LEGISLATIVE COUNCIL

Tuesday 16 September 1980

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

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

Pursuant to Statute—

Electrical Articles and Materials Act, 1940-67—Regulations—Increased Fees.

Parliamentary Superannuation Fund—Financial Statement, 1979-80.

Road Traffic Act, 1961-80—Traffic Prohibition (Campbelltown) Regulations. Regulations—Tyre and Rim Size.

The Electricity Trust of South Australia Act, 1946-75—Report, 1979-80.

Trustee Act, 1936-80—Regulations—Prescribed Building Societies.

By Command—

Estimates of Expenditure of the Government of South Australia, 1980-81 (Paper No. 9).

Estimates of Revenue of the Government of South Australia, 1980-81 (Paper No. 7).

Loan Estimates, 1980-81 (Paper No. 11).

Premier and Treasurer's Financial Statement, 1980-81, with Appendices (Paper No. 18).

By the Minister of Local Government (Hon. C. M. Hill)—

Pursuant to Statute—

Aboriginal Lands Trust—Report, 1979-80.

Adelaide College of the Arts and Education—Report, 1979.

Advances to Settlers Act, 1930-72—Administered by The State Bank of South Australia—Balance Sheet, Revenue Statement and Auditor-General's Report, 1979-80.

Crown Lands Act, 1929-80—Section 197—Cancellation of Closer Settlement Lands.

Department of Marine and Harbors—Report, 1979-80.

Fisheries Act, 1971-80—

Regulations—Abalone Authority.

Regulations—Licence Fees.

Pastoral Act, 1936-76—Return, 1979-80—Section 133—Pastoral improvements for which permission has been granted.

City of Adelaide—

By-law No. 1—Regulation of Traffic.

By-law No. 4—Metal Treads.

By-law No. 7—Drainage onto Streets.

By-law No. 9—Pedestrians.

By-law No. 14—Encroachments.

By-law No. 77—Repeal of By-laws.

City of Tea Tree Gully—By-law No. 47—To Repeal By-laws.

By the Attorney-General, for the Minister of Community Welfare (Hon. J. C. Burdett)—

Pursuant to Statute—

Monarto Development Commission—Auditor-General's Report, 1979-80; Report, 1979-80.

Parliamentary Standing Committee on Public Works—53rd General Report.

Roseworthy Agricultural College Act, 1973—Report, 1979.

Workers Compensation Act, 1971-79—Repeal of Regulation No. 14.

AUDITOR-GENERAL'S REPORT

The PRESIDENT laid on the table the Auditor-General's Report for the financial year ended 30 June 1980.

MINISTERIAL STATEMENT: RIVERLAND CANNERY

The Hon. K. T. GRIFFIN (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. K. T. GRIFFIN: On 7 August 1980 the Premier made a Ministerial statement in the House of Assembly with respect to Riverland Fruit Products Co-operative Ltd. He outlined a brief history of the State Government's involvement with the co-operative and gave details of a course of action which the Government had agreed in the light of the serious financial difficulties of the co-operative based on information then available to the Government.

Since that time other information has been received by the Government which has indicated that the financial position of Riverland Fruit Products Co-operative Ltd., is much more serious. Honourable members will already know that, as a result of that information, the State Bank of South Australia appointed a receiver for the co-operative on Friday last week.

In his Ministerial statement the Premier indicated that he opened the expanded premises of Riverland Fruit Products Co-operative Ltd. at Berri on Friday 26 October 1979. That opening was the result of considerable restructuring of the co-operative's affairs over a period since 1976, when the co-operative was threatened with closure because of liquidity problems.

The Premier indicated that the previous Government had been asked to assist, and major decisions were taken by that Government to be substantially involved in a restructuring of the co-operative. The South Austrlian Development Corporation was the principal vehicle through which the then Government was involved in that restructuring. A summary by the South Australian Development Corporation on 9 April 1979 states:

> Our involvement with Riverland Fruit Products has been one of the most challenging and important operations that the South Australian Development Corporation has undertaken. During the last six or eight months we have, together with H. Jones (IXL) Ltd., arranged for the movement of much of Henry Jones' food manufacturing operation from Port Melbourne to the R.F.P. plant at Berri. This move has involved the expenditure of some $8 000 000 on capital works and the arrangement of some $5 000 000 for additional working capital. The turn-over of Riverland Fruit Products in 1977-78 was $9 000 000, but it is anticipated it will approach $30 000 000 in 1979-80.

At the time of the opening in October 1979, the Premier was advised that the restructuring of the cannery would bring success. Those assurances were repeated earlier this year. In his Ministerial statement, the Premier said that on 5 June 1980 he was informed as Treasurer by the Permanent Head of the Department of Trade and Industry in the following terms:

> Since recommending the payment of $325 000 on 23 May (Establishment Payments Scheme), however, it has come to my attention that the viability of the co-operative may be subject to some question. Subsequent inquiries made by this department have indicated that there are severe doubts within the commercial community as to the future viability of Riverland Fruit Products. These doubts have been echoed by the co-operative's bankers, the State Bank.

The Premier ordered an immediate investigation and consulted urgently with the Chairman of the South Australian Development Corporation. The Premier also said:

> Following detailed discussions, the Chairman of the S.A.D.C. suggested that he speak with the Directors of Riverland Cannery as soon as possible. This was done on 24 June, when the board resolved to freeze all debts owed by the company at that date, and to trade on a cash basis only from 25 June 1980, to appoint a task force to inquire into the future of R.F.P., and to provide a solution for its continuing operation.
>
> This decision was conveyed to me by letter on 2 July 1980, when the Chairman of S.A.D.C. indicated that the board of Riverland Fruit Products had approved a task force consisting of Messrs. Winter, Elliott and Cavill to carry out this investigation. The task force had taken over management of the cannery.
>
> The task force will not be in a position to submit its final report to me until the end of September. However, preliminary investigations have revealed that the whole situation could be described as a shambles. It is not possible at this stage to state the exact reasons for the current position of the cannery or to determine those responsible. It is possible, however, to give an indication of the gravity of the situation.

In late July, prior to making his Ministerial statement, the Premier was informed that the loss for the period 1 October 1979 to 31 May 1980 was about $3 500 000. In fact, a team of accountants appointed by the task force now indicates that the losses for that period could be as much as $7 500 000. There are also estimates of the losses for June in the sum of $300 000 to $500 000 and for July in excess of $300 000. No estimate has yet been made of the August loss.

There is, then, a dramatic difference between the position in late July and the position as we believe it to be from information provided two weeks ago. Both positions are, of course, to be contrasted with the assurances given last year and early this year.

In the light of these developments, the Government could see no alternative but to support the State Bank when it took a commercial decision to appoint a receiver. This course crystallised the position and, in the Government's view, gave the best prospects for ensuring that a viable cannery operation continued in the Riverland. The Government is strongly of the view that in the interests of the Riverland growers, workers and other members of the community, as well as for South Australia as a whole, that objective is important.

However, it must be recognised that achieving that objective will not be easy. At 2 September, the long-term liabilities, current liabilities and contingent liabilities of the co-operative to the State Bank amounted to about $11 500 000.

At 31 May 1980, Riverland Fruit Products Investments (a subsidiary of South Australian Development Corporation) was owed approximately $4 600 000, Henry Jones (IXL) Ltd. was owed approximately $3 300 000, trade creditors and other accruals amounted to about $7 400 000 and growers were owed approximately $1 240 000. It should be recognised that there may be some minor overlap between the liabilities to the State Bank at 2 September 1980 and the other liabilities at 31 May 1980, but that will not alter significantly the debt situation.

As I indicated last week, this Government has inherited a legacy which will not be easy to sort out. Perhaps, that is a major understatement. However, there is no doubt that this Government is burdened with problems not of its making. It will participate in endeavouring to see them resolved. In the light of the changed circumstances, the Government has announced the following commitments:

(a) The Government will honour its undertaking to guarantee the payment of all creditors where the liabilities have been incurred from 25 June 1980, to the date of the appointment of the receiver.

The Government will honour its guarantee of the 1981 crop of peaches, pears and apricots and such contracts as have been entered into in reliance upon that guarantee since 25 June 1980 relating to such products as tomatoes.

These in effect continue the Government's commitment made in August when supporting a scheme of arrangement.

(b) With respect to unsecured creditors where debts were incurred before 25 June 1980, the position will be:

The Government will approve a payment of 50c in the dollar to growers who are still owed money from the 1980 season. That payment will be made conditional upon the growers entering into contracts with the receiver to supply their 1981 crop of fruit to the co-operative.

The growers need to have their confidence restored, and the cannery needs to know what support it can expect for the 1981 season.

Other unsecured creditors will be able to make application to the Department of Trade and Industry if they are suffering hardship. Funds up to a total of $3 000 000 will be available to finance loans of up to 50c in the dollar.

The Government has also requested the State Bank to request its receiver to ensure that there is close communication with the Government and that the receiver arranges urgent discussions with all interest groups involved in the future of the cannery. The Government has also asked the State Bank to engage Mr. George Muir, a former Managing Director of Ardmona Cannery and a person with considerable experience in the canning industry, to act as a consultant to the receiver. To establish what went wrong in the cannery the Government is asking the committee, which is presently inquiring into the South Australian Development Corporation, to fully investigate the running of the cannery whilst the Development Corporation was involved.

The Government is of the view that the course of action which it has taken is the most responsible course of action available to it in the light of all the circumstances of this very grave problem. I assert again that the Government is anxious to have a viable canning operation in the Riverland for the benefit of the whole community.

QUESTIONS

RIVERLAND CANNERY

The Hon. B. A. CHATTERTON: I wish to ask the Attorney-General a question about the statement that he has just made. I believe he said that unsecured creditors were able to apply for assistance in cases of hardship. Does that apply to growers? Are growers able to apply for loans in addition to the sum that they will receive, which I think is 50c in the dollar, if they are suffering any hardship?

The Hon. K. T. GRIFFIN: There will be a slightly different arrangement with respect to growers. When the Premier made his statement on 7 August 1980 he made

specific reference to growers who were still owed money from the 1980 crop and, in the context of the scheme of arrangement under which they would be receiving 50c in the dollar, he stated:

> To cover amounts still outstanding, the fruitgrowers may apply to the Minister of Agriculture for a loan under the Loans to Producers Scheme. Such a loan would carry low interest rates.

The Government's position still stands. If those growers are suffering hardship, notwithstanding the 50c in the dollar that the Government has indicated it is prepared to pay on condition that the growers undertake to supply their 1981 fruit to the co-operative, the option is still available to them to apply to the Minister of Agriculture for assessment of whether or not they qualify for a loan under the Loans to Producers Act.

The Hon. B. A. CHATTERTON: I desire to ask a supplementary question. Has the Minister in fact checked to see whether it is possible to lend the money to growers under the Loans to Producers Act? To my knowledge, this is the first time money has been lent in these circumstances.

The Hon. K. T. GRIFFIN: It is correct that this is a unique proposition but, of course, it is a unique situation. I have checked whether this Act can apply in these circumstances, and the advice I have received is that it can.

BLACK HILL NATIVE FLORA TRUST

The Hon. J. R. CORNWALL: I seek leave to make a short statement before asking the Attorney-General, representing the Minister of Environment, a question about the Black Hill Native Flora Trust.

Leave granted.

The Hon. J. R. CORNWALL: Recently it was reported in the press that sales at the Black Hill Native Flora Nursery are to be terminated. At the time, I described the decision as "unbelievable". In view of the Government's record a more accurate description would have been "unbelievably stupid". These sentiments were recorded accurately and eloquently by Peter Ward in the *Sunday Mail*.

The nursery is the most modern and best equipped in South Australia. It operates under the strictest hygiene conditions in the State and is guaranteed absolutely free from the dreaded root fungus *Pytophthera cinnamoni*. One of its prime functions is to supply unusual or uncommon native species. In this area it is not in direct competition with private nurseries, since many of the species which it provides have not been available from private operators.

To the extent that it does provide any competition it does so in a free market situation in a mixed economy. Furthermore, it operates in one of the very few areas in the State's economy where there has not only been real but spectacular growth in recent times. For a variety of very sensible reasons, more and more people are growing Australian native plants. It certainly does not constitute a threat to any private nursery which is operated in a moderately efficient manner. I have now learned that not only does the Government intend to close it down but that as soon as the scaled down version of the Thorndon Park development is completed it intends to wind up the entire trust. The Black Hill Native Flora Park will be left without funding, without staff and without hope.

The Chairman of the trust, Mr. Bruce Mason, has resigned. His resignation is said to be in protest against the Government's actions. But the story gets worse. It has now come to my notice that the Government recently appointed Mr. Ken Lasscock to the trust to advise on the closure of the nursery and disposal of the plant and equipment, most of which is less than 18 months old. There is a scandalous conflict of interest in this appointment. Mr. Lasscock is the principal proprietor of Adelaide's largest private nursery enterprise.

Ever since its election 12 months ago this Government has been utterly barefaced and shameless with its political patronage. No price has been too high in its repayment of political friends and supporters. But this one surely takes the prize. It is a blatant example of political jobbery and plain old fashioned corruption at its worst. It will be condemned by every decent citizen in South Australia. I therefore ask the following questions:

1. In view of the widespread public opposition, does the Government still intend to cease plant sales and close the Black Hill nursery?
2. When did the Chairman of the Black Hill Native Flora Trust, Mr. Bruce Mason, resign?
3. What reasons were given for his resignation?
4. When was Mr. Ken Lasscock appointed to the trust?
5. In view of the blatant conflict of interest which is involved in Mr. Lasscock's position, will the Minister take steps to have him removed from the trust immediately?

The Hon. K. T. GRIFFIN: I will refer the honourable member's questions to the Minister of Environment and bring down a reply.

The Hon. N. K. FOSTER: I wish to ask a supplementary question. I ask the Leader of the Government in the Council whether it is the policy of his Government to change completely the understanding that existed and the promises that were made in respect of the Black Hill fauna conservation reserve.

The Hon. L. H. Davis: You made some promises about Monarto, too.

The Hon. N. K. FOSTER: If that bloke from Plympton—

The PRESIDENT: Order! The Hon. Mr. Foster is asking a supplementary question.

The Hon. N. K. FOSTER: Secondly, will the Minister tell the Council whether Mrs. Jennifer Adamson, member for Coles, has requested a Cabinet submission from Mr. Wotton for the closure of this conservation area? Thirdly, will the Attorney-General ascertain from Mrs. Adamson what amount of money she received from a private nursery firm in Athelstone that is situated almost next door to the nursery that is the subject of this question? Fourthly, will the Attorney-General inform this Parliament what cut-off date the Liberal Party has set that will end the pay-offs to people who have supported it with money and promises in the past?

The Hon. K. T. GRIFFIN: The innuendo in the questions just asked is disgraceful and unbecoming of a member of this Parliament, and I do not intend to pursue the questions that the honourable member has asked, except question No. 1: I will refer that to the Minister of Environment.

The Hon. N. K. FOSTER: I wish to ask a further supplementary question. I do not regard the role of the Leader of the Government in this Council to be that of keeper of the public's morals and, therefore, I ask whether the Attorney will ascertain the amount of money and other support given by Creative Nurseries, of Athelstone and Upper Athelstone, to the present member for Coles over the past two elections, and whether or not the closure of the park is a direct pay-off to that company. Finally, is the Attorney aware that the service supplied by the nursery that is the subject of this question is such that the nursery is open to the public for seven days a week, whereas the opposition nursery openly advertises that it is not prepared

to open for business on Sundays (because of religious grounds)?

The Hon. K. T. GRIFFIN: The Liberal Party does not embark upon pay-offs to anyone. We do not adopt the practice of the previous Government.

PUBLIC SERVICE FILES

The Hon. FRANK BLEVINS: I seek leave to make a brief statement prior to asking a question of the Attorney-General, representing the Minister of Community Welfare, who I know is unavoidably absent. The question is about Public Service files.

Leave granted.

The Hon. FRANK BLEVINS: On Tuesday 26 August, as reported on page 586 of *Hansard*, the Attorney-General gave me a reasonably full reply to a question that I had asked. It was a belated reply but nevertheless a full reply, which I finally received. To refresh the Attorney's memory, I draw his attention to the last sentence of the reply, which stated:

> Public servants do have access to their personal files held by the Public Service Board.

I think members will agree that that was clear and unequivocal. My question to the Attorney-General, representing the Minister of Community Welfare, has some urgency about it, and I hope that if any members of the Minister's staff are within the Chamber they will take note of the urgency. Will the Minister issue to his department instructions that will have the effect of giving Mr. Colin Maxwell Taylor, a D.C.W. officer at Whyalla, immediate and full access to his personal files held by the Department of Community Welfare and/or the Public Service Board?

The Hon. K. T. GRIFFIN: I will refer that matter to my colleague for an appropriate answer.

LIQUID PETROLEUM GAS

The Hon. M. B. DAWKINS: Has the Attorney-General, representing the Minister of Mines and Energy, a reply to my question of 5 August about the use of liquid petroleum gas in Government vehicles?

The Hon. K. T. GRIFFIN: The Government has been evaluating for some time the possibility of converting Government vehicles to l.p.g. fuel. The economic justification for converting vehicles is dependent on the annual distance travelled, because of the costs involved in conversion. However, with the current Commonwealth policy of automotive l.p.g. pricing, which ensures a price level well below that of petrol, it is possible that assembly-line l.p.g. vehicles will be produced in the near future. The development of the Cooper Basin liquids scheme in 1983-84 will further enhance this prospect. The Government will therefore take the necessary action to ensure that any advantages resulting from the price of l.p.g. is secured at the earliest possible opportunity.

WOMEN'S UNIT

The Hon. ANNE LEVY: Has the Minister of Local Government, representing the Minister of Education, an answer to my question of 20 August about the Women's Advisory Unit in the Education Department?

The Hon. C. M. HILL: Contrary to the statement made with the question, the Women's Unit will remain in the Education Department. There are no plans under consideration to disestablish the Women's Unit. The level of staffing of all advisory sections of the Education Department is under review at the current time. Every attempt will be made to maintain the level of staffing which the Women's Unit has enjoyed over the past 12 months, but the unit's staffing will be subject to review together with all other advisory sections. Nevertheless, it is expected that the two advisory positions will be filled in the normal manner. No immediate increase in staff of the unit is contemplated.

AMALGAMATION OF DEPARTMENTS

The Hon. ANNE LEVY: Has the Minister of Local Government, representing the Minister of Education, an answer to my question of 28 August about the amalgamation of departments?

The Hon. C. M. HILL: The amalgamation of the Departments of Education and Further Education is one of a number of issues being looked at by the Committee of Inquiry into Education. No decision on this matter will be made until the committee has presented its report to the Government.

NORTHERN ROAD

The Hon. J. A. CARNIE: I ask the Attorney-General, representing the Minister of Transport, when work commenced on sealing the Hawker to Leigh Creek Road. Secondly, how much of that work has been completed? Further, what is the total cost to date? Finally, how much remains to be sealed, and when is it anticipated that this road will be completed?

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

MATTHEW FLINDERS

The Hon. K. T. MILNE: Has the Minister of Arts an answer to my question of 27 August about the possibility of making a film on Matthew Flinders?

The Hon. C. M. HILL: The South Australian Film Corporation made a short film for the South Australian Government Tourist Bureau in 1975 called *The Last Coastline*. Using Flinders' explorations as a basis, this film was released in commercial cinemas and also through film libraries and other non-theatrical channels to help promote tourist interest in the coastal areas of South Australia explored by Flinders.

As it was designed for promotion of tourism, the film naturally did not deal with Flinders' explorations in such depth as would a film of the kind suggested by the honourable member. That type of film, involving accurate re-enactment of historical events, would require expert and detailed research and would cost considerably more to produce than the earlier limited one made by the South Australian Film Corporation. The Film Corporation would welcome the opportunity to make such a film but has no funds of its own for this purpose. The corporation will take up the proposal, however, with the Chairman of the South Australian Sesquicentenary Committee for possible inclusion in the celebrations programme being planned by the committee. At the suggestion of the Hon. Mr. Milne, contact has been made by my officers with Prof. Benness who the Hon. Mr. Milne indicated was very interested in this subject, and the whole issue will be kept under review.

UPPER SPENCER GULF

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation prior to asking the Attorney-General, representing the Premier, a question about the Upper Spencer Gulf area.

Leave granted.

The Hon. R. C. DeGARIS: When the first Bill appeared in the Council to acquire land for the establishment of a petro-chemical industry at Redcliff, the then A.L.P. Government had presented to the House an environmental impact study designed to show that the industry would not unduly affect the environment of the gulf. When the Bill was being debated in the Council, I, with others, drew attention to the fact that it would be impossible for any satisfactory study to be undertaken in the time that the report was produced. Since that time, both the previous Government and the present Government have proceeded with plans to assist in every way the establishment of a petro-chemical industry in the upper reaches of Spencer Gulf. The company with which both Governments have been working, of course, is Dow Chemical.

The public have now been presented with a study of the impact on the environment undertaken by Dow. The company intends to establish a petro-chemical industry in South Australia. The Environment Department has also presented further information to both the Government and the public of South Australia. However, I must admit that my fears are not completely allayed in regard to the establishment of this industry in the Upper Spencer Gulf, and my remarks are recorded in *Hansard* if members care to check them at any time. The industry still could present a serious threat to the ecology of the upper gulf. Both Dow and the Environment Department have a vested interest (the Environment Department through the fact that its policy is controlled by Government policy) in the establishment of the industry.

There must be other people who still share the same views that I share, namely, that their fears in relation to this industry are not completely allayed. In matters such as this, nothing should be left to chance, and not only must the public be thoroughly satisfied that there are no problems but also every facility to allow the public to have their views heard and examined must be provided for. With this explanation and the views that I have expressed in mind, will the Government consider appointing a tribunal of experts, presided over by a judge of the Supreme Court, to which any member of the public can make a complaint—

The Hon. J. R. Cornwall: You have come on board with me.

The Hon. R. C. DeGARIS: I hope not. I could not think of anything worse than being on board with the Hon. Mr. Cornwall. Will the Government consider appointing a tribunal of experts, presided over by a Supreme Court judge, to which any member of the public may take a complaint, or to which any person may lodge an objection, and the tribunal to report its findings on those matters so raised to the Parliament or, if the Government does not like this idea, has it any other ideas in relation to how members of the public—

The Hon. N. K. Foster: Of course they haven't got any ideas. They're bereft of ideas.

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: —who share the same fears in relation to the site proposed for the petro-chemical industry can have access to some authority and have their views thoroughly examined and the findings presented to the public for their digestion?

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

PUBLIC LIBRARIES

The Hon. G. L. BRUCE: I seek leave to make a short explanation before asking the Minister of Local Government a question regarding public library services.

Leave granted.

The Hon. G. L. BRUCE: The story goes back to the days of the Whitlam Government. A report was then commissioned into the needs of the library service provided free by States, regions and municipalities. It was undertaken by Mr. A. R. Horton, a leading New South Wales librarian. His report, dated 1 April 1976, has since been referred to, for convenience, as the Horton Report. This document recommended a 10-year programme of assistance to libraries, with some of the finance coming from the Commonwealth.

Since that date, the South Australian Government markedly increased its spending on free library services, a long overdue reform. But also, since that date, absolutely nothing has emerged from Canberra pledging the Australian Government in any way.

The Library Association of Australia has many times admitted its bewilderment at the variety of excuses that has been offered for the Federal inaction. There will not, apparently, be a meeting with the States on the Horton proposal "until such time as the Commonwealth's position on the report is clear". That statement was made a year ago and, as yet, nothing has become clear.

Does this Government support the efforts of the previous Government in getting the Commonwealth to come to the party, and what action has it taken, or is it contemplating, in pressing the Federal Government to provide funds, more than four years after the Horton Report made its persuasive recommendations?

Is the present Government continuing the pressure that was being exerted by the previous Administration to ensure that the Australian Government pays its share of public library services throughout Australia?

The Hon. C. M. HILL: Of course, the present Government is always pressing the Federal Government for funds. Indeed, this State is treated generously by the present Federal Government, and we are very appreciative of the aid and assistance that the Fraser Government provides South Australia in all its funding areas. Regarding the matter of library funding, the Government pursues these matters with the Federal Government in the same way as the former Administration pursued them.

The Hon. J. R. Cornwall: Not too vigorously in an election year.

The Hon. C. M. HILL: We are able to do it to the extent that we will this financial year increase funding for library services in South Australia by $1 319 000.

The Hon. J. R. Cornwall: What's that in real terms?

The Hon. C. M. HILL: If the honourable member wants more specific figures, I can provide them for him. The amount of funding that went to libraries in this State in the last financial year was $7 367 000, and the amount proposed in the Budget that is now before Parliament to be expended by the Government (and some of this money comes from Federal sources) is $8 687 000. So, that is a very worthy increase in view of the restraints that are, generally speaking, imposed across the board on departmental expenditure in the interests of Government policy and of the economy of this State generally.

The Hon. L. H. Davis: That is 17 per cent, which is very good.

The Hon. C. M. HILL: It is exceptionally good. I do not think that anyone has real grounds for complaint in this area.

RECREATION AND SPORT

The Hon. J. E. DUNFORD: Has the Attorney-General received from the Minister of Recreation and Sport a reply to the question I asked on 7 August regarding recreation and sport?

The Hon. K. T. GRIFFIN: The Minister of Recreation and Sport reports that the Education Department has undertaken a study on half-court tennis and is establishing a trial programme under which half-court tennis courts are being planned for approximately 12 State schools. These projects are to be funded without financial assistance from the Recreation and Sport Division.

In the event of any proposal to the Recreation and Sport Division for a subsidy towards the construction of courts on Education Department land, there will need to be a commitment in regard to community use and an appropriate management agreement to ensure community access. This criterion applies to any application for assistance from the Recreation and Sport Division for recreational or sporting facilities on Education Department land.

Applications under the Division's Capital Assistance Programme for 1980-81 have been received and are under assessment, but there are no applications in relation to the construction of half-court tennis facilities at schools or anywhere else. Advertisements for the 1981-82 programme will appear in the press in mid-February 1981, and any applications received for half-court tennis projects will be given full consideration. However, such applications will be assessed with all other applications for assistance during 1981-82 in the light of established criteria and the funds that are available.

LARGS BAY OIL

The Hon. J. E. DUNFORD: Has the Attorney-General a reply to the question I asked on 12 August regarding Largs Bay oil?

The Hon. K. T. GRIFFIN: The reported occurrence of oil and gas seepages in the Largs Bay area was investigated during the first half of this century by two companies, along with an independent investigation by the Department of Mines. A well 305ft. deep was drilled by the Department of Mines for the Largs Bay Oil Company but failed to discover any oil.

Tests were also carried out on gases which bubbled from sands near the Largs Bay jetty, but results attributed the gas to decomposing vegetation within the sand. In 1926, another well was drilled near the Semaphore jetty for the Co-operative Oil Company, to a depth of 1 354ft. The well discovered artesian water but no petroleum.

Extensive drilling for water on the Adelaide Plains has failed to reveal any authenticated show of petroleum. A number of reported oil films on water subsequently were attributed to small oil leakages from drilling or pumping machinery.

URANIUM WASTE DISPOSAL

The Hon. BARBARA WIESE: Has the Attorney-General a reply to my question of 21 February about uranium waste disposal?

The Hon. K. T. GRIFFIN: The United States waste management research and demonstration programmes include a number of alternatives for the disposal of high-level nuclear waste including vitrification. There is no immediate concern by the United States with any specific waste disposal plan for nuclear power station spent fuels, as burial of such spent fuels or waste products from them, after reprocessing, are unlikely until after the year 2000. In the meantime, a range of material for stabilising the high level radioactive products prior to burial are being tested in the United States of America including the method of fusing the highly radioactive particles into a dense rock developed by Professor Ringwood. World nuclear countries are now closely associated in improving on the methods already evolved for eliminating the dangers from wastes generated in the nuclear electricity generating plants.

WOMEN'S ADVISER

The Hon. BARBARA WIESE: Has the Attorney-General a reply to my question of 14 August about the Women's Adviser?

The Hon. K. T. GRIFFIN: The role and functions of the Women's Adviser in the Premier's Department are at present the subject of discussion in which the Women's Adviser herself is taking part. Consideration is being given both to a possible change of title and to making the position a Public Service appointment rather than a contract appointment. I can assure the honourable member that the Women's Adviser and her unit in the Premier's Department will continue to have a major concern with the problems of women. There is certainly no intention to diminish her effectiveness by the minor adjustments being considered; the intention is rather to strengthen her function and to integrate it more rationally within the Premier's Department.

ECONOMIC THEORIES

The Hon. BARBARA WIESE: Has the Attorney-General a reply to my question of 27 August about economic theories?

The Hon. K. T. GRIFFIN: The Premier has advised me that it was a personal view. Secondly, pure Friedmanite monetary theories have not been applied in any country in the world. The failure of Governments to adopt Friedman's policies has in fact been put forward by a number of economists as one of the causes of their current economic ills. The economic theories of Milton Friedman have no relevance to the social philosophies pursued by the Government of Chile or any other Government.

URANIUM ENRICHMENT PLANT

The Hon. BARBARA WIESE: Has the Attorney-General a reply to my question of 7 August concerning a uranium enrichment plant?

The Hon. K. T. GRIFFIN: The energy requirement for the proposed uranium enrichment plant using the Urenco-Centec process is estimated at 15 megawatts continuous load. This is readily available from the existing Electricity Trust of South Australia power grid.

STATE BANK REPORT

The PRESIDENT laid on the table the annual report and accounts of the State Bank for the year ended 30 June 1980.

LOCAL GOVERNMENT REGULATIONS

The Hon. N. K. FOSTER: I seek leave to make a brief statement before asking the Minister of Local Government a question about local government.

Leave granted.

The Hon. N. K. FOSTER: Honourable members will recall that I asked a number of questions before we rose a couple of weeks ago in respect to the Adelaide City Council's parking regulations and traffic by-laws which had been the subject of motions of disallowance in both Houses of this Parliament. The present Government has almost had a day-to-day and week-by-week white-washing of those regulations, although they are almost illegal and are certainly not in the best interests of the public.

The Minister will recall that he made certain promises in reply to questions that I asked regarding Adelaide City Council and how long it would take for the council to draft a new set of regulations and present them before the Subordinate Legislation Committee. Has the Minister or his department received a report from the council concerning its parking and traffic regulations following the questions and replies given recently in this Chamber? In respect of those parking and traffic regulations to which I refer, are new draft regulations being drawn up for the benefit of Adelaide City Council and, subsequently, other municipal councils?

The Hon. C. M. HILL: The matter is not quite as simple as the honourable member suggests—that the Government simply goes down to the council and obtains a draft of the new regulations and that that document be proceeded with. The whole matter has been investigated carefully by a committee that has within its ranks representatives of the Law Department, the council, the Royal Automobile Association, the Department of Local Government—

The Hon. N. K. Foster: The Local Government Association?

The Hon. C. M. HILL: It is not on the committee as an association, although the matter has been submitted to the association, which dealt with the whole subject, I understand, last week. Indeed, there have been weekend conferences involving local government in the field and solicitors in regard to compiling the new regulations. It has been a complex matter and has taken time. Unfortunately, it has taken longer than all of us would have wished, but that is a fact of life. We have now reached a stage with the new regulations in draft form where they are in a situation to be proceeded with, I think, within a week or two.

The Hon. N. K. Foster: Has your department a copy?

The Hon. C. M. HILL: My department has been involved closely in the whole matter. It has co-ordinated the activity that has been involved. It has also now been suggested that minor amendments to the Local Government Act may be necessary as part of the proposition of introducing the new regulations. I hope that within a week or two finality will be reached and individuals concerned in the matter can make representations to the Subordinate Legislation Committee. Answering the honourable member briefly, the matter is coming to a head now and within, say, two weeks, I think, we will have the matter finalised.

The Hon N. K. FOSTER: I desire to ask a supplementary question. I listened closely to the Minister's reply, and I ask him directly whether his department has a copy of the marginal notes of meetings that have been held so far. Indeed, I have much information that I am prepared to disclose to this Council. I wrote to the Town Clerk of the Adelaide City Council, accusing him of misleading a Minister of this Council. I have a copy of all that has gone on.

The PRESIDENT: Order! The honourable member asked permission to ask a supplementary question.

The Hon. N. K. FOSTER: I am asking it now. Is the Minister being kept completely informed by the Adelaide City Council in connection with meeting his wishes in respect to the council's parking regulations? Will the Minister ascertain from the Town Clerk whether the Town Clerk has been advised by the Minister's department that the Minister has replied to questions in this Council requesting certain information, which has as yet not been given?

Is the Minister aware that the information sought in this Council has been made public in so far as the Local Government Association area is concerned? Will the Minister request his department to furnish him with a full report on the investigations so far and provide him with a transcript of evidence, including that of the meeting which was called during last week and which lasted for an hour and a half? Who were the representatives at that meeting? Finally, will the Minister ensure that he is kept adequately and properly informed by the Adelaide City Council and will he find out why he has been wilfully excluded from being so informed?

The Hon. C. M. HILL: My department is being kept properly informed by the Adelaide City Council about council's views in relation to the proposed regulations. In relation to the replies the honourable member has asked me to obtain, I am quite happy to do so.

The Hon. N. K. Foster interjecting:

The Hon. C. M. HILL: I am referring to the second section of the question the honourable member asked a moment ago. The honourable member referred to information being made public; of course, when he asks questions in this Chamber the whole issue becomes public. In my view there is no reason for any secrecy anyway.

The Hon. N. K. Foster: Why did they not give you a copy of the regulations?

The Hon. C. M. HILL: Because there is not an exact final copy ready yet. Finally, I am being fully informed about what is going on. Once again, I refer to the meetings, of which the honourable member may or may not be aware, in which local government is involved. Suburban local government authorities have been asked to contribute some input by the Local Government Association. Meetings between representatives of local government bodies and solicitors have been held under the auspices of the Local Government Association. All kinds of reactions are being considered and noted before the final draft is prepared and submitted to Cabinet. Surely, that procedure is necessary in view of the need for an adequate set of regulations to be provided once and for all, so that the problems and difficulties with which the Government and Parliament itself, through the Subordinate Legislation Committee, were confronted on the last occasion will not occur again.

LAND COMMISSION

The Hon. J. R. CORNWALL: My questions are directed to the Attorney-General, representing the Premier. Is the South Australian Land Commission continuing to operate

as directed by the South Australian Land Commission Act and within the Federal-State financial agreements? Is the "curtailment", to which the current Liberal Party advertisement refers, merely Ministerial obstruction rather than restructuring of the commission's operations? Is the degree of that obstruction limited within the terms of the Act and the financial agreements? How much money does the commission hold in cash as a result of sales? What is the current value of their developed blocks held in stock? Has the Premier found that he is unable to restructure the South Australian Land Commission without breaching the Federal-State financial agreements? Will the Premier make an immediate statement regarding the full financial affairs of the commission? Have Federal Treasury officials indicated that, as a necessary step in any negotiation arrangements, they will require the return of the $40 000 000 in cash and developed stock held by the commission to the Federal Treasury? If not, what are the requirements? Is it a fact that, even if the commission did incur book debts from time to time, it is unable to make financial demands on the State Treasury for any money whatsoever?

The Hon. K. T. GRIFFIN: I will refer the honourable member's questions to the Premier and bring down a reply.

DRIVING OFFENCE

The Hon. N. K. FOSTER: Does the Attorney-General have a reply to a question I asked on 12 August about a driving offence?

The Hon. K. T. GRIFFIN: I have obtained from my officers details of the District Criminal Court trial referred to by the honourable member. Briefly, the circumstances surrounding the accident were that the accused was driving a vehicle on a main country road at about 8·15 p.m. on 27 January 1980. It was dusk, he failed to negotiate a bend, left the road and hit the deceased who was walking with her friend on the verge of the road, with her back to the oncoming vehicles. He said that the front left wheel of his car got caught in a groove at the edge of the road and that that contributed to it leaving the road. It is true that where the bitumen finished there was a rut. A police officer was on the scene a few minutes after the accident and his observations led him to request the accused to take an alcotest, which proved positive; a breathalyser test taken later showed a reading of 0·12 per cent. The accused was charged with causing death by dangerous driving, he entered a plea of guilty, was convicted and sentenced by the judge.

As I indicated at the time that the honourable member asked this question, it is not in my province to question a decision or penalty imposed by a judge, magistrate or justices unless the Crown has a right of appeal and is of the view that in the circumstances a decision or penalty should be challenged by way of appeal. The police acted quite properly in the matter; they were quickly on the scene and took a blood alcohol reading from the accused, and later charged him with the most serious offence available (that of causing death by dangerous driving). He was indicted and brought before a criminal court, where he pleaded guilty. There can be no criticism of the investigators and prosecution.

It was for the judge to impose such penalty within the limits laid down by the law as he considered appropriate. This he did, and as I have said, it is not for me, or any other part of the Executive, to comment on a judicial decision. Nor, at this stage, is there any right of appeal against the sentence.

SMALL BUSINESS

The Hon. N. K. FOSTER: Does the Attorney-General have a reply to a question I asked on 6 August about small business?

The Hon. K. T. GRIFFIN: I have now obtained from the Corporate Affairs Commission the information sought by the honourable member in relation to the winding up of companies. The information sought is as follows:

(1) The number of company liquidations in financial year ended 30 June 1979:

Members voluntary	316
Creditors voluntary	51
Windings up by court	74

(2) The number of company liquidations in financial year ended 30 June 1980:

Members voluntary	334
Creditors voluntary	78
Windings up by court	97

(3) Of the liquidations referred to in (2) the undermentioned figures apply to the period from 1 September 1979 to 30 June 1980:

Members voluntary	281	(334)
Creditors voluntary	68	(78)
Windings up by court	77	(97)

It should be noted that voluntary windings up by members concern only solvent companies where the desire or the necessity to liquidate does not arise from an inability to pay debts.

MINING AND INVESTMENT

The Hon. N. K. FOSTER: Does the Attorney-General have a reply to a question I asked on 11 June about mining and investment?

The Hon. K. T. GRIFFIN: The Roxby Downs proposal is still under evaluation. At this preliminary stage, infrastructure requirements have not yet been defined precisely. In the case of the Redcliff project, and the associated liquids development, the State will provide about $70 000 000 towards the infrastructure with a further $200 000 000 or more depending on the pipeline options finally chosen, to be funded by means of borrowing authority approved by Loan Council. There will be a full return on these borrowings by way of the charges which will be levied on the infrastructure.

NUCLEAR ENERGY

The Hon. N. K. FOSTER: Does the Attorney-General have a reply to a question I asked on 21 August about nuclear energy?

The Hon. K. T. GRIFFIN: Inquiries reveal that transcripts of *Four Corners* programmes are not available from the Australian Broadcasting Commission.

PRIVACY

The Hon. N. K. FOSTER: Does the Attorney-General have a reply to a question I asked about privacy?

The Hon. K. T. GRIFFIN: It is not the intention of the Government to limit or deny the right of industrial inspectors to endeavour to ascertain the causes of a disaster such as the one that occurred in the basic oxygen plant at B.H.P. Steelworks, nor will it limit the power of inspectors to inspect any factory or industrial workplace where death or injury has occurred.

URANIUM ENRICHMENT PLANT

The Hon. FRANK BLEVINS (on notice) asked the Attorney-General:

1. Is any forward planning taking place on the provision of a uranium enrichment plant in the Iron Triangle region?
2. If so, how far advanced is the planning?
3. Does the forward planning indicate that Whyalla is the prime site for the plant?
4. Does the Minister still adhere to his previous commitment that a uranium enrichment plant would not be built without community support (*Hansard*, 1 November 1979)? If so, how does the Minister intend ascertaining the support or otherwise of the Whyalla community?

The Hon. K. T. GRIFFIN: The replies are as follows:

1. Yes.
2. Preliminary discussions with the Commonwealth Government have begun.
3. No specific site has been identified.
4. Yes, the Corporation of the City of Whyalla has already expressed strong support for the project.

THE BANK OF ADELAIDE (MERGER) BILL

His Excellency the Governor, by message, intimated his assent to the Bill.

COMPANY TAKEOVERS BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to regulate the acquisition of shares in companies incorporated in South Australia and matters connected therewith; to amend the Companies Act, 1962-1980; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

INTRODUCTION

Today I am introducing a Bill to regulate the conduct of company takeovers in South Australia. The proposed legislation is interim legislation, intended to cover the period between now and the date when similar legislation under the auspices of the Co-operative Scheme on Companies and Securities comes into effect. It is quite possible that there will be a delay of several months before the Commonwealth and each State which is a party to the co-operative scheme is ready to bring the scheme takeover legislation into force. The Government has formed the view that this delay is a matter of serious concern to South Australia in the light of current circumstances and conditions. The Bill which is before the House is considered to be the most effective remedial action.

THE NEED FOR THIS LEGISLATION

For some years it has been apparent that the reform of the law regulating company takeovers is desirable. Concern at abuses and malpractices in the Australian securities market played a major role in the establishment of the Co-operative Scheme on Companies and Securities. This scheme was formally established by an agreement signed in December 1978 by the Commonwealth and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania. An essential part of the scheme is the establishment of a National Companies and Securities Commission to administer uniform companies and securities law throughout the participating States and Territories.

One important piece of legislation which will be administered by the National Companies and Securities Commission is the Companies (Acquisition of Shares) Code. A Commonwealth Companies (Acquisition of Shares) Act, 1980, has been passed. Some amendments to the Commonwealth legislation are being effected. When this is done, each of the six States can proceed to pass and bring into force legislation applying the Commonwealth provisions. On 28 August 1980, I introduced four Bills required to implement the scheme legislation in South Australia. These Bills are:

1. The National Companies and Securities (State Provisions) Bill, 1980.
2. The Companies (Acquisition of Shares) (Application of Laws) Bill, 1980.
3. The Securities Industry (Application of Laws) Bill, 1980.
4. The Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill, 1980.

Unfortunately, no other State has yet introduced all these Bills, although the other five States have agreed to do so. As the co-operative scheme is presently structured, no state can bring its legislation into force until the Commonwealth and each of the other States is ready to do so. For some time the parties to the scheme have been working to a time table which would see this legislation in force no later than 1 January 1981. It now appears that this target date cannot be met. One State has reported that it will definitely be unable to pass its legislation before the end of 1980. The position in some other States is, at present, uncertain.

This delay is a significant and serious matter for a number of reasons. Firstly, it takes place against the backdrop of intensive takeover activity in the Australian securities market. According to the *Australian Financial Review*, at 8 September 1980 there were 38 takeovers pending. This upsurge in activity can no doubt be attributed to a variety of factors. But it seems reasonable to assume that it is at least partly actuated by the widespread knowledge in the commercial community that new takeovers legislation is on the way.

Secondly, the existing law on takeovers (which is found in Part VIB of the Companies Act, 1962-1980) has not proved to be as effective as hoped. In particular, it has failed to prevent what is commonly called the "market raid". This is a lightning takeover which gives the shareholders of the target company inadequate time to assess their position. Often, the raider succeeds in buying the shares in the target company for less than their true value. Sometimes, raiders anxious for a quick return break up the business and sell off the assets.

Thirdly, the States of Queensland and Western Australia already have new takeovers legislation in place. These States announced their intention to legislate late in 1979 because they were concerned at the increasing tempo of takeover activity. The Queensland and Western Australian legislation is similar in form to the proposed scheme legislation. Inevitably, as a result of Queensland and Western Australia having more stringent legislation and tighter controls on takeovers, more attention has been focused on South Australian companies as potential targets.

Fourthly, the Australian Associated Stock Exchanges have amended their listing rules as a response to the Queensland and Western Australian legislation. This was

done to bring the rules into a form consistent with the new takeover legislation. However, these new rules do not combine well with the law in South Australia, which enforces the old takeover rules. Introduction of this legislation will remove that anomaly in South Australia.

The Government has concluded that further delay in the implementation of the new takeover legislation is not in the public interest. The date of commencement of the new scheme takeover legislation is uncertain. I have initiated some discussions with the Commonwealth and other States about the possibility of the scheme legislation being introduced in some States but not others.

However, so far these talks have not come to fruition. A phased introduction for the scheme legislation might require some amendment to other legislation and would require the agreement of all parties to the co-operative scheme. Therefore, the Government cannot say whether a phased introduction is possible. In these circumstances, the Government considers that it has no option other than to introduce this legislation on the clear understanding that it will have effect only for an interim period. It is intended that this legislation should be repealed when the scheme legislation is ready to come into force.

PURPOSE OF THE PROPOSED COMPANY TAKEOVERS ACT

For some time there has been a strong consensus in the business community that reform of the laws governing company takeovers is necessary. This legislation is designed to achieve that and to promote fair play and equitable conduct in the securities market. There are five guiding principles underlying the policy behind this legislation. Firstly, an acquisition of shares which has the practical or potential effect of altering the balance of control within a company must be treated as distinct from an everyday acquisition of shares.

Secondly, if a person wishes to gain control of a company, he should be obliged to disclose his identity to the shareholders and directors of that company. Thirdly, the shareholders and directors of a target company should have a reasonable time in which to consider any offer to take over the company. Fourthly, the shareholders of a target company should have sufficient information before them to enable them to arrive at a reasonably informed decision on the merits of any offer. Fifthly, each shareholder in a target company should have an equal opportunity to participate in any benefits offered under a takeover bid.

Although the existing takeover legislation was designed to give effect to those guiding principles, it has not been entirely successful. Abuses have been widespread, including:

(a) the misuse of confidential information which is not freely available to the public or to shareholders;

(b) the publication of material which is false or misleading;

(c) the use of selective offers to the benefit of some shareholders and the detriment of others;

(d) the "lightning raid" accompanied by rapid buying on the Stock Exchange floor which allows shareholders inadequate time to consider the merits of an offer.

This legislation is designed to curb these abuses without interfering with legitimate commercial bargains. It should be emphasised that all the abuses are not always on the side of the offeror. Sometimes directors of target companies are unscrupulous in the manner in which they conduct their defence. The legislation imposes controls in this area.

The Company Takeovers Bill also gives consideration to the rights of employees. Whenever a takeover bid is made, the offeror must set out his intentions regarding the continuation of the business of the target company, any major changes to be made to the business of the target company and the future employment of the target company's employees. This should encourage shareholders to consider the social and employment implications of any takeover.

SIGNIFICANT FEATURES OF THE PROPOSED COMPANY TAKEOVERS ACT

I now propose to outline some of the major features of this legislation. A more detailed examination may be found in the clause notes prepared by Parliamentary Counsel which have been distributed to members. The Company Takeovers Bill is based on the provisions of the Commonwealth Companies (Acquisition of Shares) Act, 1980. It takes into account proposed amendments to this Act which are now before the Commonwealth Parliament. Before the existing Companies (Acquisition of Shares) Act was passed by the Commonwealth Parliament, it was twice exposed for public comment. In addition, for several years officers from the Commonwealth and each of the six States have been working on the takeovers legislation. Thus, a considerable amount of time and effort has been devoted to settling the form of this legislation.

The legislation is concerned with the acquisition of controlling interests (or potential controlling interests) in companies. It deals with any acquisition of shares which has the effect of a party gaining control of 20 per cent or more of the voting shares in a company (or in a particular class of shares). The Bill is not concerned with transactions involving small proprietary companies with less than 15 members. However, where it does apply it permits a stake of more than 20 per cent to be acquired in one of three ways, as follows:

1. The acquisition can proceed by way of a "creeping takeover". That is, the person acquiring the shares must acquire no more than 3 per cent of the shares in the company (or in a relevant class of shares) every six months.
2. The acquisition may proceed through a formal bid. This procedure is superficially similar to that laid down in the existing legislation. However, there has been a general tightening of controls and shareholders must be provided with more information than the law requires at present.
3. The acquisition may proceed by way of a takeover announcement. This will be made on the floor of the Stock Exchange. The person wishing to acquire the shares makes a public announcement that he offers to purchase all the shares in the company (or in a relevant class) for cash consideration.

THE FORMAL BID PROCEDURE

The formal bid procedure necessarily entails the despatch of written offers to all shareholders, accompanied by detailed information. Upon receipt of the written offers, the shareholders have a reasonable time to consider their position. In addition, the target company is obliged to provide them with further information, along with the opinions of all the directors on the bid.

The formal bid procedure must be used if an offeror wishes to acquire less than 100 per cent of the shares in the company (or in a relevant class). It is also the procedure which is required if the offeror wishes to buy shares outside the course of the Stock Exchange trading or to offer non-cash consideration (e.g. an exchange of shares in

the offeror company). There are three basic stages in a formal takeover bid as follows:

1. The offeror despatches a written offer to all shareholders of the target company (or in the target class). Detailed material concerning the financial position of the offeror and the forms of the offer must accompany the written offers.
2. The directors of the target company prepare a statement detailing the financial position of the target company and supplying any recommendation that the directors wish to make in relation to the bid. This statement is despatched to the shareholders by the target company.
3. The shareholders have at least one month to consider the material provided by the offeror and the target company. They can make a considered decision to accept or reject the offer.

The new legislation introduces a number of additional controls over formal takeover bids. Two are particularly significant. First, if the offeror is bidding for less than 100 per cent of the shares in the target company (or in the target class) the situation may arise where the number of acceptances exceeds the number of shares which the offeror wishes to acquire. In this event, the offeror must acquire an appropriate proportion of the shares offered by each accepting shareholder. This means that the benefits of the takeover bid will be shared on a pro rata basis amongst accepting shareholders.

Secondly, where the offeror is related in any way to the target company, the directors of the target company are obliged to obtain a report from an independent expert in relation to the bid. This report must be circulated to the shareholders in the target company.

PROCEDURE FOR A TAKEOVER ANNOUNCEMENT

This procedure can only be used if the offeror is willing to acquire 100 per cent of the shares in the target company (or class) for cash consideration. In addition, an offeror cannot make a takeover announcement if he holds more than 30 per cent of the shares in the target company. This is designed to give the shareholders a reasonable time to consider the bid before the offeror acquires more than 50 per cent. A bid by way of a takeover announcement will normally proceed as follows:

1. The offeror's broker will make an announcement on the floor of the target company's home Stock Exchange. The announcement will be to the effect that for a specified period (at least six weeks) the offeror's broker will be prepared to purchase any shares in the target company or in the target class for a specified cash price.
2. The offeror will prepare a statement containing detailed material about the terms of the bid and the offeror. The statement must be despatched to all shareholders in the target company or the target class.
3. In response, the directors of the target company will prepare a statement containing information about the target company and the director's recommendations. This statement must be despatched to all shareholders.
4. All share transactions pursuant to the takeover bid must be effected at official meetings of a Stock Exchange.
5. The takeover offer can only be withdrawn in the limited circumstances specified in the legislation unless the Commission consents to the withdrawal.

GENERAL SAFEGUARDS

There are a number of other important provisions in this legislation which apply to both formal takeover bids and takeover announcements, as follows:

1. The Bill extends many of the controls over the conduct of the offeror to "associates" of the offeror. The term "associate" is very broadly defined. The idea is to prevent the use of nominees and trustees to frustrate the operation of the legislation.
2. Restrictions are placed on parties associated with the takeover bid who wish to make profit forecasts or statements as to the valuation of assets which might affect the decision of target company shareholders. Forecasts or statements of this kind may only be disseminated with the approval of the Commission (clauses 37 and 38).
3. Where a takeover bid for a listed public company is in progress any parties holding 5 per cent or more of the shares subject to the bid are obliged to provide the Stock Exchange with daily details of their dealings in the target company shares (clause 39).
4. Where there are significant mis-statements or omissions in material dispatched or published in connection with takeover bids both civil and criminal sanctions are imposed (clauses 44 and 45).
5. The Minister is empowered to declare an acquisition of shares made whilst a takeover bid is pending to be an "unacceptable acquisition". The Minister can also declare any conduct that occurs in the course of a takeover bid to be "unacceptable conduct".

These declarations can be made where the Minister is satisfied that the shareholders or directors of the target company were not aware of the identity of an offeror, did not have sufficient time to consider a takeover bid, or were not supplied with sufficient information to assess a takeover bid. In addition, declarations can also be made where the shareholders of a target company did not have equal opportunities to participate in any benefits flowing from a takeover bid. Once such a declaration is made, the commission or any interested party may apply to the Supreme Court for relief.

OPERATION OF THE LEGISLATION

This legislation will be administered by the Corporate Affairs Commission for South Australia—not the National Companies and Securities Commission. Although the form of the proposed scheme legislation on takeovers has been followed very closely, not all the powers which will be exercised by the National Companies and Securities Commission under the scheme legislation will be vested in the Corporate Affairs Commission.

Although it might be appropriate to vest some of the more important powers and discretions under the takeovers legislation in a unique body such as the National Companies and Securities Commission (which is supervised by a Ministerial Council composed of Ministers representing seven Governments), it is not considered appropriate to vest all those powers in the South Australian Corporate Affairs Commission in the narrower context of this legislation. Some of the powers under the legislation have been vested in the responsible Minister, because he is a person directly responsible to the Parliament. Examples of powers which have been vested in the Minister are the power to declare an acquisition or conduct in the course of a takeover bid to be

"unacceptable", and the power to exempt persons from compliance with the legislation.

The proposed Company Takeovers Act will be deemed to have commenced on the day that the Government first made public its intention to proceed with this legislation. The transitional provisions of this Bill have been drafted to allow any takeovers under Part VIB of the Companies Act, 1962-1980, which are pending at the date of commencement of the legislation, to proceed along their normal course. Whilst these provisions are necessary, they leave open the risk of abuse if takeovers are commenced after the public announcement of the Government's intention but before the passage of the legislation. The "deemed" commencement date solves this problem. It should be noted that similar measures were taken by both the Queensland and Western Australian Governments when they introduced their company takeovers legislation last year.

CONCLUSION

This legislation is intended to have a limited life. However, it is nonetheless important legislation that fills a significant gap. It is designed to promote fairness and orderly trading in the securities market. Because it has been drafted to adhere as closely as possible to the terms of the proposed co-operative scheme legislation, the transition from this legislation to the scheme legislation should be relatively smooth. The Government considers the Company Takeovers Bill, 1980, to be vital to the interests of South Australia, and I commend it to the Council. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the Bill will have effect from 16 September 1980. Clause 3 provides that the Act operates to the exclusion of Part VIB of and the tenth schedule to the Companies Act, 1962-1980, which are the provisions which currently regulate takeovers. The clause also provides that this Act and the Companies Act, 1962-1980, will be read as one Act. Therefore provisions of the Companies Act that are relevant in the takeovers legislation (such as some definitions) will apply to this Act.

Clause 4 provides consequential amendments to the Companies Act, 1962-1980. Clause 5 is a transitional provision that will exclude from the operation of the Act certain takeovers commenced before the commencement of section 11 of the Act. Clause 6 provides definitions for certain terms used in the Bill.

Clause 7 provides a number of important conceptual definitions that are necessary for the operation of clause 11. Clause 11 restricts the ability of a person to acquire shares in a company if the result of the acquisition is to increase the shares to which he is entitled in that company. Clause 7 (1) provides that the acquisition of a relevant interest in shares constitutes an acquisition of the shares. Clause 9 defines "relevant interest". Subclause (3) provides that a person is entitled to shares in which he has a relevant interest and shares in which a person who is his associate has a relevant interest. Subclause (4) defines what is meant by "an associate" when determining the shares to which a person is entitled. Subclause (5) defines the concept of association between persons for other purposes in the Bill.

Clause 8 brings together a number of unrelated provisions required for the interpretation of the Bill. Clause 9 defines in detail the concept of "relevant interest". Clause 10 provides for the application of the Act. Although the clause is drawn in the widest terms, it must be remembered that the Bill regulates the acquisition of shares in companies as opposed to corporations. "Company" is defined by the Companies Act, 1962-1980, as a company incorporated pursuant to that Act, that is, a company that has been incorporated in South Australia. "Corporation" includes all companies wherever they have been incorporated and "body corporate" has an even wider connotation.

Clause 11 is the key provision of the Bill. Subclause (1) prohibits the acquisition of shares to a level above the prescribed percentage which is set at 20 per cent by subclause (7). Subclause (2) prohibits a person who holds between 20 per cent and 90 per cent from increasing his holding except as allowed by other clauses of the Bill. Clause 42 allows a shareholder who has 90 per cent of the shares in a company in certain circumstances to compulsorily acquire the remaining shares, and clause 43 enables the holders of the remaining 10 per cent to require the 90 per cent shareholder in certain circumstances to purchase their shares. Except for necessary local changes the Bill is identical to the Commonwealth Companies (Acquisition of Shares) Act 1980. The Commonwealth Act has been amended recently by *inter alia* striking out clause 11 (6). As this Bill is a forerunner of national legislation that will be based on the Commonwealth Act and will be uniform, the original Commonwealth numbering is used, with the result that there is no subclause (6) in this clause.

Clauses 12 and 13 provide that clause 11 does not apply to acquisition of shares in certain circumstances. Clause 14 enables shareholders to acquire shares by reason of *pari passu* allotments in accordance with the clause without being in breach of clause 11. Clause 15 enables a shareholder to increase his holding, if it is 19 per cent or more of the shares in the company, by not more than 3 per cent every six months.

Clause 16 allows the acquisition of shares under a takeover scheme that complies with the requirements of that clause. Identical offers must be made to all holders of shares of the class to be acquired and information in the form of a Part A statement must be given to the company the shares of which are to be acquired (the target company) as well as to the shareholders. Clause 17 allows shares to be acquired by purchase on the Stock Exchange. An announcement (called a takeover announcement) is made on behalf of the offeror on the market of the target company's home exchange. Only a person who holds less than 30 per cent of the shares in the target company can acquire shares in this way. The clause requires information in the form of a Part C statement to be given to the target company, the Stock Exchange and the commission.

Clause 18 regulates the service of a Part A statement on the target company and its lodgment with the commission. Clause 19 enables an offeror under a scheme, with the consent of the Commissioner, to extend the time for payment of the price of shares purchased under the scheme. Clause 20 prohibits certain conditions being attached by the offeror to the acceptance of offers to purchase shares under a scheme.

Clause 21 regulates the withdrawal of offers under a scheme. If one offer is withdrawn, all the others must also be withdrawn, and a contract created by the previous acceptance of an offer becomes voidable at the option of the offeree. Clause 22 requires the target company to supply certain information in the form of a Part B statement to the offeror and the holder of shares subject to the offer. Clause 23 requires a report from an independent

expert to acaccompany the Part B statement where the offeror is connected with the target company.

Clause 24 requires notice of the dispatch of offers to be given to the target company, the commission and, where the target company is a public company, to the Stock Exchange. Clause 25 provides for the situation where there is a change in ownership of shares during the time that they are subject to an offer under a takeover scheme. Clause 26 provides for the situation where the offeror offers to acquire part only of the shares in a class of shares.

Clause 27 enables an offeror in some circumstances to vary his offer. The variation must increase the benefit to the offeree or give him a choice of two or more alternative considerations. Offerees who have already accepted an offer are entitled to the extra benefits or choice of other forms of consideration. Clause 28 restricts the reliance that an offeror may place on a condition in an offer that he may rescind a contract resulting from its acceptance in specified circumstances.

Clause 29 provides that where an offer is subject to a condition that the offeror obtains more than 50 per cent of the voting shares in a company he cannot free the offer from the condition unless he is entitled to more than 50 per cent of the shares. This protects a person who decides to sell his shares because he fears the offeror will obtain control of the company but who wants to retain his holding if the offeror does not acquire a controlling interest. Clause 30 provides the effect of acquisition of shares outside a scheme on certain conditions included in offers made under the scheme.

Clause 31 deals with the general effect of acquisition of shares outside a scheme on scheme offers and contracts arising from acceptance of offers. The clause provides that shareholders accepting scheme offers will obtain all the benefits that shareholders dealing with the offeror outside the scheme will have. Clause 32 provides for information in the form of a Part D statement to be given by a target company that is subject to a take-over announcement to the commission, the Stock Exchange and the on-market offeror.

Clause 33 provides for withdrawal of on-market offers. Clause 34 enables the commission to suspend any on-market offers. Clause 35 prevents an offeror from disposing of shares during the time that his offer is open except to a rival takeover offeror. Clause 36 provides for certain information to be given by a target company to an offeror or on-market offeror. Clause 37 restricts forecasts of profits of a target company that may be made by an offeror or the company itself.

Clause 38 restricts the power of the target company to publish statements of its assets, as this may detrimentally affect the attitude of offerees to a takeover offer. Clause 39 requires the offeror and any shareholder who has 5 per cent or more of a company's shares to inform the Stock Exchange of any change in the numbers of shares to which they are entitled during the currency of a takeover offer of shares of that company. Clause 40 prohibits special deals between an offeror or an on-market offeror and selected shareholders of the target company whereby the shareholder would receive additional benefits.

Clause 41 preserves the rights of directors of the target company to their expenses incurred in the interests of members. Clause 42 enables an offeror who has obtained 90 per cent of the shares of the company or of a particular class to compulsorily acquire the remaining 10 per cent. Clause 43 enables a remaining shareholder, where an offeror has acquired 90 per cent of the shares, to require him to purchase his shares on the best terms available under the offer. Clause 44 is an extensive provision providing both criminal and civil liability for mis-statements by people who are required by the Bill to provide information. The clause allows a person who suffers loss or damage as the result of a mis-statement to recover damages from the person who is responsible for the mis-statement.

Clause 45 allows the Supreme Court, on the application of the commission, the target company, a member of that company or a person from whom shares were acquired, to make certain orders where an acquisition in contravention of the Act has occurred. Clause 46 provides for orders to be made by the court where shares are acquired after a Part A statement has been served but offers under a take-over scheme have not been sent to shareholders. Clause 47 enables the court to make orders during the currency of an offer protecting the rights of interested parties where provisions of the Act have been contravened.

Clause 48 allows the court to excuse a non-compliance with or contravention of the Act that is due to inadvertence, mistake or circumstances beyond the control of the person concerned. Clause 49 makes provisions relating to orders that the Supreme Court may make under the Act. Clause 49a saves the Bill from the restrictions on reduction of capital provided by section 64 of the Companies Act, 1962-1980.

Clause 50 empowers the court to make certain orders relating to agreements, benefits or payments given by a corporation to a director, secretary or executive officer of the corporation, either before or after a takeover scheme or announcement has been made. The court may declare such agreement to be void or direct a person who has received a payment or other benefit to repay the corporation. Clause 51 requires certain information to be recorded by the person recording the minutes of a resolution passed for the purposes of the Act.

Clause 52 prohibits the public announcement of a proposal to make a takeover offer or a takeover announcement if the person concerned has no intention of proceeding with the takeover. Clause 53 provides that a person who contravenes or fails to comply with a provision of the Bill is guilty of an offence punishable by a fine not exceeding $2 500 or imprisonment or both. Clause 54 provides a penalty of $50 per day for continuing offences. Clause 55 provides for liability of responsible officers where an offence has been committed by a corporation.

Clause 56 provides for service of documents. Clause 57 enables the Minister to exempt a person from compliance with the Act. Clause 58 allows the Minister to modify the manner in which the Act will apply to specified persons. Clause 59 provides the guidelines on which the Minister should exercise his power under clauses 57 and 58.

Clause 60 enables the Minister to declare conduct to be unacceptable in which case the commission will be able to apply for an order under clause 45. The court has power to overrule the Minister's declaration. Clause 61 enables the commission to intervene in proceedings relating to matters arising under the Act. Clause 62 provides for the making of regulations. Clause 63 is a transitional provision. Clause 64 provides for the payment of fees.

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

EVIDENCE ACT AMENDMENT BILL

In Committee.

Clause 10 and title passed.

Bill recommitted.

Clause 5—"Evidence by accused persons and their spouses"—reconsidered.

The Hon. K. T. GRIFFIN: When the Committee last considered this Bill, and particularly clause 5, there was apparently some misunderstanding regarding the amendments moved by the Leader of the Opposition to lines 21 to 24, namely, to strike out paragraph *(b)*. That amendment, although not inextricably bound up with the amendment to lines 12 to 28, namely, to leave out subclauses (4) and (5), was meant to be interrelated.

While the carrying out of the Leader's amendment on clause 5 created some difficulty, it was still possible to defeat the amendment to lines 12 to 28 and, although there would be some difficulties, it would not be a completely unworkable proposition.

I would like to have recommitted the amendment on page 1 (lines 21 to 24) which seeks to leave out paragraph *(b)*. This is because I believe I can clarify the misunderstanding. Regarding unsworn statements, I indicated that I had had some discussions with members of the Law Society. They, too, had had discussions with the Crown Prosecutor, and the proposed amendments that I was putting were sufficient to deal with the principle that Justice Mitchell was concerned about.

As I indicated when we last considered this matter, we were anxious to ensure that a defendant who alleged that a confession had been obtained from him by the arrest, or a defendant who had been subject to an assault but who had not made a statement, or a defendant who alleged that he had not made the statement that it was alleged he had given, should not immediately put his own convictions and record in issue.

The amendments that I proposed were, after consultation with the Crown Prosecutor and representatives of the Law Society, adequate to ensure that, except in those circumstances, the defendant who made an unsworn statement would be subject to cross-examination. It must be remembered that the Mitchell Committee was concerned about the effect of a defendant's prior convictions upon a jury. It took the view that there ought to be a total ban on the defendant being subject to cross-examination about his previous convictions, regardless of the allegations that he made against the prosecution and its witnesses.

As I say, the proposal that has already been accepted by the committee recognises that that course which was suggested by the Mitchell Committee was not appropriate, that it went too far, and that the protections that I have now been able to secure in the Bill are adequate to protect the accused. The fact that we have previously left out paragraph *(b)* of clause 5 in fact takes it out of line with the other proposals of mine that the Committee has accepted to incorporate in the Bill.

It is for that reason that I want the Committee to reconsider the amendment and to leave in pararaph *(b)* rather than deleting it as was previously decided. Accordingly, I ask the Committee to review its previous decision, and, instead of supporting the amendment of the Leader of the Opposition, to oppose it. I therefore move:

That paragraph *(b)* be reinserted.

The Hon. K. L. MILNE: This matter has become complicated and rather confusing, especially to lay members of the Chamber. I believe that much of the confusion is my fault, because I did not quite understand what the Leader of the Government and the Leader of the Opposition were trying to do. Had I known then what I know now, I would have supported the appointment of a Select Committee to consider discontinuing unsworn statements. In the meantime, I have had further discussions with people concerned with this matter and, accordingly, it would be much better and in the interests of everyone if clause 5 were defeated altogether for the time being so that the remainder of the Bill relating to banking records, and so on, could proceed. Therefore, at the earliest opportunity, if I am given leave, I will move that the whole matter of unsworn statements and related matters be referred for consideration by a Select Committee.

This matter has got bigger than people expected. It is much more important than I understood as a layman. I regret the inconvenience to members, but that is the course of action that I would like to adopt. It would be in the interests of the Government and everyone else if we proceeded along those lines.

The Hon. R. C. DeGARIS: I would like to comment on what the Hon. Mr. Milne has just said. I do not agree that clause 5 should be defeated and referred to a Select Committee. Sufficient evidence and reports exist throughout the world for this Chamber to make up its mind and come to a decision regarding unsworn statements. It was generally agreed before the election, because the official policy of the Labor Party was for the abolition of unsworn statements, and the official policy of the Liberal Party was for the abolition of unsworn statements. I do not know the official policy of the Australian Democrats but, if there is any doubt, we should proceed with the Bill and, if it is thought necessary to refer that question to a Select Committee, that can then be done, and I would be able to support it.

The Hon. C. J. Sumner: What is the point in that?

The Hon. R. C. DeGARIS: The Labor Party went to the last election with a policy of abolishing unsworn statements. Out of pure political convenience it is presently creating opposition to unsworn statements. Secondly, the Liberal Party went to the last election with a policy of abolition of unsworn statements. I do not know the policy of the Australian Democrats, but the two major Parties had the same policy regarding unsworn statements. Now the Labor Party is merely trying to create a diversion to what I believe is an important matter, that unsworn statements should be abolished.

Perhaps other related matters can be looked at by the Select Committee but, at this stage, to see this clause defeated and to then have to introduce another Bill and refer it to a Select Committee is a course that the Committee should not adopt. If we are all perfectly honest in our approach to this matter, if there are any doubts at all regarding peripheral matters and the abolition of unsworn statements, then the correct procedure to adopt is to pass the Bill with the amendments proposed and, if the Committee is not satisfied that certain matters have been thoroughly examined, let us refer those matters to a Select Committee and obtain evidence.

I believe the important thing, as far as justice is concerned, is to take the step in South Australia to abolish unsworn statements, which in my opinion are thwarting the general course of justice in this State. As I have said, one can go to the library and read many documents that have been prepared in South Australia, in various States and in Great Britain in relation to this question. All the evidence is there to read and understand. If there are small matters that need to be ironed out later, that can be done by a Select Committee, but first let us pass the Bill with the proposed amendments at the present time.

The Hon. C. J. SUMNER: My original motion was that the whole Bill should be referred to a Select Committee. I believe that discussions that have taken place in this Committee since that time have vindicated my approach to this matter. When this matter was last before the Committee, we got into a mess. At that time the Hon. Mr. DeGaris pointed out to the Committee the situation that we had got ourselves into. I believe we got ourselves into

that situation because inadequate consideration was given to the various proposals. The whole thrust of my approach was to refer the matter to a Select Committee.

In its present form, clause 5 is virtually nonsensical, and that has come about because of the votes that were taken in this Committee on the previous occasion.

The Hon. R. C. DeGaris: That can be ironed out.

The Hon. C. J. SUMNER: I am inclined to agree with the Hon. Mr. DeGaris. However, that does not really solve the whole problem relating to unsworn statements. As I said before, I believe that this matter needs to be fully investigated. The Hon. Mr. DeGaris said that the Labor Party had a policy of abolition of the unsworn statement. I do not believe that that policy was put forward at the last election, but I do know that a former Labor Attorney-General stated that he was in favour of the abolition of the unsworn statement and, in a sense, I suppose that represented Labor Party policy.

However, the Bill has now been introduced and questions have been raised about it in this Chamber. First, as I have already pointed out, the Bill does not accord with the Mitchell Committee recommendation. Secondly, we have received representations from interested groups in the community who are worried about the effects of the abolition of the unsworn statement without any qualification. One argument put to me is that abolition should apply to certain offences. Another argument is that abolition should apply, but there should be some exceptions allowed, which was the effect of the amendment I moved which was carried by the Committee when it last met.

The Hon. R. C. DeGaris: Was that in the Mitchell Report, too?

The Hon. C. J. SUMNER: No, it was not. That is a further reason why I believe the matter should be further pursued. As I have said, I do not believe that a Select Committee on this matter would last a long time, because it is not a matter where a great deal of factual evidence needs to be obtained. However, I believe that we would be left with a better Bill, because we would have had the benefit of hearing submissions from interested people in the community. Further, we would have the benefit of drafting expertise that would be available for close questioning by members of the Select Committee. Accordingly, now that the Hon. Mr. Milne feels that matters contained in clause 5 of the Bill should be considered by a Select Committee, members on this side of the Chamber will support him in his call for the deletion of clause 5 from this Bill. That would then enable the Bill to proceed.

The Bill does not deal only with the question of the unsworn statement: it deals also with the proof of bankers' records and access by police to banking records. Therefore, that part of the Bill could be passed. Once that has occurred, a motion could be moved for the establishment of a Select Committee to look into unsworn statements and related matters. Honourable members will recall that that procedure was adopted by the Government in relation to legislation for random breath tests. Therefore, I believe that that procedure is in order in this case. Now that the honourable Mr. Milne has indicated that he would like a further look at the matter, the correct procedure is for members to vote against clause 5 and then proceed to establish a Select Committee to look at unsworn statements. I certainly hope that a Select Committee could report within a reasonably short time.

The Hon. K. L. MILNE: First, the Australian Democrats do not have a policy on this matter. It is entirely new ground to me, and my Party has not discussed it. In fairness, I do not believe this is a political ploy by the Opposition in this instance.

Members interjecting:

The CHAIRMAN: Order!

The Hon. K. L. MILNE: My attitude on this matter resulted from discussions that I had during the adjournment, particularly with my colleague in another place.

The Hon. K. T. GRIFFIN: I find this situation quite incredible. Of course, the abolition of the unsworn statement is a complex issue, but it was considered by the Mitchell Committee in 1973-74, and in July 1975 it recommended abolition of the unsworn statement. This question has been considered in at least 10 other places, either in Australia or overseas, and appropriate legislation has been implemented in the United Kingdom and in Western Australia. Further, there are moves in other States to abolish the unsworn statement. I honestly do not see what can be achieved by referring the matter to a Select Committee. That step would really be an indication of indecision of the highest order, showing that members of this place cannot come to grips with the abolition of the unsworn statement. In 1979 the then Women's Adviser wrote to the then Attorney-General as follows:

> At a meeting held in October 1978 of all those bodies concerned with the care of victims of rape, I was requested to write to you on the progress of the legislation to abolish the unsworn statement. In this seminar, as in all other discussions I have had about rape with women's groups, the existence of the unsworn statement was seen to be a quite unnecessary and vicious privilege for the accused. Despite the new legislation which made the women's prior sexual experience cross-examinable only under certain circumstances, we have still seen the unedifying spectacle of a 15-year-old girl cross-examined for three days by a series of lawyers as to her sexual habits, while all the accused made unsworn statements from the dock which could not be tested by the prosecutor and which allowed their reputations to emerge unscathed.
>
> The anger about the unsworn statement is quite strong—

that was two years ago—

> and I have attempted to mollify women's groups for over a year with the promise that this custom would drop from our legal practice. Such reassurances are wearing thin, when it is nearly three years since the Mitchell special report recommended the abolition of the unsworn statement and the other reforms relating to rape have already been introduced. I would be very grateful if you could assure me that the unsworn statement will be abolished as soon as possible. I write in such strong terms because the pressure from women's groups, and from those people who care for rape victims, is becoming very strong.

That was in February 1979 and since then both the Labor Party and the Government have given firm commitments to the community. We have been to the poll on it and we have indicated that we will support abolition of the unsworn statement. Now we will have further delay. We have been in office for 12 months and we have been endeavouring to get this legislation up and running. Now it will be delayed until at least next year by the concept of a Select Committee.

A Select Committee will not meet and make a decision by the end of this year. It may be that a decision will not come into effect until July next year. The Select Committee will not decide this matter quickly, because of other pressures on the Council and the staff. It is most unlikely, if this Bill is referred to a Select Committee, that it will see the light of day before July next year. That is another year that women's groups and other people in the community will have to wait to see abolition of the unsworn statement.

Abolition was recommended by the Mitchell committee

six years ago. It is an incredible situation that some honourable members want this matter referred to a Select Committee when the whole thing could be resolved so quickly in the Parliament. A Select Committee will not get any further evidence, according to the Leader of the Opposition, and that is correct. He said it will not delay this overdue reform. I suggest that that is nonsense.

The purpose of defeating clause 5 to refer the matter to a Select Committee is the height of irresponsibility, in view of commitments given by all Parties over the past few years. I find the whole situation quite incredible. I believe that, by recommitting clause 5 and that provision that relates to paragraph *(b)* of the clause, we were putting in order what was the view of the whole Council. However, now the matter is to be subjected to further review. I cannot believe that that is occurring. If it does occur, it deserves the wrath of the community.

The Hon. M. B. DAWKINS: The function of a Select Committee is a very valuable function of the Parliament. It is most necessary on occasions, particularly in respect of hybrid Bills. However, the function is being over-exercised by this Council at present and the staff is being over-strained. There are times when the Council should make up its own mind, not pass the buck to a Select Committee. There is no doubt in my mind that this Select Committee would delay the passing of the Bill, because of the over-straining of the staff by the use of what otherwise is a valuable function.

It has been made abundantly clear by both Parties that they have been committed to abolition of the unsworn statement. This is an occasion when we should not pass the buck by referring the matter to a Select Committee, involving X months delay. This is an occasion when the Council should make up its mind and stand up for what it believes to be right. I consider that almost everyone in the Council has in the past given support to the policy of the Parties to get rid of the unsworn statement. Referring the matter to a Select Committee is a wrong move, and the Council should make up its own mind.

The Hon. FRANK BLEVINS: I, too, believe that clause 5 should be deleted and I support completely what the Hon. Lance Milne has said. It has been stated that both major political Parties have a policy of abolition of the unsworn statement.

The Hon. J. A. Carnie: Didn't the Mitchell committee—

The Hon. FRANK BLEVINS: We are in Committee, and the Hon. Mr. Carnie and the Hon. Mr. Davis are entitled to take part in that debate. I believe that this is a serious issue and that debate should not be conducted by interjection.

The Hon. L. H. Davis: If you believe—

The CHAIRMAN: Order! I have allowed some interjections but this is such an important issue that I think we ought to listen.

The Hon. FRANK BLEVINS: It has been stated that both Parties have a policy of opposition to the unsworn statement. That is true, and the Labor Party is not saying on this occasion that that is not still its policy. However, we have had submissions by various groups that at least cast some doubts about our policy being correct.

The Hon. L. H. Davis: Who were the groups?

The CHAIRMAN: Order! Honourable members have asked that there be less interjecting, and I will see that there is.

The Hon. FRANK BLEVINS: Members of the Labor Party, in supporting the Hon. Lance Milne, are saying, "Let us check the various objections that have come in." Perhaps the people from the Aboriginal Legal Rights Movement have a point and perhaps they have not. Surely a Select Committee is the most appropriate way to find out. The Labor Party is not going back on its policy. We are requesting that a Select Committee look at the whole area to find out whether our policy is correct.

The Hon. Mr. DeGaris and other members have suggested that investigations have taken place in the United Kingdom, in other States, and by the Mitchell committee in this State. We are primarily concerned about this Parliament, not about the Mitchell committee or what has happened in the United Kingdom or elsewhere. Surely this State has a right to have its Parliament completely satisfied that no party is disadvantaged by any measure that we pass. Again, that is why I think that the call by the Hon. Lance Milne for deletion of the clause should be supported so that every member can be convinced that we are not discriminating against any person, as the object is to remove discrimination against certain people. It also has been said that perhaps a judge should have discretion in this area. However, I do not see anything about that in the Mitchell committee recommendation. It may be that that was not put to the committee, and so it may be that six years ago the information on which the committee made its decision was deficient. I consider that it will do no harm, six years later, to look at the situation.

The Attorney-General got emotional when he was reading a letter from the former Women's Adviser to the Premier stating that women's groups desired the removal of the unsworn statement. I do not know that that is the considered view of the women's organisations in this State.

The Hon. R. C. DeGaris: Not much it's not!

The Hon. FRANK BLEVINS: You can read the letter. I should like to ask people from women's groups to put their view on whether they want their desire at the possible expense of other disadvantaged groups. Their view may be different, and it may be the same. We do not cure an ill by shifting it on to someone else, or by spreading it around.

For Parliament to do that is a derogation of its duty. It is quite wrong, when these questions have been raised, not to investigate them fully. I support completely what the Hon. Lance Milne said: that this clause should go out and the whole question of the unsworn statement should be referred to a Select Committee of this Council. It would not take very long. If everyone is so anxious to get the problem sorted out, there is no reason why it should take any great length of time. I support completely what the Hon. Lance Milne said.

The Hon. N. K. FOSTER: I, too, support the move by the Hon. Lance Milne. However, I rise more to answer the remarks of the Hon. Mr. Dawkins. He referred to over-use of Select Committees of this Council. I draw to his attention a committee set up in 1964 which dealt with Aboriginal and historic relics. That committee over-reached itself in terms of the length of time that it met, the payment members received, and so forth.

The CHAIRMAN: Order! This has not got a lot to do with clause 5.

The Hon. N. K. FOSTER: It involves the area raised by the Hon. Mr. Dawkins. The Mitchell Report comes down on the side of Government members in respect of this matter. However, I do not recall them, when in Opposition, jumping up and down and saying that the Mitchell Report had to be the subject of Parliamentary carriage in every aspect or respect. There were those on both sides of the Council who agreed with some portions of the report and disagreed with others.

The Hon. K. T. Griffin: Your Party agreed to the abolition of the unsworn statement.

The Hon. N. K. FOSTER: I am one of the people who said that there is an objective policy, and I also said (as others did) when we embarked on the Redcliff project that we would have a lot of headaches over that. That issue was

not resolved by our Party when in Government, and it has not been resolved by the present Government, hence the headline in the *News* tonight. The Government should be big enough to change its mind and respect the wishes of the people outside or at least provide them with another avenue such as a Select Committee to make known their objections or support in regard to the matter before us. It depends on what group one is speaking to outside as to what side they take. Some lawyers are heavy on it and others are not. As the Hon. Mr. Blevins said, some women's groups are not.

The Hon. L. H. Davis: He did not give any examples, did he?

The Hon. N. K. FOSTER: Of course he did not. Why should he weary the Council with details? If members opposite agree to a Select Committee they will give the right to those people to give evidence. I thank the Hon. Mr. Davis for his interjection, as it allows me to make the point again. People should not be denied that right. I suggest that, with a matter as far-reaching and contentious as this one, we should not be so bold as to make a change to a long standing practice in courts of law without availing ourselves of every possible opportunity to receive evidence before finally making a decision. I commend the move of the Hon. Lance Milne.

The Hon. C. J. SUMNER: I refer to the Attorney-General's comments that a Select Committee will unnecessarily delay the implementation of the Bill for a considerable time. If a Select Committee is set up, I can undertake that this side of the Council—

The Hon. C. M. Hill: Put your women members up to give their views on this subject. Put them up today to say whether they want abolition now.

The Hon. C. J. SUMNER: They may wish to speak on the issue.

The Hon. C. M. Hill: Put your women up.

The Hon. N. K. Foster: Put your's up.

The CHAIRMAN: Order! The Hon. Mr. Sumner.

The Hon. C. J. SUMNER: If members on this side of the Council are appointed to the Select Committee I can assure the Attorney-General that we will be prepared to co-operate in the expeditious calling together of the committee and to proceed with the consideration of the matter as soon as possible. I would hope that the Attorney-General would agree to appointing legal assistants to the committee to advise and assist the committee in carrying out its research tasks.

The CHAIRMAN: I point out to honourable members that we have no motion before the Chair dealing with a Select Committee. If one is moved, I hate to think how much will be said on the subject. We are merely discussing the wording of clause 5.

The Hon. C. J. SUMNER: That is precisely what I am doing. Clause 5 is under consideration, and the reason for some members wishing to vote against clause 5 in its entirety is that we wish to have the matter referred to a Select Committee. We on this side of the Chamber would be prepared to co-operate and would hope the Government would co-operate by making legal advice available to the committee to enable it to do its work reasonably quickly. While there is a chance of a delay, I do not believe that it need delay the Bill unduly. I would ask the Attorney-General to take that into consideration, and I hope that these comments allay his fears to some extent.

The Hon. G. L. BRUCE: This may be an emotional issue to some people, but to me it is an issue of justice. If it means that we are looking for justice for all people, we should not be concerned that it will take a little more time or more depth of examination. What concerns me is that the Attorney-General quoted a letter from a women's group.

I can understand the situation of a person in a rape case when, because an unsworn statement has been made, it cannot be challenged. Looking at it in that way, possibly a clause should be inserted to cover that situation.

I refer to the letter that was received from the Aboriginal people, who felt that it would be against their rights and that their justice would not be protected. So, we have a conflict of interest. Surely, although there may be emotion, there should be justice. Half the Committee is looking at the matter in one way whereas the other half is looking at it the other way.

The Hon. K. T. Griffin: We are looking forward more than backward.

The Hon. G. L. BRUCE: That is not so. In Victoria, the unsworn statement does not form a major part of cases. Indeed, I think that only 20 per cent of cases involve unsworn statements.

The Hon. K. T. Griffin: It is 17 per cent.

The Hon. G. L. BRUCE: That may be so. However, here it is about 60 per cent. Why should there be such a variation? Perhaps this matter should be examined. Perhaps, too, the legal profession is abusing unsworn statements. Bearing in mind the sexual attacks that have occurred, the matter should be examined in the light that it will give protection to everyone. We should be looking for justice, not emotion. The matter is therefore worthy of consideration by a Select Committee.

The Hon. R. C. DeGARIS: If I was an Australian Democrat, with a vital Senate election facing that Party in September, I would not like to know that women would continue to remain concerned about unsworn statements. Also, in common justice, both Parties have agreed to the abolition. If there is any real problem in achieving justice in this State, it involves unsworn statements.

If the Bill passes with the amendments that have been suggested, and there is still a need to examine some peripheral matters, I will be the first to vote for the appointment of a Select Committee. However, I do not want to see unsworn statements hung around our necks for the next nine or 10 months, because that is the time that it will take. We have been almost nine months dealing with a simple Bill relating to natural death, and the report of the Select Committee dealing with that Bill has not yet come down. We will be hamstrung with the unsworn statement on the Statute Book. I am not speaking against the appointment of a Select Committee, as I will vote for it—

The Hon. K. T. Griffin: In certain circumstances.

The Hon. R. C. DeGARIS: Yes, in certain circumstances. If the matter of the unsworn statement needs to be further examined and the Council is of that opinion, I should be the first to support it, as I agree that in the peripheral areas one or two things need to be examined. As a general policy, however, in order to achieve justice in South Australia, the unsworn statement should be abolished. That should be our prime consideration at this time.

The Hon. K. T. GRIFFIN: Opposition members have been speaking as though the Mitchell Committee did not hear any representations from other members of the community. If they cared to examine the committee's work, they would find only too quickly that that committee called for public submissions. Undoubtedly, among those submissions would have been submissions from people on both sides of the fence in relation to the abolition of the unsworn statement.

The Hon. Frank Blevins: You don't know that for a fact.

The Hon. K. T. GRIFFIN: I can say categorically that the committee received submissions on a wide range of

issues, including the unsworn statement. To think that the Council, through a Select Committee, would hear anything different from others who want to make representations is like the thinking of the ostrich with its head in the sand. It does not come to grips with the issue; nor does it recognise the views of the community.

The Hon. Mr. Bruce has suggested that, by my reading the minute from the then Women's Adviser to the then Attorney-General in February 1979, I might have been considering the interests of women's groups only. However, if one has been active in the community, practised in the law or had any association with people who care about justice, one will realise quickly that people over a broad spectrum are concerned about the unsworn statement and the unjust situation that this creates in favour of an accused person.

It is not just women's groups that are concerned about this matter. However, they are vocal about it because of the impact that unsworn statements have on proceedings related to sexual offences. Other people are concerned about the tremendous advantage that an accused person has in making an unsworn statement, when he can make all sorts of assertions, whether about the prosecution, his own character, or a variety of matters, and they are not subject to cross-examination. Yet we have heard where in relation to sexual cases the victim of a crime has been subjected to three days intense cross-examination while the accused went off without any cross-examination on matters that would undoubtedly have been subjected to cross-examination had he given evidence on oath.

The plain fact is that this is a matter of justice. Even though it is an emotional issue, it is a matter of justice that an accused person should be subjected to cross-examination if he chooses to make any statement to a jury. The fact that he is able to get away with so much without being subjected to cross-examination must surely be a matter of considerable concern for all people who are concerned about justice.

I believe that this is a terribly important issue in the community and that we cannot wait, however long it might take, for a Select Committee to consider the matter. I have indicated publicly that I have appointed a committee of inquiry to examine questions affecting the victims of crime. That committee will be looking at a wide range of issues that affect the interests of those victims. I suggest to honourable members that that committee and other people who are concerned about the victims of crime will be equally concerned about the progress, or lack of it, in the abolition of the unsworn statement.

Therefore, although later we may have an opportunity (I hope that we do not) to debate the matter of the appointment of a Select Committee, I believe that it is imperative that this Committee support the retention of clause 5 and the reinsertion of paragraph *(b)*, which was previously deleted. I therefore urge honourable members seriously to consider the options that are open to us and the matters of justice to which all honourable members have referred, and support the proposition that I am putting to the Council.

Amendment carried.

The Committee divided on the clause:

Ayes (8)—The Hons. J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (9)—The Hons. Frank Blevins (teller), G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, Anne Levy, K. L. Milne, C. J. Sumner, and Barbara Wiese.

Pairs—Ayes—The Hons. J. C. Burdett and M. B. Cameron. Noes—The Hons. C. W. Creedon and N. K. Foster.

Majority of 1 for the Noes.

Clause thus negatived.

Bill reported with an amendment. Committee's report adopted.

ADJOURNMENT

At 4.45 p.m. the Council adjourned until Wednesday 17 September at 2.15 p.m.