains an amendment to section 9 of the principal Act that is consequential on the proposed repeal of section 13.

Clause 5 provides for the repeal of sections 12 and 13 of the principal Act and the substitution of a new section 12. New section 12 relates to the giving of evidence by a young child. A young child will not be required to submit to an oath unless the child is at least seven years old and understands the obligation of an oath. However, the evidence of a young child who does not understand the obligation of an oath may be treated in the same way as evidence on oath if the child has reached a certain level of cognitive development and promises to tell the truth. The evidence of a child who is too young to have his or her evidence assimilated to evidence on oath will be evaluated in light of his or her level of development. A young child who is called to give evidence will be entitled to have a person present to provide emotional support.

Cause 6 provides for a new section 34ca of the principal Act. This section will allow hearsay evidence relating to the complaint of a young child who has allegedly been the victim of a sexual offence to be admitted (at the discretion of the court) in certain circumstances. Clause 7 inserts a new section 65a of the principal Act and is intended to assist in proving the age of a person in the course of proceedings before a court. Clause 8 amends section 69 of

the principal Act so that a court will have to be cleared if a child who is the alleged victim of a sexual offence is to give evidence. Clause 9 amends section 71a of the principal Act so that there is an automatic suppression of the identity of a child who is allegedly the victim of a sexual offence.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

COMMUNITY WELFARE ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Community Welfare Act 1972. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Community Welfare Act 1972 arising from the Report of the Government Task Force on Child Sexual Abuse and the recent 'In Need of Care' Review. The Bill forms part of a package of child protection measures being introduced by the Government. The other Bills in the package are the Evidence Act Amendment Bill 1987 and the Children's Protection and Young Offenders Act Amendment Bill 1987.

Section 26 of the Act establishes the Children's Interest Bureau and sets out its functions. As a result of the proposed amendments to the Children's Protection and Young Offenders Act 1979, officers of the Children's Interest Bureau will be involved in providing an objective perspective at pre-application conferences and at reviews of guardianship orders. The Bill expands the functions of the bureau to include this new role.

The amendments to sections 27 and 32 of the Act are also consequential upon the Children's Protection and Young Offenders Act Amendment Bill. It ensures that the grounds for determining whether or not a child is in 'need of care or protection' are consistent under both Acts. The remaining amendments arise from the Report of the Task Force on Child Sexual Abuse, and deal with compulsory notifications of child abuse.

Section 91 of the Act requires specified classes of persons to notify an officer of the Department for Community Welfare of a suspected breach of section 92, that is, suspected neglect or maltreatment of a child by a care-giver. The Task Force recommended that the Community Welfare Act 1972 be amended so that a person obliged to notify cases of child abuse would only need to suspect on reasonable grounds that abuse has occurred regardless of who has committed the abuse. The amendment to section 91 (1) provides accordingly.

In addition, the Bill widens the classes of persons required to notify of cases of suspected abuse. By virtue of the amendment, probation officers, voluntary workers in an agency providing health, welfare, educational child-care, or residential services to children, and any employee of an agency providing child-care, education or residential services to children would also be obliged to notify suspected cases of child abuse.

I commend this Bill to honourable members. The provisions of the Bill are as follows: clause 1 is formal. Clause 2 provides for commencement on proclamation. Clause 3 adds a further item to the list of the Children's Interest Bureau's functions. It will be a function of the bureau to provide the Minister with independent and objective advice on the rights and interests of children who are the subject of 'the need of care' proceedings under the Community Welfare Act or the Children's Protection and Young Offenders Act.

Clause 4 amends a heading so that it encompasses the protection as well as the care of children. Clause 5 amends the grounds on which an application for guardianship may be made, by providing that maltreatment on the part of a person who resides with a child can give rise to guardianship proceedings. This amendment brings the section into line with the corresponding provision in the Children's Protection and Young Offenders Act. Clause 6 is a consequential amendment. Clause 7 is a consequential amendment to a heading.

Clause 8 widens the ambit of the section of the Act that deals with the reporting of cases of the maltreatment of children. Any case of maltreatment or neglect is to be reported, whether or not it constitutes an offence. The list of persons who are obliged to report cases of maltreatment or neglect is expanded to include probation officers and employees and voluntary workers in child-care agencies, children's homes and health, welfare and educational agencies.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Children's Protection and Young Offenders Act 1979. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Children's Protection and Young Offenders Act 1979 in relation to procedures for dealing with children in need of care, the issuance of transit infringement notices to children and the interstate transfer of young offenders.

Children in Need of Care: the amendments to the Act dealing with children in need of care arose out of a recent review of Part III of the Act. The review was conducted by Mr Ian Bidmeade. The review arose out of a debate between lawyers acting for parents concerned that procedures for intervention by a State authority should ensure that parents have the right to argue against intervention, and community welfare workers concerned that the interests of the child should come first and that procedures for intervention should not be so cumbersome as to increase the risk to the child.

Increasing numbers of 'In Need of Care' applications have reflected the substantial growth generally, in notifications of child abuse to the Department for Community Welfare in recent years. The number of children subject to notifications increased from 1 941 in the 1985 calendar year to 3 381 in the 1986 calendar year. 'In Need of Care' applications increased from 100 in 1985 (involving 129 children) to 153 in 1986 (involving 192 children).

Whilst several reviews of 'In Need of Care' proceedings have been undertaken within the Department for Community Welfare, the Bidmeade review was the first independent, thorough examination of the legislation and procedures since enactment of the Children's Protection and Young Offenders Act in 1979. The review operated from January until September 1986. Public submissions were sought through advertisements in the newspapers and specified parties were also approached. The draft Bill attempts to resolve some of the problems highlighted in the report; namely:

- the need for the legislation to state unequivocally that the interests of the child are paramount;
- the need to introduce an independent perspective to the decision-making process;
- the need to give greater information to parents and guardians about in need of care applications and proceedings;
- the need to increase the range and type of orders available to the court.

The draft legislation does not adopt all of the recommendations set out in the Bidmeade Report. One of the recommendations in the report is that the recommendations of the Task Force on Child Sexual Abuse regarding emergency procedures should be implemented. Under the Task Force proposal, an interlocutory protection jurisdiction would be set up in the Children's Court to provide the court with a wider range of options in dealing with emergency cases of abuse. The reasons for not including the new interlocutory protection jurisdiction have been set out in full in the Evidence Act Amendment Bill 1987 Report. The Government considers that there is a need for greater community debate over the proposed jurisdiction.

The draft Bill amends the Children's Protection and Young Offenders Act 1979 to make it clear that the provisions apply to children in need of care or protection. A new provision is inserted to ensure that any action taken under Part III is taken with the interests of the child as the paramount consideration.

The Bill provides for the repeal of paragraph *(ca)* of section 12 (1). This provision was enacted by Parliament in 1986. However, it has not been proclaimed because of the concerns expressed about the width and direction of the provision. The use of the term 'unfit guardian' was criticised in the Bidmeade Report as allowing the imposition of class values and assumptions on guardians. As recommended by Bidmeade, paragraph *(ca)* will be replaced by a 'same household' provision. Accordingly, the grounds for making an application under section 12 are extended to include a situation where a child has been maltreated by someone living in the same household, other than the guardian.

The Bill adopts the approach recommended by the Bidmeade Report regarding the need for improved case planning and management. The Bill provides that, except where it is not practicable, the Minister should before instituting an application, cause a conference to be held between appropriate members of the Department for Community Welfare and the Children's Interest Bureau. The conference would be held with the purpose of advising the Minister on what action should be taken in relation to the child.

The officers from the Children's Interest Bureau would provide an independent perspective from the department and advocate for the child's best interests. The officers would be able to challenge the case plans presented by the department and ensure that the child's interests are the central focus of the decision-making process.

The Bill also provides for increased information to be given to guardians about proceedings. The Bill provides that, except where the Minister considers it not to be in the best interests of the child, certain information should be given to a guardian before an application is made. The information would include the likely action under section 12, possible outcomes of an application and the availability of legal advice and support services.

This would enable guardians to be more fully apprised of their rights before an application is made. In addition, the Bill provides that, except in emergency cases, a minimum period of five working days notice should be given from the lodgment of the application to the date of the hearing. This should allow a guardian adequate time to obtain legal advice/representation before appearing in court.

One of the most important aspects of the Bill relates to the extension of the range of orders available at the interim and long-term stage of proceedings. At the interim stage, that is, where proceedings are adjourned under section 16 of the Act, the Bill provides for the court to place the child under the guardianship of the Minister, to order access, to provide for the child to reside in a certain place or that a guardian take specified steps to secure the proper care, protection or control of the child.

With respect to long-term orders, that is, orders under section 14 of the Act, the Bill enables the court to give guardianship to the Minister or some other specified person. Contrary to the Bidmeade recommendation, the Bill retains the Director-General's control order at this stage. The Director-General's control order is a useful option for the court where guardianship can be left with the guardian but some aspect such as the health, education or welfare needs of the child need to be specifically regulated. The Bill also provides for residence and access orders to be awarded by the court.

The wider range of orders will allow the court greater flexibility in providing for the individual needs of a child subject to an application. The mandatory requirement in section 14 (2) for an assessment panel to prepare a report before a guardianship order is made has been removed. Instead the general power of the court to order reports in section 17 (4) has been extended so that the court can call for reports to assist it in making any determination decision or order under Part III of the Act.

As recommended by the review, the Bill requires the expeditious handling of in need of care matters. The 28 day adjournment period has been extended to 35 days to reflect the problems experienced by country courts on circuits. However, the number of adjournments without the Senior Judge's approval has been reduced to one. These measures, together with the provision for pre-trial conferences, should encourage the speedy resolution of in need of care matters.

The Bill also adopts the Bidmeade recommendations regarding the mandatory representation of children and the need to provide an opportunity for a child to make representations to the court. This will enable the court to consider and give appropriate weight to the wishes of the child. Further, the Bill sets up a more independent review process. The Bidmeade Report recommended an annual court review of all cases where the Minister is given guardianship of the child. A court review would be an expensive and time-consuming exercise. It would have significant resource implications. The Government acknowledges that a greater emphasis needs to be placed on reviews. However, it does not consider that a court review would be an efficient use of limited resources.

Therefore, the Bill provides for an annual review of orders where the Minister is given guardianship. The review would be conducted by a panel constituted of a person from within the department, and an independent person representing the child's interests. Where resources permit, the independ-

ent person would be an officer from the Children's Interest Bureau. The Government has considered the recommendations made by the Bidmeade Report, and considers that the resultant amendments to the Children's Protection and Young Offenders Act will benefit all parties involved in in need of care proceedings.

Transit Infringement Notices: the Bill proposes an amendment to section 25 of the Act to enable children aged 15 years and over to be issued with Transit Infringement Notices (TINS). In 1981, the State Transport Authority Act and regulations were amended to provide for certain offences to be expiated. The object was to reduce the incidence of fare evasion and reduce costs by deterring vandalism. On 30 July 1984, the authority authorised personnel to commence policing the Act and regulations by issuing TINS to adult offenders. TINS cannot be issued to juveniles as this action is not authorised by the Act.

TINS issued to adults may be expiated by the payment of $50. However, since the inception of the TIN system it has been found that 62 per cent of all offences are committed by children aged between 15 and 17. Of a total of 14 762 offences committed between 30 July 1984 and 31 October 1987, 11 452 were fare-related, and 6 353 were committed by juveniles aged 15 to 17 years.

Currently, juveniles aged between 10 and 17 who have committed breaches are subject to the issue of internal offence reports. If it is a first offence, the matter is raised with the children's parents or guardians by letter. For subsequent offences, depending on the gravity of the incident, the parents or guardians are visited by an authority officer in an attempt to ensure that the breach is not repeated. In the event of the child committing a serious offence or multiple offences, the matter is referred to the Department for Community Welfare which then decides whether the matter should be handled in one of four ways:

(a) appearance before a Children's Aid panel;
(b) police caution;
(c) court action;
(d) no action.

For children under 10 years of age, parents are contacted for minor breaches. Following the introduction of TINS, comparisons were made between statistics maintained from August 1983 and July 1984, and from August 1984 to July 1985. It was found that the average percentage of fare irregularities detected in those periods had dropped from 0.33 per cent of passengers checked to 0.20 per cent. It is expected that the issue of TINS to children aged between 15 and 17 years will reduce the level of fare irregularities in this age group. The expiation fee will be set under the State Transport Authority Act at $20.

Interstate Transfer of Young Offenders: the Bill currently before Parliament introduces a new Part VIA into the Act to provide for the interstate transfer of young offenders. In 1982, the then Minister of Community Welfare indicated that, in the interests of young offenders, it would be desirable to establish a mechanism for transferring a young person back to his home State/Territory following a court appearance in another State/Territory.

At South Australia's initiative, the topic of the interstate transfer of young offenders was considered by the Council of Social Welfare Ministers. In June 1983, the council resolved that each State/Territory would develop legislation with a view to achieving complementary provisions for the transfer and reception of juvenile offenders under custodial order. It was envisaged that in any legislation the following principles would be accorded paramount importance:

(i) that the rights of the juvenile not be diminished by the transfer;
(ii) that the transfer have the effect of acquitting the order in the State/Territory in which it was made and imposing a liability in the receiving State/Territory according to the laws of that State/Territory;
(iii) that the provisions apply only to juveniles on sentence, not on remand;
(iv) that, unless there are special circumstances warranting the contrary, the consent of the juvenile to such a transfer be mandatory; and
(v) that the length of detention not be increased as a result of the transfer.

Since that time, the matter has also been discussed by the Standing Committee of Attorneys-General. However, it was eventually decided that uniform legislation would not be introduced but that each jurisdiction would take whatever action it considered appropriate. So far, the Northern Territory, Queensland, Victoria, Tasmania and New South Wales have either passed or prepared legislation on this matter.

The Bill provides that responsibility for dealing with an application for transfer will be dealt with by the Minister of Community Welfare. This is consistent with the Minister's responsibility for Youth Training Centres under the Children's Protection and Young Offenders Act. Before making any decision on a transfer the Minister would need to be satisfied that:

(i) any rights of appeal have been exhausted;
(ii) that the young offender will be dealt with in substantially the same way as if he or she had remained in the correctional system of this State;
(iii) that the transfer is in the best interests of the young offender;

and

(iv) that the young offender consents to the transfer.

However, where special reasons exist a child's failure to consent can be overriden. Special reasons could include such matters as health, education, family or welfare considerations. The young offender must also be allowed a reasonable opportunity to obtain independent legal advice. Any decision by the Minister to agree to a transfer is subject to ratification by the Children's Court.

The Bill also authorises the Minister to consider requests for transfer from interstate. The Minister is required to satisfy himself of specified matters before accepting a request in respect of an interstate detainee. The Minister must be satisfied that:

(i) the young offender is over 10 years of age;
(ii) there is in force in this State a law that substantially corresponds to the law against which the young offender offended;
(iii) that the young offender is not liable to detention for an indeterminate period; and
(iv) that the young offender will be dealt with in this State in substantially the same way as if he or she had remained in the sending State.

The Bill also provides for the transfer of probation/supervision orders for young offenders. An application can be made for a young offender who is subject to conditional release from a youth training centre to transfer interstate and to continue to be subject to the requisite supervision. Likewise, provision has been made to allow a young offender, who has been granted conditional release interstate, to be supervised in this State.

Finally, the Bill provides that the escort in whose custody the young offender has been placed will have lawful custody of the young offender while in this State, and that a young offender who escapes from the custody of the escort can be arrested without warrant for the purpose of being returned

to lawful custody. I commend this Bill to honourable members.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 provides for commencement on proclamation. Clause 3 provides a definition of 'working day'. Clause 4 amends the section of the Act that sets out the list of matters that a court, panel, body, or person must have regard to in dealing with a child under the Act. The list is expanded to include the child's ethnic or racial background and the need to guard against damaging his or her sense of cultural identity.

Clause 5 amends the heading to Part III so as to reflect that proceedings may arise out of the need to protect, as well as care for, children. Clause 6 inserts a new provision that requires a court, panel, or person dealing with a child under Part III to regard the interests of the child as the paramount consideration.

Clause 7 amends the guardianship provision so that an application for guardianship may be made where a person residing with a child maltreats the child. The paragraph dealing with unfit guardians is struck out. Provision is made for a conference to be held between Community Welfare Department officers and the Children's Interest Bureau before guardianship proceedings are taken out. Provision is also made for early notification of parents where an application for guardianship is being contemplated. (It should be noted that neither of these provisions is a mandatory requirement and that the court will not therefore be required to satisfy itself as to compliance with either of them.)

Clause 8 provides that, except in cases that the court thinks urgent, the hearing date for a guardianship application will be at least five working days after the date of lodgment of the application. Clause 9 sets a wider range of orders that the court can make on finding that a child is in need of care or protection. Guardianship may be given to the Minister or any other person. Access may be provided for. The child may be placed under the Director-General's control, but only to the extent specified in the order. Orders as to residence may be made. The guardians of the child may be required to take certain specified steps in respect of the child.

Clause 10 is a consequential amendment. Clause 11 gives the court power to adjourn the hearing of an application for five weeks, but after the first such adjournment, must obtain the Senior Judge's consent to any further adjournment. The range of interim orders that can be made on an adjournment is widened to include access, residence and the steps to be taken by guardians.

Clause 12 provides that proceedings under Part III are to be dealt with expeditiously. The child must have legal representation unless he or she wishes otherwise, and must be given an opportunity to appear before the court and make submissions. It is no longer mandatory under section 14 for the court to obtain a report from an assessment panel, and the court is given a general power to call for such reports as it thinks fit before it makes any determination or order. The court is given the power to convene conferences between the parties for the purpose of expediting the proceedings. The member of the court hearing the case will not be involved in such a conference.

Clauses 13, 14, 15 and 16 effect consequential amendments. Section 21 is repealed because it will no longer be mandatory for the court to obtain a report from an assessment panel. Clause 17 broadens the ambit of the review provision to make it clear that the Minister also has power to review the circumstances of a child subject to orders other than guardianship. Clause 18 excludes public transport offences from the application of the provisions of the Act that require offences to be 'screened' by screening panels for the purpose of determining whether the matter should be dealt with by a children's aid panel or by the court.

Clause 19 inserts a new Part in the Act that provides for the interstate transfer of young offenders held in detention centres, out on conditional release, on probation or performing community service. The provisions of this Part are to some extent uniform with corresponding Acts of other States. New section 65a provides the necessary definitions. A young offender is a person who committed an offence while under 18 and who is subject to a correctional order. A correctional order is an order for detention, community service, probation, conditional release or parole made under a law for dealing with children who commit offences.

New section 65b gives the Minister power to arrange for the transfer of a young offender out of this State if the Minister is satisfied that the transfer is in the best interests of the young offender, that he or she will not be prejudiced by the transfer and that he or she consents to the transfer. A transfer may be effected without consent only if the Minister is satisfied that special reasons exist justifying such action. The young offender must be given an opportunity to obtain independent legal advice. The Children's Court must notify a transfer before it will be effective. A transfer operates to discharge the correctional order in this State.

New section 65c deals with transfers to this State. The young offender must be over 10 years of age, his or her offence interstate must have a similar counterpart under South Australian law, and the transfer must not prejudice the young offender. Such a transfer means that the young offender will be dealt with in this State as if the correctional order had been made here. New section 65d provides for the modification of correctional orders to ensure effective operation in the State to which the young offender is to be transferred. New section 65e provides that an escort has the lawful custody of a young offender while a transfer is being effected, and that a young offender who escapes from an escort may be arrested without warrant.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

LEGAL PRACTITIONERS ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 1 December. Page 2302.)

The Hon. K.T. GRIFFIN: The Opposition is not prepared to support this Bill, which is designed to amend the Legal Practitioners Act to provide for the imposition of a levy on the practising certificates issued by the Supreme Court to legal practitioners. The certificates are, in effect, a licence or authority to practise the law, such certificates being issued on a year-by-year basis. The Government seeks to impose a levy which, in the second reading explanation, is indicated to be $35, a figure to be set by regulation. That levy will be fixed and imposed on an annual basis. The practising certificate fee for this year was $105 and for the year commencing 1 January 1988 has risen to $115.

That amount goes towards meeting some of the costs of administration of the Act. The levy has been proposed by the Government to help meet the consequences of the devaluation of the Australian dollar during 1986-87. That resulted in a significant drop in the spending power of the Supreme Court Library for overseas subscriptions and text books. The Government indicated during the Estimates Commit-

tees that the net drop in value in respect of the amount that can be spent by the library, under the budget, is about $85 000. I understand that it is expected that the levy will raise about $56 000 next year. So, there will be a shortfall, and it is intended to meet that from Government revenue.

The Supreme Court Library is open to legal practitioners, to judges and to magistrates. In addition to the Supreme Court library, which is open to legal practitioners, there is an extensive library in the Sir Samuel Way building, which is accessible only to judges and magistrates. Most legal firms maintain their own in-house library, and a number of them are now subscribing to CLIRS (Computerised Legal Information Retrieval System), which is broadening its data base extensively. Most legal firms also have access to the library maintained by the Law Society. That is the Murray Library, which is extensive, and it is maintained from subscriptions from those lawyers who are members of the Law Society. If this levy is imposed those lawyers would be contributing not only towards the maintenance of the Murray Library of the Law Society but also the Supreme Court Library, as well as their own libraries.

The Law Society has made some representations to me, as I would suspect that it has done in relation to the Government, and maybe also the Australian Democrats. The Law Society has made a number of points about the proposed levy. They say that any increase in costs payable by lawyers will be picked up in the periodic increases to the cost scale, and ultimately will be passed on to clients in both the civil and criminal jurisdictions of the various courts in which they practise.

The State Library and the hospital libraries are accessible. The public has access to the State Library free of charge, and one can imagine that there has been a substantial increase in the cost of maintaining the State Library, where overseas publications are involved. Also, the hospital libraries are accessible to the medical profession, nurses, and other people who service the hospitals under the medical system. As I understand it, those libraries are accessible without payment of a fee. In the context of what this Bill is seeking to do, I wonder whether the Government is also proposing to impose a charge on the public at large who use the State Library and the various hospital and other libraries, which also must bear the cost of the substantial devaluation of the Australian dollar.

The Law Society also says that the increase in the practising certificate fee from $105 to $115, together with professional indemnity insurance costs, which are directed towards protecting the public, will mean that next year members of the legal profession will each pay $1 946 before they are entitled to practise, and that that is a substantial burden on all legal practitioners, and more so the younger practitioners whose client base may not be as large as that of a practitioner who has been in business for some years. So, on those grounds the Law Society is opposed to the levy and, likewise, the Opposition is opposed to it. It seems a quite unique basis upon which—

The Hon. C.J. Sumner: Every other State does it.

The Hon. K.T. GRIFFIN: They do not. It seems unique that the legal profession, in particular, is to be required to pick up some of the costs of devaluation which, to a very large extent result from the Federal Government's own policies.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Well it does. It results from the attitude and policies of the Federal Government. But it is a unique reason for placing a levy upon a certain group in the community due to devaluation of the Australian dollar, with someone having to pick up the tab. As I have said, some members of the legal profession use the library in the Supreme Court. It seems that in terms of book borrowings it is used about equally between the judiciary and the profession, but the figures indicate that it is used only to a very limited extent, and it seems to be quite unreasonable that members of the profession throughout South Australia, whether they practise in the inner city, the near city suburbs, the outlying suburbs, or in the country areas of the State should be levied by this means of a further fee on their practising certificates.

In respect of the practising certificates issued to lawyers who practise in the Crown Solicitor's Office, I understand that the levy, if it is paid, will be picked up by the Government—so, the amount involved will be transferred from one pocket to another.

The Hon. C.J. Sumner: Cross charged.

The Hon. K.T. GRIFFIN: That is right, cross charged. Well, it is all very well for Government solicitors not to have to worry about it, but essentially, it falls as a burden on the members of the private profession, wherever they practise in South Australia. So, this is quite discriminatory. The basis upon which the Government seeks to impose this levy is unique, and the Opposition opposes the measure.

I have looked at the Standing Orders in respect of my own position. I am not satisfied that it is a pecuniary interest that I have to identify, but I place on record that, obviously, I am one of those legal practitioners who will be affected by the legislation. But, as I say, I do not believe that this constitutes a pecuniary interest under Standing Orders, although in any event I want to ensure that these remarks are on the record. For me the $35 is not the influencing factor in determining my attitude towards the Bill: it is really a question of principle. It is on those bases that the Opposition cannot support the Bill.

The Hon. J.C. BURDETT: I oppose the Bill. I simply follow from what my colleague the Hon. Trevor Griffin has done, and place on record the fact that it may be regarded that I have an interest because I am a legal practitioner.

The Hon. I. GILFILLAN: The Democrats support the Bill which appears to be an extended user pays principle. I do not imagine that many members of the legal fraternity will pay the $35 without recouping it in one way or another from their clients. In fairness, that is probably a better way for it to be funded than from a broad section of the population through taxation many of whom will not have the benefit of the legal services that would come from the use of the library. Therefore, I have no problem with that.

The amount of $35 is in question, but I am not in a position to judge that. However, Mr Rod Burr, the President of the Law Society, indicated that the average cost to use a book was $12.50. If that is the case, it will be an incentive for the legal fraternity to read diligently and make productive use of what they read. It may be that the amount should be varied. That side of the legislation I accept as probably being the money side of the Bill. As in previous instances, I completely reject any inference that we should tiptoe our way around this legislation because it is a money Bill. From time to time the Attorney-General tries this little trick with the Democrats to muzzle us. However, he did not need to do so in this case because we were going to support him. I make plain that it is our intention to treat each measure on its merits as it comes into this Chamber, and we will continue to do that. This Bill concerns much more than an amount of $35—it is the principle. To argue that it is a money Bill—

The Hon. C.J. Sumner: I wasn't arguing that—

The Hon. I. GILFILLAN: You did. You stood beside me here and said that it was a money Bill. I have a perfect recollection for at least half an hour. This Bill is specific. It introduces a completely new principle—the levying of a charge on a profession to maintain what could be argued as being a public library. We accept that. We are not in a position to judge whether the amount levied is appropriate, but we are prepared to accept the figures in the Bill.

The Hon. C.J. SUMNER (Attorney-General): I am disappointed with the Liberal Opposition for what I suppose can only be described as a fairly opportunistic approach to this matter. To deal with the Hon. Mr Gilfillan's apparently raising the question of whether or not it is a money Bill, it is, in my view, a money Bill.

The Hon. I. Gilfillan: You just denied saying that.

The Hon. C.J. SUMNER: I did not deny saying it to you. What I said was that it is not on the public record from me or anyone else that it is a money Bill, except that it was introduced into the House of Assembly because, in my and the Government's view, it was a money Bill. What I was having with the honourable member, as I remembered it, was a private conversation. However, that does not matter.

The Hon. C.M. Hill: Were you trying to do a secret deal?

The Hon. C.J. SUMNER: No, there was not any need to on this occasion. We are at one on this matter. In my view it was a money Bill. That is why it was introduced into the House of Assembly although I have responsibility for it. It should be pointed out that it is also part of the Government's budget for this year. An additional allocation of $85 000 has been made to the Supreme Court Library. The raising of this levy will produce $56 000 to offset—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Of course it is part of the budget.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: It is not. Budgets usually have two parts. One is the raising of revenue and the other is the spending of it.

The Hon. K.T. Griffin: But the raising of the revenue is identified in the budget speech. You didn't raise this in your budget speech.

The Hon. C.J. SUMNER: Whether or not it was raised in the context of the budget speech is not of great relevance.

The Hon. K.T. Griffin: What you are saying is that we can't oppose anything that raises money.

The Hon. C.J. SUMNER: I am just telling you that it is a money Bill. An additional allocation was made to the Supreme Court Library and this is an offsetting revenue measure.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It is part of the budget. It is a budget measure.

Members interjecting:

The Hon. C.J. SUMNER: It is obviously part of the overall budget for the South Australian Government in this financial year. I merely make that point. I will not take the argument any further. The principal argument that has been put by the Hon. Mr Gilfillan, with which I agree, is that there is really no basis for the legal profession to get free use of a library at taxpayers' expense, and that is what they have been getting hitherto. On my information South Australia and New South Wales are the only States that do not charge legal practitioners for use of a taxpayer funded library.

In introducing this levy we are imposing a similar charge to that which exists in every other State except New South Wales. I think that it is justified. The use of the Supreme Court Library by the profession occurs more than it does by the judges. The Senior Librarian at the Supreme Court Library has supplied the following information relating to the number of books borrowed: in July the judiciary borrowed 231 books, and the legal profession 296; in August the judiciary borrowed 290 books, and the legal profession 413; in September the judiciary borrowed 221 books, and the legal profession 444; in October the judiciary borrowed 216 books, and the legal profession 308. That indicates that the legal profession uses the library for borrowing books more than the judiciary.

It is further estimated by the Supreme Court librarian that four times the number of books borrowed are actually used within the library for research purposes. Most of the use in the library would be by the profession as judges would normally use their chambers for research purposes. Therefore, in terms of actual borrowings—the taking away of books—the profession uses the library more than judges and, in addition, four times the number of books borrowed are actually used in the library, the great majority of those being used by legal practitioners.

The argument is fairly simple. Why should the legal profession—and I am surprised that the Hon. Mr Griffin does not accept this—have free use of the Supreme Court Library at taxpayers' expense? It is an example—and a justified example—of the user pays principle.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Of course they would not. The Hon. Mr Gilfillan interjects that the Liberals would not reverse it if they were in Government. If they were in Government they would probably be introducing it because they have always been very strong about the user pays principle. The Hon. Mr Griffin spoke about the user pays principle a lot when he and Dr Tonkin were running the State a few years ago. Obviously, the user pays principle has its limitations, in particular in the area of welfare and the like. However, I do not believe that there is any reason really for a departure from some user pays, which is what the Bill is designed to do.

The other question raised with me by the Law Society is whether or not all of the $56 000 that will be raised will go to the Supreme Court Library or whether any of it will go to the fourth floor library which is used only by the judiciary. I make clear to members and the Law Society that this levy supports the Supreme Court Library only, that is, the library used by the private legal profession.

As to the calculations on the use of the books, I have not checked those and I am not sure whether they are based on actual borrowings or additional use, but in any event it seems to me that, given that there is a problem with the funding of the library, legal practitioners should make some contribution to it. The cost of their practising certificate is money expended in earning their assessable income, so it is a tax deduction which, in effect, brings back the actual cost to the practitioner to $17. I do not think that is unreasonable and I ask the Council to support the Bill.

The Council divided on the second reading:

Ayes (10)—The Hons G.L. Bruce, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Noes (9)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, R.I. Lucas, and R.J. Ritson.

Pair—Aye—The Hon. J.R. Cornwall. No—The Hon. Diana Laidlaw.

Majority of 1 for the Ayes.

Second reading thus carried.
Bill read a third time and passed.

SHOP TRADING HOURS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 2 December. Page 2384.)

The Hon. T. CROTHERS: I rise to speak in support of the Bill. First, I wish to address what I perceive to be some of the major flaws which mar the Opposition's argument on extended trading. In my view these flaws are caused by the Opposition's complete and absolute failure to understand industrial relations and, in particular, the South Australian Industrial Commission. The first flaw is the Opposition's argument that the Government's intervention in the Industrial Commission on behalf of the shop assistants' claim will increase the cost of trading on Saturday afternoons. When one looks at it, this simply is not true. It is not true, and I am about to give some figures that will prove that—not figures, I might add, that have been plucked out of a hat. Now and then we find, when the Opposition picks out figures, 'six and seven-eighths' appearing here or there. If one looks at the figures and knows how the Industrial Commission reaches its decision, one can see that it is not true that the extension of hours on Saturday will add a costing to shopping in the order of that which the Opposition placed on record in this Chamber yesterday.

As I said, if one knows how the Industrial Commission reaches decisions, then one also knows that when shop assistants work all day on Saturday during the Christmas season (and we are aware that the Government by regulation has already agreed to permit shops to open on at least two Saturdays during the currency of the Christmas period), under the award as it now exists shop assistants are paid $61.09 in penalties and overtime, comprised of $7.48, which is a 25 per cent penalty for Saturday morning under the award; $48.61 overtime for Saturday afternoon; and a $5 meal allowance.

Under the Shop Distributive and Allied Employees Association's proposal, which is supported by the State Government, they would receive only $31.52 for Saturday. That proposal is currently before the commission. It is made up of a 50 per cent penalty for all day—and it is important that the Opposition understands this—and is $29.57 less than currently is the case when a shop assistant works all day Saturday.

The Hon. I. Gilfillan: That's what I said.

The Hon. T. CROTHERS: I have not taken issue with the Hon. Mr Gilfillan; I have taken issue with purported statistics from members Opposite. After subtracting the $15 extraordinary circumstances constituent part of the claim currently before the commission and put there by the SDA, shop assistants would still receive $14.57 less for working Saturday afternoons than is currently the case. Of course, all this would have been known or could have been found out by the Opposition had members Opposite read the shop conciliation committee's award and the claims of each of the parties. However, I think that members opposite chose not to do that, and that is fairly obvious from some of the figures that were being bandied around this Chamber yesterday afternoon.

Members opposite who object that the figure does not include the 4 per cent second tier claim or the 3 per cent superannuation claim should realise—and I am sure that they do realise but they used the figures to disguise their real purpose—that these claims do not relate in any way, shape or form to Saturday afternoon trading. They are available to all workers throughout Australia under the wage fixing guidelines. Indeed, it is true to say that many Australian workers have already received them as a result of decisions ratified by various Industrial Commissions throughout the nation. The Opposition, like Scrooge in Charles Dickens' *Christmas Carol*, reserves its complaint for the most powerless and exploited workers in Australia today. What do I hear from the Opposition benches—that I am talking humbug. Of course, that is not the case—I am talking the truth.

In the State of South Australia there are at least some 80 000 shop assistants, but only 20 000 (or 25 per cent) of the total number of shop assistants employed in South Australia have the protection of the union. We are debating the merits of the shop assistants award, when the vast majority of South Australian shop assistants are being denied humble benefits by retailers and employees. The SDA is being very reasonable, in my view, about the extension of trading hours. That is clearly demonstrated by its claim and the fact that it is willing to acquiesce on the undoubted public demand for Saturday afternoon trading—a demand which the Opposition took great care not to mention in its contribution in this Chamber yesterday. There is no doubt that a majority of the public want to be able to shop on Saturday afternoons.

The Hon. I. Gilfillan: How do you know that?

The Hon. T. CROTHERS: In-depth surveys have been conducted. I can obtain the figures, if they are required. As I have said, the shop assistants union is willing to acquiesce on the undoubted public demand for Saturday afternoon trading. This is despite the fact that in the 95-year history of that union it has repeatedly and continuously opposed the concept of Saturday afternoon trading. However, we now find that the union, on the basis of good commonsense, is willing to concede that the overtime rate for work on Saturday afternoon is too steep. In fact, it is willing to concede a reduction of Saturday afternoon penalties to the State standard of 50 per cent.

However, the Opposition continues to blackguard the union as rapacious. The only rapacity, in my view, in this case comes from the Retail Traders' Association, which offered shop assistants $7.48 and juniors $3.74 if they chose to make Saturday afternoon part of their working week. So, let us hear no more from the Opposition about increased costs caused by the union and the Government.

Of course there will be increased costs, necessarily incurred, in my view, because shops will be open longer. They will not result from action by the union. Costs will be increased because shops will be open for an extra 4½ hours than currently. The increased costs cannot in all honesty be attributed to the union, unless the Opposition wants to argue that shop assistants should work without pay while the rest of the community is at leisure.

The second flaw in the Opposition case, in my view, is its inability to understand how the South Australian Industrial Commission works. The commission is a very delicate blending of judicial and legislative powers and, in my view, it has a reputation second to none for impartiality and competence. Indeed, if members look at South Australia's industrial track record, they will find that it, too, is second to none. That is due in no small measure to the way in which unions have always accepted, in general terms, decisions and rulings of the South Australian Industrial Court and the South Australian Industrial Commission.

The Hon. Peter Dunn: Not always.

The Hon. T. CROTHERS: Not always, I agree—but in general terms that has always been the case.

The Hon. Peter Dunn interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: Mr Dunn would not know, but I will repeat it for his edification. South Australia's industrial record is second to none. In fact, that was one of the considerations that gave us an edge in obtaining a major portion of the submarine contract at Port Adelaide, with all the benefits that will flow from it to the people of this State. As I said, the commission is a delicate blending of judicial and legislative powers. It has a reputation in this State and beyond for impartiality and competence. In my view the Full Bench is capable of hearing submissions from all sides, including the State Government, and then reaching its own decision based on the evidence and the wage-fixing guidelines. A Full Bench hearing, as you would know, Madam President, as a member of the right political Party, is not a numbers game. We no longer have retired members from the South-East canvassing at doors. It is not a numbers game, as the Opposition portrayed it in its speeches on this debate—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: —in both this Chamber and in another place. A Full Bench hearing is a matter to be determined according to law.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: As I said, a Full Bench hearing—and I repeat this to get the message over—is a matter to be determined according to the industrial law of this State by a panel of three members of undoubted integrity. However, the Opposition, by implication, questions the integrity and impartiality of the commission bench in the industrial jurisdiction of this State.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: Stop bleating.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: Stop bleating; you will get your chance in a moment. The mob opposite were caught on the hop by the attitude of the Retail Traders' Association, but I will come to that in a moment. I will not let you off on that one.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: As I understand it, the Full Bench consists of the President of the commission (Judge Stanley) and two Commissioners: Commissioner Perry, who was an industrial advocate for the employers side of industrial politics in this State and, I believe, Commissioner Eglinton, who came from the trade union movement.

History records that a previous President—in fact, the last President of the Industrial Commission—President Trevor Olsson was elevated to the Supreme Court bench in this State, and I do not believe that any members present—certainly not on this side, but perhaps on the other side of the Council—would impugn his integrity. I do not believe that they ought to impugn the integrity of Mr President Stanley, but that is what you are doing.

The Hon. L.H. Davis: We have not—

The Hon. T. CROTHERS: Read in *Hansard* what you said yesterday. Perhaps if you read a bit more and talked less you would find more time for contemplation. As I say, a Full Bench hearing is a matter to be determined according to law, and I have indicated the composition of the Full Bench. The Retail Traders Association is not in my view kicking against a 10 goal breeze, as the Opposition said in this Chamber last week, in brazen contempt of the commission. What are we to read in that: that is what was said. Until the Opposition started its attack on the integrity of the commission, industrial arbitration—

Members interjecting:

The Hon. T. CROTHERS: When you are dealing with facts, the only way that the Opposition can put over a point of view is by raucous interjection, and invariably we find that the Hon. Mr Davis leads the pack. It is not a wolf pack, I admit, more like a pack of cards that is doomed to keep collapsing.

I say again, because it bears repeating, that industrial arbitration in this State has had almost 100 years of bipartisan support from this Parliament. Now we find that the Opposition argues that the Industrial Commission cannot decide the case equally according to law because the Government is making a submission in support of the SDA's claim. Yet we find that the Liberal Party in Western Australia and Victoria has supported extended trading hours, and we find, too, that both Governments in those States also intervened in their respective Industrial Commissions in support of the union claims.

It goes to show how the Liberal Party here is in absolute tatters without any cohesion. In my view members opposite have not impugned the commission in the hundreds of cases over the years in which the Government has made submissions to the commission. They have not impugned the commission, but suddenly we find that, because they are getting to the stage where I would term them as political desperados, they are trying to make every post a winning post electorally.

The Hon. R.I. Lucas: This is a filibuster.

The Hon. T. CROTHERS: You ought to know; you are the expert.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas: Can he address the Chair, Ms President?

The PRESIDENT: Order! I have called you to order.

The Hon. T. CROTHERS: Thank you, Ms Chair. I admit that I admire the integrity of the two Democrats in the Chamber, the Hon. Mr Gilfillan and the Hon. Mr Elliott, because they have told me—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: They have told me what their opposition is based on and, in this instance, it is not political opportunism, and I will come to that later. It is quite clear that Opposition members, with their usual indolent posturing, had not done their homework again when they rose to speak to the Bill yesterday. It is also equally clear to me not only that they have not done their homework but also that some of them have been forced by their Party Whip into the position of arguing in opposition to the Bill. They may pay a price for that a little further down the track.

Just as a matter of interest, it may surprise the Council to know that at this point in time Myer-Coles already receives 20c and Woolworths 10c out of every $1 spent in the retailing industry. In other words, those two groups already have almost one-third of every retail dollar spent in South Australia and, I am led to believe, throughout Australia.

Unfortunately, gone are the days when people did their shopping at the corner store. It might be sad, but it is the reality. Those days are gone. What about the position of Mr McCutcheon, the Chief Executive Officer of the Retail Traders Association? Because of the about-face of that association, he is caught in a cleft stick with some of his members. Obviously, his larger members want extended trading

hours on Saturday afternoon, but the smaller ones, who probably constitute the bulk of his members (on the basis of one vote one value), say, 'We do not want it.' That is the position of the Retail Traders Association which, I understand, did a *volte-face* and caught the Opposition with its strides down. What a horrible sight! Gone are the days—

Members interjecting:

The Hon. T. CROTHERS: I do not know whether you wear trousers.

Members interjecting:

The Hon. T. CROTHERS: Have you finished? I wonder whether someone could go over and burp Mr Dunn. Unfortunately, gone are the days when people did their shopping at the corner store. It was the Australian Labor Party, when all is said and done, that warned the public at that time in various Parliaments around the nation of the hazards of monopoly trading. Indeed, the truth of the matter is that it was the Liberal Party around the nation—both at State and national level—that supported the concept of monopoly trading. It is a truism to say that they made monopoly trading possible.

Now, when it is just about too late to assist small business in the area of retailing foodstuffs and products that are sold in supermarkets, the Liberal Party comes into this Chamber bleating and postulating as the champions of small business. Their cant and humbug defies description. Let me put on the *Hansard* record for the benefit of small business that the track record of the Party of members opposite clearly shows that they are men and women of straw when it comes to honouring some of their commitments. Such in my view is their shameful desire for Government that they will plumb any depth; scale any height; and leap tall buildings in a single bound if they feel in their shallow hearts that there is a vote to be gained from it. I know that their wait for Government will be a long one indeed.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: I would like to write an obituary and I will make sure I write a suitable one. They underestimate, in my view, the electorate of South Australia and its ability to perceive and determine which Party has their welfare genuinely at heart. It is my view that the Party of the members opposite is held in scant regard by the South Australian public. Turning, as I previously indicated I would, to the Democrats, I have to say that at least their opposition is based on an honest viewpoint.

The Hon. L.H. Davis: On this occasion.

The Hon. T. CROTHERS: On this occasion, yes. Honest, I say, but misguided, and what is wrong with that?

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: I will if you will. If shops acquire the legal ability to trade on Saturday afternoons, it will be mainly in the area of foodstuffs and other commodities which are mainly sold in supermarkets where additional competition will be injected. Does any member here seriously think that this will damage the remaining small business delicatessens? I think not, and as most of these stores are dad-and-mum operations employing no-one except the proprietors, I believe that delicatessens will continue to trade. Whilst I can hear the howls of anguish from various proprietors, I believe that their fears are, as time will show, to be as ill founded as those of the Democrats. However, in saying that, I do commend the Hon. Mr Gilfillan and Mr Elliott for their integrity of approach on this occasion, which is more than I can say for the spokespersons of the Liberal Party in this Chamber. I commend the Bill to the Parliament.

The Hon. C.J. SUMNER (Attorney-General): I thank some members for their contribution to the debate. In particular, the contribution by my colleague the Hon. Trevor Crothers who—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: He also made some very relevant remarks, and I would have expected members in the Liberal Party to be somewhat agitated about them because what he said was not just close to the truth but absolutely correct with respect to the attitude of the Liberal Party.

The Hon. L.H. Davis: What do you think of the Democrats?

The Hon. C.J. SUMNER: Well, on this occasion—

Members interjecting:

The Hon. C.J. SUMNER: On this occasion they seem to be putting forward a position which—

The Hon. L.H. Davis: What is it?

The Hon. C.J. SUMNER: The position is opposition to extended shop trading hours, but that position is one I think they have taken on previous occasions—at least some Democrats have. I do not know that the Hon. Lance Milne, when he graced this Chamber, was opposed to extended shopping hours but, nevertheless, the current incumbents of Democrat positions in the Parliament on this issue seem to at least have exhibited some consistency.

The Hon. Carolyn Pickles: That's a change.

The Hon. C.J. SUMNER: As the Hon. Ms Pickles interjects, that is a change, and it is a refreshing change. I suppose we should be thankful for small mercies. With respect to the Opposition—

The Hon. M.J. Elliott: Opportunists.

The Hon. C.J. SUMNER: The Hon. Mr Elliott interjects 'opportunists', and he took the word right out of my mouth. Anyone who has been an observer of the South Australian political scene in recent years (or indeed, in not so recent years) would know the approach that has been put forward publicly at least on the question of shopping hours by the Liberal Party. The one occasion its members get to put their money where their mouth is, they muff.

The Hon. R.I. Lucas: Money?

The Hon. C.J. SUMNER: Their vote where their mouth is; the one occasion, despite all their rhetoric, despite all their talk—

The Hon. L.H. Davis: Tell us why the Government—

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Despite the privately held convictions of a good number of them, the one chance they get in the past 15 years to actually do something about trading hours, they squib on.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: It has nothing to do with the right wing, the left wing or anything else.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: If one thing has become quite apparent in this matter, it is the total ignorance of the Opposition on the factional politics of the Labor Party, because for some obscure reason, members opposite have been suggesting that the support for certain union claims has been to accommodate some position within the Labor Party. What I would point out to members opposite is that obviously it has not been made plain to them so far that the Minister in charge of the Bill and promoting it, who in fact introduced the Bill—the Hon. Mr Blevins—as is publicly known, does not happen to belong to the same faction as the SDA. While members have refered to Mr Bannon, it seems a very strange alliance that members opposite and some people of the press are suggesting that this is somehow

to prop up Mr Bannon's factional position with the SDA and the running and support of the Bill in Cabinet and elsewhere has been taken by the Hon. Mr Blevins—whom the Hon. Mr Lucas and other members have put firmly and squarely in the left factional camp when he—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Are you suggesting he does not support extended trading hours?

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: In fact, the Hon. Mr Blevins has acted in loosening up trading hours much more, I would suggest, than any other Minister in the past 20 years. With Government support, he was responsible for initiating the deregulation of bread baking hours. He was also responsible, with Government support, for deregulating petrol trading hours—both significant deregulatory moves. Now he is promoting, from the left, and apparently with support from the right in the Labor Party, deregulation of shopping hours. Yet when the Liberal Party gets its chance to actually do something about what its members have been talking about and, apparently, espousing at least since 1977—since the Royal Commission into shop trading hours—it squibs.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: They squib.

The Hon. R.I. Lucas: At what cost?

The Hon. C.J. SUMNER: The cost was not a relevant factor in 1977. You obviously have not caught up. So, opportunism is not too strong a word for the official Opposition. Rampant opportunism would also be applicable if one wanted to make the statement more strongly. Its attitude is completely inexplicable except on the basis of some misguided view which it must have about the political gain that they hope to get out of this.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: I will. They are utterly inconsistent in their public posture hitherto, and the attitude indicated that they will take when this Bill is voted on. We are now faced with the ridiculous situation where the Industrial Commission will not consider wage claims unless the Bill is passed. We have, on the other hand, the situation where the Liberals in the Legislative Council will not pass the Bill unless the commission assesses the cost. In every other circumstance the approach would be to pass the legislation and then to hand over to the industrial tribunal the determination of appropriate wages and conditions.

Following the legislative change made in Parliament, I invite honourable members, including those Liberals opposite who I know have been squeezed by their leadership over this issue, to consider again what we have before us. There are some well-known free traders opposite who ought to have the gumption to get up and support what they have advocated now for many, many years. It is a simple proposition to allow shops in South Australia to open until 5 p.m. on Saturday. That is the issue, and that is the measure that members opposite have been supporting until—

The Hon. M.B. Cameron: But not at any cost, though.

The Hon. C.J. SUMNER: Well, the official Liberal Party view was that it be at any cost—absolutely.

The Hon. L.H. Davis: You have taken no account of economic circumstances; you do not give a damn about the economy.

The Hon. C.J. SUMNER: Why cannot the Industrial Commission take into account issues such as capacity to pay?

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: That was one of the more ridiculous propositions that the Hon. Mr Davis put during the debate, that in some way the Government is the umpire in this issue. Obviously, it is not the umpire in respect to wage rates argued in the Industrial Commission. The Government is able to put a point of view, which we certainly intended to do had this Bill passed. However, as the honourable member well knows, the South Australian Industrial Commission is the umpire in this matter, acting in concert, as has already been indicated, with the Industrial Commissions in the other States where this is an issue.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis has had his chance to speak in this debate.

The Hon. C.J. SUMNER: The Industrial Commissions operate under industrial principles, and they have to operate under the present national wage guidelines, and the Government was not suggesting that they go outside those guidelines.

The Hon. R.I. Lucas: Yes, you were.

The Hon. C.J. SUMNER: We were not. One of the specific positions that the Government put was that any increase had to be within the national wage guidelines.

The Hon. R.I. Lucas: Why is Justice Maddern calling all the industrial magistrates from the States together?

The Hon. C.J. SUMNER: Obviously, he is calling them all together to assess whether the claims that are being made as a result of extended shopping hours are—

The Hon. R.I. Lucas: They are outside the guidelines.

The Hon. C.J. SUMNER: Well, if they are outside the guidelines they will not be granted, and if they are not granted—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Hon. Mr Lucas is getting into deep water.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! When I call for order I am including the Hon. Mr Lucas as well as everyone else in the Chamber.

The Hon. C.J. SUMNER: If the claims are not granted then the additional costs that members Opposite have alleged will not occur. So, that argument does not get beyond Mr Lucas very far. This is a simple proposition. I think that the question of what happens in the Industrial Commission is separate, and that is obviously for the commission to decide. In whatever circumstances extended trading hours are introduced, whether by the Government, or the Liberal Party or the Democrats by means of a private member's Bill, the fact is that in the final analysis there would still be a case before the Industrial Commission that determine what wage rates and conditions should flow from that change in the law. The fact that the Government is doing it at present does not mean that the industrial issues have been resolved or that there would not still be argument before the Industrial Commission. Clearly, there will be.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: That is just an excuse that members opposite have used to try to get a bit of political mileage.

The Hon. L.H. Davis: There is no excuse for what you have done.

The Hon. C.J. SUMNER: What we have tried to do is give to South Australians extended shopping hours. Despite all the talk from the Liberals, despite the events in 1977, and despite the fact that the Liberals were in Government for three years from 1979, they have not taken one step to

introduce extended shop trading hours in this State. As I have said, when this Government eventually introduces legislation, they go to water.

The claim before the Industrial Commission is as follows. A 3 per cent superannuation increase, in relation to which the Government's view is that support should be given for this matter to be arbitrated, on the understanding that if it is awarded it would be granted in two separate bites of 1.5 per cent, in accordance with the national wage guidelines. In relation to the superannuation question and the other issue, which is a $10 increase and which is 4 per cent in wage rates under the second tier in the form of supplementary payments, the Government's proposition is to support the right of the SDA to have this plan dealt with by the commission, but it will not indicate any support as to quantum.

So, both those issues are already the subject of Federal Arbitration Commission decisions, namely, the 3 per cent superannuation and 4 per cent second tier matters. Thus, in a sense they are not directly related to the shopping hours issue. These issues are already in the public arena, and there is nothing new about them. They would have had to be arbitrated at some time in the future, irrespective of whether shopping hours were extended.

The other issue in the Industrial Commission, which the Government would have supported, is time and a half for Saturday work. This claim would be supported in full. It is in line with general industry standards for work in ordinary hours on a Saturday. Under the current shop conciliation committee award, Saturday work is worked in overtime and is payable at the rate of time and a quarter up to 12.30; time and a half for the first three hours after 12.30; and double time thereafter. The Shop Distributive Allied Trade Union has accepted, in its claims, that Saturday work can be treated as ordinary hours, with its members rostered accordingly. So, taking just that aspect of the claim, one finds that the union is agreeing to wages being lowered for Saturday afternoon work.

The fact is that a significant concession is involved in that. At present, for Saturday work, there is a Saturday morning loading of 25 per cent, and after 12.30 p.m. on Saturday overtime at time and a half applies for three hours and, subsequently, double time, with a meal allowance. So, if there is Saturday afternoon trading now as a result of actions by the Government in allowing shops to open under existing law, that is what the shop assistants will be entitled to.

Under the proposition put forward by the union and the Government, if the uniform 50 per cent loading was applied for Saturday work it would be substantially less than what shop assistants are now entitled to. To my way of thinking, that is a significant concession. So, the only issue, really, where the union is asking for something that might be out of the ordinary concerns the additional payment of $15.

The Hon. R.I. Lucas: Even if a person does not work.

The Hon. C.J. SUMNER: Whether or not one works particularly on that afternoon—but obviously all shop assistants will have the opportunity to work on that afternoon. It is a separate issue from the 50 per cent loading claim that I have already dealt with. The fact is that under the current award conditions for Saturdays, compared with what the SDA claim is (less the $15), there is a $31 a week loss to shop assistants, if you just take how we deal with Saturday afternoon loadings. What that demonstrates is that the union has been very reasonable in agreeing to a 50 per cent loading for the whole of Saturday instead of the tiered structure that currently exists. That is more than the employers wanted. The employers wanted only 25 per cent, but there is a significant concession in industrial terms in that from the union.

What I put is that the real issue is the $15 increase. The SDA, supported by the Government, put a submission to the commission for a $15 increase in wage rates under principle 14 of the national wage case guidelines which allow an increase in excess of the 4 per cent second tier in 'rare and extraordinary circumstances'. It is clear that the Government was supporting the SDA claim within the context of the existing national wage guidelines, and it would have to be established to the satisfaction of the commission (for that $15) that there were circumstances that brought it within principle 14. All that was a matter for the Industrial Commission. The SDA had made a concession—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: The fact that we have supported the SDA is the only reason, apparently, why the Liberals are going to oppose the Bill. What we have is the 4 per cent second tier and the 3 per cent superannuation (which have already been arbitrated nationally, and the union has a right to proceed); there is a significant concession from the union with respect to the loadings for Saturday—time and a half all day Saturday instead of the present tiered structure; and an application for an extra $15 a week based on extraordinary circumstances within the principles of the guideline. That is the situation that has been put by the SDA and, in the terms that I have outlined, supported by the Government. I repeat that it would have to come within the existing guidelines, and that is to be determined by the State Industrial Commission obviously in consultation with the national commission, because a meeting—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: No, they were on a promise of Government support for the claim, as I have outlined.

The Hon. L.H. Davis: Why side with the union against the retailers?

The Hon. C.J. SUMNER: Governments do intervene from time to time.

The Hon. L.H. Davis: Why?

The Hon. C.J. SUMNER: They intervene from time to time in all sorts of issues before the Industrial Commission. In this particular case—

The Hon. L.H. Davis: You still haven't given a reason.

The Hon. C.J. SUMNER: The reason is that the Government feels that this is a reasonable proposition—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —to go before the commission to be considered by it. My analysis of it indicates that really the only issue, given the concession of the SDA on the uniform loadings for Saturday, was the question of the $15, and that had to be arbitrated within the existing guidelines. What we now have is a situation where, before this Parliament, we have a Bill to extend trading hours. Members opposite will not pass it because they say that the matter has to go to the Industrial Commission because they say that the costs are unknown. What I would say is that, in considering the matter before the Industrial Commission, capacity to pay and those sorts of arguments would be relevant and it could be—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: That is right. It could be argued before the Industrial Commission—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It could be argued before the Industrial Commission—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, Mr Davis.

The Hon. C.J. SUMNER: Liberal Party policy is also not to care about costs in this area, and that is quite clear. Until this moment it has wanted shopping hours open. It wanted open slather, in fact.

The Hon. L.H. Davis: That's not true.

The Hon. C.J. SUMNER: Yes, it is.

The Hon. R.I. Lucas: Look at the 1985 policy.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I will refer to evidence given before the 1977 Royal Commission (established by the then Labor Government) into shop trading hours. I know that some of this has been referred to in another place, but members opposite here are not aware of it. The witness was Mr John Olsen who, at that time, I think, was President of the Liberal Party.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: He is President of the Liberal Party. This is a submission on behalf of the Liberal Party.

The Hon. M.B. Cameron: You are not going to go through all of that now. You promised in the 1970s that uranium wouldn't be mined.

The Hon. C.J. SUMNER: That is all very well. We are not talking about uranium now.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The resolution that was passed in 1976 states:

> This council opposes all attempts by Government to arbitrarily control or restrict trading hours and supports the right of individual traders being able to decide their own trading hours.

Mr Quick then asks Mr Olsen:

> Were you present at State council when the resolution was passed?

Mr Olsen said:

> Yes, I was.

Then there were a few other questions. Then the question is put—

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: No, I am not. Then the following occurred:

> Mr Quick: Do you know whether or not, before the council adopted that resolution, it considered the effect of unrestricted trading on prices?
>
> Mr Olsen: It was a matter, as I recollect, that was being introduced during debate, but I think the over-riding factor that council gave consideration to was—

have a listen to this—

The Hon. R.I. Lucas: You've already got a headline about this on page 2.

The Hon. C.J. SUMNER: I know, but all members here are not aware of it. The transcript continues:

> . . . the overriding factor that council gave consideration to was the quality of life of individuals and making available to individuals, on an unrestricted basis, the ability for them to be able to shop during trading hours that are most convenient to them, as a family, or as individuals.
>
> Mr Quick: You think that the paramount interest that State council took into account was the interest of the consumer as such in terms of convenience?
>
> Mr Olsen: Surely, the quality of life of the individual human.
>
> Mr Quick: It discounted as being subject to the paramount interest the question of any increase in price. If it didn't consider the matter in that way, please say so?
>
> Mr Olsen: I don't believe that the basis of whether or not prices would rise as a result of the lifting of restrictions in trading hours was a matter that was given due debate during that course, more the factors of the quality of life, the freedom of the individual are principle and philosophy with which the Liberal Party upholds.
>
> Mr Quick: It could well be that if it was to be shown to the satisfaction of the council that prices would rise significantly and that in these times when there is an inflationary problem, that the council may well reverse its views as to the introduction of this trading scheme at this time, but would always maintain the underlying philosophy, is that what you're saying?
>
> Mr Olsen: No, it's not.
>
> Mr Quick: You say that the time is right for the introduction—the council says that the time is right for the introduction of this philosophy at this time?
>
> Mr Olsen: Yes.
>
> Mr Quick: And it says that, notwithstanding any question of cost increase?
>
> Mr Olsen: I don't think that I would put that qualification on it.

This is John Olsen in 1977:

> I don't think that I would put that qualification on it.

That is with respect to cost increases. It continued:

> It has decided as a matter of philosophy a principle in relation to the freedom of the individual in this particular matter and it's the individual's freedom which is the paramount issue and the issue that was the overriding factor, and I believe would be upheld at all times.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Are you still in favour of extended shopping hours? Are you?

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: He has changed his mind. That is okay, he has changed his mind and he wants extended shopping hours. However, what we have here is an official Liberal Party position with the Liberal Party in Government for three years, during which time it did nothing to extend shopping hours.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: Very marginally. You did not introduce a Bill as all-encompassing as this.

The Hon. C.M. Hill interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Despite years of assertions that they wanted extended trading hours, according to John Olsen irrespective of costs, the first time the matter comes before Parliament for their vote they oppose it. To my way of thinking that is a very sad and sorry reflection on the Liberal Party and the consistency that one would expect it to show about this matter.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: Don't worry, if you vote for this they could be open longer. It is a sad and sorry reflection on the Liberal Party's attitude to this issue. It has consistently said that it would support extended shopping hours until the final vote in this Parliament. The public, having had this proposal visited upon them by the Liberal Party, would hardly be in a position to give very much credit to what it has to say. Its view, a completely opportunistic approach, runs against everything that it has said up to the present. The only thing I can suggest—and I suppose it will fall on deaf ears because those people who are free traders will not buck the machine on this issue—is that the Opposition now has the opportunity to deal with this issue. One can only ask that those free traders on the opposite side—if there are any who are not completely weighed down by the politics that have been dictated to them by their Party executive—stick to their principles, which have been espoused since 1977, and vote with the Government on this issue.

The Council divided on the second reading:

Ayes (8)—The Hons G.L. Bruce, T. Crothers, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Noes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, R.I. Lucas, and R.J. Ritson.

Pair—Aye—The Hon. J.R. Cornwall. No—The Hon. Diana Laidlaw.
Second reading thus negatived.

ACTS INTERPRETATION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Acts Interpretation Act 1915. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This short Bill amends the Acts Interpretation Act 1915, in three respects. The first amendment provides for the inclusion of codes and standards made, approved or adopted under an Act within the definition of 'statutory instrument'. As members would be aware, codes of practice have been included in two recent legislative measures considered by the Parliament, being the Occupational Health, Safety and Welfare Act 1986, and the Lifts and Cranes Act Amendment Act 1987. During the debate on the second of these measures in the Legislative Council, several questions were raised for consideration by the Government. This has now occurred and, on the advice of the Crown Solicitor, this amendment is now proposed.

Codes of practice can be promulgated to provide for minimum standards that are to apply in particular situations (and consequently have an evidentiary purpose), or for inclusion in regulations. It is specifically provided in the two Acts in which they have been recently included that the codes are subject to disallowance by Parliament. However, because the codes are not a form of regulation or rule, and consequently not within the definition of 'statutory instrument' under the Acts Interpretation Act 1915, some undesirable situations may arise if they are disallowed. In particular, a code of practice that is disallowed would not be subject to the operation of section 16 of the Act, which preserves such things as rights, powers and remedies on the repeal, revocation or disallowance of a statutory instrument.

Furthermore, if proceedings for failure to exercise a proper standard of care were instituted in the period between the approval of a code of practice and its revocation for failure to exercise a proper standard of care, no reliance could be placed on the code to prove the offence. In contrast, if proceedings had been completed before the revocation, a conviction would stand and any penalty would still be applicable. An interesting question would arise if the code was revoked after conviction but before an appeal. As the appeal would be by way of re-hearing, the court would be determining the appeal on the law as at the date of the hearing, and so without reference to the code. It is therefore desirable to do away with these inconsistencies, as this Bill proposes.

Other advantages would also flow from the proposed amendment as it would invoke the operation of such provisions as section 11 of the principal Act (continuance of statutory instruments if an enabling Act is repealed and substituted by another Act), section 13 of the principal Act (reading a statutory instrument as being within power) and section 26 of the principal Act (providing that the masculine includes the feminine, the singular includes the plural, etc.).

The second amendment provides for a new section 14c of the principal Act. Section 14c provides that where an Act is passed but is not to come immediately into operation and it is expedient that a power conferred by the Act be exercised before the Act comes into operation, that power may be exercised at any time after the Act is passed.

It is intended to revise this power to provide expressly for the exercise of powers where an Act is brought into operation in stages, which is now a common practice. Authorities on a comparable section in the corresponding United Kingdom legislation indicate that the existing provision would enable a power to be exercised even though some other part of the relevant Act had been brought into operation, but it is considered desirable to proceed with an amendment in any event. In doing so, the Government is following the approach taken in the United Kingdom in 1978 when the Interpretation Act was amended in this regard, in line with a recommendation of the Law Commission and the Scottish Law Commission (10th Report).

The third amendment provides for a new section 19 of the principal Act. This amendment clarifies the status of various parts of an Act. It has been argued, for example, that schedules and headings are not proper parts of an Act. This does not accord with the modern use and significance of schedules. However, marginal notes and footnotes should not form part of the Act and a heading to a provision of an Act, if used, should be equated to a footnote. These items should be viewed as useful references but are not normally the subject of consideration by Parliament and are not intended to contribute directly to the meaning or effect of the substantive provisions.

However, there is authority to suggest that a heading to a provision or a marginal note or footnote can sometimes be used as an 'aid' to statutory construction. This is a satisfactory view. As noted by one author, a marginal note may be a poor guide to the scope of a section, but a poor guide may be better than no guide at all. Finally, the reference to the status of a heading to a provision of an Act is to reflect a change in the presentation of State legislation so that marginal notes are replaced with headings. This change could assist in the preparation of legislation and would save some costs. It is also noted that the Bill is to operate both retrospectively and prospectively.

Clause 1 is formal. Clause 2 provides for a new definition of 'statutory instrument' that includes a code or standard made, approved or adopted under an Act.

Clause 3 provides for the recasting of section 14c of the principal Act. The new section will be plainly consistent with the modern practice of bringing legislation into operation in stages. While the existing provision allows powers to be exercised when certain provisions have been suspended (see, for example, *R. v. Minister of Town and Country Planning*), the revision of the section is consistent with a recommendation of the Law Commission and Scottish Law Commission. Clause 4 inserts a new section 19 of the principal Act to clarify the status of various parts of an Act.

Clause 5 provides for the retrospective and prospective operation of the amendments.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

[*Sitting suspended from 4.44 p.m. to 5.49 p.m.*]

BARLEY MARKETING ACT AMENDMENT BILL

Consideration in Committee:

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

That the Legislative Council do not insist on its amendment.

The Hon. PETER DUNN: The Opposition urges the Committee to insist on the amendment. The amendment has been inserted for a specific reason. Section 10 of the Barley Marketing Act allows inspectors to go onto property and obtain evidence whether people have a permit to purchase or sell oats or barley. Section 10 provides:

(1) For the purposes of this Act any person thereto authorised in writing by the board to act under this section may enter any premises and inspect any stocks of barley or oats and any accounts, books and documents relating to barley or oats.

(2) Any person, who hinders or prevents any entry or inspection by any person duly authorised under this section shall be guilty of an offence.

The Hon. C.J. Sumner: That's already there.

The Hon. PETER DUNN: Yes, it is already there. People have been permitted to sell barley and oats within the State for many years. If you live in the western part of the State there is no problem because the barley cannot be taken over the border. In the southern and eastern parts of the State there is a chance to take barley over the border, and people have been avoiding or evading the fact that they need a permit to sell barley, using section 92. However, section 92 does not mean that inspectors cannot ask people whether they have a permit. I believe that they can still do that whether they are over the border or still in the State. The Act provides that you must have a permit to buy or sell barley or oats.

Under this amendment the courts will have to determine whether a person has incriminated himself. An inspector can ask, 'Do you have a permit?' and a person can say, 'No. Under section 92 I do not have one and I do not need one'. The inspector could then ask, 'Have you sold barley to anyone?' If the person replies, 'Yes', he has incriminated himself. Under that scenario the inspector determines whether or not a person is guilty. The Barley Board has not taken anyone to court over this because it knows that it cannot win. I do not believe that the amendment will make any difference.

The argument put forward is that the Barley Board wants the same legislation as the Wheat Board. However, as far as I can determine, the Wheat Board has not had a successful prosecution, anyway. There is a lot of difference between the Wheat Board and the Barley Board. Barley is a coarse grain used to feed animals and, therefore, is likely to be traded between farmers. This provision is really designed to control grain that goes across the border. I believe that we should persist with, and insist on, permits for the sale of these grains. If the Barley Board wants people who sell and buy grain to pay their due moneys to the board so that it can control the sale and manipulation of the grain within the Commonwealth—and I believe that that must happen—there must be orderly marketing. If you do not want that, you deregulate the market and then this measure does not apply. However, under the present system we do need it. The provision does nothing except allow a person to refuse to answer an inspector's questions and thereby not incriminate himself. An inspector has the right to enter someone's property and look at their books. The inspector then decides whether or not an offence has been committed and whether or not to prosecute. The provision stops people from incriminating themselves when questioned by an inspector.

The Hon. M.J. ELLIOTT: I believe that the Committee should insist on the amendment. I am not a lawyer, but I am aware that entrenched in common law is the right not to incriminate oneself; and I believe that that right is entrenched in other legislation. I am aware that some legislation takes a different viewpoint, but that may be as a result of inconsistency by Parliament from time to time. It might be useful at some time in the future for this Parliament, when it has more time, to reflect on the whole question of self-incrimination and the general approach that we take to Bills, but I do not think that now is the time to do that. I do not believe that the amendment will change how the Bill will work, nor do I believe that that will occur with the Agricultural Chemicals Act Amendment Bill, which has a similar clause.

The Hon. C.J. SUMNER: The Hon. Mr Elliott's suggestion is probably reasonable. If my motion is defeated (and it probably will be), the Government will have to determine in another place whether it wants to proceed to a conference. Assuming that it does not, I think that there might be a case for looking at clauses dealing with self incrimination to see whether we can establish some kind of standard which could be applicable within Parliament. I think that the major problem that proponents of this Bill are trying to address is that, if an individual asks questions honestly and the answers indicate that a person is guilty of grave offences against the Act, he cannot be prosecuted either for those offences, on the basis of his own statement, or for failing to answer the questions, because his answers are in fact true—albeit to questions which indicate that an offence against the Act has been committed.

So there is a bit of a conundrum. A person who is questioned and refuses to answer questions can be prosecuted. If he answers questions wrongly, he can be prosecuted, because that is an offence. But if he answers all questions correctly and his answers point to massive breaches of the Act, he cannot be prosecuted. That is the end result of where we are at the moment.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: That is right. I am not suggesting that it is not a different area. The question really is whether or not with these sorts of offences, where it is difficult to obtain evidence, there needs to be some qualification of the rule in relation to self-incrimination. I put that forward to indicate the sort of problem that arises with enforcement of this legislation. I assume that members opposite support the legislation and that the bulk of honest barley growers support it. If you support the legislation, what you will have built in with this amendment, which is supported by members opposite, will be a significant constraint on its enforcement, albeit in accordance with an important principle.

As the amendment is going to be insisted on, I can only suggest that, subject to what happens in another place, we see how enforcement of the legislation works over the ensuing months. I am prepared to examine some of the principles involved in the law relating to self-incrimination and how it has been dealt with in some Acts of Parliament to see whether we can achieve some kind of standard.

It may well be that we cannot. It may be that cases where one commits self-incrimination occur because of the peculiar fact situation or industry that the Bill is dealing with, but it seems to me to be an exercise that is worth while, if this matter does not actually go to a conference.

The Hon. PETER DUNN: As I am not trained in the law, I seek assistance from the Attorney. If we were to pass this amendment, what effect would it have on section 92 as to trading across the border? The Barley Board tells me that this is what it is all about. How would it lessen the power to prosecute?

The Hon. C.J. SUMNER: It does not lessen the power to prosecute but makes the evidence to prosecute more difficult because, if the Government's proposition is accepted, when you get answers to questions you can prosecute for

using those answers for offences under the whole Act. The amendment restricts prosecution to a breach of the section which requires truthful answers to questions. That is the conundrum created by this situation.

You can get truthful answers to questions that may indicate massive breaches of the law but you cannot use those answers to prosecute. That is the rule against self-incrimination. Perhaps you can use those answers to get leads to try to collect evidence in other ways that may eventually lead to a prosecution.

The Hon. R.J. Ritson: You are saying that the perfect defence is a confession.

The Hon. C.J. SUMNER: Yes. The perfect defence in this case is a complete defence telling all the truth. A person would have complete immunity from prosecution under the Act. That is the situation that we have got to.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Yes, that is what you have to weigh up: whether requiring those answers on the basis that they cannot be used to incriminate in criminal proceedings, but they may be used to explore other avenues, is better than just having a complete right to silence—the other position.

The Hon. R.J. Ritson: You would get a better result bringing it back next year.

The Hon. C.J. SUMNER: You may or may not: I do not know. If a strict view is taken on self-incrimination, presumably you will not change your mind. I am merely putting that the amendment introduced creates that situation. The Hon. Dr Ritson said it perfectly: the perfect defence is a complete confession.

The Hon. R.J. Ritson: What is wrong with the right to remain silent?

The Hon. C.J. SUMNER: One can have the right to remain silent. What prosecuting authorities could determine is that it is better to have the information than not have it, because that is the only way they can find out whether offences have been committed. The problem is that, if there is a complete right to silence in such offences, you can never get any evidence.

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: There is not an obvious witness; there is no-one who has been assaulted or robbed. It depends on the individual and the way that they conduct their affairs.

The Hon. R.J. Ritson: All cash and no receipts.

The Hon. C.J. SUMNER: That is a different situation. There is not an obvious witness as in most conventional offences. Even in victimless crimes there are witnesses. The problem is that there is no victim. There may be a witness, but they are hard to find and hard to get to come forward. That makes the Act very difficult to enforce unless there is some means of getting information. As it is now, the regulator—Parliament—will decide whether it is better to get answers to those questions so that one can at least know what is happening in the industry, or with some people at any rate, even though one cannot use the answers to the questions in court proceedings.

That is the decision we are taking, and the question still remains whether it will be effective in getting enough evidence to prosecute subsequently. I was merely pointing out the conundrum that we are in. Depending on what happens in another place, I am happy to look at the two issues of enforcement in practice and the whole rule against self-incrimination and its applicability in this type of legislation.

Motion negatived.

AGRICULTURAL CHEMICALS ACT AMENDMENT BILL

Consideration in Committee.

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

That the Legislative Council do not insist on its amendment.

The debate on this matter is similar to the debate we have just had regarding the Barley Board legislation, although not in terms of details and the clauses.

The Hon. M.J. ELLIOTT: There is no need to go through the issues because they are the same as those just debated on the previous Bill. The Committee should insist on its amendment for the same reasons.

The Hon. J.C. IRWIN: The Opposition is delighted with the Minister of Agriculture's acceptance of the other amendment that we sent down dealing with the staged proclamation of the Bill. The Minister of Health was not clear about how that would work, but the Minister of Agriculture has made clear that the amendment is to allow for further discussion with the industry and I hope that the UF&S, the Horticultural Association and others now take up their concerns with the Minister so that any problems they have can be ironed out.

In common with the Hon. Mr Elliott, I believe that everything has been said the other night by the Hon. Mr Griffin, the Hon. Mr Elliott and myself and it has also been gone over in dealing with the Barley Marketing Act Amendment Bill just dealt with, where the wording of the amendment is exactly the same.

I reiterate the Opposition's position that we believe there is a right to silence, and that the answers given to questions about things not just relating to chemicals can be pretty far ranging. That is not a good thing. Our Liberal principle in every sense of the word is that the old safeguards to the right to silence should be in place and kept in as much legislation as possible. As the Hon. Mr Griffin indicated in his speech, a number of Acts contain this exact provision.

When we talk about agricultural chemicals, we are talking about people in rural areas, as is the case with barley. I am not quite sure what the status of legal opinion is, but if an inspector came on to my property, there is very little chance of my ringing up Naracoorte, 70 miles away, and asking for a lawyer to come and advise me while I am being interviewed or interrogated. I guess the same thing could be said about barley. If it is in the urban areas, maybe you can ring a lawyer and get one very quickly—

The Hon. R.J. Ritson interjecting:

The Hon. J.C. IRWIN: —much more quickly than you can in the rural areas, I can assure you. So, the Government and the Opposition have fundamental differences, but we should have a right to be protected against self-incrimination, particularly if, as I said before, we are under rigorous interrogation by an inspector. However, the Opposition will not take this to the wall and we will not insist on the amendment because it would be irresponsible for us if this Bill was lost in conference, and I believe that is inevitable.

An honourable member interjecting:

The Hon. J.C. IRWIN: I know that we have the numbers, but I am saying clearly that we will not follow that course through. If a conference threatened the loss of the Bill, we would see it as being an irresponsible course for us to take it to the wire. We are therefore accepting the inevitable now, bearing in mind the points made by the Hon. Mr Dunn previously. However, we are not taking it that far. The Opposition supports the motion to disagree with the amendment.

Motion carried.

[*Sitting suspended from 6.14 to 7.45 p.m.*]

CHILDREN'S SERVICES ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

[*Sitting suspended from 7.47 to 8.40 p.m.*]

AGRICULTURAL CHEMICALS ACT AMENDMENT BILL

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

That Standing Orders be so far suspended as to enable me to move forthwith to rescind the resolution passed by the Council this day on the Bill not to insist on amendment No. 2.

The PRESIDENT: There is a dissenting voice, so we must divide and an absolute majority of the Council is necessary to suspend the Standing Orders.

The Council divided on the motion:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin, C.M. Hill, J.C. Irwin (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

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

The PRESIDENT: There are 10 Ayes and 10 Noes. I will not give a casting vote as, whichever way I cast the vote, an absolute majority in favour would be impossible. The motion is not passed.

[*Sitting suspended from 8.47 to 9.25 p.m.*]

RESIDENTIAL TENANCIES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

STAMP DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2393.)

The Hon. C.J. SUMNER (Attorney-General): To resume my second reading reply in this matter, I indicate that the Government believes that this Bill should proceed and be dealt with if at all possible before we rise for the Christmas break. However, it is clear to members who have been involved in discussions and negotiations on the Bill that to achieve that result will be a fairly herculean task. In those circumstances I suggest to the Council—and I have had certain discussions with the Hon. Mr Gilfillan on this point—that the matter be stood over until 9 February, but that there be an operative date when the legislation is passed of from Monday 7 December this year. That is not an unusual situation in tax legislation. It is a situation that has been used, albeit with some criticism, at the Federal level by the Treasurer, although I suggest that the problems at the Federal level were caused not by the principle, but by the length of time that elapsed between the announcement of the policy and the legislation that was passed, which in some cases was many months.

So, the principle of making tax legislation operate from the date that it is introduced into Parliament, or from the date that an announcement is made about it, is a principle that has been accepted and used; indeed it was used by the Liberal Government in 1981 when it introduced extensive amendments to the Stamp Duties Act. The Act contained a provision that it would operate from, I think, the date of its introduction into Parliament. My proposition gives those people who are concerned some notice—not in making it operate retrospectively in the sense of being retrospective from today—that it ought to operate from Monday 7 December 1987. The recess is not a long one—it is two months—so we will not have a situation where there will be no legislation in place for several months. The two-month recess will give us a chance to examine the amendments that are currently under consideration which, I think it is fair to say, are tidying up amendments and to some extent issues of principle, but to a fair extent they are issues involving drafting and the extent of coverage of the legislation, etc. That is what the interpretation of the legislation would be, given I think that there is probably general agreement about the principles involved.

So, that being the case—that there is at least general agreement about the principles as to what the legislation is trying to do—it is not inappropriate that the starting date be 7 December and then adjourn consideration of the details until 9 February. That is the proposition I put to the Council in my second reading reply. I will undertake, when the matter goes into the Committee stages on resumption in February, to give a detailed reply at the beginning of the Committee stages on the particular technical matters and issues that were raised by the Hon. Mr Griffin. I trust that that will accommodate the wishes of the Council. More time will be given to considering the drafting and details, but at the same time the Government's revenue position will be protected by indicating that the Act will operate when proclaimed from 7 December.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. I. GILFILLAN: I would like to respond to the matter raised by the Attorney-General in his second reading reply. I believe that we have been placed in an invidious position which would never have occurred had enough time been allowed for consideration of this Bill. I think it is an unfortunate reflection on the time allowed for debate and our workload that we are in a situation where we must consider a declaration of a date of operation for legislation which may not be finally determined for a matter of eight to 10 weeks. However, I believe that the alternatives are unacceptable.

If we were to push ahead now, I am convinced that, bearing in mind the complicated nature of the legislation and the concern of those in the professions who deal with these matters would make it a long and tortuous business that would be very prone to error; and that we could, if we were to rush it through (as I would describe it), not do the job properly. In fact, I believe that we could not do the job properly even if we dealt with it next week. I think we stand a good chance of inheriting a plethora of unfortunate

consequences which, on balance, the Democrats believe should be avoided.

I believe that there should be an undertaking from the Government that not only the amendments that have been circulated (and let us hope that they are on file) but also other proposed amendments will be circulated so that members of this place and those involved professionally can have a chance to consider them and be aware of the sort of developments that are taking place as a result of the discussions. The practitioners in the field will then have a pretty fair idea of what is likely to ensue following the eventual passage of the Bill.

As the Attorney-General said, it seems that we are very close to a unanimity of purpose. I do not think that there would be much dispute about that. The only dispute is to how the legislation will eventually be framed. The issues involved are not just those raised by the Hon. Mr Griffin and therefore his prerogative only. I benefited from an opportunity to be briefed by both the Hon. Mr Griffin and a member of the Taxation Institute. I believe that the matters raised are important and significant, and I add the concern of the Democrats and my personal concern in relation to the issues that have been raised. So, it is not just a matter of taking it on second-hand opinion. Given those reasons, the Democrats are prepared to support an operative date of 7 December. In the circumstances, I believe that from what the Attorney has said we can defer debate on the Bill until February next year.

The Hon. K.T. GRIFFIN: I make it clear that the Opposition does not support the proposition but, given the indication by the Government and the Hon. Mr Gilfillan, recognises that the majority of the Committee will support the proposition.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I can understand anyone having sympathy for the proposition on the basis that a great number of hours have already been spent considering this Bill, which is particularly complex. In fact, I have spent a large part of today trying to develop appropriate amendments to reflect the issues that I raised during my second reading speech. That task has not been easy because it was unclear what the Government might do when the Bill got into Committee. I say that in the light not only of the submissions that have been made by the Taxation Institute in particular but also of my observations during the second reading debate.

Just before the dinner adjournment I had my first opportunity to see the Government amendments which limit in particular the scope of clauses 5 and 7, to some extent recognising the difficulties that I mentioned during the second reading debate. In addition, I have been developing another series of amendments comprising four pages, and I intend to make them available to anyone who is interested. I will place them on file as soon as they are printed.

In that context, those who will be affected by the Bill as a result of the Government's indication that the measure will have effect from 7 December will at least know the sorts of amendments which I am proposing. In the circumstances, I hope that the Government will also be prepared to place its amendments on file at the earliest opportunity so that everyone who is likely to be affected by, or are interested in, the Bill will at least know the Government's position, even if they do not know whether or not my proposed amendments will obtain the support of the majority or even Government support when they are debated.

One of the difficulties with this Bill is that we have not been told in either House what the revenue implications are. The Attorney-General, in making his observations in his reply, referred to the impact on Government revenue. However, I remind the Attorney that we do not know (certainly, we have not been told, although the Government may know) what the revenue implications of this legislation will be. We do not know what the implications will be if the matter is adjourned for two months without the Bill having effect as from 7 December.

I suspect that there would not be a significant impact on revenue in that intervening period of two months, and my preference, which I indicated during my second reading address, was, because of the complexity of this legislation, that the matter be adjourned for Committee consideration in February. Certainly, I did not intend that that would be on the basis that it would have effect as from either the day of introduction, the day of debate or some other date. But, I acknowledge that that procedure has been adopted quite regularly at the Federal level with its taxing legislation—a course of action that has been subject to a lot of criticism.

The capital gains tax, as I recollect, was not in final legislative form for some 12 months, and all that members of the community had to go on was a statement by the Federal Treasurer. The same problem arises in other areas, and the difficulty with this Bill is that for the next two months there will be uncertainty in the business, professional and commercial community as to really what the impact of this legislation will be. There will be uncertainty as to how to deal with documents that might relate to transactions that will ultimately be caught by the legislation, and there will be difficulty in determining whether or not penalties will flow as a result of the delay.

If the course of action that the Attorney has indicated does transpire, I suggest that there will have to be amendments in February that give some period of grace to those who might enter into transactions between 7 December and whenever the legislation becomes law in February to ensure that they are not subject to prosecution because they have not within two months, if the transaction occurs in South Australia, lodged the relevant statement and paid duty. The consequence of what the Attorney has indicated is the Government's position is that an offence will be created because documents, instruments and statements relating to transactions will have to be stamped within two months.

In fact, it is more than two months between now and when the legislation will even be considered in the Committee stage, so I would like to believe that the Government will take that into consideration and grant an extension of time by statute (if necessary, we can argue about it then) so that any transaction or instrument that is caught as a result of the Bill between 7 December and the date of enactment might have a period of grace within which it is stamped without an offence being committed and without any penalty duty being incurred.

That is the situation that I believe is important. The other area that needs to be considered is that, where there is a right to object, that right to object dates, of course, from the assessment of the Commissioner. However, we want to ensure that the period within which an appeal or objection may be lodged is not prejudiced by the delay. Important issues arise as a result of the Government's indication. The Opposition does not agree with the operative date concept, even though the legislation has not been passed.

We recognise that there are difficulties in continuing with the debate but we would have been prepared—or at least I would have been prepared—to continue with that consideration, although, as I said in my second reading speech, it would have been preferable to defer the whole thing until February when everyone would have had a chance to con-

sider the complexity of this legislation in the light of the contributions made in both Houses by Opposition, Australian Democrat and Government members; but that is not to be.

I can assure the Attorney that as a result of the Government's decision there will be a concerted effort to have a wider range of professional bodies give attention to the legislation. I repeat: I hope that the Attorney-General and the Government will place on file at the earliest opportunity the amendments which it proposes to give a clear signal to those who are likely to be affected by the Bill as to what the scope of the legislation will be, remembering that as it is presently framed it is so wide as to impose a sales tax or an excise. If it is not to have that effect and if exemptions are to be included (as I argue there should be), those exemptions should be clearly enunciated on the file as soon as that is practically possible. In that context, I indicate that that is the Opposition's position on this indication from the Government.

Progress reported; Committee to sit again.

NATIONAL PARKS AND WILDLIFE ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

BARLEY MARKETING ACT AMENDMENT BILL

The House of Assembly intimated that it did not insist on its disagreement to amendment No. 2.

ADJOURNMENT

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

That the Council at its rising do adjourn until Tuesday 9 February 1988.

Madam President, I would like to take this opportunity, briefly, as is traditional, to thank honourable members for their cooperation during this session. It is probably fair to say that, for the Legislative Council in the past 12 months or so, there has been an increase in the workload and sitting times compared with what has occurred in the House of Assembly. If I wanted to be churlish, I could say that perhaps the time spent on private members' business during this session was somewhat unprecedented but, nevertheless, I suppose that was a matter of members exercising their rights. The session has been reasonably productive and I thank members for their contribution.

I would also like to take the opportunity to thank everyone involved in the Parliament—the Clerks, *Hansard*, the catering staff and messengers—everyone who assists in the running of the Parliament, and to wish them and all members a merry Christmas and a prosperous New Year.

Honourable members: Hear! Hear!

The Hon. M.B. CAMERON: I have much pleasure in seconding the motion moved by the Attorney. I also wish to thank the Attorney for the cooperation and even tempered cooperation that he has given to the Opposition in this session. It is not easy in a House of Parliament to maintain some semblance of cooperation, but I am sure that the other place could learn some lessons from us at times because there is no doubt that we have in the past year dealt with some very complex matters. We have managed to do that without the acrimony that always seems to follow in a House of Parliament.

I would also like to thank the staff of Parliament, and in particular the clerks. The Black Rod is a newfound television star, and she has done a tremendous job in resurrecting the ancient members and those present on to the boards in the form of photographs. I must say that all of us are full of admiration that somebody has been able to go back and find almost every photograph since 1836. That is an incredible job and I am certain that every member of the Council, as you said this afternoon, Madam President, is very grateful. I actually went to the trouble a couple of days ago to count how many photographs were missing from the House of Assembly, and they totalled 51, but the Black Rod has found all except six or seven. I also want to thank the messengers who do such a tremendous job in this place by providing us promptly with everything we need. We all appreciate that service. Without them, I am quite certain that the Parliament would not run.

I also thank *Hansard* for their tolerance over the period of the session. I know we sometimes nearly drive them mad. We do not always provide them with everything they need and, unfortunately, they have to spend a lot of time chasing up bits of material that perhaps we should have had ready for them. We do appreciate the job that they do, and there is no doubt that they are a very essential part of the Parliament. I also thank the dining room staff and particularly those in the Blue Room, without whom many of us on the lower ground floor would be without breakfast every morning. They do a terrific job. I thank members on both sides of the Chamber, particularly my own members, and I wish everyone a very happy Christmas and a very prosperous New Year, and I hope that we see one another during that season.

The Hon. I. GILFILLAN: I rise to add a few comments on behalf of the Democrats at this joyous time of the year. The joy is added to by the fact that this is the last time we will be gathering for this type of function in 1987. I feel it is appropriate to add our appreciation for the method and style in which this place has worked. I think we have sometimes been a sort of blotting paper for some of the more gratuitous insults thrown around this place. If it has reduced the acrimony for the other side, we are very pleased to offer that small service. We just hope that a bit more ingenuity is used next year.

The people who look after us in this place deserve appreciation, so I mention particularly the *Hansard* staff who have been so helpful, considerate and efficient. Also, the staff in the refreshment room and the dining room, and the messengers who care for us specifically. In particular, I would like to thank Ron. I am not sure how many members are aware that he brings the water that we quaff in such vast quantities from his home, and makes sure that it is clean, properly sterile and just the right ingredient for us to take for light refreshment in the Chamber.

The Hon. L.H. Davis: Is it rainwater?

The Hon. I. GILFILLAN: Yes, and I would like to drink a toast to Ron and his water. I would also like to acknowledge the help that Wendy Rishworth has given to the Democrats. She actually joined our Corporate Cup team and ran

with some distinction. She was an athlete of great improvement over the course of the weeks, and on behalf of all members here we wish her well in her future career. We have enjoyed having her with us in Parliament House in 1987.

An honourable member: That is rubbing salt into the wounds.

The Hon. I. GILFILLAN: I do not want to refer to the actual details and results of the Corporate Cup. Anyway, I will throw down a gauntlet: I challenge any member in this place to a lap around the Corporate Cup circuit. I add my accolade to our new-found TV star, the Black Rod. I am sure she is one person whose head we cannot turn with too much praise. She is a very modest individual and it was a great thing for the image of this Chamber to have her appearing in company with our illustrious President in presenting the program tonight. I would also acknowledge our new slimline Clerk who has, greatly to his credit, managed to reduce his weight in a remarkably quick style and could be a great example to—well, could be a great example; I will leave it at that.

Finally, Ms President, I thank you for what I believe to be a very good natured and effective way in which you have presided over us. It has been a pleasure to be in this Chamber. I know that last year I got a bit emotional and said that there was a sort of affection in this place. I will not say anything quite as silly as that, but you have stopped us brawling from time to time and the Democrats have appreciated the way you have carried out your duties impartially, fairly and with good humour. To all members, and you in particular, a merry Christmas and a happy New Year.

The PRESIDENT: Before putting the motion, I would like to add my thanks to everyone for their hard work this year. By 'everyone' I certainly include all the staff of the Chamber and of the Parliament. I thank the *Hansard* reporters who cope so admirably, even if they do not like graphs; and the catering staff in the refreshment room, the Blue Room and the parliamentary dining room. We do not forget the dedicated staff of the library who serve us so competently and quietly, and finally, I thank the ancillary staff.

As current Chair of the Joint Parliamentary Services Committee I am very much aware of the work that is done in the General Services Division, which includes the telephonists, the cleaners, the caretakers, and all the people on whom we depend so much and without whom this Parliament would be a lot less efficient than it is.

I extend my thanks to the table staff, not just for their dedicated work with regard to our rogues gallery, but for their general help and cooperation throughout the year which really is remarkable. Many members, I am sure, are not fully aware of the dedicated work that is put into the smooth running of this Parliament by the staff. The messengers, of course, are people we depend on greatly and we are never disappointed with the way in which they look after us. I thank everyone for the smooth running of the Parliament this year.

In particular, I thank members of the Chamber for their cooperation most of the time. I would not say 'unfailing cooperation', but general cooperation, perhaps. I admit that there are times when I feel rather like a mother with a very large brood of unruly children; but I tell myself that that is not a fair analogy, and I would certainly never wish to have 21 children.

In general, I thank members for their cooperation. At some stage I suppose that I may have a dissent to my ruling not only moved but carried, but I hope that that day does not arrive. Until it does I think that I can thank members quite sincerely for their cooperation throughout the year. I wish everyone the compliments of the season. Now that we are in December I feel that it is legitimate to start talking about the holiday period. I always refuse to do so personally while it is still November by the calendar. However, now that we are in December I think that we can take note of the approaching holiday season, and I wish everyone a very happy Christmas and a peaceful and productive rest so that we can resume in February to tackle the great number of items that we have postponed until that date.

Motion carried.

At 10.5 p.m. the Council adjourned until Tuesday 9 February 1988 at 2.15 p.m.