LEGISLATIVE COUNCIL

Thursday 21 October 1993

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

RESIDENTIAL TENANCIES (HOUSING TRUST) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 19 October. Page 639.)

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In closing the debate I would like to respond briefly to a number of the comments made by the shadow Attorney-General in his contribution. I certainly welcome his support for this Bill, which will, as has been indicated, afford a considerable number of benefits, both for the Housing Trust and for its tenants.

The honourable member raised concerns about the proposal that the trust is not liable for repairs of non-standard items. Of course, the trust will always be under an obligation to repair and maintain its premises, as is any landlord. However, what is proposed here is that certain items, which are either specially supplied to the tenant or supplied by the tenant—items that are not available to all trust tenants—will be repaired only at the discretion of the trust. There will not be an obligation, but that does not mean that the trust will not maintain them.

Trust tenants are often in a different situation from that of tenants in the private sector. They certainly occupy their rental property for much longer periods than most private rental tenants, some of them, indeed, for their whole lifetime. As such, these tenants come to regard the trust property as their permanent home.

Over a number of years during a long occupancy the tenant often introduces items or changes to the property in the same way that the owner of a private home does. Consequently, it is felt that in some circumstances the tenant, rather than the trust, should be the one who is responsible for the maintenance of such items, and I do have available a list of items which fall into the non- standard category if the Hon. Mr Griffin would like to see it.

Because of the long periods that many trust tenants spend in their tenancies, they come to regard the property in the same way as do many owners of private homes: they introduce many items and make various changes, and it is felt appropriate that these things which are not standard in all trust homes should not be the responsibility of the trust to maintain but should become the responsibility of the tenant. This does not mean that the trust will never undertake the maintenance of these items, but it will be at the discretion of the trust, rather than obligatory. I do have a list of the items in such a non-standard category which I am very happy to let the honourable member see. I do not suggest putting it into *Hansard*—it would be fairly boring, I imagine.

Another matter which the honourable member raised was the question of the workload which will result for the Residential Tenancies Tribunal as a result of this Bill becoming law. Certainly, we recognise that the Bill will generate additional work for the Residential Tenancies Tribunal; because of this, Cabinet has approved the creation of new positions for the tribunal.

The Hon. K.T. Griffin: Do you know how many?

The Hon. ANNE LEVY: I think there were six added to the panels, but of course these are not full time; these are just six people available.

The Hon. K.T. Griffin: That is not support staff: that is on tribunals.

The Hon. ANNE LEVY: That is on the tribunal, yes. We have certainly asked that the effect of the new jurisdiction on the tribunal's resources be very closely monitored. As I mentioned earlier, the trust has agreed to meet in full any additional costs to the tribunal and the Office of Fair Trading of providing these extra services and any additional services as may be required by this jurisdiction in the future.

We certainly appreciate the arguments that the usual source of funds for the Residential Tenancies Tribunal—that is, the interest on bond money—is not appropriate to be used for providing services to trust tenants, and the Housing Trust will certainly provide those resources.

As to the question of separate accounting of costs of hearings, I can assure the honourable member that the trust will certainly want and will get full details of all expenditure, as well as the accounts, on a regular basis. It is not going to hand over money without detailed accounts of what it is paying for and why. Consequently, it will be essential that separate accounting records are kept, quite apart from those which affect the Residential Tenancies Fund.

This proposal already has the sanction of the Ministers concerned—myself and the Minister responsible for the Housing Trust—and has been endorsed by Cabinet. It has been put to me that, whilst the amendment on file suggested by the honourable member is putting into legislation this principle, the wording of it may be somewhat difficult and inflexible and could perhaps cause difficulties in administration. The principle is certainly agreed with and the necessary arrangements are being put into place; there is no intention of in any way departing from them.

The honourable member also raised some queries regarding the working party report on the Residential Tenancies Act. As he probably knows, the working party, which included membership from the landlords' association, as well as many other interested groups, first began meeting in the middle of 1990 and called for written submissions on the whole aspect of the Residential Tenancies Act. Numerous submissions were received and there were subsequent meetings, with a very large number of people over a long period, to consider a very wide range of possible amendments to the Act. I may say the views of the particular parties were also very wide ranging. It was not until about 12 months ago that a report could be prepared and referred to the then Commissioner for Consumer Affairs for consideration. I can assure members that the report was a very large and complex one, and further work was certainly required before it could be taken any further as there were a very large number of recommendations, some of which were certainly arrived at unanimously but others had important minority objections, and the minority objections did not always come from the same source, I might add. A number of administrative changes were also being considered.

I understand that a Cabinet submission on the matter is very close to completion, and that draft legislation should certainly be available during the autumn session of 1994 that will address a number of the matters which have been raised by the honourable member and which I have certainly been concerned about and want to see remedied. This relates to some of the recent cases where landlords have been required

to refund moneys. I do not think we can really say that the right of the tenant to notice of an increase in rent is simply a technical problem. I think it is more important and needs to be considered as a policy issue, not just a technical matter, but this is certainly one of the issues which has been considered by the working party and where perhaps some discretion or flexibility could be given to the tribunal or a limit suggested to a period of retrospectivity. Numerous approaches can be taken to ease somewhat the current situation without denying very necessary protection for tenants.

The Hon. K.T. Griffin interjecting:

The Hon. ANNE LEVY: I have not received a draft proposal at this stage. I take the Hon. Mr Griffin's point that, while this is a very important matter, it is not really related to the Bill before us, but I share his concern over the matter and hope that this aspect, along with many other aspects of the Residential Tenancies Act, can be attended to as soon as possible. I thank the Hon. Mr Griffin for his contribution and hope he may be prepared to consider the Committee stage of the Bill when the second reading has been passed.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: When is it intended to bring this Bill into operation?

The Hon. ANNE LEVY: Regulations will be required to be drawn up on the passing of this legislation, and that is expected to take some time. The current intention is to proclaim the Act at the start of the next financial year, so it would be operative from 1 July 1994, but I would not want to be held too specifically to that date as that will depend upon progress with the regulations.

Clause passed.

Clause 3—'Act binds Crown.'

The Hon. K.T. GRIFFIN: I think this is the appropriate point at which to raise some questions about resources, because this clause provides that the Crown will be bound. I am sure that the Minister is familiar with the Tilstone Report, which examined among other groups within the Office of Fair Trading the Residential Tenancies Section. The Tilstone Report indicates that support is provided to the Residential Tenancies Tribunal. That support consists of investigation of complaints and administration of hearings in the tribunal. The group also administers the security bond system created by the Act. It receives and disburses bond moneys but currently is not responsible for investments. The report states:

> There is pressure everywhere in the section. The public interface is one clerical officer who has to deal with: switchboard duties, general public queues for tribunal hearings or general information, cause lists and receipting of bond deposits made at the ground floor information centre. The switchboard duties alone are equivalent to those of the staff of the main office switchboard, but the latter operators have no significant other duties. The demands at peak times in Residential Tenancies are excessive. Phone calls drop out at a rate that sometimes approaches 20 per cent. Public have to queue and watch the officer's attention being devoted entirely elsewhere, and the officer has to receive the expressions of frustration of those awaiting tribunal hearings.
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> The general support is overloaded and performance of clerical tasks is adversely affected. The pressure in the bond section meant financial safeguards were at one stage adversely lowered. Checks were dropped to save time. Unfortunately, the opportunity for fraud that resulted was accepted. Systems are generally outdated and cumbersome.

I pause there to observe that I have noted from the Auditor-General's Report this year that the computing systems are being upgraded and that—

The Hon. Anne Levy: Changed!

The Hon. K.T. GRIFFIN: Sorry, I suppose changed, which will result in significant upgrading of the service which is provided. So, I recognise that something is being done. In one area, as I recollect, the proposition which had been approved allowed for up to five or six years for the changes to occur. But at least the problem was being recognised; the delay which been the subject of previous criticism by the Auditor-General had been identified and was being addressed. So I recognise that that will mean a significant improvement in the operation of the residential tenancies section. The Tilstone report goes on to say:

> It is never quiet. The phone rings incessantly with bond queries and calls from landlords and tenants in dispute. If we go back just three years, residential tenancies had 31 full-time equivalents compared to 33 today. Workload was 6 489 complaints and 64 823 bond transactions compared to 8 908 complaints and 86 176 bond transactions today. Demand has risen and morale has dropped. Is this only because of the increased workload?

Then the Tilstone report goes on to examine some of the reasons for the morale dropping and makes other observations about the country offices and about uncertainty about structures. All that brings me to the point of asking: notwithstanding the fact that the trust will pay the costs of the additional workload, which is generated as a result of the Housing Trust's being brought under the Residential Tenancies Act, what assessment has been made of the additional resources which will be required? The Minister has referred to the Cabinet's approving six part-time commissioners, but I would suggest that that is really at the tail end of the administrative structure and that all support staff issues will have to be addressed. Will the Minister indicate what the level of increased staffing may be and what the cost of that may be? Has approval been given for any increase in those staffing resources?

The Hon. ANNE LEVY: Yes; and I am glad the Hon. Mr Griffin recognises that, since the writing of the Tilstone report, a lot of notice has been taken of it and action undertaken to relieve some of the pressures which he has detailed. In addition to a complete revamping of the computer system, there is also a complete revamping of the phone system occurring so that there will no longer be the problem of overloaded lines and calls dropping out. Of course, other matters mentioned in the Tilstone report are being addressed by the Commissioner. With regard specifically to the Bill, it has been agreed that from the outset of its operation there will be an additional two support staff in the office whose costs will be met by the trust.

Of course, the workload will be closely monitored to determine whether two is an adequate number for the increased workload which will result, or whether a further adjustment will need to be made. I point out that, whilst there may be a large number of Housing Trust tenants who will have inquiries, the trust itself is setting up a better complaints system. It is anticipated that many of the inquiries from tenants will be dealt with within the Housing Trust's administrative appeals system. The Residential Tenancies Tribunal will, of course, have the power under this Act to decline to consider a particular complaint if it could be first dealt with elsewhere. There may be occasions where the tribunal considers that the Housing Trust appeals system should be gone through first and then, if a tenant is still

dissatisfied, they can have recourse to the tribunal. They may feel in many circumstances that other avenues should be explored first rather than rushing to the tribunal. I appreciate that there may be some teething problems initially in sorting out the streams to be followed until both the Housing Trust, the tribunal and the tenants become adjusted to the new system. The additional workload will be carefully monitored and appropriate adjustments will be made to cope with the additional workload which will certainly result from this legislation.

The Hon. K.T. GRIFFIN: I appreciate that those additional resources are being made available. In the context of the whole of the residential tenancies section, if the two extra staff are available to deal largely with the Housing Trust areas, is there still going to be a problem in the other part of the section which is overloaded—according to the Tilstone report—and will that not then create a conflict within the section about private sector tenants not being able to be dealt with as quickly as the others?

The Hon. ANNE LEVY: I am not quite sure what the honourable member is suggesting.

The Hon. K.T. Griffin: There is already a large workload.

The Hon. ANNE LEVY: There is a large workload and certainly the number of inquiries is rising on a fairly steep curve. However, there have been considerable refinements and changes since the Tilstone Report was published and despite the increasing number of inquiries the backlog is falling—and falling considerably—so I can assure the honourable member that morale is not poor at the moment in the section. A very close watch is being kept on the whole area and, as I say, with a falling backlog this suggests that the measures which have been undertaken have been highly successful.

Clause passed.

Clauses 4 to 19 passed.

New clause 19A—'Application of income derived from investment of fund.'

The Hon. K.T. GRIFFIN: I move:

Page 5, after line 6—Insert new clause as follows:

19A. Section 86 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) Despite subsection (1), the costs of administering this Act incurred in respect of residential tenancy agreements under which the South Australian Housing Trust is the landlord are not to be met by the fund by must be paid by the Trust.

The Liberal Party believes that there should be an express provision in the Bill, and therefore in the Act, which recognises the principle that the Minister has referred to in her second reading reply. She did say that there may be some problems because this is so absolute. I must confess that I cannot see what the problem is in expressing the principle in this way and including it in the law. It really puts the whole issue beyond doubt. I think that is important when one has public sector agencies such as the Housing Trust significantly involved in the workload activities of the residential tenancies section of another agency of Government.

What I had in mind was that the principle is established and, if a particular problem arises, it is something that agencies can resolve as between themselves. If it cannot be resolved between agencies, the Auditor-General can make some observation on it in his report on an annual basis. However, I think it is an important principle to ensure that there is something in the law which says that a particular fund will not bear the costs of servicing the consequences of the involvement of another agency in the tenancy market.

The Hon. ANNE LEVY: I certainly do not oppose the principle. I will ask whether the honourable member might consider amending his amendment so that there is a full stop after the word 'fund'. So, the clause would provide:

Despite subsection (1), the costs of administering this Act incurred in respect of residential tenancy agreements under which the South Australian Housing Trust is the landlord are not to be met by the fund.

This would certainly establish the principle that the extra costs due to Housing Trust tenants are not to be met by the Residential Tenancies Fund. There is certainly an agreement that they will be met by the trust and, of course, the trust is funded in part by the taxpayers. If it were funded by the taxpayers through the Department of Consumer Affairs the result would be the same.

The concern that has been expressed to me is that having the words after 'fund' may mean that every hearing has to be timed to the last minute rather than taking the average time of hearings without having to specify them to the last minute. To stop at the word 'fund' would establish the principle but perhaps would enable a little administrative flexibility if necessary.

The Hon. K.T. GRIFFIN: I am prepared to do that; it establishes the principle. My interest is to protect the fund. I seek leave therefore to move it in the amended form, which deletes the words 'but must be paid by the trust' at the end of amendment.

Leave granted.

The Hon. K.T. GRIFFIN: I refer to the question of the accounting arrangements. Do I take it from what the Minister said in her reply that there will be monthly accounts from the Department of Public and Consumer Affairs to the Housing Trust to pick up the costs in so far as they can be assessed by the department and that there will be monthly accounting?

The Hon. ANNE LEVY: Yes, it is expected to operate in that manner.

New clause inserted.

Remaining clauses (20 and 21) and title passed.

Bill read a third time and passed.

CHILDREN'S PROTECTION BILL

(Second reading debate adjourned on 20 October. Page 702.)

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: I refer to implementation. Can the Attorney-General indicate the proposed date on which this legislation is to be brought into operation?

The Hon. C.J. SUMNER: It will come into operation on 1 January along with the other changes to the juvenile justice system.

The Hon. M.J. ELLIOTT: I made a quite clear request last night for some papers to be made available. Will those papers be made available? I note that by interjection the Hon. Mr Griffin had a similar view.

The Hon. C.J. SUMNER: I do not have them available. It was a somewhat unusual request. It was a request also made fairly late in the piece. I can ask the Minister again as to what is his attitude to the request, but at the moment I do

not have the documents. All I can do, as I said, is discuss the matter again with the Minister.

The Hon. M.J. ELLIOTT: The Attorney-General might see it as an unusual request, but I understand that a number of responses were made to the draft Bill which looked at the key issues that we will be debating. I have certainly been lobbied by a number of people, predominantly from outside the Government sector (at least officially) in relation to particular matters, but I think that the people who are at the coalface in various organisations and have made contributions should have their contributions made available. I think that they do throw light on the matters that we are debating and, if we get stuck on clauses later on where that information may have been useful, that will be a great pity.

Clause passed.

Clause 3—'Objects.'

The Hon. K.T. GRIFFIN: I move:

Page 1, lines 16 and 17—Leave out 'a system of care and protection for children who are at risk' and insert 'for the care and protection of children and to do so in a manner'.

I note that my amendment is in the same form as that of the Hon. Mr Elliott. From the Liberal Party's point of view, we have expressed the concern that the Bill is not about a system but about providing care and protection for children and to do so in a way which ensures that the best interests of the child are paramount.

There was some debate in the Lower House about the focus upon 'a system', and I can appreciate that there are differing points of view about the focus of this Bill. It seems to me, however, and to the Liberal Party that, if the objects are expressed in terms of providing for the care and protection of children and to do so in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential, that really is a very clear expression of the intention of the Bill. That is not to say that the law is seeking to provide for every aspect of that care or protection.

To focus on the word 'system' suggests that it is something mechanical and that it is one of a number of options, as it may well be, for providing care and protection for children, but that this legislative scheme is a preferred course. I do not subscribe to that view. I think that it is important not to talk in terms of systems but to talk in terms of the goal of the legislation, and that is actually to provide for care and protection of certain children. It is for that reason that I move my amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment. The fact is that the Act will not in itself institute care and protection of children. It is an enabling piece of legislation which sets up a system, creates an environment or legal framework and departmental structure which goes out into the community and provides that care and protection.

The Hon. M.J. ELLIOTT: I had an amendment, which was similar all but a little grammar but which I will not be moving. However, I support the amendment moved by the Hon. Mr Griffin for the reasons that he cited.

Amendment carried.

The Hon. M.J. ELLIOTT: I move:

Page 1, lines 19 to 22—Leave out 'that the primary responsibility for a child's care and protection lies with the child's family and that a high priority should therefore be accorded to supporting and assisting the family to carry out that responsibility' and insert—

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(a) that all children have a right to care and protection and are entitled to special assistance for that purpose; and

(b) that families should be assisted and supported in carrying out their responsibilities towards children.

This amendment is really just furthering the argument that the Hon. Mr Griffin has already put and making it quite plain that we are, at the end of the day, about the care and protection of children. You will note that in paragraph (b) of my amendment it is still quite plain that families should be assisted in supporting and carrying out their responsibilities. It is not an anti-family amendment, but it is not made clear at the end of the day that the Bill is about the care and protection of children.

The Hon. C.J. SUMNER: The Government opposes this amendment. We believe that it is important to make an assertion in the Bill that the primary responsibility for a child's care and protection lies with the child's family, and I would have thought that view was supported by the Parliament and indeed supported by the Opposition. I think to withdraw that assertion would, in my mind, denigrate from the principles of the Bill to an extent that was unjustified and would also give a wrong emphasis to what is trying to be achieved.

The Hon. K.T. GRIFFIN: This was not an issue that was taken very far in the House of Assembly, but that is not to say that we should not consider it seriously. The concern which I have about the amendment of the Hon. Mr Elliott is that in paragraph (a) he uses the words 'right' and 'entitled to special assistance'. He seems to move away from what is in subclause (2) of clause 3 and which the Liberal Party has supported as a principle in child protection, namely, that the family ought to be the focus. We do not say that the family ought never to be interfered with. Of course, this is the whole purpose of the Bill: that there are occasions where the interests of the child dictate that the child should be removed from and supported outside the family because the family environment is not conducive to achieving the best interests of the child. So, we do take the very strong view that the family is the place where the child's care and protection—

The Hon. M.J. Elliott: This does not disagree with that.

The Hon. K.T. GRIFFIN: It does, because you leave out the words 'that the primary responsibility for a child's care and protection lies with the child's family'. So you have taken out that focus of the primary responsibility. It is for that reason, and because of the other sort of more technical aspects in paragraph (a) that I have referred to, which would suggest that Government assistance may be necessary and should be available in a wide range of circumstances that I am inclined to the view that the Liberal Party should not support the Hon. Mr Elliott's amendment.

I repeat: the primary responsibility should lie with the family, but we recognise that there are occasions where that cannot occur and therefore this legislation will then come into operation.

The Hon. M.J. ELLIOTT: I will not protract this, but it is quite clear that the primary purpose of the Bill is about care and protection of children. I support what the Bill overall is trying to achieve. It recognises that the mode that the Family and Community Services were working under was not working properly. In many cases, it was highly destructive, both for the people it sought to assist directly, the children, as well as the families. At the end of the day, the primary purpose of this Bill is to give care and protection to children. Paragraph (b) of my amendment makes it quite plain that families should be assisted and supported in carrying out their responsibilities towards their children.

We must be terribly careful in the way this Bill finally leaves this place that we have not lurched from one extreme to the other, and in going back and doing the right thing in terms of wanting the family to be involved and wherever possible to make sure families remain intact, it must never ever be at the cost of the children. On that basis, the structure of my amendment is making quite plain that, first, the children have a right to care and protection, and that is an absolute right, beyond question and, secondly, that families should be assisted and supported in carrying out their responsibilities. I believe that is showing the balance of this whole Bill.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I am not saying the family does not have responsibility, but the important thing is the child has rights and the family should be supported in their responsibilities. That very flavour within the objects should be what we are trying to achieve with this whole legislation. Some of the amendments that we will be debating in later clauses really are the issue about which we will be arguing. If we give the family not only a responsibility but almost go a step further and insist on that responsibility even if it gets in the way of the child's rights, we will be failing the children. That is a crucial argument in later clauses. While we are at this stage only looking at the objects of the Bill, it is nevertheless important that we realise the tension that is there, and that is the tension that has been in the debate for the past decade. In this debate, we are trying to get that tension right, to make sure the child's rights are absolutely guaranteed but that we are giving as much assistance as we can for families to work.

The Hon. K.T. GRIFFIN: I certainly acknowledge that children have rights, and I am not saying that we should detract from those rights, and nor am I saying that by not supporting the Hon. Mr Elliott's amendment we are saying the rights of the child should be overridden by the interests of the family. I have made quite clear that there are circumstances in which, although the family has the primary responsibility for a child's care and protection, and a child is in most instances best suited to a family environment, there are those families where that would not sustain the rights of the child or be in the best interests of the child. But I do not think that you can remove from the objects a more specific reference to the family's being the primary source of nurture and support and having the primary responsibility for the upbringing of a child.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: The very fact that it has been taken out, and the focus here of the amendment signifies a quite significant difference in emphasis. By leaving subclause (2) as it is, one gets the right balance, particularly in the light of the amendment that has already been carried and later amendments which reflect upon the best interests of the children. It all has to be read as a whole. I would be very disappointed to see that reference to the primary responsibility for a child's care and protection removed and replaced by something which puts families in a position where maybe they will not be so regarded as providing that primary source of nurture and support.

The Hon. BERNICE PFITZNER: I have some sympathy with what the Hon. Mr Elliott is saying regarding the fact that children should have the right to care, but one has to have direction in these things. Right through the Bill, it is stated that children are supported and it is frequently quoted 'in the best interests of children'. Many of the strategies have failed because we have failed to put enough education into the family of the child. I do think more priority now has to be shifted onto supporting the family and sufficient protection is given throughout the Bill for the best interests of the child. I would support the existing clause.

Amendment negatived; clause as amended passed.

Clause 4—'Principles to be observed in dealing with children.'

The Hon. K.T. GRIFFIN: I move:

Page 1, line 25—Leave out 'of the child is' and insert 'and welfare of the child are'.

I recognise that there were some changes made in the House of Assembly to this clause, so the amendment which the Liberal Party proposed in that place is no longer pertinent. Nevertheless, there is still this concern about the focus only on the safety of the child. It seemed that in considering this clause in its context, if we added merely the words 'and welfare', we would then achieve the goal which we on this side of the House were seeking to achieve. So, in the exercise of powers under this Act in relation to a child, the safety and welfare of the child is to be the paramount consideration and the powers must always be exercised in the best interests of the child, and that achieves the broadening of the focus from merely a safety aspect to a welfare aspect. I recognise that what the Hon. Mr Elliott is seeking to do is similar. I will be interested to hear his observations. There is probably not much between the two amendments.

The Hon. M.J. ELLIOTT: As the Hon. Mr Griffin noted, the reason for my amendment is essentially the same as his: it is a question of which words will achieve the desired goal. Certainly, the current definition which refers just to the safety of the child is not adequate. We are not talking about just the physical safety of a child but about far more than that. For that reason I move my amendment which broadens the issue beyond simple physical safety.

The Hon. C.J. SUMNER: The Government opposes the Hon. Mr Elliott's amendment. It believes that the question of welfare is clearly stated in subparagraph (b), which provides:

The powers must also be exercised in the best interests of the child.

The considerations that must be taken into account are listed. It is clear that it is not a matter of doing away with reference to the welfare of the child, but it is designed to give the question of the safety of the child paramountcy. The fact that the words 'the best interests of the child' were provided in the original Bill makes it clear that the welfare aspect, as are broader aspects, are covered. However, obviously from the Government's point of view the Hon. Mr Griffin's amendment is preferable to that of the Hon. Mr Elliott so I do not have much choice but to support the Opposition's amendment.

The Hon. BERNICE PFITZNER: There is a subtle difference between all three amendments. The Government's amendment uses the word 'safety' together with the words 'best interests'. The word 'safety' as a connotation is, I think, limited to physical safety. The Hon. Mr Griffin's amendment includes the words 'welfare' and 'best interests'. I feel that the word 'welfare' takes into account not only physical but also mental, social and emotional aspects. The Hon. Mr Elliott's amendment includes the words 'best interests', which is one phrase that could be used to cover the whole lot, but sometimes the interpretation of 'best interests' may be quite varied and divergent. Therefore, I support the Opposition's position.

Amendment carried.

The Hon. M.J. ELLIOTT: I move:

Page 2, line 2—Leave out 'however' and insert 'where appropriate'.

This amendment concerns the tension in the Bill to which I referred earlier. There is no question whatsoever in my mind that we should make a real attempt to keep the child with the family and to preserve the family relationship, etc., but I say again that there must never be any doubt that we are working for the best interests of the child. Once we are convinced of that, wherever appropriate and possible all the matters covered in subclause (2) are addressed. However, we must be careful about how we handle this tension. There is a very real danger, particularly if the department is under-resourced in future years, that it may fall on the wrong side of that very difficult line that we walk along. I think the wording is important and that my amendment is correct in this case.

The Hon. C.J. SUMNER: The Government opposes this amendment. It wants the matters enumerated in this clause to be considered in all cases and, clearly, the Government has already stated that powers must be exercised in the best interests of the child.

The Hon. K.T. GRIFFIN: What concerns me about the Hon. Mr Elliott's amendment is that someone will have to make the judgment when dealing with the child as to whether or not it is appropriate to give serious consideration to the matters listed in paragraphs (a) to (e). I think this amendment introduces a significant element of discretion, about which I am concerned.

The Hon. M.J. Elliott: Consideration entails discretion, anyway.

The Hon. K.T. GRIFFIN: Serious consideration does, that is right, but in each case, as the Attorney-General says, this ought to be a matter for serious consideration. I would have thought that the Hon. Mr Elliott's amendment should be considered in the context of clause 3(2) under 'Objects'. The Committee has now reached the conclusion that the primary responsibility for a child's care and protection lies with the child's family. Principles concerning the safety and welfare of the child, which are the paramount considerations, are listed, and the Bill provides that powers must be exercised in the best interests of the child, but whoever is giving consideration to the best interests of the child must give serious consideration to those factors. I do not think that the option of whether or not to give consideration ought to be available, but having been directed to give consideration to it they are still overridden ultimately by the provisions of clause 4(1). I do not think that retaining the word 'however' detracts from the best interests of the child or that in some way or another it sets an impossible task for those who are assessing the best interests of the child. Accordingly, I do not support the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 2, line 14—Leave out 'should' and insert 'must'.

If the child is able to form a view and express his or her own view as to ongoing care and protection, those views must be sought and given consideration. We do not believe that it is appropriate to leave that as a discretionary responsibility but that it ought to be mandatory. Of course, it relates to the fact that the child must be able to form and express his or her own views before those views are sought and given serious consideration.

The Hon. C.J. SUMNER: The Government opposes the amendment. The insertion of 'must' instead of 'should' would mean that all children able to express a view would have to have those views sought. There may be circumstances—probably exceptional—where this would not be in the interests of the child; therefore 'should' is the preferred option.

The Hon. M.J. ELLIOTT: I had an identical amendment, and clearly I support it.

Amendment carried; clause as amended passed.

Clause 5 passed.

Clause 6—'Interpretation.'

The Hon. M.J. ELLIOTT: I move:

Page 3, lines 27 to 34—Leave out the definition of 'abuse or neglect'.

This amendment is anticipating a later amendment to clause 6, where we define precisely what a child at risk means. It is the belief of a large number of people who approached me—and I must say, having listened to the arguments, I think they are absolutely right—that this abuse or neglect definition is inadequate. They pointed to a definition used to determine a child is at risk under New Zealand legislation. If I am successful with this amendment, I will move an amendment which incorporates largely the definitions found in the New Zealand legislation, except that at the end of it there is still something of a catch-all phrase which provides that other circumstances exist by virtue of which the physical, mental or emotional wellbeing of the child is being or is likely to be seriously impaired. What attracts me to the New Zealand legislation is that it does spell out quite a number of specific examples of what any reasonable person would see to be a child at risk. It has been put to me that in South Australia the Department for Family and Community Services has not addressed matters where children have been at risk. One specific example that has been given to me is in relation to homelessness.

It has been suggested to me—perhaps due to resources or whatever—that the Department for Family and Community Services has largely walked away from that problem. That may be a resourcing problem or a Treasury problem but, nevertheless, if we in this State are serious about having children's protection legislation, then that simply should not be occurring. I give that as an example. It is important that, as far as we can spell out what 'at risk' is, we do so. But, importantly, in the amendment that I have to that later clause, there is still a catch-all which makes quite plain that if the physical, mental or emotional wellbeing of a child more generally is likely to be seriously impaired, a child then is at risk.

The Hon. K.T. GRIFFIN: I move:

Page 3—
Line 31—Leave out 'significant'.
Line 32—After 'injury' insert 'detrimental to the child's wellbeing'.

I would like to hear the debate in relation to what the Hon. Mr Elliott is proposing later because that is relevant to this. I made the point during the second reading debate that we had concerns about the reference to 'significant' physical or psychological injury which suggested that some injury might be permissible.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: There are all sorts of possibilities that one could conjure up. To leave the word 'significant' in there—and it has been argued that it should be left in there by a number of people, including the Minister in another

place—suggests, as I said, that some injury is tolerable. That is not to suggest that mild chastising or corporal punishment in moderation by a parent is frowned upon. But in the context of this Bill what the word 'significant' does is to suggest that some injury is allowable, and that is not proper. So, what we came up with was the child was likely to suffer physical or psychological injury detrimental to the child's wellbeing. That then achieves what we are after. I have made criticism of the definition of 'abuse or neglect', the fact that sexual abuse is not defined by physical or emotional abuse and the difficulties that that might convey to those who seek to work with the legislation.

The only other point I make at this stage is that, whilst there may be some attraction in identifying a range of behaviour which would be regarded as abuse or neglect—and that is proposed as a later amendment—I approach it with some caution. I remain to be convinced that dealing with it in that way will not create further problems of interpretation and even more difficulties for people, including courts and others who have to address the issue of whether the child has been subject to abuse or neglect, whether it involves sexual, physical or emotional abuse of the child. So, I tend to the view that my amendment is the preferable course to follow and, whilst I have sympathy with the Hon. Mr Elliott's proposals as a package, I nevertheless remain to be convinced that they are preferable in the context of this Bill to what is there subject to my amendment.

The Hon. C.J. SUMNER: The Government opposes both amendments—we certainly oppose that of the Hon. Mr Elliott. To leave out the definition of 'abuse and neglect' would give no indication as to how this term is defined for the purposes of this Act. In so far as the honourable member has dealt with the definition of 'child at risk', the proposed amendment is closely aligned to the New Zealand legislation and is far more prescriptive than the description in the Bill as introduced by the Government. The Minister strongly believes—and it is the Government's view—that the current definition is broad enough to protect children in all circumstances.

As to the deletion of the word 'significant', moved by the Hon. Mr Griffin, the Government believes that that word should remain. There has been a recent judgment of 11 December 1992 in a Victorian court in the case of Buckley, where significant damage was defined in the context of the children's protection legislation in that State. The judge had this to say:

> In my opinion, in choosing the word 'significant' the legislature intended that harm to a child's emotional or intellectual development will be more than trivial or insignificant, but need not be as high as 'serious'. The word significant means 'important', 'notable', 'of consequence'

I note that the *Concise Oxford Dictionary* has the word 'important' as the meaning of the word 'significant', which accords with what the judge said. Mr O'Bryan went on to say:

> For the purposes of this section 63(e) of the Act, 'significantly damaged' means that the child's emotional or intellectual development is likely to be damaged in some respect that is important or of consequence to the child's emotional or intellectual development.

So 'significant damage' are the words used in Victorian legislation. It has been defined as I have suggested, and the Government thinks that that is a more appropriate criterion upon which to act. In other words, there needs to be something of consequence to invoke the provisions of the legislation.

The Hon. M.J. ELLIOTT: The Hon. Mr Griffin said that he needed to be convinced. One example I gave before was the issue of homelessness, and it is a significant and growing problem in our community. I would ask whether or not Mr Griffin would consider that in many cases homelessness is a situation where the child is at risk. If he believes so, I would point out that the amendments that I am moving note that the definition of 'abuse or neglect', which is important for the interpretation of 'child at risk', is not broad enough. I think the Attorney-General has suggested that it was restrictive in some ways. The New Zealand legislation may have been in one circumstance, but the addition that I am proposing (as subparagraph (i) to the later amendment to clause 6) quite clearly makes it broad, and I think it is significantly broader than the definition that is currently in the Bill. 'Abuse or neglect' is far too limiting and the consequence will be that some children who most people would think are at risk—homelessness was given as one example—may not be adequately protected by the legislation.

The Hon. BERNICE PFITZNER: I have great sympathy with the Hon. Mr Elliott's attempt to put in some of the definitions that the New Zealand legislation has defined for children in need of care or protection. But I hear what the Attorney-General is saying, and understand what legal officers feel, in relation to these kinds of long lists of definitions being, what they call, too prescriptive. As to the present definition here and using the word 'significant', as a medical officer I feel that any injury or abuse is significant; but listening to the Victorian judgment apparently there has to be a certain level. So I think that the Opposition's amendment to take out 'significant' and insert 'detrimental to the child's wellbeing' covers the consequence following the injury or the abuse. I therefore support the Opposition's amendment.

The Hon. K.T. GRIFFIN: One has to appreciate that a lot of these things are being done on the run today and the amendments are complex. If one looks at the Hon. Mr Elliott's amendments there are aspects of them which do cause concern. The child has behaved or is behaving in a manner that is or is likely to be harmful, so an assessment has to be made as to whether the behaviour is likely to be harmful to the physical, mental or emotional wellbeing of the child or to others and that the child's guardians who have the care of the child are unable or unwilling to control it.

The Hon. M.J. Elliott: Petrol sniffing, perhaps?

The Hon. K.T. GRIFFIN: Well, may be, but it can be a whole range of other behaviour.

The Hon. M.J. Elliott: That is the sort of thing that the current definition would not pick up at all, and something needs to be done about it.

The Hon. K.T. GRIFFIN: The problem with the prescription is that it may be applicable to a whole range of other behaviour which a parent or guardian may, in the circumstances of it, deem to be not inappropriate and therefore not be prepared to take action which might prevent it. There are a lot of assessments to be made in the context of that particular paragraph and I think there are some other difficulties of being specific by outlining these paragraphs. The net is being broadened considerably and I am concerned that there may be some unintended consequences of putting this amendment in when the general concept of abuse or neglect which is in the Bill—provided my amendment goes through and that the issue of homelessness is addressed in my amendment later—would be sufficient for the purposes of providing protection and care for children. I indicate on that

basis that, in the circumstances, I will maintain my adherence to my amendment.

The Hon. Mr Elliott's amendment negatived; the Hon. Mr Griffin's amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 3, line 32—After 'injury' insert 'detrimental to the child's wellbeing'.

That is consequential on the removal of the word 'significant'.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 4, line 5—Leave out 'an employee in the department' and insert 'a member of the staff of the State Courts Administration Council'.

There has been a lot of debate about the position of the care and protection coordinators. The Liberal Party has taken the view that they should be independent of the Department of Family and Community Services, but there are other agencies that have a contrary point of view. I received a communication from SACOSS a day or so ago which suggests that we should not locate the family care coordinators within the Youth Court. It takes the view that it does not support the location of family care coordinators within the Youth Court at all, as it believes that this shifts the emphasis from family resolution wherever possible and suggests that the matter has already moved into the historically adversarial system of the courts.

Most families become extremely anxious at the point of notification and that anxiety intensifies as the matter proceeds from the department through the court system. SACOSS has thus expressed its opposition to the location of the family care coordinators in the Youth Court. I have some sympathy with that point of view. We are anxious to endeavour to ensure that the coordinators have some largely independent role. It seemed to us that attaching them to the Youth Court would not be an inappropriate way of addressing that issue. I notice that the Hon. Mr Elliott has some alternative on file. However, at this stage I suggest my amendment to relate it to the State Courts Administration Council.

The Hon. M.J. ELLIOTT: There has been a great deal of concern among a large number of groups working in the youth area about the way in which the family care meeting procedures will work, and that is what this and a later amendment of mine are addressing. I think it is appropriate that we look at the whole family care meeting process now and examine it in some detail, because if either of our amendments is to pass now is the time for that discussion to take place.

The Hon. Mr Griffin said that the submission from SACOSS said that the courts are traditionally seen as adversarial. I must say I think that over the past decade unfortunately FACS has been seen by some people as being somewhat adversarial. As FACS quite rightly pursued the rights of the child, because of inadequate procedures—and that is something that this is seeking to address—it was sometimes perceived as being overzealous. It would be fair to say that unfortunately FACS has had its reputation rather badly damaged. That is not a criticism of FACS, but simply an observation.

FACS had a very difficult job to do, particularly in the area of child sex abuse. I was involved with the select committee that looked at that some years ago. I understand the difficulties that FACS had in battling with this issue, which has been acknowledged as a public problem only in the past decade or so. It was demanded of FACS that it tackle it, and it attempted to do so. However, as I said, the procedures it had at that time, particularly in the first couple of years, were totally inadequate to the task. I am simply making the point that, if people talk about the courts being feared, unfortunately FACS is also feared by elements of the community. One thing we hope to achieve from this process is that FACS's reputation will in fact be enhanced.

If we are to have a family care meeting, many people have put to me that the process must be seen to be independent. It is a process that has been set up in such a way that the family is involved, but at all times it must ensure that the rights of all—those of the child as well as of the parents—are enhanced.

A fear has been expressed to me that with the family care coordinator being located in FACS the coordinator would not necessarily be able to run the family care meeting in an impartial manner. What people are saying is that we are setting up a process here; the process is clear enough; but what we want to do is keep the departmental politics out of the family care meeting procedure; and, having set up a procedure, we should ensure that it is untainted. As I understand it, that is the reason why people are keen to see a body such as the courts operating the family care meetings.

The suggestion that the meetings be adversarial is a nonsense. The Attorney-General knows very well that there are many procedures in the courts these days that are not adversarial. I know that the Attorney-General himself has been keen to have more and more of those sorts of processes set up. So, I do not think it is necessarily unreasonable to see that these meetings could be run by the courts. As such, the Hon. Mr Griffin's amendments have a great deal going for them.

I note that this issue has been in this Council for only a little over a week and we now have to get it through today. That is unfortunate: a couple more days to prepare for the debate would have been most helpful, but here we are. As I battled through this issue, I looked at the coordinator's role, and as I see it the coordinator has two functions. I make the suggestion that we could consider splitting those roles.

Under clause 28, the coordinator will be required both to convene and to conduct a family care meeting. The one person could run the two processes, but I would hope that the family care meeting itself—which is the crucial part of this section—is seen to be absolutely impartial. I suggest that a separate person could simply facilitate and conduct that family care meeting.

As I see it, no matter how hard the family care coordinator may try, remaining impartial may be somewhat difficult if one looks at what the family care coordinator is being asked to do. The care and protection coordinator will have to invite people to attend the meeting, and clause 29(1)(c) provides:

Other members of the child's family who should, in the opinion of the coordinator, attend the meeting;.

The coordinator has to form an opinion about whether those people will be invited. Subclause (1)(d) refers to any other person who has had a close association with the child who should, in the opinion of the coordinator, be invited to attend the meeting.

Again, the coordinator has to form an opinion about other persons. Paragraph (e) provides:

Any other adult person. . . who the child or the child's guardians wish to support them at the meeting and who, in the opinion of the coordinator, would be of assistance in that role.

It then goes on to provide in subclause (2):

> The coordinator is not required. . . to invite the child to the meeting if the coordinator is of the opinion that it would not be in the best interests of the child. . . or to invite any other. . . person

—whose attendance would not be in the best interests of the child. The coordinator is forming a lot of opinions about a lot of people. How is the coordinator going to do that without becoming rather intimately involved in the case? He will either have to rely totally upon the caseworker's advice or he will have to talk to all of these people before the meeting takes place.

I am not saying that that itself is not a problem, but it does mean the coordinator perhaps is already starting to form views and losing a great deal of impartiality, and that would be true whether the person is in FACS or in the courts, although I think with location in FACS that would be even more likely to happen.

The coordinator during the meeting has to present information: from those people who are invited but who are unable to attend; from the child, if the child is not there, and must report on their behalf; from any guardian or any family member who has been invited but cannot attend. So they are putting a great deal of input into that meeting, as well as facilitating, as things are currently structured.

The coordinator, under clause 31(2), must also ensure that sufficient information as to the child's circumstances and the grounds for believing the child to be at risk is presented to the meeting. So the coordinator will be presenting information about the case and is supposed to be impartially facilitating at the same time. If you are trying to get the family to discuss things, and they see the person who is running the operation as being the one who has come and brought all these criticisms about them, that could cause a level of distrust and perhaps upset the functioning of the meeting.

I think I have covered most but not all of the functions of the coordinator. So, the coordinator cannot in any sense be impartial to the meeting process itself. It is important that once people get around the table that that process is run by somebody who has particular skills, who ensures that all people are being adequately heard and at the end of the day is satisfied that the matters are being addressed adequately. Under the proposal I am putting forward, but not moving at this stage, I am arguing that perhaps an alternative—and I am not convinced of this—to the coordinator being located under the courts is that we can separate the role of coordinator and facilitator: that the facilitator might be placed under the Attorney-General or under the courts—my amendment says the Attorney-General—as a totally impartial chair/facilitator of that family care meeting. In that case, where the coordinator resides would not be so important.

So, in any case, I have sympathy for the amendment of the Hon. Mr Griffin. I have tabled but have not yet moved an alternative model to tackle the problem and I would be interested to hear the response of other members.

The Hon. C.J. SUMNER: The Government is very strongly opposed to this proposal. I think it misconceives the nature of the family care meetings. It confuses the role of the Executive arm of Government with the traditional arm of Government. We have to remember that these meetings are convened before any proceedings have been issued before a court, before a matter is any way seized by a court, and I therefore think that to cross that line, in effect, and give to the court functions which are in my view Executive functions would be wrong.

I am not sure whether the court has been consulted about this proposition; I suspect it has not. My guess is that it would object to this most strongly. I think the court would not see it as its role, prior to proceedings having been issued, to engage in this sort of process. I may be wrong, but it might have helped, given that members opposite always complain about the Government's not consulting, had they perhaps got some views from the Youth Court judge designate about this matter before introducing the amendment. As I say, my guess is that the courts would not be happy to carry out this function.

If we are going to do what the Hon. Mr Elliott says, I do not know where anyone will end up. I suspect they will end up in a mass of bureaucracy and confusion. The honourable member seems to want to have meeting after meeting, so there will be informal meetings within the department, presumably to try to resolve matters, and from what he wants there will be a facilitator and there will be another lot of meetings, and there will be a coordinator and another lot of meetings. The situation, in my view, if what the honourable member wants is put in place, will be confused.

The Hon. M.J. Elliott: There are no additional meetings.

The Hon. C.J. SUMNER: You have facilitators and coordinators.

The Hon. M.J. Elliott: They are not running any more meetings.

The Hon. C.J. SUMNER: The reality is that there will have to be informal meetings, in any event. It is just not true that there will be no more meetings. There will have to be more meetings. There have to be informal meetings by the department with the family just for them to understand what is going on in the first place. And in the final analysis, who is going to take the proceedings in the court?

The Hon. M.J. Elliott: The coordinator.

The Hon. C.J. SUMNER: Oh, I see. This is a novel proposition. The coordinator is being employed in the court by the independent—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: This is what you are saying.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Yes, you are.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Well, no, you said you wanted the family care meetings to be conducted within the court system.

The Hon. M.J. Elliott: No. Read my amendments. You have not read them yet.

The Hon. C.J. SUMNER: Your amendments are different from what you said. If you follow what the Hon. Mr Griffin said, he is saying that the family care meetings should be held under the auspices of the court. What happens if the family care meeting breaks down? Who then has to take the proceedings before the court for a declaration that a child is at risk? Who has to do that? The department has to do that, and therefore the department has to be involved somehow or other in that meeting, and the department will previously have been involved in more informal meetings with the family and possibly the child, but you cannot have a situation where someone who is employed by the court is responsible for recommending that proceedings be taken. You could have something like that, I suppose, but it would certainly be changing the nature of our judicial process and you would be—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Then you would be going towards, I suppose, a more European approach to these matters. That may not be a bad thing, but if you are going to do that I do not think the issue has been thought through as well as it ought to have been. The reality is that the department has to make a decision about whether to take proceedings for children at risk. In order to do that it has to make an assessment. A family care meeting is part of the process of making that assessment, and I think (as SACOSS believes, apparently) it would be wrong to drag the family into the umbrella of the adversarial system and the court system at a stage where it may not be necessary.

If you want to talk about the general principles relating to the judiciary, its independence, etc., then perhaps we can have that debate, but I do not think that we should be trying to tack on to our current system something that I believe would be inappropriate, given that no proceedings will have been issued at the time that the family care meetings are supposed to take place under the auspices of the court.

As I said, I think the amendment is misconceived; I think it confuses the role between the Executive arm of Government and the judiciary. My suspicion is that that will probably be the view of the Youth Court, if any one bothered to ask it, and accordingly I oppose the amendment.

The Hon. K.T. GRIFFIN: I acknowledge what the Attorney-General is saying in some respects about the relationship of the coordinator to the courts, but the object was to endeavour to move the coordinator from a purely departmental focus, and the concerns that have been expressed to us are that if you have the coordinator in the department this whole procedure may well be compromised, because the coordinator is accountable to the department and the matter becomes departmentally directed rather than directed, in a sense, from a little bit outside the department and ceases to be so bureaucratic.

The principle is clear as to what we want to achieve. I can really do no more than acknowledge that there are some particular difficulties which have yet to be addressed. I certainly have not spoken to the new Youth Court judge. There has not been, from my point of view, a significant amount of time within which to undertake that course of action.

The Hon. BERNICE PFITZNER: I have contacted the Children's Court or Youth Court and, as we know, they are setting up the youth justice coordinator as a regular, senior position. Their opinion was that they would welcome the coordinator to be positioned in that section.

The Hon. C.J. Sumner: Whom did you talk to?

The Hon. BERNICE PFITZNER: I just cannot find his name at the moment.

The Hon. M.J. ELLIOTT: I understand that Christine Dawe, who is the new Senior Judge designate at the Youth Court, helped prepare the Law Society's submission which has advocated an independent coordinator. It is also worth noting separately that, if people suggest that this might be unusual to get in the umbrella of the courts, conciliation procedures of the Family Court are available to people who do not have an action pending before the court. Both of those are worth noting.

It is unfortunate that we do not have a little more time to work through this issue. My feeling is to resolve this now and to vote. I will support the amendment of the Hon. Mr Griffin in the first instance. At least the substantial part of the debate has been had. If the legislation returns to us later in the day, it gives us a chance, hopefully, to spend an hour or two looking at it a little more closely for final resolution. At this stage, I indicate I will support the amendment of the Hon. Mr Griffin.

Amendment carried.

Progress reported; Committee to sit again.

[Sitting suspended from 12.55 to 2.15 to p.m.]

JUDGES APPOINTMENT

A petition signed by 2 195 residents of South Australia concerning recent statements by some judges in sexual assault cases and praying that the Council will ensure that selection criteria for the appointment of judges include—

1. Knowledge of the pressures experienced by most people in their daily lives, however different those lives might be from that of the judge;

2. A good understanding of current and desirable community values, attitudes and standards;

3. A strong commitment to the principle of real equality before the courts and the need for judicial intervention to enforce it was presented by the Hon. I. Gilfillan.

Petition received.

CITIZENS INITIATED REFERENDA

A petition signed by 847 residents of South Australia concerning citizens' initiated referenda and praying that the Council will call upon the Government to hold a referendum in conjunction with the impending State election to determine the will of all South Australians in this matter was presented by the Hon. C.J. Sumner.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner)—

Listening Devices Act 1972—Report, 1992-93.

By the Minister of Transport Development (Hon. Barbara Wiese)—

Reports, 1992-93—
- Chiropractors Board of South Australia
- Food Act 1985
- South Australian Health Commission
- Pharmacy Board of S.A.
- Radiation Protection and Control Act 1982
- State Transport Authority—ordered to be printed (Paper No. 19)
- Office of Transport Policy and Planning—ordered to be printed (Paper No. 128).

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

HomeStart Finance—Report 1992-93.

Regulation under the following Act—
- Education Act 1972—Dress Codes.

TRANSPORT REPORTS

The Hon. BARBARA WIESE (Minister of Transport Development): I move:

That the State Transport Authority Report of 1992-93 and the Office of Transport Policy and Planning Report 1992-93 be printed.

Motion carried.

MEETING THE SOCIAL CHALLENGE

The Hon. C.J. SUMNER (Attorney-General): I seek leave to table a ministerial statement that has been given this day by the Hon. Lynn Arnold on the subject of 'Meeting the Social Challenge'.

Leave granted.

QUESTION TIME

SUPREME COURT LIBRARY

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about Supreme Court Library services.

Leave granted.

The Hon. K.T. GRIFFIN: I have been informed that the Supreme Court Library, which services the courts in Victoria Square and particularly lawyers who need the library for research purposes, will close from 2.15 p.m. to 3.15 p.m. each day. It was originally proposed that the library should close from 12.30 p.m. to 1.30 p.m., which would obviously overlap the luncheon adjournment when those who are in court may want to undertake research in the library. The library is now open each week day from only 9 a.m. to 5 p.m. instead of from 8.30 a.m. to 6 p.m., so that if practitioners are in court it is unlikely that they will have more than an hour or so to make use of the facilities of the Supreme Court Library.

I understand that the Chief Justice had some consultations with the Law Society and with the Bar Council. As I understand it, he said that there would have to be either increased funding from the legal profession, which is already significant—something like $100 000 a year—or a reduction in services. Incidentally, the $100 000 goes to the Supreme Court library even though the profession maintains its own library, and about 500 legal practitioners from the country and suburbs would never use the Supreme Court library.

I understand that the Law Society made an offer of some assistance, such as picking up, or at least rationalising, some of the services between the Supreme Court library and the Law Society library. The Law Society also suggested that there should be a greater use of volunteers. There was also the proposition that there are four staff, and the question was: why could they not stagger their lunch breaks to ensure that the library was open during the full hours of the day from at least 9 a.m. to 5 p.m.? All those suggestions were rejected.

I understand also that there has been an industrial dispute involving the library which partly contributed to the need for the Chief Justice to direct some reduction in services. His assessment, as I understand it, is that the Supreme Court library is short of resources by about 1½ persons in full time equivalents. My questions to the Attorney-General are:

1. Does the Attorney-General agree that the present situation with the Supreme Court library is unsatisfactory?

2. Does he see any problem with Law Society's being more involved in running the Supreme Court library and sharing responsibilities with the court?

3. Can he indicate whether he has addressed these problems of the legal profession in relation to library access and, if he has, with what result?

The Hon. C.J. SUMNER: I do not know whether the situation is unsatisfactory; there have not been any recent representations made to me about the topic. The Courts Administration Authority could make adjustments within its budget to give this activity a high priority if it wished. Apparently it has not done that. I think that the only thing I can do is have the issues raised by the honourable member examined and bring back a report for the Council.

BACK TO SCHOOL GRANTS

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education, Employment and Training a question about back to school grants.

Leave granted.

The Hon. R.I. LUCAS: Members may recall the controversy in recent months about back to school grants and the anger that their allocation has aroused in most principals and school communities throughout the State. Their anger is generated by the fact that some principals believed that the 1992-93 back to school grants were divided up with a distinct bias towards Labor electorates. If anyone should doubt the accuracy of this claim, they need only look at the figures. Of the $14 million allocated to the scheme in 1992-93, $9.9 million or 81 per cent of the total allocated went to Labor or Labor-Coalition held seats. By contrast, just $2.3 million or 19 per cent of the grants went to Liberal or National Party electorates.

It has been argued that it should not be surprising that there is this bias, given that Labor electorates are supposedly traditionally poorer than those held by the Liberal and National Parties. This argument can be scuttled very quickly with one illustration. The grants are supposed to driven by student need, and among the chief criteria is the school card recipiency rate at the particular school. Generally, a 45 per cent school card recipiency is considered to be the lowest that will allow a grant to be given.

However, earlier this year the member for Briggs obtained some media coverage after he secured a $70 000 back to school grant for a school in his electorate—the Brahma Lodge Primary School—after lobbying the Education Minister following the allocation of the 1992-93 grants.

Since then the Liberal Party has highlighted the case of the Sturt Street Primary School which is in the Liberal electorate of Adelaide. It was denied a Back to School grant despite a range of schools in neighbouring electorates receiving the grants. The contrast is marked. Brahma Lodge, which received a $70 000 grant, has a school card rate of 42 per cent and Sturt Street Primary, which missed out on a grant entirely and which, as I said, is in a Liberal electorate, had a school card rate of 89 per cent. Earlier this year I obtained a full list of schools that received Back to School grants for 1992-93 and even after receiving that list I received advice from the department that three more schools, in Labor electorates of course, had received grants totalling $240 000. Two of those were in the member for Briggs' seat and one was in a marginal Labor seat in the north-eastern suburbs. I and the many principals to whom I have spoken in recent days await with interest the details of Back to School grants for this financial year, particularly as we lead into an imminent State election. My questions are:

1. Will the Minister explain why only $12.2 million of the $14 million in Back to School grants was allocated in 1992-93? Will she indicate how the remaining $1.8 million was spent during 1992-93 and whether any portion of that unspent $14 million has been held over for the pre-election period?

2. Will the Minister provide by next week a list of the Back to School grants for 1993-94? Will she give a guarantee that grants will not be given on the basis of whether a Labor member represents that particular area?

The Hon. ANNE LEVY: As all readers of *Hansard* would know, the Minister responsible in another place has made numerous statements about the special grants being made available on a basis of need, which I am sure she will be able to document quite clearly. I will refer the honourable member's question to my colleague in another place for her to bring back a reply.

RAILWAY SURVEILLANCE

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about terrorism on trains.

Leave granted.

The Hon. DIANA LAIDLAW: On Tuesday, in answer to a question about graffiti on afternoon railway services from Gawler, the Minister acknowledged that there had been particular trouble with young people on the Gawler line in recent weeks. The fact is (and I hope she is aware of this) that there has been a lot of trouble on the Gawler line involving a gang, possibly 15 strong, aged between 15 years and 18 years who roam in packs of four or five. The gang is known to be responsible not only for graffiti vandalism but also for terrorising students who attend Gawler High, Craigmore High and Trinity College. Students at Trinity College have reported cases of fire extinguishers being thrown through train windows, and students have been sprayed with extinguishers.

There have also been fights. A girl was allegedly punched and kicked at one station recently, while the gang attacked a group of students in a separate incident. I am aware that in the mornings students have been pelted with eggs and spat on. I have been told that parents associated with the schools are becoming frightened about their sons and daughters travelling to and from school by train. Trinity College alone estimates that the number of students now using the train has dropped from 90 to 70. Last month the violence and terrorism forced a crisis meeting between Trinity College, Gawler High School, the Police and STA. Subsequently, the STA has installed video cameras on trains and is using special measures to blitz peak hours. My questions earlier this week reveal that these measures seem to have been ineffective in stopping the vandalism and terrorism. I ask the Minister:

1. Can she advise how many video cameras have been installed on trains using the Gawler line during peak hours? What is the nature of the special police measures being used to combat these problems?

2. Is she satisfied that the cameras and the so-called special blitz measures are proving to be successful in stopping the vandalism on trains and terrorism of students in the Gawler area?

The Hon. BARBARA WIESE: I do not think it is the least bit helpful or responsible for the Hon. Miss Laidlaw to come into the Parliament with words such as 'terrorism' when she is discussing—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE:—some of the problems that exist within our public transport system. The fact is that I am aware of the problems which have occurred and which relate to the issues she has outlined. Of course, I am aware. They are serious problems. I referred to them on Tuesday. It is not in the least bit helpful, in dealing with these problems, to have people such as the Hon. Miss Laidlaw coming in here demanding to have answers to the questions relating to how many cameras we have on trains when we are dealing with a problem with young people who are obviously anti-social, who have a problem about which we are trying to—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —do something. The fact is that I am unwilling to provide the information about cameras that the honourable member asks, because I do not think it is in the least bit helpful to the strategy being pursued by the STA or the transit police to give away information to people who are the problem about what means are being used by the authorities to deal with that problem. The fact is that the transit police, the South Australian Police Department, the principals of relevant schools in the area as well as parents have been meeting to discuss these problems. The young people who are the core of the problem have been identified and the transit police are taking appropriate action to try to overcome some of the difficulties that were raised.

I became aware of this problem through my colleague in another place, the Hon. Martyn Evans, who is the member for Elizabeth, and many of the children of his constituents attend Trinity College and have been in touch with him about the problems that some of the students at that school were facing on trains to and from school each day. As I say, the transit police, the Police Force, are taking appropriate measures to try to get on top of this issue. It was a problem prior to the last school holiday break. I have not had further difficulties drawn to my—

The Hon. Diana Laidlaw: Well, I have; that is why I raised the question.

The Hon. BARBARA WIESE: Oh, rubbish! I have not had further difficulties drawn to my attention since school resumed—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —and I assume that the matter is being handled appropriately by the police. I am sure that, if the Hon. Miss Laidlaw is not satisfied with the way the police handle policing issues in South Australia, she could approach the Police Commissioner. Personally, Sir, I have full faith—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —in the South Australian Police Force and in the Transit Squad within the State Transport Authority to handle situations of this kind. Certainly they have handled such situations appropriately in the past, and I am sure that it will be possible to get on top of this one as well. The fact is that there is a small number of young people living in the Salisbury-Elizabeth area who have been for many years a problem within the school system. Some of them, I understand, have been expelled from numerous schools—

The Hon. R.I. Lucas: There has not been an expulsion in a school in South Australia this year.

The Hon. BARBARA WIESE: Well, they have been asked to leave.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Excuse me, but I am—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The honourable Minister has the floor.

The Hon. BARBARA WIESE: These young people to whom I refer have moved from school to school in the Elizabeth-Salisbury area. They have a history of various anti-social behaviour, and it will not be an easy problem to overcome. However, I have every faith in the Police Force, the transit police and other community organisations which will become involved with this situation to overcome these problems, because it is totally unacceptable that young people should not feel safe when they travel on our public transport system. We are acting as quickly as we possibly can to ensure that that sort of behaviour is eradicated.

DEPARTMENTAL MERGER

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, representing the Premier, a question about the ETSA and E&WS merger.

Leave granted.

The Hon. L.H. DAVIS: I direct this question to the Attorney-General as the Leader of the Government rather than to the Minister representing the Minister for Public Infrastructure, because I think it is a matter of public interest, public importance and of Government policy.

It is a matter of public record that the Liberal Party has expressed grave reservations about the ETSA and the E&WS merger. However, the Government is hell bent on pursuing the merger and, rather remarkably, there is still an official merger dated 25 November 1993 within the two organisations. Senior executives of these two authorities have told me that their conservative estimates of the merger costs to date are at least $20 million.

The majority of senior managers in both organisations are spending up to three days a week on the merger and only two days on their regular jobs. Five hundred people are still working feverishly on the merger. Important day-to-day issues are being ignored. 'In' trays are bulging; training schemes and productivity enhancement programs have been let slip; and initiatives streamlining production and service processes have ground to a halt. With so many key people preoccupied with the amalgamation, a paralysis has spread through ETSA and E&WS. Morale in both organisations is at a record low. Internal surveys of merger communications in both organisations reveal that people are totally dissatisfied with merger communications and recommendations to remedy these severe communication problems have been ignored.

Senior executives of both organisations are surprised that this merger was cobbled together in such indecent haste. No senior executives, apparently, were consulted about the merger and no cost-benefit analysis of the merger was done before it was publicly announced by the Premier, Mr Arnold, in April. There is a widespread perception in ETSA that senior management is doctoring information being presented to the ETSA board on contentious issues such as merger costs and the legal implications of the merger. Several senior executives are wanting to leave.

I have been advised that the original document on the ETSA and E&WS merger tabled in another place by the Minister for Public Infrastructure, Mr Klunder, which set down merger benefits and cost savings, was in fact prepared overnight by one senior executive in mid-April. Over the next three months a gaggle of senior executives worked tirelessly to make the figures stack up. As one senior executive described it, the merger is like a blancmange—it wobbles, changes direction and you would be crazy to pick it up and run with it. The information technology area is also a major problem.

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: There is no need to worry about a blancmange for you, Mr Roberts. You have the jelly roll blues all the time. E&WS and ETSA have a large measure of incompatibility in both hardware and software.

An honourable member interjecting:

The Hon. L.H. DAVIS: Talking about software, there is plenty of software over there, and it is mainly from the shoulders up. Major concerns remain about the Tandem computer program with a threatened overrun of $20 million on the original $40 million budget.

My question to the Attorney-General as Leader of Government is: can the Minister explain why so much energy, time and money is being spent on pursuing the ETSA and E&WS merger at the expense of staff morale and existing programs in the weeks immediately preceding an election which may result in a change of Government and a deferral or reversal of the merger plans?

The Hon. C.J. SUMNER: Because the Government believes that the merger will bring benefits to the State of South Australia in both savings to taxpayers in greater efficiencies and in better customer service. There is a logic in bringing these two organisations together. It is not the first place around the world where power and water have been delivered by the same authority. There are advantages in joining together, for the purposes of the provision of services to consumers. The billing process can be done on a common basis. There is the capacity for overall corporate planning and financial savings in such a merger.

As the honourable member knows, this matter was announced as part of the extensive public sector reform program of the Government which involved reducing the number of operational agencies within Government. I do not want to repeat what has happened in that respect or the rationale for it. The Government believes that it is to the advantage of taxpayers in South Australia to bring these Government agencies together, including in this case ETSA and E&WS. You can get savings in corporate services; you can get better delivery of services to customers; and you can get better coordination of policy matters relating to the activities of the merged agencies—agencies that are merged dealing with like-minded activities. That is the philosophy behind the public sector reform agenda—or one part of it—of the Government. I have outlined the details of the former agenda on previous occasions and will not repeat them here.

Obviously, when a merger is proposed a lot of work has to be done and problems may emerge in the merger process. However, if it is agreed that the overall objective is to the benefit of the community, then those problems have to be overcome. It is somewhat odd that the honourable member has asked this question, because he is on a select committee that has been set up by this Council to examine the merger, and I would have thought that the sorts of issues he has raised in this Council he could pursue through the select committee by evidence from witnesses who might appear before it.

MODBURY HOSPITAL

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing

the Minister of Health a question about the closure of the operating theatre at the Modbury hospital.

Leave granted.

The Hon. BERNICE PFITZNER: Approximately two months ago, it was reported that a cost-cutting decision was made by the Modbury hospital to close an operating theatre attached to the labour ward. This closure presents a serious risk for mothers and their babies. The proposed closure will move the theatre five floors down. Pregnant women needing emergency treatment and caesarean sections will have to be transported down via unreliable lifts. The head of the obstetrics and gynaecology department says that it would be bizarre to carry a labouring patient, who had an epidural block and/or was haemorrhaging or whose foetus was in distress, down five flights of stairs to the general theatres. The other scene could be that the emergency group was stuck in the lift. My questions to the Minister are:

1. What is the rationale behind the closure of the labour ward theatre?

2. Will the Government request the Modbury hospital to reconsider the proposal?

3. If not, will the Government provide answers to the concerns as raised by the head of obstetrics and gynaecology department?

The Hon. BARBARA WIESE: I will refer those questions to my colleague in another place and bring back a reply.

QUEEN VICTORIA MATERNITY HOSPITAL

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about the Queen Victoria Maternity Hospital.

Leave granted.

The Hon. J.F. STEFANI: SGIC is the owner/operator of the Hutt Street Private Hospital. I have been informed that SGIC has been considering shifting this hospital to the Queen Victoria Maternity Hospital site when it becomes available early next year. Major expenditure items for the Hutt Street hospital have been deferred because of this possible move. The Queen Victoria Maternity hospital, which is owned by the Adelaide Medical Centre for Women, has been valued at $5 million for the current year ($2 million less than last year). My questions are:

1. Will the Treasurer advise whether any discussions have taken place between the Government and SGIC about the sale of the Queen Victoria Maternity Hospital; if so, when did those discussions take place and what was the nature of them?

2. Will the Treasurer advise whether the Government intends to call public tenders for the sale of the Queen Victoria Maternity Hospital; if not, why not?

3. Does the Government believe that SGIC should be involved in running a private hospital?

The Hon. C.J. SUMNER: I will refer those questions to my colleague in another place and bring back a reply.

LOCAL GOVERNMENT GENERAL ASSEMBLY

The Hon. PETER DUNN: I seek leave to make an explanation before asking the Minister representing the Minister of Housing, Urban Development and Local Government Relations a question about the general assembly of local government.

Leave granted.

The Hon. PETER DUNN: I understand that there is a proposal from the Australian Local Government Association to have a general assembly of local government. I have received some information from the President of the Local Government Association, Councillor Peter Woods. At a meeting on 16 July this year at which the President of the South Australian Local Government Association, Leon Broster, was present, the following agreements were reached:

1. Concept of a general assembly of local government agreed.
2. Direct representation from local government councils to the meeting of the national association.
3. Representatives from state associations (Australian Local Government Association executive members [14]) to be included in the general assembly.
4. Annual meeting to be held in Canberra.
5. Representation on the basis of Federal electorates.
6. Entitlement of three votes per electorate—

there are 148 Federal electorates with three representatives each which equals 458 representatives on the Australian Local Government Association executive—

7. Councils to fund delegates' attendance.
8. The general assembly to be the annual general meeting of Australian local government with constitutional powers to determine national policy.
9. General assembly to meet for three days.
10. General assembly to include specific assemblies, for example urban affairs assembly, rural assembly, etc., to bring recommendations to the general assembly for discussion, debate and adoption of national policies.
11. Propositions to be forwarded prior to the general assembly from each Federal electorate assembly with the right for the general assembly and assemblies to accept urgent items.
12. Executive of the Australian Local Government Association to comprise two representatives from each State and Territory association, to implement policy decisions formed by the general assembly and to carry out the affairs of the Australian Local Government Association as it presently does.

With all that in mind, my questions are:

1. Does the Minister believe that this is efficient use of money when there are State and Federal Governments to carry out the policies of legislature that are already in place?

2. What advantages does the Minister believe there are in this aggregation of local government people?

3. What assurances can she give that the Eastern States with their greater population will not overrun the less populous States such as South Australia and, in particular, remote areas such as Grey in the light of the representation criteria?

4. How binding would these Federal decisions and policies be on local government authorities?

5. In the light of there being three representatives per Federal electorate, what equality of representation will this give seats such as Grey which has possibly 20 councils compared with Adelaide which has one?

The Hon. ANNE LEVY: I will refer that question to my colleague in another place for his comment. I point out to the honourable member that, although there may be 20 councils in Eyre, there are 29 councils within the Adelaide metropolitan area which between them—

The Hon. Peter Dunn: This is a Federal seat; you didn't even listen.

The Hon. ANNE LEVY: All right. The Federal seat of Grey has 20 councils; the Federal seat of Adelaide—

The Hon. Peter Dunn: Would have one.

The Hon. ANNE LEVY: No, it would have more than one. The Unley Council is within the Federal seat of Adelaide as is the Prospect Council. There are large imbalances in the

number of inhabitants of each council area. I think that in South Australia they vary from the smallest council with about 450 residents to the largest council with over 108 000 residents. So, our councils represent a diverse number of people. However, I will refer the honourable member's question to my colleague in another place and bring back a reply.

PRINCE ALFRED SHIPWRECKED MARINERS FUND (TRANSFER AND REVOCATION OF TRUSTS) BILL

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That the Select Committee on the Prince Alfred Shipwrecked Mariners Fund (Transfer and Revocation of Trusts) Bill have leave to sit during the sitting of the Council this afternoon.

Motion carried.

AUSTRALIAN UNIFORM CREDIT LAWS AGREEMENT

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I seek leave to make a ministerial statement and to table the Australian Uniform Credit Laws Agreement 1993.

Leave granted.

The Hon. ANNE LEVY: As I indicated to the Hon. Mr Griffin on 25 August, while I was happy to table this agreement I felt it necessary to seek the approval of my colleagues interstate before I did so. I wrote to them on 26 August and I have since received a reply from my ministerial colleagues in Queensland, New South Wales, Victoria, the ACT, Tasmania and the Northern Territory, all giving me their approval to table the agreement. I have not received a reply from the Western Australian Liberal Minister of Consumer affairs; however, as he was somewhat reluctant to sign the agreement initially I consider his approval less relevant.

An honourable member interjecting:

The Hon. ANNE LEVY: Well, he would not sign it in Sydney; he has signed it since but he would not sign it at the meeting. The agreement has been signed by all State Ministers of Consumer Affairs following the extraordinary meeting of the Standing Committee of Consumer Affairs Ministers in May.

The agreement provides for new credit legislation to be introduced in all States, which will significantly increase protection of consumers in their dealings with financial institutions. Included in the new legislation will be a requirement for financial institutions to reveal to consumers the full cost of credit including all fees, charges and interest rates. It will also allow financial institutions to charge up-front fees for credit cards. This move has already resulted in substantial falls in credit card interest rates which should be of benefit to many consumers.

HENS

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister representing the Minister of Primary Industries a question about the former State hen levy.

Leave granted.

The Hon. J.C. IRWIN: It is estimated that egg producers paid some $12 million to the South Australian Egg Board at 5¢ a bird a week as a levy contribution. It is my understanding that there has been no demand to pay moneys owing as State hen levies since December 1992, the repeal Act having been assented to in April 1992. One company paid $142 081 in State hen levies between 1989 and 30 June 1992. It still owed $14 237.67 at 30 June and the debt was accumulating penalty rates on late payment at 18 per cent per annum. My questions are:

1. Will the Minister advise under which Act or regulation was the State hen levy imposed in the first place?

2. Why has there been no demand for outstanding hen levy money since December 1992?

3. Is it the intention of the Minister to pursue all those who have not completely paid their due levy, and to whom was the State hen levy finally paid: the general revenue of the State or the old South Australian Egg Board?

4. If moneys are recovered now, to whom will they be paid?

The Hon. BARBARA WIESE: I will refer those questions to my colleague in another place and bring back a reply.

LEARNING DIFFICULTIES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education, Employment and Training a question about students with learning difficulties.

Leave granted.

The Hon. R.I. LUCAS: For some years there has considerable criticism in school communities about the criteria used to allocate additional assistance for children with learning difficulties in South Australian schools. Schools in supposedly better socioeconomic areas with low percentages of school card students, Aboriginal students and students from non-English speaking backgrounds, but which nevertheless have large percentages of students with learning difficulties, have been particularly concerned about the current criteria of the Education Department and the Government.

To that end, I have received a number of letters of complaint in recent months. I will refer to one of those letters, which comes from a parent of a primary school student at a school in the Flagstaff Hill and Blackwood area. The parent states:

At a recent meeting of our school's Learning Assistance Program (LAP) volunteers our school principal was questioned as to how many students at our school of 700-odd needed to be placed in the special education program. His reply totally stunned everyone attending the meeting. He estimates up to 80 students in our school alone need special education help. This is staggering. Each year the number is growing as these students are slipping through the system. . . Because we live in the Flagstaff Hill/Blackwood area, supposedly in a socioeconomically better climate, our children miss out on a much necessary special education teaching program. Point four [that is, .4 of a teacher] is all our special education teacher is allowed to provide per week.

My question to the Minister is as follows: as this issue has been raised for a number of years will the Minister indicate why the Labor Government has continually refused to address this particular issue?

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

VEGETATION CLEARANCE

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Minister representing the

Minister of Environment and Natural Resources a question about vegetation clearance on Kangaroo Island.

Leave granted.

The Hon. M.J. ELLIOTT: I recently received a letter from the Natural History Society of South Australia, which enclosed a letter to the Kingscote council and a letter to the Minister of Environment and Natural Resources. I think both very short letters adequately cover the situation so I will read them for the Minister. The letter to the District Council of Kingscote, in relation to Moore's Road native vegetation clearance, states:

> Dear Mayor and Councillors,
>
> This society has just received photographs and a report of your treatment of Moore's Road and are appalled to find that a local government authority has acted in such an irresponsible manner. Not only have you wasted valuable ratepayer funds and resources, you have demonstrated total indifference to the proper management of native vegetation and, in particular, the endangered species *phebalium equestre*, which was growing there.
>
> We have been advised by the Minister of Environment and Land Management that you do in fact have a roadside vegetation management plan, which has been endorsed by the Native Vegetation Council, and we do sincerely trust that any future attempts will be carried out in a more professional manner.
>
> When tourism is so important to the island's economy and visitor comment constantly praises the island for its flora and fauna, and in particular roadside vegetation, we would have thought that by now your council would have realised the value of this irreplaceable asset, which, we might add, is entrusted to you on behalf of the Australian people.
>
> Yours sincerely,
> Graham Churchett (Fellow).

The letter to the Minister states:

> Dear Sir,
>
> We have enclosed a copy of correspondence to the Kingscote District Council in relation to the above and would be pleased if you would look into the matter. We note in your reply to us when we queried the exemption being sought by the Kingscote council from the Native Vegetation Clearance Act you stated that current legislation is working well and that you did not see any reason for making any changes which may weaken the protection to these significant areas of roadside vegetation, but it now appears that some action from your office is now necessary to halt this mindless destruction.

I am aware that this is not the first case of concern, both on Kangaroo Island and elsewhere. I have a very simple question: what will the Minister do about this form of behaviour?

The Hon. ANNE LEVY: In the light of the story relayed by the honourable member, I will very pleased indeed to refer that question to my colleague in another place to bring back a reply.

JUVENILE CRIME

The Hon. C.J. SUMNER (Minister for Crime Prevention): I seek leave to make a ministerial statement about trends in juvenile crime.

Leave granted.

The Hon. C.J. SUMNER: In last Saturday's *Advertiser* there was a front page story headlined 'SA youth in crime upsurge'. The article described what it called a 'disturbing wave of child and teenage crime in South Australia'.

The SA Police Association President was also quoted as saying that over the past five or 10 years the amount of juvenile crime has gone up. The article and its prominence in the headlines gave the impression that youth crime was on the increase and, indeed, out of control. I would like to set a few fact straight for the benefit of the *Advertiser* journalist, who in the process of compiling that article was told on two occasions by both myself and my press secretary that youth crime had not generally increased in recent years and that in many cases it had fallen. She chose to ignore these comments.

There is no doubt that in the past decade youth crime has risen in South Australia, as it has in every other State and in most other Western industrialised nations in the world. In recognising this problem, the Government has been in the process of putting in place a range of initiatives, especially through its crime prevention strategy, in an attempt to halt the rise and reduce it. Crime statistics are one of the few ways the Government has to assess crime trends and to analyse whether the programs to prevent and deter such crimes are having some effect.

While the police annual report this year breaks down the crime figures by age, the statistics offer no comparison to previous years. If the *Advertiser* journalist had bothered to look at comparisons from previous years, a different picture would have emerged. For the benefit of Parliament, I would like to place on the record a more balanced report of those youth crime figures.

Of the total juvenile apprehensions for selected offences between 1991—that is, recently—and 1993, significant decreases have been recorded for rape and attempt, serious assault, fraud and forgery, motor vehicle theft, shop theft and total theft. Indeed, the overall total of all selected offences for juveniles apprehended has decreased generally between 1991 and 1993. That is not to say that some offences, such as for robbery and break and enter, have not increased. These particular categories will have to be looked at more carefully by police and crime prevention workers. However, at least now they have been given focus in terms of targeting those ares where crimes need to be prevented and deterred.

It is also worth noting that the proportion of juveniles among all apprehensions recorded in South Australia has decreased substantially from 48.4 per cent in 1979-80 to 39.6 per cent in 1992-93. Youth crime remains a serious problem and the Government has been doing much to tackle the issue. That is why a new juvenile justice system has been introduced which will take effect from 1 January next year. Penalties have been increased and the new system is designed to ensure that justice is delivered quickly and effectively to young people when apprehended.

I was concerned to place on the record a more balanced picture of youth crime in South Australia. I can only hope that in the future, rather than being quick to condemn young people and the Government every time a statistic is produced about youth crime, a more balanced approach can be taken. Crime is a problem that the whole community must become involved in if we are to successfully bring down our crime rates. The role the media plays if it distorts crime statistics does not benefit the community but, indeed, it only seeks to create a distorted representation of crime in our State and an unnecessary fear of crime.

ROLLER BLADES

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about roller blades.

Leave granted.

The Hon. R.I. Lucas interjecting:

The Hon. DIANA LAIDLAW: I appreciate the Hon. Mr Lucas has a keen interest in this subject because of his children and so does the Hon. Mr Griffin, and I do because I have nieces and nephews. I was interested in a reply from

the Minister last week to a question I asked about cyclists sharing footpaths with pedestrians. At that time the Minister said she would be very reluctant to move down the path of some sort of open slather policy which would allow for the riding of bicycles on all footpaths. I am not sure if the Minister holds the same view in respect of the use of roller blades.

Currently under the Road Traffic Act, roller blades are deemed to be vehicles and as such are not permitted for use on South Australian footpaths and nor can they be legally used on our roads. In January this year the Minister set up a roller blade investigating committee to develop options for roller blades to operate within the law. Recognising that Christmas is near—and I actually ask this question because I am not too sure what to get my nephew for Christmas and I know that parents will again be considering the possibility of purchasing roller blades for their children, or nieces and nephews—can the Minister advise whether she has received recommendations from the investigation committee to clarify the law in respect of the use of roller blades and, if not, will she inquire why it has taken the committee 10 months to consider this matter and when it is anticipated the committee will report?

The Hon. BARBARA WIESE: I, too, am rather concerned about the delay that seems to have occurred in the production of the report relating to roller blades. I was advised some time ago that I would have it well and truly by now. It has not yet emerged. I understand that the committee has pretty much completed its deliberations and some of the ideas that have emerged through the course of its investigation have recently been referred to Crown Law for further report on some of the legal issues involved.

Although I have not seen the report or any draft, I understand that the committee has looked at this question of whether or not roller blading should be allowed on footpaths. It may well be that one of the recommendations that the committee will make will be to allow roller blades on footpaths in certain circumstances and in proper consultation with local government authorities. I do not know the details of any such proposals along those lines at this stage, but I am hoping that I will have a report very soon. I take the honourable member's point that Christmas is coming up and that many parents will be making decisions about these matters—and if the committee takes much longer roller blades will be out of fashion.

INDUSTRIAL OFFENCES

In reply to **Hon. K.T. GRIFFIN** (13 October).

The Hon C.J. SUMNER: Amendments to the Summary Procedure (Industrial Offences) Regulations 1992 were gazetted on 7 October 1993. The amendments provide that offences against sections 69, 110, 119 and 120 of the Workers Rehabilitation and Compensation Act 1986 are not industrial offences. The regulations came into operation on the day on which they were made.

TERRACE HOTEL

In reply to **Hon. L.H. DAVIS** (13 October).

The Hon. C.J. SUMNER: The Treasurer has provided the following response:

The Inter-Continental Hotels Group, an organisation with worldwide experience in the hospitality industry, is currently managing what is now the Terrace Inter-Continental on SGIC's behalf. This management agreement is only in its infancy.

SGIC does not wish to remain the owner of the Terrace Inter-Continental Hotel in the longer term and is hopeful that the management expertise of the Inter-Continental Group will enhance the value of the hotel and facilitate a sale in the medium term.

ELECTORAL COMMISSIONER

In reply to **Hon K.T. GRIFFIN** (13 October).

The Hon. C.J. SUMNER: In addition to the answer given on the 13 October 1993 I provide the following additional information:

The only change being made is that the Electoral Department will no longer be styled as a department but will be designated 'the State Electoral Office'. It will remain an administrative unit, with administrative links to the Department of Justice.

The necessary proclamation to alter the title of the Electoral Department (pursuant to section 21(2)(b) of the Government Management and Employment Act) is expected to be made shortly. Under these arrangements the Electoral Commissioner would retain full control over staff and would exercise the powers and functions of a Chief Executive Officer under section 38 paragraph 1 of the Government Management and Employment Act.

No other changes or arrangements are contemplated at this time.

PRISON OFFICERS

In reply to **Hon. J.F.STEFANI** (8 September).

The Hon. C.J. SUMNER: The Department of Correctional Services is constantly reviewing its method of operation to ensure that efficient and effective services are achieved and maintained. As a consequence of these reviews, restructuring has occurred and has resulted in a more efficient and effective prison system with the identification and redirection of resources to those areas of most need and a reduction in those resources which are not essential to the operation of the department.

Staff and unions have been extensively consulted during the restructuring process. The honourable member is correct that the number of Correctional Services officers has decreased as a consequence of restructuring.

However, notwithstanding staff reductions which have occurred, South Australia has maintained a high ratio of prison officers to prisoners when compared with other States in Australia.

Restructuring within the Correctional Services Department has resulted in the following reduction of officers from the following centres over the past three years:

Yatala Labour Prison	28.8
Mobilong	14
Adelaide Remand Centre	13
Port Lincoln	0.2
Mount Gambier	0.3

It is also important to recognise that during that same period, the following institutions increased staff as a consequence of greater need and the provision of additional facilities:

Northfield	25.2
Cadell Training Centre	9
Port Augusta	92

Staff restructuring has been conducted on the basis of agreed pay rises being cost neutral.

However as a result of staff reductions which have occurred, other budgetary savings achieved over this period total approximately $1 million.

The department is satisfied that an extensive range of procedures and sufficient staff to carry them out exists at all South Australian Correctional Institutions, to ensure a high level of prisoner security and officer safety.

MULTICULTURAL AND ETHNIC AFFAIRS

In reply to **Hon. J.F. STEFANI** (13 October).

The Hon. C.J. SUMNER: The Premier has provided the following responses:

1. Yes.
2. The financial terms and conditions which apply to Mr Cav Nocella's present appointment as Chair of the Commission were not varied.
3. No. It was inappropriate.
4. The combination of functions was the preferred option because it allowed the office to remain as a separate administrative unit while simplifying management responsibilities and reducing overall salary costs to Government.

MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

In reply to **Hon. J.F. STEFANI** (7 October).

The Hon. C.J. SUMNER:

1. The original appointment of Cav Paolo Nocella as Chair of the South Australian Multicultural and Ethnic Affairs Commission was for a period of five years commencing on 1 July 1991.

2. I will not provide a copy of the original instrument of appointment. However, I can advise the honourable member that Her Excellency the Governor in Executive Council approved the appointment on 6 June 1991. Notification of this approval appeared on page 1778 of the *South Australian Government Gazette* dated 6 June 1991.

3. The *Gazette* notice dated 16 September 1993 notifies the Government's decision that Mr Nocella was appointed as Chief Executive Officer of the Office of Multicultural and Ethnic Affairs for a period of five years from 16 September 1993, and that he was also the Chair of the Multicultural and Ethnic Affairs Commission.

The Government has also extended the term of Mr Nocella's appointment as member and Chair of the commission for a further period from the expiration of his original five year term to ensure that the two appointments are contemporaneous and expire at the same time in September 1998. The extension has been achieved by a new appointment being authorised from 1 July 1996 until 16 September 1998.

BUSINESS ASIA CONVENTION

In reply to **Hon. BERNICE PFITZNER** (18 August).

The Hon. BARBARA WIESE: The Minister of Business and Regional Development has provided the following response:

A very successful launch of the Business Asia Convention was held on Sunday, 22 August 1993 in a jet aircraft provided by National Jet Systems Pty Ltd.

1. Over 70 guests took part in the launch. The guests were in the main members of the Chinese Chamber of Commerce, Australia-Malaysia Business Council and the Australia-Indonesia Business Council. Other guests were members of the Business Asia Advisory and Planning Committees representing the major commercial organisations in South Australia, the Lord Mayor and the Director, Adelaide Festival.

2. The Government agreed to pay for the cost of the food and beverages, which is budgeted at $400. The account has not yet been received. The use of the aircraft was kindly donated by National Jet Systems Pty Ltd.

3. The Convention is aimed at small to medium sized businesses in South Australia seeking export and investment opportunities with Asian countries. A target of 300 delegates has been set with 100 of these coming from Asia. Over 60 senior business people from Asian countries have already accepted invitations.

Most of the acceptances so far have been from Indonesia, Singapore, Malaysia, Hong Kong and China. However, a number are also coming from Thailand, Vietnam, Korea, Japan and Russia.

The invited guests have been targeted for their potential to assist South Australian small to medium sized businesses in five particular areas:

- advanced technology—concentrating on software, advanced telecommunications and scientific instrumentation.
- advanced manufacturing—concentrating on agricultural and irrigation equipment, white goods and plastics.
- food and beverages—concentrating on fish, meat, vegetables, fruit, wine and other beverages.
- tourism—concentrating on inbound tourism and air access for exports.
- traded services—concentrating on exporting education, health and infrastructure.

The guest lists have been devised by the main Advisory Committee and each of the stream advisory committees. These committees represent successful South Australian exporters in the small to medium field.

4. A limited number of invited guests will be offered hospitality by the Government at the Grand Prix. These are being selected on the potential value of their contribution to business development in South Australia.

The speakers will be given free registration to the Convention ($250) and will have their accommodation costs met. Their airfares will be met in part by sponsorship and part by the Convention.

All other delegates whether by Asia or South Australia will meet their own costs of travel, accommodation and Convention registration.

5. An outcome strategy has been devised that will:

- survey all delegates immediately after the Convention as to the value of the program.
- monitor South Australian delegates to establish whether business networks have been established as a result of the Convention contacts.
- provide face to face meetings and site visits for the day after the Convention. Access to Asian business delegates is to be restricted to South Australian Convention registrants. All delegates have been asked to provide in advance a fact sheet of their business interests which will be provided to all delegates.
- recommend follow-up strategies to the Government of issues raised during the Convention.

The Convention has attracted very strong support and sponsorship from the South Australian business community. The trade display was almost completely pre-sold before it was promoted recently.

The Government is heartened by the financial support from the City of Adelaide, Ansett Australia, Cathay Pacific Airways, Malaysian Airline System, Federal Airports Corporation, BRL Hardy Ltd. A number of other sponsorships are currently being negotiated.

HENS

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Primary Industries a question about the abolition of hen quotas.

Leave granted.

The Hon. J.C. IRWIN: I understand the Minister has received claims for compensation of between $6 million and $8 million after the repeal of the Marketing of Eggs Act 1941 and the Egg Industry Stabilisation Act 1973. These claims were made under section 3(2) of the Statutes Repeal (Egg Industry) Act 1992. The first request for the Minister to consider compensation was I understand in early January this year. Apart from a simple acknowledgment of the original letter, no advice from the Minister has been received regarding the claims. When will the Minister give the various claimants an answer either accepting or rejecting their claims? If the Minister is rejecting the claims what is the basis for the rejection?

The Hon. BARBARA WIESE: I will refer those questions to my colleague in another place and bring back a reply.

PROBATIONARY LICENCES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question on the subject of probationary licences.

Leave granted.

The Hon. DIANA LAIDLAW: I received a phone call this morning after a woman had watched Channel 7 news last night. I did not see the program myself, but apparently the story indicated that the Government is considering extending the period for probationary licences from one year to two years as part of a package to deal with the statistics which show that drivers under the age of 25 are a real risk on roads. The woman who spoke with me is concerned, as I am, that the statistics do not distinguish on the basis of gender. It is a fact, as I understand it, that the road accidents involving those in the age group under 25 principally involve males as drivers and as the ones responsible for accidents.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Victims and perpetrators, yes. The woman who spoke with me would like to know, as I would, whether the Minister will provide statistics which

show the gender of those both as victims and perpetrators of such accidents, and whether it is possible in future to distinguish on the basis of gender in looking at some of the responses to these issues.

The Hon. BARBARA WIESE: I suspect that the news report that the honourable member's constituent saw last night was a snippet on the Channel 9 news. A Channel 9 reporter asked me yesterday to comment on a draft proposal which has come from a Federal body advocating that the probationary period for young drivers should be extended. Part of that proposal is that the full extension of that period is something like three or four years.

I indicated that at this stage I have not seen that proposal and have not heard the arguments behind the proposition. However, it is true that, in road accident statistics, young people are over represented in both drink driving offences and also in accident statistics generally. So, it is important that we look at every possible suggestion that comes forward which might in some way improve the situation.

As I understand it, the general reason for this proposition is to encourage young people to spend more time in driver training before they become fully licensed drivers. However, I think there are a number of issues that must be taken into consideration in determining whether or not such a proposal should be implemented. One is whether or not there should be some sort of periodical testing during the course of such a period if it is considered desirable and, if so, whether the cost implications associated with that are warranted with respect to any evidence that may be available about driver performance.

There is also the question about whether you could or should be able to sustain the current law which applies to novice drivers, and that is a zero blood alcohol content (BAC) level. It would mean under such a proposal that young people would have to maintain a zero BAC until the age of 20. I suspect that that would be difficult to maintain, but the proposal may be that that is one of the matters that should be examined. These are all issues that amongst others will have to be examined in determining whether such a proposal is appropriate.

Then there is the issue raised specifically by the honourable member about the difference in performance of the two genders. That is a much more difficult issue to tackle. If the suggestion is that we should be applying different rules according to the performance of people in different categories, in some cases you can make a difference, as insurance companies do, for example, in providing lower premiums to people in certain categories who tend to perform better on the roads.

In a licensing sense, it might be much more difficult to achieve that sort of end when looking at a gender breakdown. However, that is something that should be examined as well. I will certainly provide the statistical information that the honourable member has requested.

CHILDREN'S PROTECTION BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 715.)

Clause 6—'Interpretation.'

The Hon. K.T. GRIFFIN: I move:

Page 5, line 17—After 'absence' insert ';or'.

Clause 6(2) identifies where, for the purposes of the Bill, a child is at risk. I wish to have added to the list an additional paragraph which brings homeless children into the categories of those at risk. My two amendments are related. If the child is under 15 years of age and is of no fixed address, which is effectively a homeless child, then we very much are of the view that that child is at risk and ought to be the subject of the protection provisions of this Bill.

As the Hon. Mr Elliott mentioned when debating an earlier amendment, homelessness would probably not be regarded as a category of children at risk under the provisions of the Bill. We take the view that they are. Homelessness exposes children to risks of prostitution, to physical violence and to deprivation of sustenance, and it is in those sorts of conditions that one could conclude quite reasonably that the child is then at risk.

We think that if the age of 15 years is inserted, that will be the most appropriate age. One could even conclude that a 16 year old who is homeless is also at risk, but we have taken the view in respect of this amendment that it is important, particularly, to protect those very young children under 15 years of age and of no fixed address.

The Hon. C.J. SUMNER: The Government believes this amendment is not necessary. When homeless youth are at risk action can be taken under the current definition in the Bill. There may be other ways of assisting a child who needs accommodation without defining the child to be at risk.

The Hon. M.J. ELLIOTT: This is an issue that I raised in relation to amendments that I had proposed and, therefore, I support the amendment.

The Hon. K.T. GRIFFIN: I move:

Page 5, after line 17—Insert new paragraph as follows:

(e) the child is under 15 years of age and is of no fixed address.

I am happy to have these amendments taken together. The 'or' is really consequential upon the substantive amendment, which is to add the paragraph (e). It may be that what the Attorney-General says is correct, but we want to ensure that the issue is put beyond doubt. That is the reason for moving the amendment.

Amendments carried; clause as amended passed.

Clause 7 passed.

Clause 8—'Voluntary custody agreements.'

The Hon. M.J. ELLIOTT: I move:

Page 7, after line 18—Insert new subclause as follows:

(3A) If a child under the age of 16 years appears to have a sufficient understanding of the consequences of a custody agreement, the child—

(a) may initiate negotiations for such an agreement; and

(b) must be consulted before such an agreement can be entered into (or extended) by his or her guardians.

Custody agreements replace the present arrangements to take children into care under sections 27 and 28 of the Community Welfare Act, but under the existing legislation there must be grounds before the Minister will accept such an arrangement, and there is a question as to why those provisions were omitted from legislation. I just asked that as a question first.

The Hon. C.J. SUMNER: Under the old Community Welfare Act, which is being amended in this package of Bills, no grounds were set down for short term guardianship orders under section 28. Hence, there are no grounds in this clause as well.

The Hon. M.J. ELLIOTT: I will leave that for the time being and proceed to the amendment itself. Under the Consent to Medical and Dental Procedures Act we accept the concept that children are capable of determining their safety

at a younger age, in that case where a doctor can ascertain whether a child under 16 is mature enough to consent to his or her own treatment. Under that legislation that is a significant recognition as to the child's capacity to make decisions on his or her own behalf on some cases, particularly in relation to their own well-being. The amendment that I move here is consistent with that, only in this case we are not talking about a medical procedure, but as to whether or not a child may see themselves as being, I suppose, at risk in some way and perhaps in need of voluntary custody agreement.

The Hon. C.J. SUMNER: It is the intention of custody agreements that they be for the resolution of family conflict. They are designed to facilitate intensive family intervention when the family is committed to resolving difficulties and reuniting with the child. Any child under 16 years requesting to be placed away from home will need to be assessed in terms of the at-risk provisions. In these situations, a voluntary agreement would not be the most appropriate action.

The Hon. K.T. GRIFFIN: I have a certain uneasiness about aspects of the amendment in relation to children initiating these discussions. But, on the other hand, I have sympathy with paragraph (b) which provides that, if a child, under the age of 16 years, appears to have a sufficient understanding of the consequences of a custody agreement, the child must be consulted before such an agreement can be entered into or extended by his or her guardians. In the framework of clause 8, there does not seem to be any obligation to consult with a child under the age of 16, because subclause (3) talks about the initiation of negotiations by a guardian or by a child of or above the age of 16 but limits the requirement of consent to those children of or above the age of 16. I am not suggesting that an under 16 year old ought to consent, but there is some good sense in providing for consultation.

I am uneasy about paragraph (a), which involves the initiation of negotiations. I tend to agree with the Attorney-General that, if a child wants to deal directly with this issue of custody, there are other ways in the Bill by which that can be achieved. Subject to any other arguments that might be presented, if it is possible to put (3A) in two parts so that paragraph (a) is put separately from (b), I am inclined at the moment to not support paragraph (a) but to support paragraph (b).

The Hon. C.J. SUMNER: Yes, that is satisfactory.

New subclause (3A)(b) carried; clause as amended passed.

Clauses 9 to 11 passed.

Clause 12—'Confidentiality of notification of abuse or neglect.'

The Hon. K.T. GRIFFIN: I move:

Page 10, line 28—Leave out 'Subject to subsection (4)' and insert 'In any proceedings before a court'.

A scheme is proposed in this clause where no evidence as to the identity of a notifier and other information about identity may be adduced in proceedings before a court without leave of the court. We have no difficulty with that. Unless such leave is granted, a party or witness must not be asked and, if asked, cannot be required to answer any question that cannot be answered without disclosing the identity of or leading to the identification of the notifier. That is a necessary consequence of subclause (3)(a). So, there is no difficulty with that.

Subclause (4), though, does cause concern, because it limits the discretion of the court so that leave is not to be granted unless the court is satisfied that the evidence is of critical importance in the proceedings—and I emphasise 'critical importance'—and that failure to admit it would prejudice the proper administration of justice, or the notifier consents to the admission of the evidence in the proceedings. In my second reading speech, I drew attention to the fact that the court is not limited to the rules of evidence. That means that there is a great deal more flexibility in the information to which the court may have regard. It may be that in the context of court proceedings it becomes of significance—it may not be critical importance but nevertheless may prejudice a case of the party against whom an order may be sought if the identification of the notifier is not made. I recognise that that could cause some embarrassment and difficulty.

But there have been cases where there have been false notifications. There have been instances where notifications are purported to have been made in relation to a particular allegation when in fact the allegation that has been made has been quite different. I do not want to go into all the details here because they may be controversial, but I merely refer to them as reasons why it is dangerous to have subclause (4) in the Bill. It is dangerous because what the court is charged with is the responsibility of getting to the truth. The court has powers of making suppression orders and making other orders in relation to evidence, but in my view there has to be a complete discretion in the court. The moment we start to hamper and restrain the discretion of the court is, in my view, a potential injustice created. It is certainly a restraint upon the capacity of the court to consider all the factors which may be relevant in determining the identity of the notifier should be available and making a judgment which, in the interests of the administration of justice, requires such disclosure. It may not be within the category of critical importance but it may, nevertheless, be important.

It is for that reason that the Liberal Party has a strong view that the justice of the situation requires that the discretion of the court not be constrained in this way and that one will have to trust the court. Following the passing of legislation, the Government has now set up the new Youth Court. A new senior judge has been appointed who has a very strong sense of what is right, what is wrong and what the justice situation may determine. We ought to trust the court to exercise its responsibility in the light of all the facts rather than by legislation seeking to severely restrict its power to exercise a discretion.

The Hon. C.J. SUMNER: The Government opposes this amendment. It is important that notifiers of abuse are confident that the system will deal with them satisfactorily. As the honourable member knows, there is generally a common law restraint on police being required to bring the name of an informant before the courts. That rule of practice exists for good reason. I do not see why that rule ought not to be translated into this legislation. The clause which the honourable member seeks to remove does that. It provides that the evidence of the original informer or complainant should not be brought forward in evidence unless the court is satisfied that the evidence is of critical importance and that the failure to admit it would prejudice the proper administration of justice.

The Hon. K.T. Griffin: There is no residual constraint on the court at the moment, is there?

The Hon. C.J. SUMNER: Apparently there is; under the Community Welfare Act there is a provision that deals with this issue. The general principle is the one that I have outlined, and the Government feels that the formulation in the Bill as it stands at the moment gives effect to that principle.

The Hon. M.J. ELLIOTT: I do not support the amendment.

The Hon. K.T. GRIFFIN: I am concerned about this. In terms of the mandatory notification regime, it is not my understanding that currently there is a provision as broad as this which restricts the court's capacity to make a judgment. As I said, I think this matter ought to be left to the discretion of the court without imposing a constraint such as that proposed in this subclause.

Amendment negatived; clause passed.

Clause 13—'Chief Executive Officer not obliged to take action in certain circumstances.'

The Hon. M.J. ELLIOTT: I move:

Page 11—

Line 14—Leave out 'or'.

Lines 15 to 17—Leave out paragraph (b).

Clause 13(b) refers to reasonable grounds of apparent abuse. How can the CEO or the Minister be satisfied when abuse or neglect is apparent but it has not been investigated? I do not see that as acceptable, and groups which work in the area do not consider it is acceptable, either.

The Hon. C.J. SUMNER: The Government opposes these proposed changes to clause 13. Clause 13(b) gives recognition to situations where appropriate responsibility has been taken for the child by the family and/or other qualified professionals. Investigation of these matters by the department would be inappropriate intervention into these families.

The Hon. K.T. GRIFFIN: As I understand it, one of the concerns is that there may be some sweeping under the carpet of allegations of abuse.

The Hon. M.J. Elliott: There is a backlog for many years of cases being investigated.

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott says that for a long time there has been a backlog of cases which have not been dealt with.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: I think that is a different issue. It seems to me that this clause does not say that the backlog can be justified by pushing it off to the so-called proper arrangements.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: It is a mechanism which allows it to happen, but one of the difficulties is that no matter how it is worded it becomes a problem. The next amendment of the honourable member requires the Minister or the Chief Executive Officer to inform the notifier of any decision not to take or initiate any action under this Act in relation to a notification of suspected abuse or neglect. I have some concerns about that concept. There may be a whole range of reasons why action is not yet taken, yet the mere fact that the Chief Executive Officer or the Minister says to the person who has made the notification, 'A decision has been taken not to initiate any action' may not tell the full story.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: It seems to me that it is related, but the honourable member says it is not. I have some concern about the omission of paragraph (b). Whilst we would not condone a backlog or sweeping under the carpet, I doubt whether the amendment to delete (b) will be a particular safeguard against that.

I think there needs to be legal bases in place for determining that in particular circumstances it is inappropriate to proceed to take the matter further. Even though there is a suspicion, there may not be proof, and notwithstanding the suspicion other arrangements may have been put in place which are acceptable and which no longer place the child at risk.

Amendments negatived.

The Hon. M.J. ELLIOTT: I move:

Page 11, after line 17—Insert new subclause as follows:

(2) The Minister or Chief Executive Officer must inform the notifier of any decision not to take or initiate any action under this Act in relation to a notification of suspected abuse or neglect.

The amendment is very straightforward: it is simply a notification that no action will be taken. It does not preclude in some circumstances a decision, perhaps for some additional information, to be passed on. However, I can comment on my experience when I worked with the Education Department. Whilst that was some eight years ago, educators then were finding it incredibly frustrating in terms of lack of feedback from the Department of Family and Community Services. I do not know how much that has changed in recent times, but I understand that still is the case.

If a person has had a concern that there is a problem and they have reported it, they would assume that it was being investigated and that, if the investigation found a problem, it would be acted upon. I think that assumption cannot be left forever. If the decision has been made that no action is to be taken, then the notifier should be told so. In some circumstances it may be within a family relationship, where they may be in a position to take some other action if they feel that action is still necessary. If the department decides that it does not wish to take action, there would be some notifiers at least who would be in a position to take further action of their own.

In any event, if one is to have confidence in a system, I think one should know at the end of day that at least the report has been acted upon, even if the final decision is that there will be no further action.

The Hon. C.J. SUMNER: The Government opposes this amendment. We oppose the requirement that compels the Minister or the department to advise notifiers that action has not been taken. There are examples where it would be inappropriate to inform notifiers of the rationale for the department's decision. It is departmental policy as a general rule to provide notifications as suggested. However, it is not something that the department should be bound to do in all cases, because there may be some cases where it is inappropriate.

The Hon. K.T. GRIFFIN: Perhaps the Hon. Mr Elliott will give some further consideration to this and think of an alternative. As I started to say in relation to the last amendment, one of my concerns is that it is so absolute: it must happen in every case. It does not matter that perhaps in some cases it should not happen.

According to this amendment, in every instance the Minister or the Chief Executive Officer must inform the notifier of any decision not to take or to initiate any action under this Act. I would be more comfortable with an amendment which said something along the following lines: 'the Minister or the Chief Executive Officer, except in those cases where it would prejudice the interests of the child', or for some other valid reason, in which event they should inform the notifier of any decision. But, here there is no discretion. I can see that there may be cases where it would be quite inappropriate to disclose that information to a notifier. It may be the neighbour, who said, 'Look, I think there is a problem next door.' It may be totally inappropriate.

The Hon. M.J. Elliott: This is disclosing a decision not to take any action; it is not disclosing anything that is

discovered. It is saying, 'We will be taking no further action.' That is all it is asking for.

The Hon. K.T. GRIFFIN: Yes, I know that, but it is mandatory.

The Hon. M.J. Elliott: Where is the damage in that?

The Hon. K.T. GRIFFIN: I am just speculating that there may be cases—and I cannot bring them all to mind at the moment—where there are good reasons for not notifying the notifier. I dislike in this or the criminal law area making it mandatory to notify, because it is then black and white. I do not think that in every case it will be either black or white. That is why, if there were some modification of that, I would be more likely to indicate support. That may reflect what the Attorney-General said is now departmental policy.

I do not know whether that departmental policy falls within the Government's information privacy principles or whether it is legally proper for that presently to occur. However, if it does occur, I will not argue the legality of it, but merely say that I would be much more comfortable with something that is in accord with that line of thinking, rather than the mandatory—

The Hon. M.J. Elliott: The word must become 'should'.

The Hon. K.T. GRIFFIN: I think you probably need something further. You could say 'should wherever practicable', and I know that may be regarded as a giant let-out. We need something that qualifies it so that there is an option that does not make it mandatory. That is my concern, and I think it is a reasonable concern. I am happy to have that reflected in the Bill and to support an amendment which does that.

Amendment negatived; clause passed.

Clause 14 passed.

Clause 15—'Power to remove children from dangerous situations.'

The Hon. K.T. GRIFFIN: I move:

Page 11, after line 30—Insert new subclause as follows:

(1A) A member of the Police Force below the rank of commissioned officer (as defined in the Police Act 1952) cannot remove a child pursuant to this section without the prior approval of a commissioned officer of the Police Force, unless he or she believes on reasonable grounds that the delay consequent upon seeking approval would prejudice the safety of the child.

It seemed to the Liberal Party that there ought to be some built in buffer against overzealous young police officers exercising power in respect of children. We are not saying that the power should not be exercised but that there should at least be some approval from a commissioned officer to ensure that it is not just a matter of getting back to what used to be, in the loitering laws, moving people on, but more seriously in this instance seizing a child and removing the child from any premises. There is the safeguard in here that the approval of the commissioned officer is to be sought unless the police officer believes on reasonable grounds that the delay consequent upon seeking approval would prejudice the safety of the child. There is a safeguard there but I think there is also the additional safeguard by referring it to the commissioned officer.

The Hon. C.J. SUMNER: The Government opposes the amendment, not because we cannot see some point in the principle, and indeed a principle such as this will be included in police standing orders; however, there are concerns that there will be occasions or circumstances where a commissioned officer may not be contactable easily, for instance in certain country locations, and accordingly it is the view of the police that it is better to leave the matter to discretion: having a rule in the standing orders as being the general rule which should apply but permitting exceptions to be made where that is necessary.

Amendment carried; clause as amended passed.

Clauses 16 and 17 passed.

Clause 18—'Investigations.'

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

Page 13, line 5—After 'investigation' insert 'and the safety of the child to whom the investigation relates'.

This amendment deals with a situation where powers of search can be exercised without a warrant. Normally, the powers have to be exercised with the authority of a warrant issued by a magistrate, but there are exceptions to that. One of the exceptions is where delay in applying for a warrant would prejudice the investigation. My amendment adds to that where there would be prejudice to the investigation and where the safety of the child to whom the investigation relates would be prejudiced. You need both prejudice to the investigation and prejudice to the safety of the child in order to get around the normal warrant provisions.

The Hon. K.T. GRIFFIN: I indicate support for the amendment. I think that it is a desirable addition and provides an additional safeguard against abuse. One always has to be cautious about any law enforcement officer, whether a police officer or any other officer, having power to enter premises without a warrant. In the circumstances of subclause (4) we are prepared to agree with the power, but with the amendment that the Attorney-General is making.

Amendment carried; clause as amended passed.

Clause 19 passed.

Progress reported; Committee to sit again.

PRINCE ALFRED SHIPWRECKED MARINERS FUND (TRANSFER AND REVOCATION OF TRUSTS) BILL

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I bring up the report of the Select Committee on the Prince Alfred Shipwrecked Mariners Fund (Transfer and Revocation of Trusts) Bill, together with the minutes of proceedings and move:

That the report be printed.

Motion carried.

The Hon. ANNE LEVY: I move:

That the Bill be recommitted to a Committee of the Whole Council forthwith.

Motion carried.

In Committee.

The Hon. ANNE LEVY: As indicated briefly in the report of the select committee which I hope has been circulated to members, the committee met on two occasions. An advertisement was inserted in the *Advertiser* inviting evidence. The committee received written submissions from Mr R. Allen, the Mayor of Port Adelaide, the one surviving trustee of the Prince Alfred Shipwrecked Mariners Fund, and from Ms Worrell, the Public Trustee, indicating the history of the trust as well as the willingness of the Public Trustee to be relieved of the responsibility of managing this fund which it has done since 1926. There were no objections to the Bill. The committee was satisfied that the Bill is an appropriate measure and recommended that it be passed without any amendment.

The Hon. J.C. BURDETT: I support the Minister's remarks. The select committee has no doubt that what is proposed is the right way to go and that there are no objections to it. It will be most useful to the trust administering the

One and All to have this money, and it will be a very proper and appropriate purpose.

I do believe that it was necessary to set in motion the select committee procedure. It was only very recently—this week, in fact—that the matter came before the Council, but that is not the fault of the Council. I do not think that the procedures of the Council ought to be aborted just because of that.

I do acknowledge that, whilst it was advertised yesterday, it was short notice, and as nothing about the *One and All* was mentioned, but just the name of the Bill, the Prince Alfred Trust, probably most people would not have known what it was all about. I do believe that it was better to have some notice and some opportunity rather than none. In fact, no objection came forward, and I therefore have great pleasure in supporting what the Minister has said. I support the Bill.

The Hon. PETER DUNN: It was interesting to note that the fund had not been called upon for many years. The last actual claimant was in 1961 and the last payment was made in 1983. I understand that the Mayor of Port Adelaide, the last surviving trustee of that group which parcelled out those funds, searched far and wide for some method to disburse these funds, and it was agreed that this was a proper use for it, even though it did not meet the criteria of the trust fund. That is why it is in this Chamber: because the Supreme Court ruled that it did not meet that criterion.

The Hon. Anne Levy interjecting:

The Hon. PETER DUNN: I take the Minister's advice. I know she is right when she interjects. The fact is that they did search far and wide looking for suitable applicants for this money. As there were none, I think it is a great idea in relation to the *One and All*, something that was built here by a variety of people, through TAFE colleges, volunteer work and by interested people, who put a lot of effort into building the vessel. I think it is a great ship.

As I said a couple of days ago, it is used by a wide variety of people, including the deaf, the blind, Aborigines and anyone who wants to go sailing on it. I would recommend that anyone with young children who wanted to do a type of Outwardbound course should hop on the *One and All* for a couple of weeks. I think it is a great ship for doing that. I support wholeheartedly the Bill and the report.

Clause 1—'Short title.'

The Hon. J.C. IRWIN: I was not a member of the select committee but I do commend the Council and members for taking the course that was proposed to go through the process of the select committee, even if it was rather shortened, and now to arrive at this position where there has obviously been agreement. Even though there was a short amount of time for anyone to approach the select committee, I do not believe that anyone else would have done so. I am pleased that we have gone through the process and have followed the principles to arrive at this point.

I recall, not accurately but because of my regional involvement with the sesquicentenary committee and the celebrations of 1986, that there was some controversy over the building of the *One and All* because it was conflicting with the official ship that was being renovated, the *Failie*. It was not a new construction, but Sir James Hardy and others were hell-bent and determined to produce their own sail training ship as a memento for a whole lot of good reasons of the sesquicentenary of South Australia and the part that sailing ships played in our early history.

There was plenty of advice around at that time that this project might well run into some financial problem. I am not quite sure what happened to the *Failie*. I think that has gone from our shores.

The Hon. Peter Dunn interjecting:

The Hon. J.C. IRWIN: I do not hear much about it now if it is still about, but I do recall there was some problem and people foreseeing there would be a continual problem with the funding and actual payment for the construction of the *One and All*. Now that this money has been located in the Prince Alfred Trust and approximately $250 000 transferred, no doubt to the *One and All* venture, to put it in those terms, I understand that will leave a debt of approximately $100 000 to be picked up by the National Bank or one of the banks having a ships' lien over the *One and All*.

So I do not have a problem with that, but I do and will have a problem if there is no safeguard for at least this Parliament being involved in the sale of the *One and All* if that eventually happens, because I can see that $250 000 disappearing to fill a gap at the moment, which I support, but somewhere down the track in five or six years time, or whenever, when all the best endeavours of the local people cannot keep it here it may have to be sold and it may leave the State. So the residue of the $250 000 now from the Prince Alfred trust will just sail away with the *One and All* out of this State.

I would like to get some reassurance from the Minister: is there a mechanism anywhere that will ensure that this Parliament knows about and can be involved in any sale of the *One and All* if it does continue to have its problems in raising money, first, to pay off the $100 000 it still owes? Secondly, training ships like this, of course, have quite enormous running costs, even though people being trained are volunteers, but there are always running costs and a cost to maintain the *One and All* from day to day through 365 days of the year. I also wanted to ask the Minister whether she can give any sort of assurance that the Parliament will be involved, because of our cooperation in getting this money across, if the *One and All* does get into any trouble financially?

The Hon. ANNE LEVY: I cannot give any reassurance in that regard. The *One and All* is owned by a trust, to which the money from the Prince Alfred Shipwrecked Mariners Trust will be transferred on condition that the *One and All* trust then use the money to pay off some of the debts of the *One and All* which, as the honourable member says, stand at about $350 000 at the moment. I understand that this fund, which we are transferring, has about $233 000 in it, which will be used to pay off the debts and, as I understand it, the debts of the *One and All* are in South Australia, so that at least that money will not be leaving the State but will meet creditors in this State.

This will leave the *One and All* trust still with a debt, but one which can be managed by means of a ship's mortgage through a bank, and I presume it will mean that the personal guarantees which are currently given by members of the trust are not likely to be called on in those circumstances, which doubtless will be a great relief to the individual members of the trust. Should at some future time the *One and All* strike financial difficulties and be sold, at least the receipt of the sale will go to the trust, which is a South Australian body, to meet their creditors who presumably will be, on the whole, South Australians.

So, if the eventuality which the honourable member suggests were to come about, it is true in that circumstance the *One and All* might be lost to South Australia, but at least the creditors who are South Australian would get their

money, although there would no longer be a lump sum which could be identified. This Parliament would have no further involvement in that, unless of course it chose to introduce legislation to alter that situation (which being a Parliament obviously it can do at any time). Short of the initiative being taken by the Parliament I do not think the Parliament would have any further role to play.

In relation to this clause I disagree with a couple of the members of the select committee who have spoken. I feel that the process of the select committee in this case has been a farce: that going through the motions of having a select committee has been a question of observing the forms but not the substance of the whole idea of a select committee on a hybrid Bill. I still think it would have been preferable to be open and honest about the matter and deal with it as a public Bill. The select committee procedure is designed to enable any member of the public to be able to make submissions and have their say, but a short advertisement was placed in Wednesday's newspaper—Wednesday is not a day when people interested in public notices look at public notices; Saturday is the preferred day for anyone wishing to look at public notices. So, the number of people who might be expected to have seen the notice is likely to be very small.

Furthermore, the form of the notice, which merely gave the name of the Bill under consideration, gave no further indication of what the Bill was about, what the Prince Alfred Shipwrecked Mariners Fund referred to or the fact that it was proposed to give these funds to the *One and All* trust. So in the unlikely event that people did read the public notice they would not have known to what it referred. They had then 24 hours only in which to make any representation, and to suggest that that is consulting with the public of South Australia makes a mockery of our select committee process. I have a high regard for the select committee process of this Parliament and I feel that the charade which has occurred over this select committee brings into disrepute our whole select committee system and, as a consequence, I feel it reflects poorly on the decisions—

Members interjecting:

The CHAIRMAN: Order!

The Hon. ANNE LEVY: I think it reflects poorly on decisions made to send the Bill to a select committee because it has brought the whole select committee procedure, which I amongst others value very highly, into disrepute.

The Hon. J.C. BURDETT: It was entirely the fault of the Government that there was not the opportunity for the select committee system to operate in the best possible way. The Bill was introduced on Tuesday with the intention of being dealt with this week—whether there is going to be an election or not, I do not know. It was the action entirely of the Minister and the Government that made it not possible to advertise in time to enable people to make the representations that one would have hoped there would be. It was the fault of the Government and nobody else, and what this Council in that situation did was to allow the only possibility that there was of holding a select committee in accordance with Standing Orders, inserting an advertisement in the press and listening to any representations that were made. Do not blame the Council for insisting on its procedure of a select committee: blame the Government and the Ministers themselves. It was their fault entirely that the Bill was introduced so late.

The Hon. ANNE LEVY: Just to set the record straight: I gave notice that this Bill should be considered as a public Bill a week ago. It was quite obvious that the Government did not wish to subvert the select committee system but wished the Bill to be treated as a public Bill, and that was made clear a week ago.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill read a third time and passed.

APPROPRIATION BILL

In Committee.

The Hon. R.I. LUCAS: I rise briefly to thank the Attorney and the Ministers for providing the answers to the questions I asked during the second reading stage. I want to place on notice a question—and obviously I do not require a response during today's debate; if the Minister of Education could provide a response by way of letter, I would appreciate it. In relation to the question I asked about the language and multicultural unit at Newton and the allegation that had been made to me that $117 000 had been left in a fund and unspent for some two years at that centre, the Minister's response indicated that there had been some delay but did not indicate how long that delay had been in relation to some Federal money that had come to the State Government. Will the Minister respond specifically to the question as to when approval for the Federal funding was first given, and how much of that funding is still left unspent at the language and multicultural unit as of 21 October 1993?

The Hon. C.J. SUMNER: I will attempt to get that information and provide it to the honourable member by correspondence.

Clauses 1 to 8, schedule and title passed.

Bill read a third time and passed.

CHILDREN'S PROTECTION BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 727.)

Clause 19 passed.

Clause 20—'Orders court may make.'

The Hon. M.J. ELLIOTT: I move:

Page 15, line 16—Leave out 'only' and insert 'or, in exceptional circumstances, twice'.

It is a relatively minor amendment but nevertheless useful. As things currently stand in clause 20, court orders can be made for four weeks, and there is the option for a once-only extension of four weeks when an application is made. My amendment will allow, in exceptional circumstances, that a further four week period might be available. I do not expect it to happen very often, but it has been suggested to me that there may be occasions on which this capacity would be useful, and I hope the Committee will support this amendment.

The Hon. C.J. SUMNER: The advice I have is that the eight weeks, that is, the four plus four provided for in the Bill, is adequate, and there is no justification for extending that by a further four weeks, as suggested by the honourable member.

The Hon. K.T. GRIFFIN: It is in relation to this clause that there has been some difference of opinion, particularly focused upon this eight week period. As it was put to me, the eight week period is a problem because you cannot get to court until you have had a family care conference, and the family care conference may take longer than the eight weeks to arrange.

That was why it was suggested that the period be extended beyond eight weeks. As I understand the situation, this

division relates to investigation and assessment orders. It will come into operation if the Chief Executive Officer is of the opinion that there is some information or evidence leading to a reasonable suspicion that a child is at risk and that further investigation of the matter is warranted or that a family care meeting should be held, and certain other criteria will then apply. The court can then make an order which will authorise examination and assessment, authorise the Chief Executive Officer to require answers to questions or require any person who has examined the child to make information available. There is a variety of other orders, which are designed to facilitate the gathering of evidence.

It may be that a family care meeting should be held, but there is no prerequisite for a family care meeting in respect of the exercise of powers under this clause. Within that period of eight weeks, those interim matters must be addressed and a family care meeting must be held before the final resolution of the matter by the court can be achieved. I think it is at the point of the family care meeting that there is some concern, because one may not get the family care meeting out of the way in order to get the matter on in court after the initial orders have been made. Personally, I do not have any problems with the period of eight weeks, because I think those matters ought to be dealt with urgently. One criticism is that under the old Act the department has been rather slow to arrange the sorts of matters covered by clause 19.

The Hon. C.J. Sumner: This is a discipline on the department.

The Hon. K.T. GRIFFIN: I know. I do not see a problem with it, but others have said that there is a problem because it is only eight weeks and you cannot get to the court to make final orders until you have held your family care meeting. The initial order, which may be to grant custody, will last for eight weeks, but if you have not held your family care meeting you cannot go to court to protect the child in the intervening period. I do not see that as being a position, but I would like some clarification as to what the process will be and whether there is any likely detriment to a child where these interim orders have been made and expired, a family care meeting has not yet been held, but the child may still be at risk and may need the protection of the court. Will the Attorney-General run through the procedure and the timing?

The Hon. C.J. SUMNER: Investigation and assessment orders under this section are not very frequent. The proposal under the revamped system is for there to be a family group meeting within the second period of four weeks. By that time an assessment will have to be made as to whether or not proceedings are to be taken for a care and protection order. The department believes that the period of eight weeks in total is adequate for those issues to be dealt with, and that the interim order ought to expire. By that time a decision ought to be able to have been made that everything is okay, that things have been fixed up and settled through the conference or that there is a need to issue proceedings for a care and protection order.

The Hon. K.T. GRIFFIN: If something goes wrong and if the family care meeting has not been held in that second period of four weeks, theoretically it is possible that there could be some hiatus between the end of that second four week period—the end of eight weeks—and the family care meeting before an application can be made to the court for a final order.

The Hon. C.J. SUMNER: That is theoretically possible. If the department does not get its act together and conduct the meeting, there may be problems, but I think that some form of discipline, such as an eight week maximum, is important to make sure that the department gets things moving. As I say, if the family conference does not resolve matters, proceedings can be issued for care and protection orders. Presumably, once that has happened, interim orders can be made under those substantive proceedings.

The Hon. K.T. GRIFFIN: As I indicated in my first contribution on this amendment, there has been concern about delay on the part of the department. I think it is a good thing to have some discipline placed on the department. If that discipline is there, I think it will mean that the whole process is speeded up so that there is no hiatus. That is what I would like to think would happen. In those circumstances I am not prepared to support an extension beyond the eight week period, and therefore I do not support the amendment.

Amendment negatived; clause passed.

Clauses 21 to 25 passed.

Clause 26—'Family care meeting must be held in certain circumstances.'

The Hon. BERNICE PFITZNER: I have a question of clarification in relation to the family care meetings. Are there any restrictions in terms of who can call these meetings: is it just the coordinator, the social worker or concerned persons? What kind of cases will be used: are the cases only for care and protection orders or general child protection issues? How many times can these meetings be called if they are not kept?

The Hon. C.J. SUMNER: Clause 26(1) provides that the Minister must determine that the child is at risk and that arrangements should be made to secure the child's care and protection. The Minister must then cause a family care meeting to be convened. The department calls the meeting—gets the relevant parties together—and the meeting can be reconvened from time to time.

The Hon. BERNICE PFITZNER: Further to my second question, can a member of the Police Force or anyone from the courts or local authorities call a family care meeting, or is it just the Minister? In the New Zealand family group conference scenario, social workers from the department, members of Police Force, local authorities and various other organisations can call for the conference. How different is our system?

The Hon. C.J. SUMNER: The provision is for the department to call the family care meeting.

The Hon. BERNICE PFITZNER: Are the cases specifically to determine whether there should be division 2 care and protection orders, or is it for general child protection issues?

The Hon. C.J. SUMNER: They are called when a situation has got to the stage where an order is in contemplation or considered to be necessary; in other words, other arrangements and discussions have fallen down.

The Hon. BERNICE PFITZNER: If these meetings have been called and not kept, do we have a specific number of times that they can be called and, after that, what happens?

The Hon. C.J. SUMNER: The meetings can be reconvened. However, if the family does not turn up, and under clause 26(2) the department has made all reasonable endeavours to hold the meeting but has not been able to, because the family has not turned up, the department can then take the matter to court for a care and protection order.

The Hon. BERNICE PFITZNER: Is there a limited number of times they can be called before the department moves on to the next stage?

The Hon. C.J. SUMNER: No, it is based on whether all reasonable endeavours have been made to hold such a

meeting. I do not think that in normal circumstances the department would go to court after the first occasion: I think it would try to reconvene the meeting. However, where it is clear that there is no good reason for the family's not turning up, there is no alternative but to go to court.

The Hon. K.T. GRIFFIN: I move:

Page 18, line 7—After 'child' insert ', unless the Minister is of the opinion that the seriousness of the case is such that the matter should be brought before the Youth Court without delay'.

My amendment is designed to give a little more flexibility. Under clause 26 at the moment, if the Minister is of the opinion that a child is at risk and that arrangements should be made to secure the child's care and protection, the Minister must cause a family care meeting to be convened. Then subclause (2) provides that the Minister cannot proceed to seek from the court a care and protection order under division 2, unless a family care meeting has been held or all reasonable endeavours have been made to hold such a meeting. I think one could envisage circumstances in which the allegation of abuse and the physical signs of abuse—or there might be other characteristics which indicate that a child was at risk—might be such that holding the family care meeting might not be sufficient to provide for the protection of the child.

I recognise that under clause 19(b) if the Chief Executive Officer is of the opinion that a family care meeting should be held then the Chief Executive Officer may apply to the Youth Court. So, to some extent there can be an application for a holding order before the family care meeting is held. However, there may be circumstances in which even a family care meeting may not be appropriate. My amendment seeks to provide a course which would enable the Minister to apply to the court without delay. It may be that the court would decide that a family care meeting should be held. I have indicated in a later amendment (proposed clause 47A) that the court may adjourn the hearing of an application for the purpose of referring specified matters to a family care meeting for consideration and report to the court by the meeting. These two amendments then go together, although they can also stand alone. For that reason I move this amendment.

If that amendment is carried, there may be a question about the drafting in subclause (2), because the Minister cannot make an application for an order under division 2 unless a family care meeting has been held. It seems to me that that needs to be prefaced by reference to subclause (1), but we will deal with that when we have determined the fate of the amendment I have just moved.

The Hon. C.J. SUMNER: The Government opposes this amendment. Basically, we do not think it is necessary. The provisions in the Bill require that prior to making an application to court the Minister must hold a family care meeting. These meetings are a decision-making forum in an attempt to resolve matters before court action. Even in the most serious cases, the family should be given the opportunity to participate in proposed arrangements, even if the outcome of the meeting necessitates court action. In emergency situations applications can be made—and this is the important point for the Hon. Mr Griffin—for assessment and investigation orders: the sorts of orders that we have just considered, a provision of which is that the Minister have custody of the child. The Government believes that this affords the child safety in emergency situations, and provided the situation is not like this then the process of the family care meeting should go ahead.

The Hon. K.T. GRIFFIN: In those circumstances, as I understand the Attorney-General's response, under clause 20 the only order in relation to custody may be an order granting custody to the Minister and there is no flexibility; it is the Minister and no-one else. As I indicated when I was moving the amendment I acknowledged that under clause 19 there was flexibility to make an application on an interim basis, but it seemed to me that there could well be circumstances where it was desirable to take the matter straight to the court. I realise that that undermines to a limited extent the concept of trying to get these matters resolved out of court. But the responsibility is the Minister's and not the Chief Executive Officer's and it does refer to the seriousness of the case. I think, notwithstanding the Attorney-General's response, I would want to maintain my support for my amendment.

The Hon. M.J. ELLIOTT: I support the amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I have had a consultation with Parliamentary Counsel. My rather slick shorthand description of making subclause (2) subject to subclause (1) is not effective apparently to achieve consistency and all that I can suggest in those circumstances is that, whilst we are debating the other matters, that can be considered by Parliamentary Counsel. It may be that the Bill can be recommitted to deal with that.

Clause as amended passed.

Clause 27 passed.

Clause 28—'Convening a family care meeting.'

The Hon. BERNICE PFITZNER: I have a question relating to the care and protection coordinator. Is there any review mechanism following the decision of the coordinator in this situation? I ask whether the Government has thought about what the qualifications of the coordinator will be because it is very important that they should have many skills.

The Hon. C.J. SUMNER: Under the Government's proposal, the care and protection coordinator was going to be someone within the Department of Community Services. It was going to be a designated unit within that department, responsible for carrying out this function. I suppose, in the normal course, the people doing the coordinating would have been social workers, but there is no need for the coordinator to be a social worker. Now that the Council has decided, at least for the moment, that the care and protection coordinators will operate under the auspices of the Youth Court, I suppose it is a question, if there is a question, as to whether the Council wants the care and protection coordinators to be social workers or lawyers or whoever. All I can do is outline what the Government's original intention was.

As to the question of review of the decision, it is not really a situation where there is review because it is a family care conference from which it is hoped there will be an amendment to do certain things. If that agreement is not reached or the department is not satisfied with the arrangements that are being proposed, then the department can take the matter to court for a care and control order. There is not really a case for a review of the family care meeting except by the mechanism which is established in this Bill, and that is that the court then reviews the whole situation and decides what orders should be made.

The Hon. BERNICE PFITZNER: Now that the care and protection coordinators are moving across from FACS to the Youth Court, I understand that there is a social unit in the Youth Court that could be considered, or perhaps the

Children's Interest Bureau could be considered. Coordinators might perhaps come from those two units.

The Hon. C.J. SUMNER: I do not think it would be appropriate for them to come from the Children's Interest Bureau. It may be. I do not know what the composition or the qualifications of the people in the social unit in the Children's Court are that you have referred to, but if this remains in the Bill, that is, that these coordinators are to be employed by the Youth Court or by the Courts Administration Authority, then we might have to give some consideration to who they might be. However, the Opposition might say, 'Well the Government's original proposal to have social workers appointed is satisfactory.'

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I am advised that the youth coordinators in the Children's Court at the present time do not deal with these sorts of matters. They deal with the criminal matters that come before the court. Perhaps there is no reason to say that they cannot perform more than one function, but if the Opposition's proposal goes ahead then some consideration will have to be given as to the qualifications of the people appointed to do the care and protection coordinating work. The Government's original proposal was that that would be carried out by people from a discrete unit within the Department of Family and Community Services. In other words, it would not be the social worker who had the case who was also the care and protection coordinator. The care and protection coordinator would be separated from the case worker although, under the Government's proposal, still operating within the same department.

The Hon. K.T. GRIFFIN:I move:

Page 18, line 18—Leave out 'Chief Executive Officer' and insert 'Senior Judge of the Court.'

This amendment is consequential upon the earlier amendment.

Amendment carried.

The Hon. K.T. GRIFFIN:I move:

Page 18, after line 19—Insert new subsection as follows:

(1a) The Coordinator must arrange for a suitable person to act as advocate for the child at the meeting, unless satisfied that the child has made an independent decision to waive his or her right to be so represented.

There has been a lot of discussion in the other House as well as during my contribution and that of the Hon. Mr Elliott and also from community organisations, that there ought to be some provision for an advocate for a child, particularly at family care meetings.

The Hon. Martyn Evans rather flippantly said, as I understand it, 'If the Liberals want to employ 200 advocates, let them carry the responsibility for it.' I think that was flippant and rather foolish and certainly is not justified on the basis of what we have been suggesting. We are suggesting that it is appropriate that, in family care conferences, there be someone there to assist the child, not to be anything more than a support person. It may be that in many instances that is not necessary, and it may be that in some circumstances the person will not necessarily be trained in advocacy but will be there as a support person. That is a matter for the discretion of the coordinator. I think there is merit in the proposition, and that is why I have moved it.

The Hon. M.J. ELLIOTT: I move:

Page 18, after line 19—Insert new subclause as follows:

(1B) The Coordinator must arrange for a suitable person known to the child (or, if no such person is available, a person trained in advocacy) to act as advocate for the child at the meeting, unless the Coordinator is satisfied that the child has made an independent decision to waive his or her right to be so represented.

This is a variation on the amendment moved by the Hon. Mr Griffin, who makes no specification whether the suitable person is known or not known to the child, or whether this person does or does not have any qualifications.

My amendment provides that the coordinator must arrange for a suitable person known to the child. It may be a relative or friend, but someone who knows the child, and the qualification 'suitable' I hope implies that the person would be seen to be impartial and would represent the interests of the child in particular.

I further state that, if no such person is available, it should be a person trained in advocacy. It appears to me that if there is no person available who is known to the child (and 'by known to the child' it qualifies the advocate in a number of ways) they do need to be trained. To advocate a person whom you do not know by implication would mean that the person would need to be trained. I suppose it answers the two questions that are left unanswered by the Hon. Mr Griffin's amendment, which really does not say how this suitable person is found.

The Hon. K.T. GRIFFIN: I prefer my amendment. I have some concern about being too rigid regarding the qualifications of a person as an advocate, remembering that there will be a range of matters in respect of which family care meetings are convened. I think each case has to be judged on its merits by the coordinator, and the suggestion that if there is no person available who is suitable and is known to the child a person trained in advocacy should be the nominee really takes it too far. I indicate a preference for my amendment because of the greater discretion it allows to the coordinator.

The Hon. BERNICE PFITZNER: I want to speak strongly on behalf of having an advocate. The advocate should act on behalf of the best interests of the child because we have objects and principles that ask for the welfare of the child being paramount and for the best interests for the child, yet we do not have what I see as a person who will achieve these objects and principles, namely, an advocate. Further, I have had representation from the Asian ethnic culture which have put to me that fathers and elders are the most important people to follow and not to countermand and, in those situations, where will the child be if it did not have an advocate to speak on his or her behalf. I would put very strongly in the general sense and particularly in the Asian cultural sense that an advocate is essential and most important.

The Hon. C.J. SUMNER: The effect of both amendments is to make advocacy mandatory. Advocacy for children at the meeting is not necessarily opposed but in some circumstances may not be required. The philosophy of family care meetings is that the broader family has the opportunity to secure the care and protection of the child in a way that enables it to carry out the responsibility for the child. This model of decision making addresses the power imbalance which currently occurs in decision making forums where numerous professionals determine the action to be taken.

In conducting a meeting, all persons acting under this legislation must ensure that the safety of the child is paramount and that the powers of the Act are exercised in the best interests of the child. If the family is able adequately to address the concerns and make appropriate arrangements, the additional provisions for mandatory advocacy will be unnecessary.

To involve the advocate in a decision as to who should attend the meeting is unnecessary and detracts from the

notion of families making decisions and being responsible for the child. This amendment does go to the heart of the Government's proposals in this legislation which we have debated previously, and that is the emphasis on the family with professional assistance as necessary attempting to resolve problems and to get arrangements to deal satisfactorily with situations of abuse or potential abuse.

It is not as though at these family care meetings there are no professionals. There will be the care and protection coordinator and there will be the case worker who has worked with the family. So there are at least two professionals, and I doubt whether having another one is necessary. As I said, the emphasis that the Government is trying to seek here is on the family with professional help if necessary resolving the issues. We think that the obligatory presence of advocates at this stage of the proceedings in the family care meeting is unnecessary. It may well be counter-productive.

The Hon. M.J. ELLIOTT: The Attorney commented about the number of professionals involved in the meeting. If I was involved in a family care meeting—I would hate to think I ever was—and I suddenly saw the coordinator playing an advocacy role on behalf of the child, I would then question the impartiality of the coordinator, and I think that would undermine the family care meeting quite significantly. Of all the people in the meeting, the person who is probably in the least powerful position is likely to be a child, particularly if the child is younger.

I do not believe the coordinator's role should be one of trying to play advocate for anybody: they should be playing a relatively neutral role. That is particularly so since my suggestion that there might be a meeting facilitator has been rejected, because I thought that that totally neutral role might have been adopted by that person. The case worker has to present the facts as they appear before the meeting, but there may be some problems once again if that case worker is seen to take the side of the child. I think the advocate is the person to do that; the advocate has no other role, and as such it does mean that the other professionals involved in the meeting, and particularly the coordinator, do not have their roles in the meeting more generally undermined.

The Hon. K.T. Griffin's amendment carried.

The Hon. M.J. ELLIOTT: I have not really argued my amendment in relation to subclause (1C). This is the sort of discrimination that should happen more often, I think, in relation to legal practitioners. I do not know how I am going to get on, considering the two other major participants in this debate happen to be legal practitioners, but if we are trying to run a meeting in a non-judicial manner to start off with, the sort of training a legal practitioner has would probably be totally inappropriate for what a family care meeting is seeking to achieve.

If the family care meeting procedure fails and if the coordinator is not happy, by all means have legal practitioners representing everybody in sight, I suppose, but I do not think it is helpful to the whole ethos of the family care meeting to have an advocate who is a legal practitioner.

The Hon. K.T. GRIFFIN: I know what will happen, Mr Chairman: if I say I oppose it then I am trying to bolster the legal profession, but I am going to oppose it. I just do not think it is sensible. It is not a justified criticism, if that was the response, but I just do not see that there is any reason to exclude anybody: why not social workers; why not medical practitioners? I just have a view: leave it to the coordinator, because it is the coordinator who does the arranging.

The Hon. C.J. SUMNER: I agree. The Hon. Mr Elliott cannot have it both ways. He cannot decide he wants all these hordes of professionals at this meeting and then decide, 'Well, we will have them.'

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: You have two to start with and now you want another one, and you say you cannot have a lawyer. The third one might be a social worker, so you will have three social workers there all fighting and scurrying around trying to sort something out at the family care meeting. What could be worse than that? Three lawyers would be better. Anyhow, I might need a job soon. I just take the view that, if you are going to have this additional advocate, then why should you exclude one particular category of person from acting as the advocate.

The Hon. M.J. Elliott's amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 18, line 21—After 'the child's' insert 'advocate and'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 29 passed.

Clause 30—'Constitution of family care meeting.'

The Hon. K.T. GRIFFIN: I move:

Page 19, lines 19 and 20—Leave out paragraph (e) and insert paragraph as follows:

(e) if one has been appointed, the child's advocate; and.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 31—'Procedures.'

The Hon. K.T. GRIFFIN: I move:

Page 20, line 10—After 'information' insert ', including all relevant written reports,'.

This amendment is consequential.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 20, line 11—Leave out 'is' and insert 'are'.

At the meeting the coordinator must ensure that sufficient information as to the child's circumstances and the grounds for believing the child to be at risk is presented to the meeting. It seemed to the Liberal Party that the inclusion of 'all relevant written reports' being made available would also be helpful to the meeting.

The Hon. C.J. SUMNER: If the suggestion is that all reports that have been prepared in relation to the matter should be made available at the family care meeting, then there could be some difficult situations created, I would have thought, where there may have been reports which, I guess, within departments should be as frank as possible, and I know under privacy principles people are entitled to some restrictions to get access to documents held on them by departments.

However, I would have thought it was better left as a discretionary situation as to the information that was put before the family care meeting. It might turn out not to be much of a meeting if some of the reports were made available but whether that should undermine the privacy principle and people having access generally to reports that have been done on them, I do not know; it is not an easy issue. I could imagine that some reports would not facilitate the resolution of the issue.

The Hon. K.T. GRIFFIN: I acknowledge the Attorney-General's concern; this whole area is very difficult. On the one hand, people are trying to ensure that relevant information is not withheld and on the other hand not creating a compromising situation. I note that earlier I have been successful in a particular amendment where it may be

appropriate to include a bit more discretion. The argument counter to that is that where you provide a discretion it is open to abuse. But in the operation of this one has to have some sensitivity towards those potentially compromising positions.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 20, after line 27—Insert new paragraph as follows:

(ab) The child's advocate; and.

It is consequential on earlier amendments.

Amendment carried; clause as amended passed.

Clauses 32 to 46 passed.

Clause 47—'Legal representation of child.'

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

Page 26, lines 12 and 13—Leave out '(who may, if necessary, be appointed by the court)'.

There are accepted procedures for securing representation of the people before courts through the Legal Services Commission and the like, and the Government does not believe that it should be just left to the court to appoint a representative of a child. This could lead to a situation where, without any control over the matter, the court was appointing legal practitioners to represent the child. There is a system of providing assistance to the children through the Legal Services Commission, and that is the way it should happen, in the Government's view.

The Hon. K.T. GRIFFIN: I do not disagree with that. I recollect that there used to be something in the Criminal Law Consolidation Act allowing the court to appoint representation for persons who are unrepresented, and that was removed a couple of years ago. The amendment is appropriate and I support it.

Amendment carried; clause as amended passed.

New clause 47A—'Court my refer a matter to a family care meeting.'

The Hon. K.T. GRIFFIN: I move:

Page 26, after line 22—Insert new clause as follows:

47A. Without limiting the reasons for which the court may adjourn proceedings under this Act, the court may adjourn the hearing of an application for the purpose of referring specified matters to a family care meeting for consideration and report to the court by the meeting.

It seemed appropriate to provide expressly for the power of a court to refer matters to a family care meeting for consideration and report to the court. It may be implicit in the jurisdiction of the court, but I thought in the context of the earlier amendment I moved that ought to be expressly provided for.

The Hon. C.J. SUMNER: Not opposed.

New clause inserted.

Clause 48 passed.

Clause 49—'Powers of Minister in relation to children under the Minister's care and protection.'

The Hon. K.T. GRIFFIN: I move:

Page 27, after line 20—Insert new subclause as follows:

(1A) In making provision for the care of a child pursuant to subsection (1) the Minister must, where appropriate, have regard to the desirability of securing settled and permanent living arrangements for the child.

One of the concerns that has been expressed to the Opposition is that frequently there are relatively short-term placements of children under the guardianship of the Minister and that that is not conducive to a settled lifestyle for the child, that in making arrangements for the child one of the matters which the Minister should be required to take into account, where appropriate, is the desirability of securing settled and permanent living arrangements for the child. That may be an unachievable goal; nevertheless, we take the view that there is merit in providing expressly for that goal in the legislation. It is more than likely to be in the interests of the child if such settled and permanent living arrangements can be made. Therefore, that ought to be specifically provided for.

The Hon. C.J. SUMNER: No objection.

Amendment carried; clause as amended passed.

Clause 50—'Review of circumstances of child under long-term guardianship of Minister.'

The Hon. K.T. GRIFFIN: I think the Attorney-General's amendment is appropriate. It covers all the matters that I provide for in my amendment, so I will defer to him.

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

Page 27, after line 35—Insert new subclauses as follows:

(4) Subject to subsection (5), the Minister must cause a copy of the conclusions reached by a review panel to be given to the child, the child's guardians and the persons who have the care of the child.

(5) The Minister is not obliged to give a copy of the panel's conclusions to a particular person if—

(a) the Minister is of the opinion that it would not be in the best interests of the child to do so; or

(b) the whereabouts of the person cannot, after reasonable inquiries, be ascertained.

The Hon. M.J. ELLIOTT: I will not move my amendment.

Amendment carried; clause as amended passed.

Clauses 51 and 52 passed.

New clause 52A—'Children's Protection Advisory Panel.'

The Hon. K.T. GRIFFIN: I move:

Page 30, after line 2—Insert new clause as follows:

52A(1) The Minister must establish a panel to be called the 'Children's Protection Advisory Panel'.

(2) The panel is to consist of not less than three or more than five persons who have expertise in the field of child welfare.

(3) The Minister cannot appoint more than one Public Service employee to the panel.

(4) The functions of the panel are—

(a) to monitor and keep under constant review the operation and administration of this Act; and

(b) to report to the Minister, on the panel's own initiative or at the request of the Minister, on any matter relating to the operation or administration of this Act; and

(c) to make such recommendations to the Minister as the panel thinks fit for the amendment of this Act or for the making of administrative changes.

The object of my amendment is to establish a Children's Protection Advisory Panel to comprise not less than three or more than five persons. The Liberal Party proposes that the Minister can only appoint one Public Service employee to the panel and the others from a variety of other backgrounds. We take the view that it is important that the functions of the panel should be to monitor and review the operation and administration of the Act, to report on it and to make recommendations, but that it should not be dominated by Public Service employees only for the reason that the broader the representation the more likely the objective scrutiny of the operations of the Act.

The Hon. C.J. SUMNER: I appreciate the honourable member's concern for my welfare: there seems to be an enthusiasm to create more bodies, more conferences and the like. As I said before, if it turns out that I am looking for a job at some time within the next six months, these are the sorts of things that I might be suited for.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That does not matter. Perhaps we should pick that up and make sure it is remunerated; it might encourage me to support it.

Members interjecting:

The Hon. C.J. SUMNER: I understand what members are saying, and I may be speaking against my own interests, but the Government does not believe that there is a case for yet another advisory panel. There is the Child Protection Council, which is a non-statutory council but which has existed for a number of years, and I do not imagine that there is any suggestion of abolishing it. The Children's Interest Bureau, a statutory body under the Community Welfare Act, exists. The Government does not think it is necessary to add yet another advisory body in this area.

The Hon. M.J. ELLIOTT: I move:

Page 30, after line 2—Insert new clause as follows:

52A. (1) The Minister must establish a panel to be called the 'Children's Protection Advisory Panel'.

(2) The panel is to consist of not less than three or more than five persons who have expertise in the field of child welfare.

(3) At least one member of the panel must be from the non-government sector and one other member must be a legal practitioner.

(4) The functions of the panel are—

(a) to monitor and keep under constant review the operation and administration of this Act; and

(b) to report to the Minister, on the panel's own initiative or at the request of the Minister, on any matter relating to the operation or administration of this Act; and

(c) to make such recommendations to the Minister as the panel thinks fit for the amendment of this Act for the making of administrative changes.

The Hon. Mr Griffin and I have moved amendments which are identical in every way except for proposed new subclause (3). Whereas I tried to put lawyers out of work earlier, I was actually offering a place for a legal practitioner on this panel. There was to be a *quid pro quo* but we seem to have lost that one.

I thought it was suitable that, if we were to have such an advisory panel, there be a legal practitioner as a member. The Hon. Mr Griffin quite clearly had far greater concern than I did about how many Public Service employees may be on the panel. A significant number of people who work in this area probably do come from the government or semi-government sector. The restriction of only one Public Service employee may be a little strict, particularly in a panel of five but not in a panel of only three. The Attorney-General says he does not want a protection advisory panel set up, but he has two choices and at this stage he has not indicated which one he will opt for.

The Hon. Mr Griffin's new clause negatived; the Hon. Mr Elliott's new clause inserted.

Clauses 53 to 56 passed.

New clause 56A—'Officers must produce evidence of authority.'

The Hon. K.T. GRIFFIN: I move:

Page 30, after line 33—Insert new clause as follows:

56A. An employee of the department authorised by the Minister to exercise powers under this Act must, before exercising those powers in relation to a person, produce evidence of that authority to the person.

Penalty: Division 10 fine.

I was concerned that there was no provision in the Bill for the production of the authority by an employee of the department who may be exercising significant powers, and therefore I move new clause 56A to provide for the production of the authority before the employee exercises powers under the Act.

The Hon. C.J. SUMNER: I have no objection to this new clause.

New clause inserted.

Clause 57 passed.

New clause 57A—'Offences by persons exercising powers.'

The Hon. K.T. GRIFFIN: I move:

Page 31, after line 5—Insert new clause as follows:

57A. Notwithstanding any other provision of this Act, a person who, while exercising or purporting to exercise a power under this Act—

(a) uses offensive language to some other person; or

(b) hinders or obstructs, or uses or threatens to use force against, some other person, knowing that he or she is not entitled to do so or without a belief on reasonable grounds that he or she is entitled to do so,

is guilty of an offence.

Penalty: Division 7 fine.

This amendment arose out of the fact that the House of Assembly inserted what is now clause 57. There needs to be a counterbalance and those who exercise or purport to exercise powers under the Act should themselves be constrained from using offensive language and taking other action which is adverse to the interests of persons with whom they may be dealing unless they are acting in a way which is authorised by the Act, such as breaking into premises.

The Hon. C.J. SUMNER: I understand that this sort of clause is finding its way into some other Bills. However, I find it a bit over the top that someone who, in the course of exercising a power under this legislation, uses offensive language can then find themselves guilty of a criminal offence under the Summary Offences Act and be up for a division 7 fine. It seems to me to be an extraordinary over reaction to what may not be a particularly serious offence.

I would have thought that if something really unacceptable were being done by the officer then there were provisions under the Government Management and Employment Act to deal with those people who behaved improperly. But perhaps the argument is lost—I am not sure—and maybe this sort of thing is going into legislation. Quite frankly, I still think it is overkill and would therefore like to protest.

The Hon. M.J. ELLIOTT: I do not see that this adds much to the legislation and I will not support it.

New clause negatived.

Remaining clauses (58 and 59) and title passed.

Bill recommitted.

New clause 6a—'Care and protection coordinators.'

The Hon. M.J. ELLIOTT: I move:

6A (1) The person responsible for appointing care and protection coordinators must ensure that as far as is reasonably practicable the coordinators represent between them an appropriate cultural diversity.

It is important, particularly if we are going to have family conferences, that we have the potential for the people involved in the conference to have a good understanding perhaps of the family grouping with which they are working and that the family group relates to them.

For example, if we are to have a conference involving an Aboriginal family I would hope that there might be amongst the pool of care and protection coordinators an Aboriginal person. I think that is entirely appropriate. From the experience I have had, a large number of Aboriginal people often relate better in circumstances when they are working with people whom they do not see as being part of the European bureaucracy. The chances of success in a family conference

would be improved if those possibilities existed and were recognised.

The Hon. C.J. SUMNER: The Government opposes the amendment. These are worthy sentiments expressed by the honourable member but it is not customary in this State to write legislation in a way that determines job specifications or training requirements for employees. These matters will be addressed by the usual Public Service processes. The amendment is not necessary because these matters will be picked up within the general policy of the Government.

The Hon. K.T. GRIFFIN: I have some sympathy for the amendment and would indicate support for it if the Hon. Mr Elliott replaced 'ethnic' with 'cultural' diversity in the amendment.

The Hon. M.J. ELLIOTT: Mr Chairman, I seek leave to replace 'ethnic' with 'cultural'.

Leave granted; new clause amended.

New clause as amended inserted.

The Hon. M.J. ELLIOTT: I move:

Page 5, after line 20—Insert new subclause as follows:

(2) the Chief Executive Officer must ensure that each coordinator is trained in the skills needed for properly carrying out the functions of a care and protection coordinator under this Act.

An issue frequently raised relates to the training chief executive officers will have. Questions were asked earlier about whether they will be social workers. Whether or not they are trained social workers or whatever is not so important: what is important is that they are people who have been trained specifically for the role of coordinator. To me it involves a highly specialised role requiring important skills. Skills such as facilitation of running a meeting are in themselves special skills without which the whole process would fail, and this applies also to other skills which will be in part social work skills.

The Hon. K.T. GRIFFIN: I agree that they need to have proper training, but we are not prepared to support this amendment. We take the view that that will be dealt with properly in the course of setting up the family care meetings and the system of coordinators.

New subclause negatived.

Clause 26—'Family care meeting must be held in certain circumstances'—reconsidered.

The Hon. K.T. GRIFFIN: I move:

Page 18—

Line 7—Leave out ', unless the Minister is of the opinion that the seriousness of the case is such that the matter should be brought before the Youth Court without delay'.

After line 10—Insert new subclause as follows:

(3) Notwithstanding subsections (1) and (2), the Minister is not obliged to cause a family care meeting to be convened and held if he or she is of the opinion that the seriousness of the case is such that the matter should be brought before the Youth Court without delay.

The amendment redrafts the clause to accommodate the difficulty with subclause (2) not previously being covered by the spirit of the amendment in subclause (1).

The Hon. C.J. SUMNER: I opposed the proposition previously.

The Hon. M.J. ELLIOTT: I support the amendment.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

[Sitting suspended from 6.5 to 7.45 p.m.]

STATUTES REPEAL AND AMENDMENT (CHILDREN'S PROTECTION AND YOUNG OFFENDERS) BILL

Adjourned debate on second reading.

(Continued from 20 October. Page 699.)

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Griffin had queries on four matters. The first matter was the effect of clause 19(3)(b), which provides that a person may not be subjected to a penalty under the new legislation for an offence committed before the commencement day unless the penalty is no more severe than could have been properly imposed under the former legislation. If the penalty that could have been imposed under the old legislation was, for example, three months detention and under the new legislation six months, he questioned whether three months could now be imposed for an offence committed under the old legislation even though that would never have been imposed under that legislation. The important word in the subclause is 'properly'. It would not have been proper to impose the three months detention under the old legislation and it cannot now be imposed.

Secondly, the honourable member asked what was intended to be included in the regulations under clause 19(6) which provides that the former legislation remains in force in relation to an order or bond made immediately before the commencement day with any modifications that may be prescribed by regulation. The provision to allow the old legislation to be modified by regulation in relation to these matters was included out of an abundance of caution. Nothing has been identified that would require regulations to be needed, but the provision is included to cater for the event that something has been overlooked.

Further, the honourable member queried the effect of clause 21. This clause provides that where a conference was held under section 12(1)(a) of the old Act but no application had been made under that section in respect of the child before the commencement day, the Minister is not required to hold a family care meeting in relation to the child before any proceedings are commenced under the new legislation, provided those proceedings are commenced within one month of the commencement day.

The honourable member asked whether the proceedings secondly appearing relate to the proceedings in court rather than the family care meeting. The proceedings referred to are the court proceedings. The intention is to ensure that there is not unnecessary duplication. Where a conference has been held under the old legislation there will generally be no need for a family care meeting to be heard. A decision will have to be made quickly as to whether there is a need for a family care conference.

The honourable member had a query in relation to clause 24. Under the old legislation a child held in custody by the Director-General under section 19 has to be brought before the court for the hearing of the application no later than the next working day following the day on which the child was taken into custody. The court can adjourn the hearing for a period not exceeding 35 days. The honourable member questions whether clause 24 is limited in its application to one date and he asked whether it is intended that the court may order the adjournment of the hearing and incidental orders, including placing the child under the guardianship of the Minister for the period of 35 days referred to in section 16. As I read it, clause 24 has limited application. It applies only

to those children who have been taken into the Director-General's custody and waiting to be taken to court on the next working day.

If the legislation is proclaimed to come into operation, for example, on 1 January, a child taken into custody on 31 December would be before the court until 4 January. Once a child is before the court the new legislation in relation to things like custody and adjournments applies.

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

COMMUNITY WELFARE (CHILDREN) AMENDMENT BILL

(Second reading debate adjourned on 13 October. Page 576.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

The Hon. BERNICE PFITZNER: I want to clarify the definition in paragraph (c), relating to 'children's residential facility' and in paragraph (e) relating to 'foster parent'. As they seem to be similar, is it correct that if you have more than three children the definition changes from 'foster parent' to 'children's residential facility'?

The Hon. C.J. SUMNER: I am not sure that I understand the honourable member's point, but 'children's residential facility' is the term that is now replacing the term 'children's home', and a children's residential facility is one where there are more than three children but does not include a home maintained by a foster parent.

The Hon. BERNICE PFITZNER: With respect to foster homes and children's residential facilities, is the difference only in numbers rather than in any kind of facility?

The Hon. C.J. SUMNER: There is some uncertainty. What I said before was not quite correct. A children's residential facility is something that has to be licensed. It is taking children into a facility that is not the home, whereas a foster parent takes a child in on a residential basis in the home. As a matter of practice, I understand that it is rare for a foster parent to have more than three children, but it is not actually prohibited, so the major difference is that foster parents are people who care for children in their home, whereas the licensees of children's residential facilities care for children in a non-home environment.

Clause passed.

Clauses 5 to 7 passed.

Clause 8—'Substitution of Division V of Part II.'

The Hon. BERNICE PFITZNER: I am not familiar with these community welfare consumer forums, so I ask: in what activities have these forums been engaged? We will be deleting it in this Bill, but I notice that in clause 8(2) the Minister will ensure that appropriate procedures are available to replace these forums. What are the appropriate procedures?

The Hon. C.J. SUMNER: I understand that this matter has been around since 1992. It was included in a Community Welfare Bill which was introduced at that time and which was debated but not passed. The substantive issue is: why are the forums being abolished? I am advised that they were not even set up. Accordingly, they have been abolished, and this process of consultation is now set out in the Bill as a means of getting customer or client feedback on the activities of the department.

The Hon. BERNICE PFITZNER: I was a bit concerned because as I have worked in the area I had never come across these forums. If they have never been set up then that would explain it.

Clause passed.

Clauses 9 to 31 passed.

Clause 32—'Repeal of Division III or Part IV.'

The Hon. BERNICE PFITZNER: This clause repeals the child protection panels, which I am aware have been around since 1975—about 20 years. In some areas these panels have been working quite well and in others they have not. People working in areas where they have been working well have been concerned about the repeal of these panels because there have been multidisciplinary and there has been good teamwork looking at child abuse. Is the Child Protection Council taking over their activity and, if not, what other agency is taking over the activity of these panels?

The Hon. C.J. SUMNER: I do not know that it is possible to take the argument about the local child protection panels very much further than was contained in the second reading explanation. As the honourable member has mentioned, the provisions relating to these panels are to be repealed. They were established in 1972, at a time when there were few notifications of child abuse and limited community and agency awareness and cooperation in dealing with child protection matters.

Under the Children's Protection Bill, which we have just dealt with, there are alternative mechanisms for accountability and inter-agency response to the problem of child abuse. I understand that the people on the panels have known for some years that it was departmental policy to abolish them and therefore this is not something that comes as a bolt out of the blue.

I am advised that the rate of notification has risen to the point where the panels do not seem to be able effectively to deal with all matters. Furthermore, there are, as mentioned in the second reading explanation, alternative coordinating mechanisms in place locally, and of course centrally there is in existence the Child Protection Council.

The department was restructured in 1991 and included in that restructuring was greater accountability and attention to client service and the like. It was in that context that it was considered that the panels were no longer necessary.

The Hon. BERNICE PFITZNER: I wondered whether, in the new method of looking at child abuse without the panels, they are an internal FACS activity, in which case they will not involve the police, doctors, psychologists and so on. So, does this mean that these children who are suspected of being abused will only be assessed by social workers and there will not be any other multi-disciplinary input into assessing them?

The Hon. C.J. SUMNER: Since 1972 the state of knowledge of child abuse matters has changed considerably and people know more about it; in particular, people in the Department for Family and Community Services know more about it. There is now greater cooperation and understanding between the departments involved—the Police Department and the Health Commission. These people are involved in assessing cases at a much earlier time than would have occurred when child protection panels were set up. In any event, I am advised that the local child protection panels only overview what the department has done in relation to an intervention after it has occurred. The panel, including the doctor, the social worker and the police, overview what has happened afterwards. The department believes that things

have moved on since 1972 and that these panels do not really perform a particularly useful role at local level because there is a more integrated and multidisciplinary approach to the problem in the first place.

Clause passed.

Remaining clauses (33 to 36), schedules and title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN HEALTH COMMISSION (MEDICARE PRINCIPLES) AMENDMENT BILL

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

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

This Bill seeks to enshrine the Medicare Principles and Commitments in State legislation. Honourable members will recall that the Premier and the Prime Minister signed South Australia's new Medicare Agreement in February of this year, guaranteeing funding to South Australia's public hospitals for the next five years.

The Commonwealth Medicare Agreements Act 1992 and the individual Medicare Agreements require States to adopt the Medicare Principles and Commitments by enacting legislation complementary to the Commonwealth Act by 1 January 1994, or to have made reasonable efforts to do so. The Government is pleased to respond with the introduction of this Bill.

Hospital Medicare is based on three fundamental principles—

Principle 1:Choice of services-eligible persons must be given the choice to receive public hospital services free of charge as public patients.

Principle 2:Universality of services—access to public hospital services is to be on the basis of clinical need.

Principle 3:Equity in service provision—to the maximum practicable extent, a State will ensure the provision of public hospital services equitably to all eligible persons, regardless of their geographical location.

The Bill incorporates these principles as guidelines which must govern the provision of public hospital services by the State and the South Australian Health Commission as an instrumentality of the State. It is acknowledged that, while the principles focus on the provision of public hospital services to eligible persons, they operate in an environment where eligible people have the right to choose private health care, in public and private hospitals, supported by private health insurance.

Both levels of Government have an interest and a duty to maintain public hospital services and to ensure that public patients get the most comprehensive and fairest health service possible. An essential element is the provision of information to public patients. This is reflected in Commitment One, which requires the joint Commonwealth and State development of a Public Patients' Hospital Charter. Work is well advanced in developing such a Charter for South Australia, which will spell out the hospital services a public patient can reasonably expect to receive. A discussion paper on a complaints body will be released shortly.

Commitment Two encompasses efficiency, effectiveness and quality in public hospital service delivery. It includes a commitment to quality improvement, outcome measurement, management efficiency and effort to integrate the delivery of hospital and other community services. These are already priority areas in South Australia. The recently released booking list policy, which will lead to long-term and widespread reform of the management of public hospital booking lists and better services for patients; the management reviews of some of the major public hospitals and the resultant efficiencies which are being identified, are examples of initiatives which will ensure that South Australia continues to provide its patients with some of the best health services in the country.

South Australia stands to gain up to $22 million under the Medicare Agreement, depending on population growth and the level of public patient activity. The 1993-94 Budget contains tangible evidence of the benefits already beginning to flow to South Australia as a result of the signing of the Agreement.

Medicare has become an integral component of public policy in Australia. Since its introduction in February 1984, Medicare has been very successful in keeping expenditure on health at a level that Australians can afford without compromising the fundamental principles which underpin it. Medicare is one of the most affordable and fairest health systems in the world.

This legislation articulates the concepts of choice, equity and access. It demonstrates that both levels of Government are committed to excellence in health care.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Insertion of section 4

Clause 2 inserts section 4 into the Act. It provides that the State and the Commission (as an instrumentality of the State) must, in carrying out their duties under this Act, do so in accordance with the following principles:

- Eligible persons must be given the choice to receive public hospital services free of charge as public patients.
- Access to public hospital services is to be on the basis of clinical need.
- To the maximum practicable extent, a State will ensure the provision of public hospital services equitably to all eligible persons, regardless of their geographical location.

It also provides that the State and the Commission (as an instrumentality of the State) must give effect to the following commitments:

- The Commonwealth and a State must make available information on the public hospital services eligible persons can expect to receive as public patients.
- The Commonwealth and the States are committed to making improvements in the efficiency, effectiveness and the quality of hospital service delivery.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

PARKS COMMUNITY CENTRE (REPEAL AND VESTING) BILL

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

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

This Bill, which is to repeal the Parks Community Centre Act, follows a review of the Parks Community Centre by the Government Agencies Review Group at the request of the Parks Community Centre Board.

The repeal of the Act will result in the Board of the Centre and the Corporate Management Structure being abolished and replaced by a Corporate Management structure of four groups:

- A Parks Community Cultural and Recreation Centre
- A Parks Education, Employment and Training Group
- A Building and Property Service Office
- Social Support Services

The primary objective of this approach is to redistribute resources to more effectively meet the known needs of the Parks local community in an economic climate of restrained budgetary allocations. Funding to achieve this objective can only be met through savings in efficiency, resources and full cost recovery from the agencies operating at the Parks Community Centre.

It is proposed that the administrative and financial functions of the Parks Community Centre be assumed by the Department of Housing and Urban Development.

I would like to thank the Board and staff of the Centre for their dedication to the Parks Community Centre. In many cases this has occurred over several years. I am also appreciative of their cooperation in bringing about the changes that I have already outlined.

Explanation of Clauses

Clauses 1 and 2:

These clauses are formal.

Clause 3: Interpretation:

This clause defines the terms used in the Bill.

Clause 4: Vesting of centre's assets and liabilities in the Minister:

All the property, rights and liabilities of the Parks Community Centre are vested in the Minister of Recreation and Sport. The clause provides that any reference to the Parks Community Centre in any instrument or in any court document is to be taken as being a reference to the Minister and any legal proceedings commenced by or against the centre may be continued by or against the Minister.

Clause 5: Transfer of interests in land:

This provides that the Register-General will, on the application of the Minister and on being given duplicate certificates of title or any other documents that might be required, register the Minister as the proprietor of any interests in land vested in the Minister by this Act. No registration fee is payable for this application.

Clause 6: Repeal of Parks Community Centre Act:

This clause repeals the Parks Community Centre Act 1981.

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

CLASSIFICATION OF FILMS FOR PUBLIC EXHIBITION (ARRANGEMENTS WITH COMMONWEALTH) AMENDMENT BILL

Returned from the House of Assembly without amendment.

CLASSIFICATION OF PUBLICATIONS (ARRANGEMENTS WITH COMMONWEALTH) AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (LANDLORD AND TENANT) BILL

Returned from the House of Assembly without amendment.

RESIDENTIAL TENANCIES (HOUSING TRUST) AMENDMENT BILL

Returned from the House of Assembly without amendment.

SOUTH AUSTRALIAN FILM CORPORATION (ADMINISTRATION) AMENDMENT BILL

Returned from the House of Assembly without amendment.

PRINCE ALFRED SHIPWRECKED MARINERS FUND (TRANSFER AND REVOCATION OF TRUSTS) BILL

Returned from the House of Assembly without amendment.

STATE LOTTERIES (INSTANT LOTTERIES) AMENDMENT BILL

Second reading.

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

Legal action was recently taken in New South Wales over the wording of an instant money ticket. The basis of the New South Wales case was that the use of the words 'match 3 numbers' could be taken to mean that a prize was payable if the ticket showed 3 pairs of numbers rather than 3 identical numbers.

Notwithstanding the fact that it has been commonly understood throughout the community that 3 identical numbers are required in order to win a prize the New South Wales court found in favour of the player. The action succeeded on a technicality, even though the NSW wording was consistent with an international convention for the determination of winning tickets. The court indicated that the legislature could take action to protect the New South Wales Government against any consequences which might flow from the ruling.

The purpose of this amendment to the State Lotteries Act is to define quite clearly what constitutes a winning ticket in an instant lottery. The definition is consistent with what has always been intended by the Lotteries Commission and clearly understood by players.

It is necessary to apply this legislation retrospectively to protect the public revenue and the community from opportunistic claims. Several other State governments have indicated their intention to introduce similar legislation.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement and application

This clause provides that the Bill will be taken to have come into operation on the day on which the State Lotteries Act 1966 came into operation. It also provides that the Bill applies to proceedings commenced before or after its introduction but does not affect any final judgment obtained in proceedings before that date.

Clause 3: Insertion of s. 17A—Instant lottery tickets

The new section settles any potential confusion about the meaning of the words 'Match 3 and win' or the like in instant lottery tickets. The section provides that the wording means that 3 of the same symbol must appear on the panel on the ticket for it to be a winning ticket (rather than 3 pairs of symbols as was held in relation to similar wording in *State Lotteries Office v Burgin* (NSW unreported)). The section also provides that statements in advertising or promotional material relating to an instant lottery will be taken to be of similar effect.

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

PROMOTION APPEALS

The Hon. M.S. FELEPPA: I move:

That the regulations made under the Government Management and Employment Act 1985 concerning promotion appeals level, made on 26 August 1993 and laid on the table of this Council on 7 September 1993, be disallowed.

Motion carried.

SELECT COMMITTEE ON THE PENAL SYSTEM IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN: I move:

That the interim report of the committee be noted.

This really was the least preferred position of the select committee with regard to the imminent election. A committee that has sat diligently and worked hard for some three years was faced with the unavoidable position that the session could close without any form of formalised reporting to the Chamber that set it up. I would like to put on the record my deep appreciation for the committee members, in particular the Hon. Dr Ritson, who recently retired from this place and was replaced by the Hon. Caroline Schaefer, who has really taken on a Herculean task to try to catch up with three years of evidence and then to take part in the deliberations to reach conclusions and recommendations.

However, she would agree with me that it has not been wasted time even to this point because, although hidden, it is not hidden from the eye of the media and is a much sought after subject for debate in this Parliament. Those of us who have had close contact with the penal system in South Australia realise that it is a far from perfect structure in a

compassionate, democratic society. In many aspects it is counter productive. To describe it as having any aspect of rehabilitation is a farce. A comment shared by all members of the committee is that there is much to be done to upgrade the quality of the prison system and its effectiveness in South Australia.

It would have been irresponsible for us, as you know only too well as a member of the committee, Mr Acting President, and a highly respected and revered member, not to have considered the possibility that the session could end without our being able to bring in our full report; therefore the committee considered that we should in our interim report encourage the next Parliament to pick up where we unfortunately have been curtailed and finish the job. That is really all that we are doing in this interim report.

I do not intend to speak at length about the work we have done, as that would be inappropriate, because we have not formalised our discussions or produced a detailed report. The evidence is available for any member who wants to take note of the fact that we visited prisons in the eastern States (Victoria, New South Wales and Queensland) and every prison in South Australia. A vast amount of evidence has been sorted through by several research officers, the current one being Mr Richard Llewellyn. I want to put on record that the committee is delighted with the work that he is doing, and I hope most fervently that he will be able to continue in the job. I, personally, would like to indicate an expression of great appreciation for our secretary, Mr Chris Schwarz, who has patiently nursed us into a series of meetings with it often being difficult to get a quorum.

I want the interim report to be noted by this Chamber so that the next Parliament will feel enthused to take up the challenge that has been left in the air from the work that has been done at this stage so that we can have the fruits of years of work brought to the Parliament and eventually to the benefit of the prison system in South Australia.

The Hon. J.C. IRWIN: As a member of the penal select committee, I endorse the remarks of the Chairman (Hon. Mr Gilfillan) and note, as no doubt has every other member, that it is three years and two days since this committee was established on 19 October 1990. They have been three years of, I suppose I cannot say hard work, but interesting work and for me personally rewarding work. In the case of any select committee on which one serves in this place where a member does not have an in depth knowledge of the subject or, in other words, is not expert in that area, he or she must come away, certainly after three years of taking evidence and having discussions with other members of the committee and experts in the field, with a much enhanced appreciation of the subject on which they are meant to report.

Such has been the case with me. I did not have a great deal of, if any, experience of penal systems anywhere in the world, let alone in South Australia. I appreciated our visits to prisons in South Australia, Victoria, New South Wales and Queensland, which I think provided a pretty good cross-section. Using South Australia not as a benchmark but as a guide, the select committee received a divergence of opinions, particularly from the New South Wales and Queensland penal systems. I have enjoyed the experience. On my own initiative, I took the opportunity to go to America last year to look at the private penal system—and I learnt a lot. Even if this committee does not go any further, I have enhanced my understanding of a section of Government enterprise or the responsibilities of Government in the field of the penal system.

I would like to reiterate a couple of the Hon. Mr Gilfillan's comments. The position in which the committee found itself with research officers was alarming, in a sense, and not good for the continuity of the committee. I have lost count of how many research officers the committee has had from the beginning. Excellent and different as they have all been, it becomes difficult when one gets to the stage of writing a report on a very complicated subject such as this. There has been a lot of evidence, some of which was recorded by *Hansard* and other evidence which was in the form of letters and submissions received from outside bodies. It has been a very difficult task and I hope that the new Parliament will find a way around this problem with the select committees. I believe that standing committees have their permanent research officers and I hope that, in future, select committees will be able, within reason, to employ their own research officer for the duration of the committee.

The other problem to which the Hon. Mr Gilfillan referred was the difficulty of organising meetings. That is a difficult task, and I have said in this place before and I will say again that, having been elected by the people of South Australia, we must have a responsibility directly to them and, secondly, through the Parliament itself. I see the Parliament as being my prime responsibility and therefore I should make myself available for meetings, particularly through the winter break.

I hope the new Parliament in the new year will address that matter, because I believe it should be mandatory for people who are on select committees to attend a select committee once a week if that is determined by the Parliament—but within reason, because I realise that people have to go away and do their own research. I would go so far as to say that, if we are being paid by the Parliament, we should attend to parliamentary duties as a priority, and that may well involve attendance at a meeting once a week or once a fortnight at a standard meeting time until we get these things out of the way. It is an enormous waste of time, money and energy to spend three years on a project and at the end of the Parliament not to be able to produce a report other than an interim report, and that amounts to absolutely nothing at all.

The Hon. C.J. Sumner: You should have got on with it.

The Hon. J.C. IRWIN: We tried to get on with it. I am being very careful not to go into that. I have made passing remarks about meetings of the committee, and that has let us down without any doubt. It is a waste of time and a waste of taxpayers' money not to be able to report to the Parliament fully after three years and I do not take any great joy in being part of a select committee that has not been able to fulfil the task that was given to it. Like the Hon. Mr Gilfillan, I hope that sufficient members of that committee will be returned in the new Parliament and that it may be the wisdom of the Parliament to set up this committee again, using some of the evidence that it has uncovered, even though obviously we will have to rush off on another track and take more evidence. So I would certainly support that course in the new Parliament.

The Hon. R.R. ROBERTS: I was also a member of the select committee and I agree that it is disappointing that, after three years, there is not a definitive report at this stage. Without being pedantic and going through the technicalities of it all, the Parliament has not been prorogued yet and in this interim stage it would be remiss actually to refer to the evidence. So in a general sense the work of the committee was somewhat frustrated by the terms of reference. Because the terms were so broad, as we took evidence and undertook

inspections points of interest were raised from time to time which required the attention of the committee.

I think it is fair to say that, within the prison system, we probably could have held three or four specific select committees into things such as Aboriginals in the prison system and so on. I do not believe that the committee was slack in any way by ending up in the position in which it finds itself today. I believe that the size of the task somewhat determined the point that we have reached to date. In many of the areas we have looked at, I believe there is need for some attention and I agree with previous speakers that it would be silly to work the way that we have, to produce those sections of the report and just allow them to gather dust on the table.

One of the things to which I paid particular attention during those inspections, deliberations and gathering of evidence is that there is a significant group of people in the community who are making an effort, and in some cases voluntarily or with limited funding. I suggest that that is one area, without going into the evidence and producing it in this Parliament at this stage, into which this Government or a future Government should look very closely, because it is clear to me that the volunteer system will do the job more cheaply.

One of the things I have noticed is that the work the volunteers are doing in many areas is very effective. That is probably because the prisoners have some confidence in them as they are not seen to be part of the official system. I reiterate that it is disappointing that we are at this stage of the life of this Parliament and there is not a report. However, I commend the recommendations of the interim report to the Parliament.

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

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

Bill recommitted.

Clause 1—'Short title'—reconsidered.

The Hon. K.T. GRIFFIN: I appreciate that the Bill is being recommitted. We have a long haul ahead of us, I suspect, because there is a number of amendments. I just want to make a couple of observations about the procedure, because I cannot see that we will achieve much by working through this Bill until all hours of the night when the House of Assembly decided to go home before dinner and is certainly not waiting around to receive a message from us on this matter.

In fact, they have been suspended for most of the day; they dealt with a few Bills and were then off. No-one can say that the Legislative Council has not tried diligently to address the issues before it on the Notice Paper both last week and this week. There were House of Assembly members who were very critical of the Council, alleging that we were deliberately delaying the passage of the Bill. They seemed to get upset because we took a long time to debate it last week, but I remind members that last week we spent virtually three days—afternoon and evening—on the Bill. It is a highly contentious Bill, an important Bill, and because it is a conscience vote it is not something that any one Party can try to crash through the Parliament.

Although it may have been frustrating at times for the debate to take so long, all members regardless of Party affiliation have been conscientious in their attitude towards this Bill. It is so unfortunate that, at 20 minutes to nine on Thursday night—and we are not sitting next week; we know that much—and with many of the major Bills off the Notice Paper, we cannot be considering it when everyone is fresh and have not had behind us two nights of sitting and a long sitting day. It is unfortunate that we could not be considering the Bill more rationally and responsibly when and if Parliament resumes on Tuesday week.

We will find that there are still important issues to be resolved. Substantial amendments are to be moved by the Attorney-General which, as I understand it, result from a number of discussions that have taken place informally, although I have not been involved in them, and which seek to implement a number of the issues which the Attorney raised and which a number of us raised during the course of the debate on the Bill. It would be rather tempting for the Council to seek to take the business out of the Government's hands, but there would be a number of us on both sides of the Council who might be criticised by other colleagues for what they would regard as an irresponsible act.

I suggest it would not be irresponsible to consider this Bill when everyone is fresh and when we have more time ahead of us and it is not well into a Thursday night of a sitting. I wanted to put that protest on record about the way in which we are now being required to handle this and to criticise also those members of the House of Assembly who have been asserting that we have not been diligent in the consideration of this issue. They do not control the business of the House—we do—and we have been responsible on all sides in the way in which we have handled this. I am concerned about this. I do not believe that this important measure ought to be dealt with in the Parliament, particularly in this Chamber in this way but, because I, too, want to avoid what would be unfair criticism if we were to take the business out of the hands of the Government, we will just debate the issue out. As I say, it is unfortunate and I think the Bill deserves more than that.

Clause passed.

Clause 2—'Commencement'—reconsidered.

The Hon. I. GILFILLAN: I was certainly unaware of the volume of amendments to be considered in this recommittal. There were certain ones in which I had a particular personal interest and to which I was prepared to direct my attention. The fact that it is a conscience vote does beg the question whether, with due respect to the Government's preference for us to deal with it, members on the Government side, acting on their own conscience, would in fact support us dealing with the Bill tonight or whether there would be a majority of the Chamber who would prefer the Committee to report progress and adjourn to another day. I am not persuaded at this stage that a case for an overriding priority has been described to me on why it should proceed through tonight as if there is no other alternative. I would invite comment from the Minister whether she considers that a majority of members in this Chamber hold the view that we should deal with the Committee stage tonight. If that is her belief, then I would like to hear the justification for why we should deal with amendments which, in many cases, we have not had an opportunity to consider.

The Hon. C.J. Sumner: Why haven't you had the chance to?

The Hon. I. GILFILLAN: We haven't had the time.

The Hon. BARBARA WIESE: It is virtually impossible for me to indicate to the honourable member how many members of this Council would like to proceed with the legislation or how many would prefer not to. As we have

found, when people have a free vote they go all over the place. If it were a free vote then they probably would be all over the place. The fact is that this is a Bill that has Government sponsorship. I have been directed that this Bill is to proceed this evening and I would assume that that means at least those members on this side of the Council will be supporting the passage of the legislation this evening. The honourable member can assess for himself the numbers as apart from Government members.

The Hon. K.T. Griffin: It is a Government majority and a Government decision to proceed tonight?

The Hon. C.J. SUMNER: I can detect some reluctance to proceed with this matter.

The Hon. M.J. Elliott: Only two people want to.

The Hon. C.J. SUMNER: The last time I spoke to the Minister, which was just before 6 o'clock this evening—and I specifically went out of my way to ask the Minister whether he wanted this Bill dealt with—he said that, yes, he would like it dealt with.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I think he was in his car, on the way home; however, that is not the point. There are many occasions when the Council goes home well before the House of Assembly with a Notice Paper that still has items on it. Obviously if we are in for a debate that is going to last three, four or five hours then we have difficulties at 9 o'clock in starting on a debate that is going to last that time. However, I think it is worthwhile pointing out that this Bill was introduced, as I recollect it, into this Chamber shortly before Christmas last year. In other words, this Bill has been before the Legislative Council for almost 12 months and we have not been able, apparently, to deal with it. If I were a member of the House of Assembly or a Minister in the House of Assembly, or indeed Ms Cashmore who has taken a big interest in this issue, then I would justifiably feel some frustration at the manner in which the Legislative Council has dealt with this matter or, more particularly, not dealt with it. The fact of the matter is that we have had almost 12 months to deal with it.

The Hon. R.I. Lucas: Were you pushing it?

The Hon. C.J. SUMNER: It was not a matter for me to push. As I understand, the Government did want to go on with it but we were given a large number of amendments at various times. We did not deal with the matter in the first part of this year, despite the fact that it was before us for several weeks, and we have not dealt with it since the matter has been before us, despite, as this House of Assembly would quite rightly say, our not sitting in the evenings on some occasions in the early part of this session. All I am trying to suggest to the Council is that this Bill has been around for 12 months. It does contain important issues, but I would have thought that the Legislative Council should have been able to deal with it in less time than that, in fairness to the proponents of the Bill.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Gilfillan agrees with that.

The Hon. Barbara Wiese: The Assembly worked on it for two years.

The Hon. C.J. SUMNER: The Assembly worked on it for two years through a select committee.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Lucas says it did not do much of a job; that is a matter of opinion. However complex this legislation is (and as legislation it is not all that complex, but these issues are important), it ought not to take this Council 12 months to deal with a matter of this kind. Regrettably, that is what has happened. We are returning in a week or so and presumably we can then resume this debate. My view, however, was that amendments have been filed on behalf of the Minister and some other members and that it would have been possible to make some progress this evening in dealing with it and at least exploring the issues and seeing whether or not there was any consensus around the amendments that the Minister had filed.

The message I am getting now, it seems, is that members are not very enthusiastic to embark on the debate at this stage, at 9 o'clock. I do not know to what extent there will be discussion on the Bill, but if members are telling me that this debate will go on for three, four or five hours, I guess I will just have to tell the Minister that the Council was not in a position to deal with it tonight. But I am not sure whether that is the sort of time we are talking about.

If that is the view of the Council, I have no choice but to put the matter off until the Tuesday that we resume, but whether or not we will have time to deal with it on that day and in the subsequent week I do not know. We have a large number of matters on the Notice Paper and we will just have to see. The point is that, had we got through these amendments today or during this week, there would have been a chance for them to be considered in another place. If people are telling me we will have to sit here until 1 a.m., I do not think anybody is particularly enthusiastic about that, and I will just have to tell the promoters of the Bill in another place that we did not have time to deal with it.

The Hon. K.T. GRIFFIN: According to my records we received the Bill in February this year and it was debated—

The Hon. C.J. Sumner: It was in the Assembly for some time.

The Hon. K.T. GRIFFIN: It may have been in the Assembly, but you know that the pressure is always on in here with other Bills. As I recollect it, the last session finished at the beginning of May and at that stage all the amendments had been on file for at least a couple of weeks—I do not have the exact detail of that. Then there was a delay at the beginning of this session because the Hon. Dr Bob Ritson had retired and we had a new member who needed at least a couple of weeks to become familiar with the debate which had occurred and to make her contribution. In addition, it was a matter for the Government as to when there would be priority on the Bill. I think my colleague the Hon. Robert Lucas would propose to make some observations about when everybody seemed to be ready to debate it.

The Bill went through last Thursday evening. It was not until 8.44 p.m. last night that amendments from the Minister were available and they were probably put on file a little bit later. My amendments were put on late today, only because I had been involved with the Children's Protection Bill for most of the day, and it has not been possible to give careful consideration to the Minister's amendments and the other issues except on the run.

So, the amendments have been prepared on the run in an attempt to facilitate the consideration of it. So, it is not as though everyone has been swinging the lead. It is a question of what priority the Government was prepared to give to the Bill, but also the fact that there were so many other issues and that we did finally spend a full week debating the issue and have been waiting to give consideration to it during today.

The Hon. R.I. LUCAS: I am anxious for reasons that might become apparent if we do conclude this debate that

tonight does not end up in a bitter or vitriolic debate between the members of this Chamber, because potentially it may well be the last day of this session and the last day of this Parliament. I hope that before the Parliament concludes this evening we might be able to share a few moments together to farewell members who are retiring, perhaps in a spirit of harmony rather than one of conflict and disputation.

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

The Hon. R.I. LUCAS: If it will help matters, yes. I am not anxious that we engage in dispute. The Attorney is seeking a view as to how long the debate might take. If I could venture an opinion in relation to this, not because anyone is wanting to be difficult about the amendments before us, it is fair to say that, with respect to the amendments that the Minister in charge of the Bill in this Chamber filed late last evening, in my view there is not consensus in this Chamber in relation to whether or not that package of amendments ought to be supported.

I certainly know of members in the Liberal Party who are concerned about some aspects of those amendments. I am aware of at least some members of the Labor Party who are at least considering some aspects of the amendments. I am not suggesting what they might do in any way at all, but I know they are at least considering some aspects of the amendments before us. The Australian Democrats, I presume, will be like all of us: interested in the way the debate proceeds and listen to the argument before we vote.

There are a considerable number of substantive issues that have to be resolved this evening. We have on my reckoning, with the Hon. Mr Gilfillan's amendments, about six separate sets of amendments to be considered. There is a package from the Minister of Transport Development; there are some from the Hon. Mr Griffin; there is an amendment from me; there are amendments from the Hon. Mr Feleppa which I presume he wants to proceed with; the Minister suggests there are perhaps some from the Attorney-General; and there are those of the Hon. Mr Gilfillan. I have lost count. There are perhaps half a dozen separate sets of amendments.

It is certainly not the intention of anyone to be difficult at this hour. If we thought we could resolve it quickly in an hour with substantial consensus, we would probably soldier on and get rid of it. However, I think it is the mature judgment of most members in the Chamber that there are still a number of significant matters of dispute that need to be resolved and it is likely to take a considerable period of time.

The only comment I make in relation to the program for this week, after the debate of last week, is that it was certainly my understanding and that of my Party that the priority for this week, starting from Tuesday at 3.15 p.m., would be the consent Bill. I do not make this as a point of criticism, because I support the view of the Attorney-General in relation to some of his significant amendments, which did come rather late in the stage.

I do not criticise him for that but I supported a good number of his amendments. As I understood the position, there was some difference of opinion between the Attorney and the Minister from another place in relation to this. It took some two days, Tuesday and Wednesday of this week, to resolve that and we had a potential compromise between the Attorney and the Minister in another place late last evening.

As the Hon. Mr Griffin has indicated—and he has been substantially involved in this Bill and has been tied up with the Children's Protection Bill all day—his amendments to the Minister's amendments have only seen the table soon after dinner this evening.

As I said, I do not want this to be, from my viewpoint, a bitter debate. I would prefer that it was not. I want to place on the record that there have been some reasonable reasons as to why we have reached the position that we are in tonight. The Attorney has asked me for an assessment, and I have given that.

The Hon. C.J. Sumner: How long?

The Hon. R.I. LUCAS: I do not know how long it will take. I am just saying to you—

The Hon. C.J. Sumner: Three hours?

The Hon. R.I. LUCAS: I don't know. No, I cannot assess it. All I am saying to him is that there are six separate packages of amendments. Given the progress that the Committee has made and the fact that up to 14 or 15 members on some clauses have wanted to speak or express a point of view at varying stages, I suspect, on the past record, that it will take us some time. I cannot predict an exact period of time. I cannot say that it will be two, three, five or six hours—I do not know. All I know is that there are a number of significant amendments. There might be a majority but I do not believe there is a consensus in relation to the package of amendments that you and the Minister of Transport Development have on the table, and, therefore, if you are looking for an assessment, that is my assessment of where the Committee stands at the moment.

The CHAIRMAN: Before we proceed I want to enter into this matter, too. I understand that the Hon. Mr Gilfillan has amendments which we do not have at the table. It makes it very difficult for the staff to take amendments on the run.

The Hon. I. GILFILLAN: The amendment that I moved in the early debate is that which I have been invited to put again on the recommittal. That is it: one amendment. It was defeated earlier and we indicated in conversation that it might get more favourable treatment on recommittal. There is no fresh amendment.

The Hon. C.J. SUMNER: The situation seems to be that this matter will go on into the night: that we will not resolve it in the light of the amendments. I see that the Hon. Mr Feleppa is interjecting in support of that proposition. There is no agro or bitterness about it as far as I am concerned. The Government had a program and it wanted, if possible, to complete this Bill. Maybe we will complete it when we get back—if someone works out when we will have an election.

The Hon. K.T. Griffin: The Leader in the Legislative Council does not know yet.

The Hon. C.J. SUMNER: No. It may be that we can complete it when we get back, but it seems, from what the Hon. Mr Lucas and the Hon. Gilfillan have said that the situation this evening will be difficult. I am sure people do not want to sit here until 2 o'clock in the morning. It may take that time. I know that there is some support for the amendments that the Minister of Transport Development and I have put on file, but there is also some disagreement with those amendments from members opposite.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Not from all, but there may be some points taken—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Well, the Hon. Ms Laidlaw has been very supportive of the Bill. Maybe she would like to contribute to the debate and see—

The Hon. Diana Laidlaw: I would like it to go through this evening.

The Hon. C.J. SUMNER: So you would like it to go on?

The Hon. Diana Laidlaw: But I am not too sure that other members will not talk too much.

The Hon. C.J. SUMNER: Well, there we are: we are split on the other side as well about whether we go on.

Members interjecting:

The Hon. C.J. SUMNER: That is right, you cannot. I suspect that the Hon. Ms Laidlaw would not be overly enthusiastic about soldiering on until one or two in the morning.

The Hon. Diana Laidlaw: After such an important Bill we should make an effort and go on; that's my view.

The Hon. C.J. SUMNER: I see. Well, that has stymied that little speech, hasn't it.

The Hon. Diana Laidlaw: Well, I think it's disgraceful.

The Hon. C.J. SUMNER: Well, I've already said that.

The Hon. M.S. FELEPPA: Mr President, we have already spent half an hour discussing whether or not we should proceed with this Bill. I suggest that you put it to the vote.

The Hon. L.H. DAVIS: I rise to introduce some logic into the argument. It occurs to me that, if the election is called before we resume in the first week of November, it matters little what we do about this Bill tonight because it will not pass into law. However, if an election is not called and we do come back in the first week of November, the Bill can be debated and passed by the Legislative Council before being considered in another place and passed into law.

I think the point made by the Hon. Robert Lucas is valid, that is, this may well be the last night of Parliament. I thought we may have had some indication from the Attorney-General on this matter, but he seems to know rather less than some of us, and he is only the Leader of the Government in this Chamber! As the Hon. Robert Lucas said, there are some people here who have given distinguished service to this Parliament and the community for many years and it would be nice, on what could be this last occasion before an election, for us to have the opportunity at a reasonable hour to pay tribute to their service.

The Hon. C.J. SUMNER: I am not trying to be difficult about this, but there is a feeling that this matter should be dealt with. There is a feeling in the House of Assembly that after some 12 months the Bill should be dealt with. We have spent hours and hours on this Bill. If the Bill can be completed within a couple of hours, we should deal with it. That is all I am trying to get at; I am not trying to be difficult or put it on someone else to take the responsibility for adjourning the debate. The fact is that, if we are going to have to be here for three, four or five hours, the Democrats probably will not be here anyhow, and it seems to me there is no point embarking upon it. If someone can give me a realistic estimate as to how long it will take, we can make a decision, but, if it can be dealt with in an hour or a couple of hours, I think it is our obligation, given the length of time that the Bill has been before the Parliament, to get on with it. If it is going to take four or five hours, as has been suggested, we will not finish it tonight and there is probably not much point embarking on it.

The Hon. DIANA LAIDLAW: My wish is that the Bill be debated tonight. However, I believe it is the intention of some—and it is their free will to do so—that there be a long debate on the amendments that are before the Council at the present time, just as there was tremendously long debate on the Bill in this place earlier. Deliberately I did not contribute actively to the debate before because I did not want to obstruct the Bill, and others may have their own views on this matter. I think it is a great shame, in relation to such important social legislation to human beings in the matter of dying and in terms of their families, that we have not been able to lift our game and facilitate the passage of this Bill.

The Hon. K.T. GRIFFIN: I do not want to obstruct the Bill. My view is that the Bill ought to be more restrictive than it is, and I have been making that point as we have debated the issue. Sometimes these things have to be explored at length. I have some amendments to the Minister's amendments which I think raise important issues about the point of death, the question of moribund, and the precarious nature of the continuation of life on the threshold of life. They are all important issues. Some members may not want to participate, but others do.

From my point of view, if there is to be a debate on those issues, I would assess that it will take more than a couple of hours, but that is all I can say. The Attorney-General may say something to which I shall want to respond. It is not like a Bill that is dealt with basically on Party lines, because there at least we each know the position on a particular issue. However, on this issue there are nuances, variations and all sorts of issues which need to be explored. The Hon. Robert Lucas wants to talk about when death is imminent and to qualify aspects of the Bill.

The Hon. Diana Laidlaw: We had that debate last week.

The Hon. K.T. GRIFFIN: Some new concepts have been brought up in the amendments. We are entitled—

The Hon. Diana Laidlaw: Half of us will be dead by the time this Bill gets through!

The Hon. K.T. GRIFFIN: Then we will not need the Bill, will we?

The Hon. Diana Laidlaw: It would be an advantage to have it.

The Hon. K.T. GRIFFIN: I am not sure that it would. The debate will become acrimonious if we all make accusations about the way that we are behaving. All I can say is that I have not tried to be obstructive. Others may have judged that I have wanted to be obstructive, but I have not. I have sought to ensure that particular principles are enshrined in the Bill, and they are more limiting than the principles proposed by other members.

The Hon. C.J. Sumner: Including my latest lot?

The Hon. K.T. GRIFFIN: There are some aspects of your latest amendments to which I have amendments.

The Hon. I. GILFILLAN: I am concerned that, if we were to try to pass it within a reasonable time tonight, there would be a lot of token contributions to the debate. I do not accept that we should in any way abbreviate the proper process of Committee work on the Bill. My prediction, having heard many Committees working through this sort of matter, is that I do not see us concluding it within three hours unless we were to discipline ourselves in a remarkable and uncharacteristic style. If I felt that we had to do it tonight so that it could be passed and put into law substantially earlier than it otherwise would be, I think we would have an overriding reason to battle on and get it through, but the logic to which reference has been made totally negates that. Even if we sat until 5 o'clock tomorrow morning, it still has to go back to the Assembly to be passed.

The other aspect is that we have shown a determination to get the Bill through. If the Parliament is to resume the week after next, and the Committee has shown its determination to get it through as expeditiously as possible, with that assurance the Government could feel that its timetable would be expedited to the optimum by this Committee in those

circumstances. We have virtually talked ourselves to a point where it would be uncomfortably late to finish. With a conscience vote on this matter, it is not fair to expect members to sit quietly just to get the measure through in a set time.

The Hon. C.J. SUMNER: The distinct feeling I get is that there is a desire to deal with this matter and that it is unlikely that it will be finished by midnight. I want to proceed with it, but there is not much point if it is to be a token proceeding and we are not going to get anywhere. It seems to me that there is no option but to put it off until we come back.

The Hon. BARBARA WIESE: Mr Chairman, I suggest that a way of testing this matter would be for the Committee to report progress.

Progress reported; Committee to sit again.

FISHERIES (R AND D FUND AND OTHER) AMENDMENT BILL

Consideration in Committee of the House of Assembly's message.

The Hon. BARBARA WIESE: I move:

That the Council do not insist on its amendment.

As members will recall, on this Bill three amendments were passed by the Legislative Council, and they were referred to the House of Assembly and considered in that place. Two of those amendments were agreed to by the House of Assembly, but this amendment to which my motion refers was carried in this place and related to the issue of consultation with the management committees on matters relating to administration expenses. As members will recall, the Government was very much opposed to such an amendment when it was first moved in this place, because it was considered to be very difficult to put into effect. It would have required that the manager of the fisheries would have to consult with committees on matters relating to very routine administration issues such as the purchase of stationery and a whole range of other things.

I am advised by the Minister in another place that he has given consideration to the questions that were raised in this place relating to this matter. In fact, he did explore the opportunity of providing an amendment to the amendment which might have separated out major decisions from routine administration decisions. But it was very difficult to strike on a form of words that would have covered that situation. Therefore, the Minister opposes and the House of Assembly continues to oppose this idea, for the reasons that I have outlined. I suggest to members that we not insist upon the amendment that was moved in this place.

The Hon. PETER DUNN: It is no wonder this place never works when you look at the legislation we have in front of us and go back in history and look at what has been agreed to by the Minister when dealing with the fishermen and when you look at the principles set up by the Minister and by the fishing industry. For instance, I have one here that refers to the administration costs. Principle 3 of the agreement between the fishing industry and the Minister was that all costs suggested for any industry sector must be fully considered by the relevant management committee; no party will automatically be responsible for the costs of management; and the management committee will make recommendations to the Minister of Primary Industries regarding expenditure of the fishery.

Principle 14 states that the industry will only participate with a higher financial input because there is full cost recovery. The industry has agreed to that. Where it can have a major input into the review of the current administrative structures with a view to achieving high levels of cost effectiveness, for example, consideration should be given to an alternative form of management structure involving greater industry participation. I moved an amendment in relation to the agreement of the Director and the fisheries management committees, the committees we have been talking about, for any other purpose including the defraying of costs of administering and enforcing this Act.

All I was asking for was that they come to agreement. I thought that they had already agreed to that with the principles laid down. But the Minister is pretty pedantic, I might admit, and I have had dealings with him in conference before. He has very little skill in negotiating; he sort of barged through. I would have thought that he would have come to some agreement. He has the power of veto in that amendment because, if he does not agree, nothing goes ahead. As for talking about defraying the administrative costs of supplying paper and things like that, that is ridiculous. You take a global budget and come to an agreement early in the year. Surely, they could work within that.

I wonder what is happening with the administration of this Government. I wonder where commonsense lies. However, I understand that the Minister is pretty upset about it and that he has SAFIC upset about it. It does not want to lose the Bill. I would not want to lose the Bill, because the future of the fishing industry revolves around research and development. Some historic advances have been made, to the credit of the fishermen, and perhaps it is to the credit of the Minister as well that these management committees are set up. But if they cannot come to some agreement about how they will spend the money, particularly when the fishery will put in most of the money—about three-quarters or four-fifths in the case of the abalone industry and varying amounts in the case of other industries—I would have thought, as I said in the second reading speech, that he who pays should have the say.

But the Minister has just rejected that: he wants all the say and puts very little money into it. So, I am a bit disappointed that he did not accept that amendment. However, as I understand it, the fishing industry does not want to lose the Bill; it wants the research to continue. I can assure you that we will have another look at it if there is a change of Government in the near future. Because of that, I will not insist on the amendment that I put up, but I feel that you have the south end of the bull going north.

The Hon. BARBARA WIESE: I appreciate the expressions of the honourable member. Having given this matter considerable thought, the Minister in another place appreciates what the honourable member is trying to get at. Whilst the amendment that he presented to the Council was too wide in its application, in the view of the Government, the Minister agrees with the general thrust of the points raised by the Hon. Mr Dunn and has indicated to me that he will undertake to ensure that, in future, there is consultation with the management committees on expenditure of that portion of the commercial and recreational licence fees—the vast majority of the funds collected—which really is the matter at issue. I believe that the undertaking that the Minister has given to ensure that the General Manager of Fisheries consults with the management committee on those major expenditure issues will satisfy the Hon. Mr Dunn's concerns. In that case, I feel there is no need for his amendment.

Motion carried.

ADJOURNMENT

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

That the Council at its rising adjourn until Tuesday 2 November.

The Hon. R.I. LUCAS (Leader of the Opposition): I would like to speak to the adjournment motion. I know that it is impossible to say, but it could be possible that today might be the last sitting day not only of this session of the Parliament but of this Parliament prior to a State election. One of the unfortunate things that I have seen over the past 10 or 20 years is that on occasions when Parliament is prorogued earlier than might be expected it is not possible for members to pay due respect and tribute to retiring members or to make the usual remarks that we make at the end of a session. It may well be that if we do return in two weeks my remarks tonight will have been two or three weeks early, but I hope members will bear with me and that perhaps one or two other members might wish to make some comments in that expectation.

On behalf of the Liberal Party I thank all the staff associated with the running of the Legislative Council and the Parliament. We thank them each and every session, but on behalf of the Liberal Party and me I give them our heartfelt thanks. If it were not for the support, Mr President, of you, the table staff, the attendants, *Hansard*, the catering staff and all the staff associated with the Parliament, our task as members of Parliament would be much more difficult. So, on behalf of the Liberal Party I wish to thank the staff of Parliament House for their assistance.

As this might be the last sitting of this Parliament, I would like to pay respect to members who will be retiring at the coming State election, whenever that might be. I first pay tribute to a friend and colleague the Hon. John Burdett, who has given more than 20 years of long, loyal and meritorious service to the Legislative Council, to the Parliament and also of course to the Liberal Party. When I first joined the Liberal Party some 20 years ago as a staff member in 1973, one of the first documents I saw in the Liberal Party's research library related to the results of the southern by-election and that was the first occasion the name J.C. Burdett came across my desk and to my attention. Since those days I have grown to know John Burdett as a member of Parliament, as a friend and, in the last 10 or 11 years, as a colleague.

Members will be aware of his distinguished service as a former Minister of Community Welfare and Consumer Affairs in the Liberal Government from 1979 to 1982. He has been a former shadow Minister of Community Welfare and Consumer Affairs, a former shadow Minister of Health and a former Deputy Leader of the Opposition in the Legislative Council. On reading John's *curriculum vitae* this evening I was intrigued to see that he was also the Foundation Secretary of the Wheat Quotas Research Association, which was not an association that I was aware of or indeed familiar with.

In looking back through some of the press clippings of 20 years of a member of Parliament's life, one finds that there is always a cross-section. Those of us who spent some time in this Chamber with the Hon. John Cornwall all wear particular insults from him as our badges of courage for our time here in the Parliament. I remember, as a young member, being called a 'pain in the perineum' and I must admit at the time I was not really sure whether I should object to that or not. I thought I should but I was not quick enough on my feet to take exception or to take a point of order.

I note from some press clippings and certainly from recollection that one of the fondest insults that the Hon. John Cornwall would throw across the Chamber at the Hon. John Burdett was his reference to him as the 'Dickensian Rumpole of the Bailey'. During the period the Hon. John Burdett was Minister, which was from 1979 to 1982, one or two commentary pieces on the performance of the Hon. John Burdett as a Minister appeared in the *Advertiser*. I want to quote from two of those pieces. One article was written by a well-known critic of politicians, Alex Kennedy, who continued to write articles over a period of 10 or 20 years. Alex Kennedy interviewed John Burdett and referred to him as the 'Government's Minister for Mannum who cares about his customers'. The article states:

> In his home town of Mannum he's been known for years as a benevolent and hard-working community worker and his interest in and understanding of the welfare area has aided him in achieving a relatively calm portfolio from a usually controversial area.

Many Liberals would be delighted to receive such a warm endorsement from Alex Kennedy in relation to one's performance as a Minister. An interesting article was written by Rosemary O'Grady in the magazine *Probe* and was entitled 'Making it work'. In relation to John's performance the article states:

> His image as a hard worker is supported by a reputation for ministerial competence, ability to get information out of his departments, the grudging respect which workers for social equality often feel for a man unapologetically grounded in the ethics of the accountant. 'He's good with figures,' they say.

It goes on to be a very complimentary and favourable assessment of John's performance as a Minister in that portfolio. I want to say personally that I have always found John Burdett to be a straight shooter. During my time in the Parliament, first as a backbencher and in latter years as Leader of the Liberal Party, John has always been a straight shooter with me and I know with his other colleagues. He has been frank in his assessment of performance. If one was giving a good performance one was given that acknowledgment from John, and if a performance was perhaps less than good John was frank in indicating where improvement might perhaps be made. As a young and inexperienced member in this Chamber, his advice was always respected and well received, and I know that that is certainly a view that many of my colleagues would share. So, officially, on behalf of the Liberal Party, I would like to pay a tribute to John's record in the Chamber and to thank him for his friendship and I wish him, Jean and his family best wishes for his retiring years.

I would also like to thank you, Mr President, for your friendship and also for your performance in the Chair over recent years, which I think has done much to assist in the smooth operation of the Parliament. I think it is fair to say on behalf of all Liberal members that we have looked upon you as a respected colleague in this Chamber and as a friend, someone with whom we have been able to share a convivial ale on occasions. I am sure that you will be replicating that later this evening by putting your hand in your pocket and partaking of the presidential allowance for all members—perhaps for one last occasion. However, Mr President, on behalf of the Liberal Party I, too, wish you and your family best wishes for a happy, healthy and productive retirement. I am sure that we will see you on occasion around the Parliament.

There are one or two other members who might or might not be rejoining us in the new Parliament. Certainly it is

highly likely that the Hon. Mr Gilfillan and the Hon. Mr Elliott, for one reason or another, might not be rejoining us in the new Parliament. I do not wish to venture any comment as to what might or might not happen in relation to their aspirations in other areas. Obviously I cannot wish them well in those aspirations. However, on behalf of the Liberal Party I would like to thank both the Hon. Mr Gilfillan and the Hon. Mr Elliott for what generally has been a cooperative working relationship with members of the Liberal Party in recent years.

On occasion we have had our differences, as indeed we have had with the Government members. I have known the Hon. Mr Elliott for more years than I have known the Hon. Mr Gilfillan, going back to the Mount Gambier days, and I am sure that I will maintain a personal friendship with the Hon. Mr Elliott, whatever might happen in relation to his aspirations in another sphere. As I said, I would like to pay a tribute to their work in this Chamber, and on behalf of the Liberal Party—and as I said I cannot wish them well—I at least acknowledge their service in this Chamber and I hope that we can maintain contact in the coming years. I guess I am drawing a slightly longer bow, but finally can I say that it might be that in the coming Parliament the Attorney-General and maybe the Hon. Barbara Wiese, I do not know—

Members interjecting:

The Hon. R.I. LUCAS: I accept and acknowledge all of that, but it is possible that, for other reasons, both the Attorney and the Minister may well make decisions in relation to their future—if one believes some of the comments in the *City Messenger* perhaps. If that is the case, I would wish both the Attorney and the Minister well for the future and I again thank them—

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: She is not here this evening. The Hon. Barbara Wiese points out that the Hon. Anne Levy was in the article as well and I am remiss for omitting the Minister. I now include her by saying that generally we have enjoyed a relatively harmonious, productive and cooperative relationship in this Chamber. We have had our differences, but that has to be the way with political opponents and politics in the 90s. But if any of the Ministers decide for other reasons to seek future careers in areas other than continuation in the Legislative Council—

The Hon. C.J. Sumner: Why would you want any other job than this?

The Hon. R.I. LUCAS: I cannot understand why, particularly as we are here at 10 o'clock on a Thursday night and the House of Assembly members have gone home, and the Minister of Health would have his feet up watching television, I imagine, and so would the rest of the Assembly. But I would wish the Ministers well for whatever might be their future careers or perhaps their retiring years. On behalf of the Liberal Party I thank them for what has been a relatively cooperative working relationship for the most recent years. With that, I support the motion.

The Hon. K.T. GRIFFIN: I am told that in the House of Assembly three members of the Labor Party made their valedictory speeches this afternoon in anticipation of what may or may not have occurred. As the Attorney-General has remarked, on Tuesday week there may be some red faces and I think another throwaway line was that he could have made a lot of money if he had been able to place the appropriate wagers. Be that as it may, and in the prospect that there could be an election, I just want to take this opportunity briefly to make some observations about the Hon. John Burdett and you, Mr President, but not in such a far-ranging manner as my colleague the Hon. Robert Lucas.

At the time of the Hon. John Burdett's election I think I was President of the Liberal Party; if not, I was soon to become President of the Liberal Party and I can remember when the vacancy occurred. Some of us were looking around for appropriate candidates. We took the view that for better or worse there was a good country lawyer who had come to notice and a good Liberal called John Burdett. Someone said, 'Do you know him and what do you think of him?' Several of us quickly remarked that he was reliable and straightforward and would be an asset to the Party and to the Parliament.

So, John Burdett was urged to stand and became the member of the Legislative Council to fill that vacancy. I was very pleased that he was successful. I served in the Tonkin ministry with John Burdett. He was a very conscientious Minister and straightforward. Sometimes we had our disagreements but we could always satisfactorily resolve them and, during my time in the Parliament, he has been to me also very valuable support and a good friend. I want to add to the remarks of the Hon. Robert Lucas by saying that I am disappointed that, if there is an election, he will be retiring. Obviously, that comes to all of us at some time or other and I wish him and his wife Jean all the best wishes for the future.

In regard to your position, Mr President, I also want to wish to you and Olive best wishes for your retirement. In talking to you in the taxi on the way home, as we save the Government and taxpayers' money sharing taxis on late nights away from Parliament, I have developed a good friendship with you and during the course of the conduct of the Parliament I appreciate the emphasis that you place on the role and status of the Legislative Council and the tenacity with which you fight some of the battles to protect its role and function. I have appreciated the way you have presided over debates in this Council.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: We have not had too many arguments with taxi drivers; we have been fortunate. Once or twice we have had some rather vociferous taxi drivers, but by the time I have gone home—which is before the President—the taxi drivers have been engaged by the President and he has had to finish off the debate. In respect of the Hon. Mr Gilfillan and the Hon. Mr Elliott, I concur with the remarks of the Hon. Robert Lucas.

The Hon. L.H. DAVIS: I would like to join with my colleagues the Hon. Robert Lucas and the Hon. Trevor Griffin in paying tribute to the two retiring members of the Legislative Council: the Hon. John Burdett and yourself, Mr President. John Burdett was elected in August 1973 at a time when the Council was in transition. He was elected to represent the Southern District when there were 20 members of the Legislative Council. Of course, it was during that time and shortly afterwards that the Council moved to a Chamber of 22 members on a Senate-style ticket.

John Burdett is the father of the Council by some two years. In the Liberal Party he has also been a father figure. He has not only been a wonderful support and adviser to young backbenchers coming into the Legislative Council and the House of Assembly, but as members on this side will fully understand, he has been a wonderful asset within the Liberal

Party organisation in supporting candidates in the field. In Parliament, in particular, he has made his mark.

By quirk of political history, although he has served 20 years in the Parliament, only three of those years have been in Government. He was a Minister for those three years: Minister of Community Welfare and Minister of Consumer Affairs. It is not for me to make a judgment as to what John thinks may have been the highlight of that term, but certainly the Community Welfare Act stands as a testimony to his concern for social justice and issues affecting people who need support and assistance.

When one talks to public servants of that time from 1979 to 1982, and when one talks to the organisations involved in consumer affairs and community welfare, there is a widespread view that the Hon. John Burdett was one of the most effective Ministers in that Government. In fact, I think it is not untrue to say that when one ranks the Ministers of the Tonkin Government, as inevitably people do, he is invariably ranked in the top three or four. From the time that he came into Parliament in 1973 he had an interest in matters affecting people. One of his early speeches was about Birthline. Over a period he has had links with groups such as the Association for the Prevention of Cruelty to Children and involvement in assisting the hospice movement. That is a consistent pattern of his contribution to organisations and to his debate within the Parliament.

The early background biographical details of John Burdett state that his special interests were his family, fishing and cooking. It is not surprising that there is reference to his family because he had eight children and with eight children he had plenty of practice with cooking.

An honourable member interjecting:

The Hon. L.H. DAVIS: That is right, and I guess the fishing helped with the cooking. To Jean and John we wish a happy retirement after some wonderful service to the Parliament, to the people of South Australia and to the Liberal Party.

The President, the Hon. Gordon Bruce, who entered Parliament in 1979, has always been regarded on this side of the Council as a very impartial President. He has always been frank and very and fair and, as my colleague Hon. Trevor Griffin has said, a very staunch defender of the role of the Legislative Council. I think, Mr President, that you have the distinction of not throwing anyone out during your term as President, which just shows what a firm but fair rule you had—perhaps, indeed, how terribly tolerant you were in your time as President. Likewise, we wish you and Olive a happy retirement, and we do hope in particular that your past links as Secretary of the Liquor Trades Union will stand us in good stead this evening.

The Hon. DIANA LAIDLAW: I would like to contribute briefly to these remarks with respect to the Hon. John Burdett. I remember him well as Minister for Community Welfare. When I later became shadow Minister of Community Welfare I was very proud to be able to claim to be a Liberal and to walk in his shadow, because so many of the groups that I worked with at that time remembered with affection the tremendous efforts that the Hon. Mr Burdett had made as Minister on behalf of those organisations and the people whom they served.

I remember when he was Minister that I used to sit in the President's gallery. I was then working as ministerial assistant to the Hon. Murray Hill. I remember one occasion when the shadow Minister of Health, the Hon. John Cornwall, got up to give his usual fiery question and in his colourful manner accused the Hon. Mr Burdett and the Liberal Government of providing poor, almost rotten, food for young offenders at SAYTC at Magill. The Hon. Mr Burdett was able to get up in his quiet manner and say that in fact he thought the food was very satisfactory. On Christmas Day he had been to visit that institution and spend Christmas Day with young offenders. I think that is possibly one example that we should all remember of the quiet, unsung work that the Hon. Mr Burdett undertook as Minister.

I would like to commend him not only for his quiet, diligent work but also for being one of the most caring members of Parliament whom I have encountered. There is a saying that perhaps is appropriate to recall, recognising that Commissioner Burdekin has just released his report on mental health, namely, that the Mental Health Association in Australia has the slogan 'Dare to care'. I think that the Hon. Mr Burdett is one who has dared to care, and is an example to us all in that field.

With respect to Jean Burdett, she is much loved, as is her husband, and as a Liberal woman member of Parliament I would like to acknowledge her work also with the Liberal Women's Education Association, which happens to be the oldest continuous women's political association in South Australia. Without her contribution to that organisation in recent years, I suspect that we would not be able to claim that that organisation was still in existence.

With respect to you, Mr President, whoever takes over your role in future I hope that we will enjoy wonderful dinners, as you have presented in the past. Your hospitality has been generous, as has the licence that you have allowed us during Question Time and at other times. I wish you well in your retirement and hope that you continue to be a wonderful ambassador to South Australia in terms of tourism, because I know that you love travelling, and particularly with your campervan. So, to you, Sir, and the Hon. the Hon. Mr Burdett, with much affection, I wish you well.

The Hon. J.C. IRWIN: I would like to endorse briefly the remarks made by my honourable colleagues in relation to our other colleagues, the Hon. John Burdett and you, Mr President. I do not presume that an election will be called. I do not even presume its outcome. With that said, there is no doubt that both the Hon. John Burdett and the Hon. Gordon Bruce will be retiring in the not too distant future, so it is good that we do have this opportunity to say something about them.

I have always found John Burdett to be a warm, gentle and very principled man. I have always admired him and enjoyed his good and very sound advice. I recall that in 1979 when Bill Nankivell had announced his retirement from Murray-Mallee I was a candidate for preselection, in quite a big field, with Peter Lewis, who eventually won it. I recall the good grace of John Burdett ringing me, because there was a thought on his part and from other people no doubt that John was looking to move from the Legislative Council to the House of Assembly. Being the sort of man that John is, he rang me and said that he was considering coming into the field, and then later on rang me to say that he would not be doing that. I have always appreciated that, and that is a very small example of the sort of person I have found John to be.

As for you, Mr President, very similar things can be said from my experience, certainly about your warmth, gentleness and your principles, but I think we can add quite clearly that you are a jovial and somewhat robust person. I have appreci-

ated that no more than at the odd JPSC meeting when we have had to try some new wines or test the food, when the invitation has always been to bring a mate with you as there was some wine to taste, and we have generally had a good wine taste. I think everyone has probably benefited from the excellent choices that we have made.

I think the Hon. Terry Roberts might remember the occasion when we were both fairly new members and we were hijacked onto the select committee for local government at Coober Pedy. Terry and I, both wet behind the ears and naive (and we are probably still slightly naive), were talking very earnestly about our very strong principles and how we would stick to them, although we came from different sides of the fence, so to speak. I think we have stuck to those principles, but the advice from the Hon. Gordon Bruce, before he was elected President was, 'Why are you worrying about principles? I threw them away a long time ago!' We know that was only a jovial Gordon Bruce remark and that, underneath that front which we know the President has, there is a very strong set of principles.

I endorse the remarks made about his love of the Legislative Council and its traditions. I will be very sorry that neither of you will not be here in the next Parliament, but your advice, principles and example to all of us has brushed off on us and we are better for it. I support the motion.

The Hon. I. GILFILLAN: I wanted to add a few comments. It is difficult to know the timing. If we had support for the Bill to have the election on 27 November, we could have been doing this with a little more certainty. However, Mr President, it is important from my point of view that, with the uncertainty, I am able to express my appreciation of both yourself and the Hon. John Burdett. My first recollection of John Burdett was one of some awe as he moved around Parliament as if nothing else impeded on his concentration except the business of whatever it was of deep moment that he was thinking about.

We had a ballot as to whether some of the joint parliamentary funds should be spent on a gym. In a sort of open and fresh way I canvassed John as to how he voted. I expected some sort of revelation and friendly conversation, but he said, 'None of your business.' I then realised—just as I am sure others have—how brusque John can be, and it can be quite daunting, but it is one of his strengths as a person in the political context. However, if that was the only impression one got, one would miss the great depth and wealth, I believe, of one of the finest people I have met in this context.

John Burdett has been a mainstay of the parliamentary christian fellowship in Parliament House, and he has given many hours of caring and christian service and attention to that fellowship. The select committees I have shared with him have benefited from his dispassionate, objective and, I believe, fair assessment of evidence, and I feel that Parliament has benefited from that. It is also fair to say that not only from the Liberal side of politics but from other areas he was very highly thought of as the Minister of Community Welfare. I can remember people, who were certainly not of his political persuasion, saying to me that in their experience he was the best Minister there had been, and that was over a considerable number of years. I think it is a great testimony of John's contribution that one should hear those comments, and the charm and fascination of what is, I believe, a Pickwickian character. There is a uniqueness about the contribution that John Burdett has made to this place, and I consider it a privilege to have known and worked with him here.

Mr President, I would say that you are an enigma. It has amazed me that you need only five minutes in a room with people to stir up angry responses, arguments and fights. It was with fear and trepidation that I visited various places with you, Mr President, because invariably you asked the most testing and probing questions. However, you have been able to cast that aside in the way that you have presided over this Chamber, and I believe, as other members have said, you have done so with an enormous amount of goodwill. That has flowed through into the way in which the Chamber has worked, and that is largely due to your capacity to subjugate your ego. You respect and work the role of President as well as I believe it can be done, and I congratulate you on that. I wish both you and the Hon. John Burdett the best in your lives away from this place.

The Hon. M.J. ELLIOTT: If this is the last day, it is my last chance to thank a number of people, and I will deal first with those people who are leaving. One word describes the President, and that is 'fair'. That is the major characteristic required of the Presiding Officer of the Council.

When I think of the Hon. Mr Burdett, the word 'respect' is the first word that comes to mind. I never knew him as a Minister, but I certainly worked on a number of committees with him, and from that I could judge what sort of Minister he would have been. While philosophically we have been some distance apart, I hold him, probably above all others in this place, in great regard as a person of great integrity.

My colleague Ian Gilfillan and I have had to work with a great deal of mutual trust with both of us having to cover so much ground, and it has worked extremely well.

The Hon. C.J. Sumner: Is he going, too?

The Hon. M.J. ELLIOTT: We will certainly not be working together in this place from this time on, no matter what happens. To the members of this place generally, I say that good humour is important, except when it is late at night, because then the good humour sometimes gets tested. I recall some years ago that a Soviet delegation came to this Parliament and sat around a table with Liberal Party members, Labor Party members and Democrats.

We quite happily talked and joked with each other. The delegation consisted of members of the Yeltsin faction and the Gorbachev faction, and they were not talking to each. Members of the delegation could not believe that people from different sides of politics could actually get on with each other, but that is one of the strengths of our system. I am critical and frustrated with the way this Parliament works from time to time but, as some people say, it beats the heck out of any other system. I think it is open to improvement, but it is important that the good humour and level of friendship is as much as one can hope for and expect in this place.

Finally, thank you to the staff: *Hansard*, to whom I rarely give a written speech and then talk too fast, still manages to sort out most of the grammar; to the table staff, who have a horrendous job from time to time and somehow or other manage to cope; to the messengers, who have always done their job unstintingly; and to the other staff in this place. I will not be seeing red carpet again; I am hoping to see some green. To everybody, I say thank you.

The Hon. J.C. BURDETT: After all that, what can I say? I do appreciate very much the kind things that have been said about me, although they were probably not deserved.

However, everything that was said about my wife Jean was thoroughly deserved.

Mr President, in my Address in Reply speech at the beginning of this session I spoke about parliamentary democracy and then said that I hoped to be able to make some personal remarks at a later stage. Well, I guess that is now, although I had not really prepared for it.

I came into this Chamber, as has been said, in 1973. The President at that time was the late Sir Lyell McEwin, and I remember his presidency very well. It has been said that I came in following a by-election, which is something that no longer occurs in the Legislative Council. After the Council adjourned on the day that I was sworn in, I remained in my seat reading Standing Orders and Sir Lyell came back through the Chamber and said to me, 'Young man, you don't have to know those; you find out when you break them.'

The other Presidents under whom I have served were the late Frank Potter; Arthur Whyte, whose daughter graces this Chamber now; the Hon. Anne Levy; and you, Mr President. All of those Presidents made their mark on this Council and put their particular stamp on the style of presidency and were all very fair, very good Presidents in their particular ways.

Mr President, as you are retiring also, I wish you and your wife Olive all the best. I particularly made your acquaintance, I suppose, when we lost Government and I went back into the Subordinate Legislation Committee, of which you were Chairman, and very especially on the trip that we made to Armenia in 1989 when we were very closely thrown together in what was not really a hostile situation but we did feel the need to all be together, and I appreciated that very much.

During the time that I have been in this Chamber, since 1973, I have appreciated the friendship of all of the members on all sides: my own colleagues, who have been a great support to me; the Labor Party; and, in more recent times, since they came into this Council, the Australian Democrats.

On a personal basis the friendship between the members has been terrific and it is one of the things that I shall remember and appreciate when I leave the Chamber.

I want to pay tribute to the staff of Parliament House. The staff at the table in this Chamber have always been of great help to me from the time I first came into this place, and *Hansard*, the messengers, the refreshment staff and everyone else who has worked here has made our task very easy. I shall never forget the service that they have given.

Reference has been made to my time in the Ministry. I guess that was the highlight of my parliamentary career. The main aspect was that one could achieve and feel that one had done something.

Mention has been made of the staff of the departments, particularly community welfare, having appreciated my work. I have certainly appreciated theirs. One of the things that I have most appreciated in my parliamentary career has been hearing that the staff remember me and appreciate my work. In the suburb where I live and in all sorts of places I find people who either still are on the staff of community welfare or have been until recently and who still remember the days when we were there together.

I have particularly appreciated the supportive remarks of members and staff regarding my poor health and their support and promise of prayers and so on. That has been one of the great comforts to me. I guess that my future is uncertain, but I am going to be around to see the next Government and how well it performs. I look forward to assessing it with a great deal of interest.

That is all that I want to say. I very much appreciate the more than kind things that have been said about me and the friendship that I have had with all members of this Chamber.

The PRESIDENT: I am probably out of order, but because I do not know whether this is the last day and as some things have been said about me, I feel that I should respond. I promise that if we come back on Tuesday week I shall not respond any further, so this will be my first and last response.

It is 14 years since I was elected in 1979. During my stay in Parliament I have been the Whip, I was a member and eventually Chairman of the Committee on Subordinate Legislation, I was a member and eventually Chairman on alternate years of the Joint Parliamentary Services Committee, and for the last 4½ years I have been President.

My term in this Parliament could not have happened without the support of the staff, especially the table staff, since I have been President. Even when I was a member, they were there to advise, and they do it in a fair and even manner for members on both sides. They do not take any particular side; they are the most independent people that one could find. There are not only the table staff, but the messengers, *Hansard*, the library, catering, caretakers, the electricians, the telephonists, the air conditioner bloke—everybody who contributes to make Parliament work. I think that they do work over and above what they should be expected to do because of the condition of this building.

I had three years in Opposition, and that was a good experience. I can remember when we had to line up and everyone had to ask at least two questions a day; and the same is happening with Liberal members.

In Opposition, you make some observations and you get some feel of what Parliament is about. I am firmly convinced that the strength of the Parliamentary system lies in the Opposition. I do not believe (and I can only speak for this Council—and I saw it in opposition with us and I see it in opposition with members opposite) that the shadow Ministers get the support they should in Opposition. To have a Parliament and a good Government, you need a good Opposition. I see it as top heavy to the extent (and I discussed this with Trevor going home last night) that it seems members of the shadow ministry work their butts off and do not get time to go on committees, but the members who go on committees get extra money, pay and back-up staff to help them bring in reports. The shadow ministry work their butts off, they have no time for anything else, and they do not get any more money. It does not contribute to superannuation or anything else.

I know that some members of the Opposition have been in shadow ministries for 11 years. That must be very frustrating and disappointing. To have a good Opposition, you must have support. When we were in Opposition, we were exactly the same. I can remember John Cornwall trying to get information and trying to capture the staff that we had to do the work for him to be involved with the speeches in Parliament. We were sharing staff amongst one another, and to me it seemed quite stupid that we have not given support staff to back up those people.

I also feel that we have made a great mistake in playing politics with Parliament House. We have not been able to upgrade it. We have not done the right thing by the people who work in this Parliament House. The Chambers are superb. We take great pride in the place. Hundreds of people come around every week, and members take them around

with great pride and show them the Chambers, but they do not see anything else other than the Chambers. I meet the ambassadors and the visiting dignitaries, and the first thing they do when they come here is go up to the Leader of the Opposition's office. Members all know what it is like: there is stuff in the corridors; there is nowhere to sit; and it is the most crumby place anyone ever saw.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Well, they could have. We are taking people in here, introducing them to the alternative Government of South Australia and expecting them to do business with us. I find it an absolutely disgrace, and something should be done about it. We have tried to do something about it.

An honourable member interjecting:

The PRESIDENT: Well, something should be done in Parliament House, because Parliament House is the prestige place of South Australia where laws are made and people are met. Even the ministry, our own Government ministry, is sitting down there with delegations waiting to see them in the corridors. It is an absolute disgrace, and I put that on record.

When new members come in they should sit and take notice of Parliament and learn the Parliamentary procedures before they are prepared to destroy it. One member, who was in the bar and who had been here a couple of years, when we sat an extra week in the Upper House, tackled us because we had a Question Time. I found that a Question Time is the Opposition's only chance to put the Government under the hook, and here was a member of the Opposition saying we should not have a Question Time in the Upper House. I find that quite unique.

Committee work was very rewarding. One of the sad things I found while I was in the Chair here was the personal attacks that took place on the Attorney-General and the Minister of Tourism. They were subjected to personal attacks in this Chamber. The results that eventually took place could and would have happened without the unpleasantness that was generated. We are only a small Chamber. I do not believe that we need to involve personalities when resolving matters. We know one another well enough to be able to do it in a proper manner, and it would have happened in a proper manner without any personal attacks. Apart from that episode during my time in the Chair, I must say I have enjoyed it immensely.

All members have acted and carried out their duties in a responsible manner. Sitting up here, I do see myself as independent, because I say the prayers every day, and whether you are Labor or Liberal you are elected here to do the best you can for the people of South Australia. That is what we try to do, but sometimes we forget it and play politics.

It is my firm belief that when we go into major projects such as the MFP or building a bridge to Hindmarsh Island, unless both Parties can agree that we are going to spend millions of dollars and get behind it, nothing will happen in South Australia. One Party says, 'Vote for us and we will destroy it: we will not do it' or 'Vote for us and we will abandon it, even if you are spending millions in investment in South Australia.' You cannot get anywhere on major projects unless both Parties agree. That is just one of my observations. I also think the exchange between members, even though it is out of order, helps to keep the Chamber human and helps to keep things going.

Before I finish I would like to pay tribute to the Hon. Mr Burdett. I have served on the Subordinate Legislation Committee with him and he was always a tower of strength. I find that the Hon. Mr Feleppa also places the trust that I placed in him in the Subordinate Legislation Committee. He was always there to be relied on. The Hon. Mike Elliott has always had his alternative viewpoint for the Democrats. He has not always won his point but always put it over very well. I wish him very well in whatever happens in the next election and wherever he finishes up. The hidden agenda that he has somewhere that I do not know about, good luck to it!

I would like to thank each and every one of you who has helped my time in Parliament to be pleasant. It has been pleasant. It has been a job that I have enjoyed. When I came in I thought that one could do more than one can. The machine grinds slow and fine but eventually it gets there. The democratic system as we know it is one of best in the world but it needs work. It does not just happen: it has to be worked at. I would like to wish everyone success and fulfilment in their future roles in the new Parliament.

The Hon. C.J. SUMNER: I am not aware of circumstances that will cause us not to return here on 2 November, so it creates a somewhat difficult situation for me in entering the debate, which I am doing only in closing it. I want to do it very briefly: there may well be another opportunity when we resume. However, I would like to endorse the remarks made by members, in particular in relation to the Hon. John Burdett and you, Mr President, and to wish you both well in your retirement, as you are the two who are certain to retire from politics; others of us will remain, and there are a couple who may be moving House but who still aspire to remain in politics. But you are the two we know will retire whenever this Parliament is prorogued.

I do not think I can do any more than to thank you for your contributions to the Parliament and to endorse and support the remarks that have been made about you and wish you both well.

Motion carried.

ENTERPRISE INVESTMENTS TRUST

In reply to **Hon. L.H. DAVIS.**

The Hon. C.J. SUMNER:

1. List the companies held by the Enterprise Investments Trust, detail the percentage interest that EIL has in these companies and a brief summary of the performance of these companies.

The information requested is detailed in the Enterprise Investments Trust's annual report which is released each year and is widely circulated. Copies of the annual report are freely available on request from Enterprise Investments Limited and this has been the case since the formation of the trust in 1989. A copy of the 1992 annual report (Attachment 1) sets out details in relation to the investment portfolio and investee performance as at 30 June 1992. The 1993 annual report is expected to be available by the end of October 1993. In the interim a list of all companies in which Enterprise Investments Limited currently has an investment is provided in Attachment 2. An up-to-date summary of the performance of investee companies is included in the 1993 annual report.

2. Have any of the officers of the Enterprise Investments Trust or its related companies a direct or indirect interest, or had a direct of indirect interest, in any of the companies in which the Enterprise Investments Trust has an interest?

The accounts relating to the Enterprise Investments Trust fully disclose details of all directors' interests in contracts or arrangements with Enterprise Investments Limited.

Officers of Enterprise Investments Limited (or its related companies) have a direct or indirect interest and/or have had since the formation of the Enterprise Investments Trust a direct or indirect interest in the companies in which the trust has an interest as set out in Attachment 3.

3. Explanation of cash reserves of $15.6 million as at 30 June 1993.

At balance date the Enterprise Investments Trust had cash reserves of $13.4 million after providing for the full distribution of the 1993 profit of $2.1 million.

In terms of the prudent financial management of a venture and development capital fund it is important to ensure that the fund does not over invest in long-term illiquid investments in investee companies. Overseas experience suggests that it is prudent to ensure that long-term investments in investee companies do not exceed 75 per cent of the net assets of the fund. At that stage a fund would be considered to be fully invested with sufficient liquid reserves to enable the fund to provide later round funding for investee companies should the need arise as well as to ensure that the fund can meet its expenses. This is an important consideration for a smaller fund such as the Enterprise Investments Trust. On this basis, the Enterprise Investments Trust with net assets of $34.7 million at balance date would be considered to be fully invested if long-term investments in the investee companies totalled $26 million. At the trust's balance date of 30 June 1993 the trust's investments in investee companies totalled $19.4 million indicating that, at that time, Enterprise Investments Limited regarded available capital for proceeding with new investments in investee companies as $6.6 million, not the $15.6 million referred to.

Furthermore, as recently reported in the media, the Enterprise Investments Trust has announced an investment in South Australia Mariculture Pty Ltd for $300 000 and this follows a recent commitment given in relation to a later round investment in an existing investee company of $1 million. The trust has entered into these new commitments subsequent to balance date.

It is also clearly the case that the level of investment reflects the current availability of commercially acceptable investment opportunities having regard to the size and structure of the fund and the need to maintain a balanced spread of risk.

4. The Hon. L.H. Davis has suggested that 'the profit for Enterprise Investments Trust is reported as being $2.1 million but in fact $1.33 million of this comes from a revaluation of investments. So the profit picture is perhaps not quite as good as one might have thought'.

This assertion is incorrect. As disclosed in the statutory accounts of the Enterprise Investments Trust for the year ended 30 June 1993 the revaluation of $1.33 million is in addition to the profit of $2.12 million reported. Accordingly, the total gain in the net assets of the trust for the year ended 30 June 1993, before the full distribution of the 1993 profit to SAFA, was $3.45 million.

5. The *Hansard* record of questions by the Hon. L.H. Davis refers to office accommodation being determined on 'non-commercial terms and conditions'.

As disclosed in the statutory accounts for the Enterprise Investments Trust for the year ended 30 June 1993 the office accommodation was provided on 'normal commercial terms and conditions'.

6. What were the total fees received by BCR Venture Management Pty Ltd?

As disclosed in the statutory accounts for the Enterprise Investments Trust for the year ended 30 June 1993 the total fees received by BCR Venture Management Pty Ltd from the Enterprise Investments Trust were $1.02 million.

7. What were the total fees received by BCR Financial Services Pty Ltd?

As stated in the statutory accounts for the Enterprise Investments Trust for the year ended 30 June 1993, BCR Financial Services Pty Ltd received fees of $21 000 for the year for accounting services to the Enterprise Investments Trust and Enterprise Securities Limited and received directors fees and consulting fees from investee companies of the Enterprise Investments Trust totalling $35 510. These fees were the only amounts received by BCR Financial Services Pty Ltd from the Enterprise Investments Trust, related companies and investee companies of the trust and these fees were disclosed in the statutory accounts of the trust.

8. Were any other vehicles owned by people who work with or for the Enterprise Investments Trust or any other associated companies linked with the Enterprise Investments Trust?

No.

9. What amounts were paid out for administrative services, other staff and other costs, and what fees exactly were earned by Dr Bassett, Mr Ciracovitch or any other of the senior officers of the Enterprise Investments Trust as distinct from the costs incurred?

The Enterprise Investments Trust is managed by BCR Venture Management Pty Ltd ('the Manager') under the terms of the Management Agreement with the Trustee Company, Enterprise Investments Limited. The manager is responsible for managing and monitoring the investment portfolio and identifying and evaluating new investment proposals. In addition, the manager provides all administrative services, employs all staff and incurs the costs related to these activities. Neither Enterprise Investments Limited nor the Enterprise Investments Trust have any employees and the only officers of Enterprise Investments Limited are its directors and some of the manager's officers, namely, Dr R.C. Bassett, acting as Managing Director of Enterprise Investments Limited, Mr D.J. Ciracovitch, acting as Secretary and General Manager of Enterprise Investments Limited and Mr M.C. Robertson, acting as Investment Manager of Enterprise Investments Limited. However, except for directors' fees, currently at the rate of $14 420 per annum, paid to Dr Bassett, none of the manager's officers have been paid at any time any remuneration for acting in those capacities.

The fee paid to BCR Venture Management Pty Ltd, under the contract between it and Enterprise Investments Limited, is for a package of management related services. As noted in 6. above, that fee was $1.02 million in 1992-93. It is entirely a matter for BCR Venture Management Pty Ltd, as a private company not owned or controlled by the Government, to decide what remuneration is paid to its individual employees or what other disbursements should be made.

10. Has the Government had any plans to float the Enterprise Investments Trust or to privatise it?

The Government has no specific plans but is reviewing a range of options for Enterprise Investments Limited and the Enterprise Investments Trust.

11. What are the terms of the Management Agreement?

The terms of the Management Agreement provide for fees to be paid to BCR Venture Management Pty Ltd in its capacity as Manager of the Enterprise Investments Trust as follows:

(i) An annual management fee of 3.0 per cent of the net fund value payable quarterly in advance (subject to the condition that the minimum quarterly management fee will be $187 500 indexed to CPI from the date of the original Management Agreement); and

(ii) An incentive fee of 25 per cent of the capital appreciation of the assets of the trust above a base hurdle rate compounded annually. The hurdle rate is defined as the rate at which the South Australian Government Financing Authority could raise 10 year funds in January or February of the relevant calendar year by the issue of inscribed stock. The hurdle value of the fund for the purpose of calculating the incentive fee is based on the cumulative effect of the annual hurdle rates applicable since the formation of the trust in July 1989. No incentive fee was paid in 1993.

The terms of the Management Agreement are consistent with normal terms and conditions applying in the Australian venture and development capital industry.

12. How long does the Agreement go for?

The initial Agreement expires on 31 December 1994 but can be extended if mutually agreed.

ATTACHMENT 2

INVESTEE

1. Adtrans Group Limited
2. Amdel Limited
3. Automation & Process Control Services Pty Ltd
4. Flinders Technologies Pty Ltd
5. Halleck Limited
6. IPL Datron Pty Ltd
7. Kinhill Limited
8. Louminco Pty Ltd
9. Mineral Control Instrumentation Limited
10. Petaluma Limited
11. Phoenix Scientific Industries Limited
12. Plas-tec Holdings Pty Ltd
13. Rib Loc Group Limited
14. SEAS Sapfor Limited
15. South Australia Mariculture Pty Ltd
16. Sybiz Software Pty Ltd
17. TEL Pty Ltd

ATTACHMENT 3

OFFICERS OF ENTERPRISE INVESTMENTS LTD (& RELATED COMPANIES	DIRECTORSHIPS	CONSULTING SERVICES	BENEFICIAL EQUITY INTERESTS	
			CURRENTLY HELD	PREVIOUSLY HELD
M.J. Astley (Deputy Chairman)	-	Mr Astley is a Consultant to & former Senior Partner of Finlaysons, Solicitors. This firm has rendered legal advice to some investee companies. All dealings between Finlaysons and investee companies are in the ordinary course of business and on normal commercial terms and conditions.	-	-
R.C. Bassett (Managing Director)	Flinders Technologies P/L Amdel Limited (Alt)* Sybiz Software Pty Ltd (former Alt)* Halleck Ltd (former) Premier Plastics P/L (former Alt)*	IPL Datron Pty Ltd** Automation & Process Control Services P/L** Rib Loc Group Ltd** Mineral Control Instrumentation Ltd** TEL Pty Ltd** Amdel Ltd**	-	3 500 options in Mineral Control Instrumentation Limited
D.J. Ciracovitch (General Manager & Secretary)	Sybiz Software P/L South Australia Mariculture Pty Ltd	IPL Datron P/L** Automation & Process Control Services P/L** Rib Loc Group Ltd** Mineral Control Instrumentation Ltd**	-	-
D.J. Ciracovitch	Flinders Technologies Pty Ltd (Alt)*	TEL Pty Ltd** Amdel Ltd**		
J.W. Frogley (Director)	-	-	-	-
J.H. Heard (Chairman)	Adtrans Group Limited Amdel Limited	-	5 000 shares in Mineral Control Instrumentation Ltd	-
S. Richardson (Director)	Flinders Technologies P/L	-	-	-
M.C. Robertson (Investment Manager)	TEL Pty Ltd (former) Caldone Pty Ltd (former) South Australia Mariculture P/L (Alt)*	IPL Datron Pty Ltd** Automation & Process Control Services P/L** Rib Loc Group Ltd** Mineral Control Instrumentation Ltd** Tel Pty Ltd** Amdel**	-	-
R.G. Schwarz (Director)	-	-	-	-
J. Sutherland-Shaw (Alternate Director for Mr R.G. Schwarz)	-	-	-	-
M.J. Terlet (Director)	Louminco Pty Ltd Panado Pty Ltd Mineral Control Instrumentation Ltd	-	-	-

* No fees payable.

** Via interest in BCR Financial Services Pty Ltd (related entity). All dealings between BCR Financial Services Pty Ltd and investee companies are in the ordinary course of business and on normal commercial terms and conditions and all fees received by BCR Financial Services Pty Ltd from investee companies are disclosed in Annual Reports of the Enterprise Investments Trust.

ADJOURNMENT

At 10.24 p.m. the Council adjourned until Tuesday 2 November at 2.15 p.m.