## LEGISLATIVE COUNCIL

Wednesday 3 June 1981

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

### PAPER TABLED

The following paper was laid on the table:

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

*By Command*—

South Australian Department of Correctional Services—Review by Touche Ross Services.

### MINISTERIAL STATEMENT: TOUCHE ROSS REPORT

**The Hon. C. M. HILL (Minister of Local Government):** I seek leave to make a statement in connection with the report that I have just tabled.

Leave granted.

**The Hon. C. M. HILL:** On 2 December 1980, the Chief Secretary announced in another place that he had appointed Touche Ross Services to carry out a major corporate review of the Department of Correctional Services. The terms of reference of that review are set out in the report that I have just laid on the table. The corporate review sought to complement, rather than duplicate, other investigations under way into the Department of Correctional Services, namely, the Royal Commission. Together, these investigations will constitute the most searching review of correctional services undertaken in this State for many years.

The Government undertook to review the Department of Correctional Services because of the growing disquiet in the community and because the Government saw a need to inject new ideas and proposals into an area that had been scandalously neglected by the previous Labor Administration. Staff morale was low when this Government came to office.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. C. M. HILL:** Relatively little money had been spent on our institutions and, indeed, on correctional services generally. It was a disgrace that our two major institutions, Yatala Labour Prison and Adelaide Gaol, had been allowed to run down to the extent where security was weakened and the community threatened.

This Government has been left with no option but to spend a great deal of money in a short space of time to overcome years of neglect by the former Labor Administration. Time after time, the Opposition has accused this Government of incompetence and mismanagement in regard to prisons. That is the height of hypocrisy. This Government has done far more for correctional services in its 18 months of office than the Labor Party did in 10 years. Let me elaborate.

**The Hon. FRANK BLEVINS:** I rise on a point of order. Is it permissible under Standing Orders for leave that has been given to a Minister to make a statement to be withdrawn?

**The PRESIDENT:** No, we have no provision for that.

**The Hon. C. M. HILL:** I will now elaborate.

**The Hon. N. K. Foster:** What did Mr Dunstan call you: a contemptible little crumb. He was dead right.

**The PRESIDENT:** Order!

**The Hon. C. M. HILL:** Since coming to office, this Government has increased the staff ceiling in the Department of Correctional Services by 47 additional positions. This is at a time when staff levels in other departments are being maintained.

I remind members that several requests were made to the Labor Party, while it was in Government, for extra correctional officers, and these requests were refused. The Yatala Labour Prison industries complex, which will cost more than $2 000 000, is nearing completion and should be in operation by next year. Completion of that area alone will allow for greater security, far more prisoner stability, less tension between staff and inmates and, perhaps the most important factor, it will provide an area where inmates will learn a skill or trade for the future. This Government is giving inmates every opportunity to learn new skills and therefore improve their chance of gaining employment once they are released.

At Cadell Training Centre, we have completed the education complex at a cost of $83 000. It is a unique complex which will benefit prisoners and the community as well. It will ensure that those prisoners who have the ability and the desire to progress will be allowed to study and undertake educational programmes which in the past have often been denied, not because they did not want them but because the previous Labor Administration ignored their needs.

At both Yatala and Adelaide Gaol we have installed a sophisticated surveillance security system costing more than $800 000 that is the envy of all prison administrators throughout Australia. In the 1976-1977 financial year, there were 17 escapes from South Australian prisons. In the 1977-1978 financial year 14 inmates escaped; in 1978-1979 14 prisoners escaped; and in 1979-1980 there were 21 escapes. In this financial year, however, only three inmates have managed to breach the tight security net we have now thrown around the State's institutions. One of those escapes was from Cadell, and all those escapees are now back behind prison walls.

The installation of the surveillance system was long overdue and has been amply justified. The Touche Ross Report is now being made available for consideration by the Government and all interested parties. It sets out clear needs, and these will be examined in the light of current financial resources, and priorities set.

**The Hon. C. J. SUMNER:** Mr President, I seek leave to make a statement.

**The Hon. K. T. Griffin:** What's it about?

**The Hon. C. J. SUMNER:** It is about the Ministerial statement.

**The PRESIDENT:** Order! I cannot give the Leader leave for that, but he can ask the Minister a question.

**The Hon. C. J. SUMNER:** I seek leave to make a personal explanation.

Leave granted.

**The Hon. C. J. SUMNER:** I am making this personal explanation, because I believe that the Minister has behaved quite improperly in the statement that he has just made to this Council. It is a personal explanation because the Minister's statement impinges on me personally; as Leader of the Opposition in this Council, I did not object to the Minister having leave to make a Ministerial statement. That is a courtesy which the Council, and the Opposition particularly gives—

**The Hon. K. T. GRIFFIN:** Mr President, I rise on a point of order. Standing Order 173 does not all this type of statement to be made as an explanation of a personal nature, because it is not a personal nature.

**The PRESIDENT:** I am not sure that the Hon. Mr Sumner has proceeded far enough for me to make that

judgment. I point out, however, that it must be a personal statement and not an indictment of what has already been said, having granted leave for the statement to be made.

**The Hon. C. J. SUMNER:** I appreciate that, Mr President. It is a matter that impinges on me personally, and it is for that reason that I sought leave to make a statement. It impinges on me personally because I do not believe that the Minister went through the normal courtesies, which is that a statement of that kind should at least be shown to the Leader of the Opposition before leave is granted.

Secondly, Ministerial statements of that kind should not be used for gratuitous abuse of the Opposition. I believe that in another place the Speaker, when that has occurred, has drawn those sorts of abusive comments—

**The Hon. K. T. Griffin:** They're not abusive.

**The Hon. C. J. SUMNER:** They are, and I do not mind debating them as the basis of a motion at some time, but for the Minister to use a Ministerial statement in that way is an abuse of the normal courtesy. As I said, in another place the Speaker has drawn the attention of Ministers to that fact. The explanation that I wish to make is that I, as a member and as Leader of the Opposition in this Council, was not given the normal courtesy by the Minister on this occasion.

## QUESTIONS

### SHOPPING CENTRE LEASES

**The Hon. C. J. SUMNER:** I seek leave to make a brief explanation prior to asking the Minister of Consumer Affairs a question about shopping centre leases.

Leave granted.

**The Hon. C. J. SUMNER:** I have been approached by Mr Rod Seekamp, who is the proprietor of Seekamp's Newsagency at West Lakes Shopping Centre and who is presently involved in a dispute with the management of that centre. He has a lease with that organisation which is due to expire in six months. From time to time he has been behind in his rent but, after some negotiations, the centre's management offered to buy out Mr Seekamp for $100 000. After further negotiations an offer of $110 000 was made, and certain deadlines were set. In the meantime the management put the shop out to tender without telling Mr Seekamp. That was a courtesy that should not have been overlooked. About two weeks ago I contacted the Minister's office and asked whether the Minister was prepared to intervene with West Lakes Limited to see whether or not the dispute between Mr Seekamp and West Lakes could be resolved.

I understand that the Minister did intervene and that the deadline that Mr Seekamp then had to accept or reject the offer of $110 000 made by West Lakes was extended until 6 p.m. today. Mr Seekamp advises me that if he had been given the opportunity he could have sold the business for $240 000. He says that the valuation by the Newsagents Association is $182 000, and he understands that tenders that West Lakes have already received in response to its request are well in excess of that sum. The situation is that West Lakes could get $180 000 or $190 000 for the business, and out of that Mr Seekamp would get $110 000. He has put to the management that he could take the $110 000 and if the management subsequently disposes of the premises for a higher figure, the balance could be paid to him with some deductions being made for the management's share in goodwill and the like.

It does seem to me unfair if the present position is allowed to pertain whereby Mr Seekamp is, in effect, compelled to accept an offer of $110 000 when the business is clearly worth substantially more and West Lakes could, for no reason, obtain a clear profit out of it. I do not know to what extent these figures are correct, but I believe there is a case for the matter to be investigated urgently. I know that the Minister has had an interest in the question of shopping leases and has asked for a report on that matter in view of public concern about the leases that the large shopping centre organisations have with their tenants. I appreciate the Minister's early interest in the matter. It seems to me that a proposal could be put for an independent arbitrator to find out whether or not the allegations made by Mr Seekamp are justified and, if they are, whether some more equitable settlement can be arrived at.

While I appreciate that the Minister may have no strict legal powers in the matter, it is an area that he has taken under his wing as Minister of Consumer Affairs and, accordingly, I ask him whether he will, as a matter of urgency, contact West Lakes Limited with a view to either trying to arbitrate in the matter or suggesting that there be an independent arbitrator to resolve the dispute.

**The Hon. J. C. BURDETT:** The Leader has appreciated the fact that I certainly have no legal powers in this matter. Mr Seekamp is not a consumer. There are no powers whatever that the Government has at present in regard to shopping centre leases. It is also true, as the Leader has said, that, because there had been complaints about the terms and administration of shopping centre leases, some time ago I set up a working party. That is the only kind of action that I have taken. The working party reported recently. I released the report yesterday and sent a copy to the Leader. The report does not recommend any dramatic action. In particular, it does not recommend any significant legislative action.

The history of this matter has been accurately recounted from his point of view by the Leader, and I appreciate the way he has contacted me on the question. Mr Seekamp first went to his member, the member for Henley Beach, who spoke to me. My assistant spent some time with Mr Seekamp and advised him that the matter was clearly a civil legal one, a matter for the courts. Mr Seekamp had a solicitor acting for him at that time, and my assistant advised him that he should continue to take legal advice.

There was, as the Leader has said, an option given to Mr Seekamp by West Lakes which at that time was due to expire, and the Leader did contact me, through my assistant, asking me to use my offices to endeavour to obtain an extension of that time. If that can be said to be intervention, I did that, and I did it because I thought that, while there were clearly arguments on both sides, and while it was clearly a civil matter, justice must not only be done but seen to be done. I did ask West Lakes to extend the time; that has been done and was reported to the Leader. As the Leader has said, that time expires at 6 p.m. today. The management of West Lakes did ask to see me, and it saw me yesterday. I made clear that I did not think there was very much to discuss because, as I told Mr Seekamp—

**The Hon. C. J. Sumner:** Do you think it's fair?

**The Hon. J. C. BURDETT:** I did not intend to enter into the debate. That is what I said, and I do not intend to enter into the debate at this time.

**The Hon. C. J. Sumner:** Aren't they going to make a clear cop out of it?

**The Hon. J. C. BURDETT:** If you could let me finish, I point out that I did say I was prepared to see West Lakes Limited, simply because I felt I owed it to the company for the reason that it had been prepared to extend the time. I did see the company and those who saw me made allegations of a most damaging nature about serious and

persistent breaches by Mr Seekamp. I am not prepared to debate the matter on the floor of this Council.

It is a matter that ought to be debated in another forum, but there are two definite sides to the question. Mr Seekamp yesterday sent a letter to the Premier. He is certainly trying every Parliamentary means. He has been to the Leader and to me and has written a letter to the Premier. I do not propose to recommend any Government intervention.

## PRISONS ROYAL COMMISSION

**The Hon. C. J. SUMNER:** I seek leave to make a brief explanation prior to asking the Attorney-General a question about the Prisons Royal Commission.

Leave granted.

**The Hon. C. J. SUMNER:** I have had drawn to my attention a matter which I believe could have a serious effect on the conduct of the Royal Commission into the prisons system. In fact, this matter, if not rectified, could bring the proceedings to a halt. I have been approached by Mr L. M. Lewis, who is a Chief Prison Officer at Yatala. At some time during the proceedings of the Royal Commission the Royal Commissioner indicated that he was prepared to accept submissions on the question of promotion and staff structure in the prison system because he said that it impinged on security. He apparently also has requested that submissions be put in writing before oral evidence is given so that he and counsel assisting the Commission and other counsel involved can have some idea of the nature of the subject matter with which the witness proposes to deal.

In good faith and in accordance with these requests, Mr Lewis put in a submission to the Royal Commission which, I understand, he gave to his solicitor who is acting for the prison officers in the proceedings. Subsequently, Mr Lewis was served with a writ, issued out of the Supreme Court for defamation by a member of the Correctional Services Department—another person employed in that department. One only has to contemplate this situation for a moment to see how potentially damaging it is to the proceedings of the Royal Commission. The point of having a Royal Commission is so that all parties concerned can clearly express their viewpoint under privilege without being attacked for libel or anything else. If that principle is to be challenged, as apparently it is being challenged by this writ, I believe that the Commission itself is under serious threat.

Further, I believe that it is grossly unfair that Mr Lewis should have been requested to provide a submission and that that submission was then made available to the Royal Commissioner, or at least counsel assisting the Royal Commissioner, and then distributed to other persons, as a result of which a member of the Correctional Services Department has subsequently taken out a writ. They are the facts with which I have been provided. Does not the Attorney-General agree that for Mr Lewis to be served with a writ for defamation for providing a submission to the Royal Commission is unfair? If so, what action does he intend to take? If he does not propose to take any action, does he think that the Royal Commission will be hampered if this is allowed to continue?

**The Hon. K. T. GRIFFIN:** The Leader of the Opposition has suggested that they are the facts. However, I suggest that they are sketchy facts and, because the matter is such a complicated one, I will need to have some inquiries made with a view to ascertaining all of the material upon which the writ is alleged to have been issued. This matter needs to be examined and, if it had been presented in a court of law, it would be privileged. I have always understood that material of this nature presented to a Royal Commission was also privileged. However, I will have inquiries made and bring back a reply.

## HALOGENATED HYDROCARBONS

**The Hon. J. R. CORNWALL:** I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question regarding halogenated hydrocarbons.

Leave granted.

**The Hon. J. R. CORNWALL:** Two months ago my attention was drawn to a problem of massive and grave proportions in most of South Australia's drinking water supplies. I learnt that scientific officers in the Water Testing Laboratories at Bolivar were becoming alarmed about very high levels of chemical substances called trihalomethanes in our water. This concern was shared by officers in the South Australian Health Commission.

Trihalomethanes are organic chemicals in the group known as halogenated hydrocarbons. They occur in water because of high levels of organic pollution, and, in fact, their presence is part of the classical water pollution picture. Levels increase dramatically following chlorination, especially at relatively high temperatures. Of course, the more organic pollution, the more chlorine that is needed to remove the bacteria and amoeba. Unfortunately, water pumped from the Murray River throughout South Australia and subsequently chlorinated meets all these conditions.

Outside the United States, we now have the dubious distinction of having the highest levels in the world. There was a growing realisation of the health hazards posed by these chemicals in the United States throughout the 1970's. More recently, there have been some very disturbing reports from American scientific workers. Much of this work has been carried out on water from the Mississippi and Ohio Rivers, which have many similarities to our own Murray River. Epidemiological studies in that region show a direct correlation between long-term intake of halogenated hydrocarbons in drinking water and a marked increase in certain forms of cancer.

Unfortunately, these organic compounds are not removed by normal filtration. However, they can be dramatically reduced by a special carbon filtration process prior to chlorination. I have been told that the Government was presented with a programme involving carbon filtration more than six months ago. However, it was deferred because of financial cutbacks. The estimated cost, based on overseas work, is between $8 and $15 per household per year.

First, has the Government's attention been drawn to epidemiological work in the United States, particularly on Mississippi River Water, which shows a direct correlation between the intake of halogenated hydrocarbons in drinking water and a dramatic increase in certain forms of cancer? Secondly, is the Government aware that the levels of halogenated hydrocarbons can be dramatically reduced by carbon filtration of water prior to chlorination? Thirdly, has it obtained any estimates of the cost of carbon filtration? If not, why not?

Fourthly, what recommendations or proposals have been made by the Engineering and Water Supply Department, the South Australian Health Commission, any other Government agencies or private sources concerning halogenated hydrocarbons and their reduction or removal from drinking water? Fifthly, on what date or

dates were these submissions prepared and presented to Ministers or to Cabinet? Sixthly, has the Government, or have any individual members of it, been presented with any submissions or proposals concerning a pilot project involving activated carbon filtration of urban water supplies? Finally, what was the estimated cost of that project?

**The Hon. J. C. BURDETT:** I will refer the honourable member's questions to my colleague in another place and bring back a reply.

## WOMEN WELFARE WORKERS

**The Hon. BARBARA WIESE:** I seek leave to make a brief statement before asking the Minister of Community Welfare a question regarding women welfare workers.

Leave granted.

**The Hon. BARBARA WIESE:** In the 29 March issue of the *Sunday Mail*, the Minister was quoted as saying that he intended to review policies concerning people delivering welfare services in South Australia, in line with a decision that was taken at a meeting of State and Federal Community Welfare Ministers. He acknowledged that, even though the majority of people working in the welfare area were women, very few of them were found in senior positions in the department. He went on to say:

> There will now also be a new emphasis on making sure that women welfare workers have an equal opportunity to gain qualifications for senior positions where they can play a greater role in making major welfare decisions.

In view of these statements, I ask the Minister to inform the Council what type of programme he will implement to achieve these goals to improve the position of women workers in the welfare area. Secondly, has the programme already begun and, if it has not, when does the Minister intend to carry out his stated intentions in this regard?

**The Hon. J. C. BURDETT:** The honourable member referred to a decision taken at the Social Welfare Ministers Council meeting. I might add that that decision was taken on my initiative, so that I am completely in sympathy with the thrust of trying to do something to enable women in welfare to attain decision-making positions. I have mentioned before that there is the problem that, in my view, ultimately the test must be to choose the most suitable person for the job, and that there are quite a lot of people in the department who do not seek to reach that level.

However, the programme that has been initiated involves trying to make clear to women the job opportunities that are available, to make clear to them also that they can obtain further training if possible, and to use every means available to place women in such a position that they can reach decision-making levels. Whereas the number of women on the department's executive is very small at the moment, the figure is likely to be increased by one as a result of this programme. So, the programme is largely an *ad hoc* one to use every possible means in particular cases of seeing that women are put in such a position and moved to such positions so that they can obtain opportunities of advancement.

## WATER RESOURCES

**The Hon. N. K. FOSTER:** I seek leave to make a statement before asking the Minister of Local Government, representing the Minister of Water Resources, a question regarding water resources.

Leave granted.

**The Hon. N. K. FOSTER:** We have in recent weeks been circularised by a number of local government organisations seeking support, in conjunction with the Local Government Association or its member councils, for a moratorium in respect of irrigation from the Murray River system, which includes the Darling River. One such council was Prospect, and another that comes to mind was Whyalla. This reminds me of an occasion when I read in an historical document a couple of years ago about the late Captain Charles Sturt begging to be given permission to thank the honourable gentlemen of the Legislative Council for bestowing upon him the honour of discovering the Murray River, when the Aborigines knew that it had been there for thousands of years before that.

I apply this also to the local government area. I wondered why they had suddenly discovered the Murray River, until I realised that a committee had been set up with Mr Hullick as its Chairman. I met that gentleman, who has recently been reported in the press, coming out of the A.M.P. building after a meeting in Perth.

It is all very well for people to climb on to the band waggon in their concern for the Murray River. I have received answers to questions from the Minister about this matter over a period of months which, along with a question asked by my colleague, really make the Government and the Minister look foolish. One of the Minister's replies refers to the Clarence River, but that is not the river that I had in mind at all. Anyone who jumps up and down about diverting the Clarence River in New South Wales obviously knows absolutely nothing about that particular river. For a start, there is no point where the Clarence River can be dammed. I was referring to the McLeay River. Subsequent to the Minister's reply in relation to the Clarence River a further reply stated that the Government would eventually have to look at the possibility of turning some of the rivers running east on the eastern seaboard in a westerly direction.

It is no good for the various State Governments to continue to badger and berate one another as if they were spectators at a football game. It is no good abusing the Minister in New South Wales, Mr Gordon, and it is no good abusing anyone in Victoria. The States should act in concert and tell the Federal Government that it is within its economic power to set up an authority to ensure that this water is not wasted. Was not that done in the Snowy Mountains River Scheme? Were not the same number of Governments involved, plus one? Was not an authority set up? Of course there was.

**The PRESIDENT:** Order! The Minister will not have much to answer if the honourable member continues in this vein.

**The Hon. N. K. FOSTER:** Yes he will, Mr President. I have heard members from both sides of this Chamber go on about this matter. I wish that the Government would introduce a Bill so that we could debate this matter, but it will not do that. I challenge the Government to do it.

**The PRESIDENT:** Order! That has nothing to do with the honourable member's explanation. Please proceed with the explanation.

**The Hon. N. K. FOSTER:** Will this Government demand that the Federal Government undertake a study, through an appropriate authority, to investigate the region of the Apsley Gorge, inland from Coffs Harbour, to achieve a 21-foot flow into the Darling River for 365 days a year, and possibly for ever. I point out that the Minister has looked at the wrong spot. The only suitable place in the Great Divide is the Apsley Gorge, and that is the area to which my question relates. If I do not receive an answer about that area, the Minister will hear more about this matter.

**The Hon. C. M. HILL:** I shake at the knees when I hear threats from the Hon. Mr Foster. I will forward to my colleague all the information that the honourable member has supplied. I assure the honourable member that my colleague will do his best to provide a reply that will satisfy him.

## PRISONS

**The Hon. N. K. FOSTER:** I seek leave to make a statement before asking the Attorney-General a question about the use of South Australian prisons for Commonwealth offences.

Leave granted.

**The Hon. N. K. FOSTER:** I am quite concerned, as I am sure most young people in Australia are concerned, about Mr Tony Street's statement about the Federal Government committing a peace keeping force to the Middle East. In an attempt to soften the blow, there has been some reference to political embarrassment between the Parties in Canberra. It will not be a United Nations force under the so-called Camp David accord, but a so-called peace keeping force which will be supported by America and any of its lackeys who are stupid enough to join with it. This is matter of very grave concern to me, and I am sure—

**The Hon. K. T. Griffin:** What's this got to do with prisons?

**The Hon. N. K. FOSTER:** If the Attorney will just be patient, I will come to that in a moment. Everyone should be concerned about this particular matter, because it is not dissimilar to the way in which we were forced into Vietnam, according to Parliamentarians of that particular day. In fact, fresh light has been thrown on how Australia became involved in that conflict.

**The PRESIDENT:** Order! The Hon. Mr Foster is wandering to such an extent that I can see no relevance to his question.

**The Hon. N. K. FOSTER:** I will come to that in a moment, Mr President. There is an agreement between the Attorney-General and the Commonwealth to imprison persons apprehended for breaking Commonwealth law. Pursuant to that agreement, people were gaoled for opposing and refusing to accept the draft during the Vietnam war.

**The Hon. J. A. Carnie:** So?

**The Hon. N. K. FOSTER:** The Hon. Mr Carnie says, 'So?', but if his lad was involved he would be more interested. Apparently his son is over the age that would cause concern. Will the Attorney-General refuse to allow South Australians to be imprisoned in South Australian Gaols by the Commonwealth if they should protest or refuse to have anything to do with the Federal Government's proposal to send an Australian peace keeping force to the Middle East?

**The Hon. K. T. GRIFFIN:** The arrangment between the States and the Commonwealth in relation to the use of State prisons for offenders against Commonwealth law has worked satisfactorily in the past and I see no reason why it should not work satisfactorily in the future. I see no reason to review this matter.

## MALLEN COMMITTEE

**The Hon. ANNE LEVY:** I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question about the Mallen Committee Report.

Leave granted.

**The Hon. ANNE LEVY:** When section 81 of the Criminal Law Consolidation Act relating to the termination of pregnancy was changed by this Parliament in 1969, the Government of the day set up a committee to report to the Government on the incidence of terminations of pregnancy and any matters relating thereto. That committee, which was established in early 1970 under its Chairman, Sir Leonard Mallen, has operated very satisfactorily for a period of 10 years. It has put out annual reports, has done statistical analyses on data that has been collected, and I am sure has collected a great deal of valuable information regarding the incidence of abortion and details appertaining thereto.

Last year the committee's report was very extensive, because it not only summarised the situation from 1979, but was a 10-year review of the abortion legislation. At various times the committee has made recommendations for amending the law, but no Government has adopted them.

Not long ago Sir Leonard Mallen died, and I am sure tribute was paid at the time of his death to the work that he had done in chairing his committee as well as all of his other contributions to South Australia. My question is really concerned about what is happening with the committee.

Is the committee to be given a new Chairman and, if it is, when can an announcement be made to that end? Is the committee to continue in existence with its personnel unchanged except for a new Chairman, or is the Minister contemplating a complete review of the committee and its functions? When can an announcement be expected, as the data collected during 1980 would now be ready for analysis and many people would like a report on that data as soon as possible?

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

## CHAMBER VISITORS

**The Hon. G. L. BRUCE:** My question is directed to you, Mr President, as the person in charge of this Chamber. My question relates to the activities of visitors to this Council. I should like to know why visitors to this Chamber are barred from sitting on the Council benches. If the reason for this prohibition is not relevant in this day and age, would it be possible for visitors to sit on members' benches when they are making inspections and tours of this Council and are given explanations of the workings of this Council? I refer to the sign placed on the floor of this Chamber instructing visitors not to occupy the benches.

**The PRESIDENT:** That sign was instituted at the request of members who felt that documents left on their desk were often interfered with by visitors who sat on the benches. That order resulted from the specific request of members, and the notice was placed in the Chamber. It has been in force for a long time.

## WORKERS COMPENSATION ACT

**The Hon. J. E. DUNFORD:** I seek leave to make a short statement before asking the Attorney-General a question about workers compensation.

Leave granted.

**The Hon. J. E. DUNFORD:** I have read yesterday's *Hansard* pulls, and I believe that yesterday I explained my question comprehensively to the Attorney. Obviously, the

Attorney-General does not consider a breach of section 41 (2) of the Workers Compensation Act to be of any importance at all. The Attorney-General seems to have said that, because he could not understand my letter, I ought to give him information upon which he could act. From my reading of the pulls, I can see that I have given him information about a firm of solicitors who have breached section 41 (2) of the Workers Compensation Act—Genders and Wilson—in the letter that the Attorney could not understand. Indeed, I will have to find out what is the Attorney's connection with the Law Society because, in the third paragraph of my letter of 24 March, I stated:

> You should now instruct the Master of the Supreme Court to audit their trust account. You are called upon to table in the House the Harrison and Partners letters of 20 March 1981 of Mr J. Boehm, Master of the Supreme Court, as to the trust account audit together with all the attachments thereto.

If the Minister cannot understand my letter, he should not be the Attorney-General, because that statement is clear. I have a letter before me addressed to Mr Boehm, Master of the Supreme Court. The letter sets out several lawyers who have breached section 41 (2) of the Workers Compensation Act. I will refer to some of those lawyers now, because the Attorney wants this information but will not get it for himself. The Attorney has asked me to give the details, yet he could easily have obtained the letter that was written to the Master of the Supreme Court on 20 March. The letter states, in part:

> I know from my own observations Messrs Stanley and Partners, Anderson, Evans and Co., Johnston, Withers, McCusker and Co., Reilly, Ahern and Kerin and Scammel, Skipper and Hollidge would need to make somewhat similar confessions in such an event to mention but a few of the firms so involved. Also enclosed is the decison of *Haese* D.P. (Cn. 9 of 1979) in *Mandalios v. C. A. Schahinger Pty Ltd* Attention is drawn to the second paragraph on page 2 of the print. I do not believe the Council of the Law Society has taken any action against Louis Abbott and Co. in that matter.

Correspondence is then referred to in regard to Mr Bollen, Q.C., President of the Law Society Council and to Mr Boehm. Indeed, I believe that the Minister holds high office in the Law Society.

**The Hon. C. J. Sumner:** He is in it.

**The Hon. J. E. DUNFORD:** Yes, he is. The Attorney says he cannot understand my letter, that it is incomprehensible. My letter sets out clearly those lawyers who have breached the Act. How can the Minister make his statement? The Minister is a crafty little lawyer—

**The PRESIDENT:** Order!

**The Hon. J. E. DUNFORD:** There are too many lawyers on both sides of the Parliaments. I want to repeat the question I asked yesterday. First, is the Attorney concerned about breaches of the Workers Compensation Act by lawyers who appear before judges of the Industrial Commission? Will he take any action against the lawyers who have breached this provision. Will he instruct judges that they shall not breach that Act any more? Further, will he answer my previous correspondence? How many breaches of section 41 (2) of the Act have occurred since July 1980?

Yesterday the Minister said, 'What about Harrison?' What did the Minister mean by that comment, because I only referred to Mr Harrison after the Minister's comment? I think I know what the Minister means, but he should explain his comment. Harrison has freely admitted to me, as a constituent of mine, that he is guilty of technical breaches of section 41 (2), and others are guilty. Therefore, the Minister should read the letter to Mr Boehm, the letter to Mr Bollen Q.C. and the other attachments, because the Minister will find that many more of his friends are in the same position of breaching section 41 (2) where no order has been made; no bill of costs has been filed in the Industrial Court. I should not have to rise every day in order to get a proper answer to a proper question on an important matter affecting many people.

**The Hon. K. T. GRIFFIN?** I am not prepared to debate the matter of Harrison, and I made that clear yesterday.

**The Hon. Frank Blevins:** Why did you raise his name?

**The Hon. K. T. GRIFFIN:** The matter is still before the court and it would be inappropriate to mention matters affecting him.

**The Hon. Frank Blevins:** Why did you mention him?

**The Hon K. T. GRIFFIN:** The Hon. Mr Dunford referred to Harrison in his letters.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. K. T. GRIFFIN:** I will not pursue details about Mr Harrison at this stage. So far as the demand on the Master of the Supreme Court is concerned, it is not within my authority to make any demand on him to produce any letters to me. The Hon. Mr Dunford has written to the Master. The member can easily send me a copy of that letter and I will have inquiries made.

So far as breaches of the Industrial Code are concerned, I am always concerned about breaches of any law. If there is any reasonable basis for conducting inquiries and information does come to my attention, inquiries will be made. Regarding the Hon. Mr Dunford's letters to me, I will not say again what I said yesterday about them, because that is already on record, but they are by no means clear as to what the Hon. Mr Dunford is asking for.

**The Hon. J. E. Dunford:** I have just read it.

**The PRESIDENT:** Order! If the Hon. Mr Dunford is not satisfied with the reply, he can ask another question.

**The Hon. K. T. GRIFFIN:** As I have indicated, if the Hon. Mr. Dunford has facts that are more than suspicions and if he draws my attention to them, I will have the matters inquired into.

**The Hon. J. E. DUNFORD:** I wish to ask a supplementary question. I did write him a letter. I have given him numbers of the cases and have named lawyers. All this information is in the hands of the Law Society and the Attorney-General is in the Law Society. What else do I have to do? It is completely incomprehensible that he can get up and duck-shove—

**The PRESIDENT:** Does the honourable member want to ask a question of the Attorney-General? He just has sufficient time.

**The Hon. J. E. DUNFORD:** Just tell me exactly what you want. Do you want that in writing? I have just told you what is in writing. Say 'Yes' or 'No'.

**The Hon. K. T. GRIFFIN:** If the Hon. Mr Dunford wants me to have access to a letter that he alleges has all the facts in it and which is a letter to the Master of the Supreme Court, he can let me have it, but it is no good referring to a case number and asking whether I can investigate that. I want some reasonable basis on which I can undertake inquiries and I will be happy to do that if he provides evidence.

## RUBELLA CAMPAIGN

**The Hon. N. K. FOSTER:** I seek leave to make a brief explantion prior to asking a question of the Minister of Community Welfare, representing the Minister of Health, regarding the rubella campaign.

Leave granted.

**The Hon. N. K. FOSTER:** Because of the time, I ask the Minister whether he is aware that there is some concern by some women in respect of the rubella campaign. Secondly, I ask whether he is aware that this concern has been brought about by the fact that certain people were immunised some years ago at primary school level in the belief that that was a lifetime immunisation and they are now being advised by their doctors that such was not the case. Will the Minister ask the Minister of Health to investigate this matter and ensure that proper publicity is given to the fact that there may well be a need for a booster in the current campaign?

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

## COMPANY REGISTRATION

**The Hon. ANNE LEVY:** I seek leave to make a brief statement before directing a question to the Attorney-General on the matter of company registration.

Leave granted.

**The Hon. ANNE LEVY:** I understand that companies registered under the Companies Act in South Australia can apply to be exempted from the normal provision of having to present annual balance sheets to the Companies Office. I wonder whether the Attorney can supply me with a list of all the companies in South Australia that have applied and got exemption from having to present their annual balance sheet to the Companies Office.

**The Hon. K. T. GRIFFIN:** Really, there are two bases that relate to proprietary limited companies in respect of balance sheets. One is that, if they appoint an auditor, they are not required to lodge their annual accounts at the Companies Office. If they unanimously agree not less than one month before an annual meeting not to appoint an auditor, the accounts are lodged. If they appoint an auditor, the accounts do not have to be lodged. That applies to proprietary limited companies.

All public companies are required to lodge their annual accounts in a prescribed form. Section 24 of the Companies Act provides that certain companies can obtain a licence from the Minister provided they meet certain criteria. They are generally of a charitable or benevolent nature. They can get a licence to dispense with the word 'limited' in their name and also an exemption from lodging annual accounts and in respect of directors, and so on. That would be the only category that I would suspect the member is referring to, where a section 24 licence has been granted and exemption from lodging accounts has been given. I can endeavour to obtain information in relation to those companies. I do not think the question relates to proprietary limited companies or other public companies.

## STATUTORY AUTHORITIES

**The Hon. FRANK BLEVINS** (on notice) asked the Attorney-General: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under his jurisdiction?

**The Hon. K. T. GRIFFIN:** I seek leave for Ministers to insert in *Hansard* without their being read the replies to all remaining Questions on Notice except Nos 4 and 7.

Leave granted.

**The Hon. K. T. GRIFFIN:** The reply to Question on Notice No. 3 is as follows: Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

Legal Services Commission

| | Date Appointed | Term | Salary $ p.a. |
|---|---|---|---|
| Maurice Francis O'Loughlin | 12.6.80 | 3 years | 5 600 |
| John William Perry | 1.11.79 | to 8.6.81 | 4 350 |
| John Jeremy Doyle | 7 6 79 | 3 years | 4 350 |
| Eleanor Frances Nelson | 12.6.80 | 3 years | 4 350 |
| Paul Edward White | 8.6.78 | 3 years | 4.350 |
| Clinton Bryan Fernando | 8.6.78 | 3 years | — |
| Susan Armstrong (Director) | — | — | — |
| Peter Colin Roy Edwards | 29.11.79 | to 7.6.82 | 4 350 |
| John Joseph McVeity | 8.6.78 | 3 years | 4 350 |
| James Mansfield | 12.6.80 | 3 years | 4 350 |
| Paul Sidney Bermingham | 26.7.79 | to 6.6.82 | 3 350 |

4. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Community Welfare: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under his jurisdiction?

**The Hon. J. C. BURDETT:** There are no statutory authorities within these portfolio responsibilities with statutory corporate status.

5. **The Hon. FRANK BLEVINS** (on notice) asked the Attorney-General: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Premier?

**The Hon. K. T. GRIFFIN:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Name | Term of Appointment | Salary |
|---|---|---|
| Lotteries Commission of South Australia | | |
| Shannon, J. E. | January 1978-January 1982 | $3 600 (expenses $1 000) |
| Dillon, J. B. | January 1968-January 1983 | $3 150 (expenses $3 000) |
| Curren, A. R. | January 1975-January 1986 | $3 150 (expenses $300) |
| South Australian Superannuation Fund Investment Trust | | |
| Barnes, R. D. | 1976—*Ex officio* | $1 750 |
| Weiss, I. S. | 1977—*Ex officio* | $1 375 |
| Curtis, D. M. | 1979—At Governor's request | $1 375 |

| Name | Term of Appointment | Salary |
|---|---|---|
| The Savings Bank of South Australia | | |
| Barrett, L. | 4.12.80-31.12.81 | $6 800 |
| Huntley, G. H. | January 1966-January 1984 | $4 700 |
| Crimes, E. H. | January 1976-January 1982 | $4 700 |
| McEwin, A. G. | January 1980-January 1986 | $4 700 |
| Searcy, R. P. | January 1980-January 1986 | $4 700 |
| South Australian Superannuation Board | | |
| Weiss, I. S. | 1.2.77-22.2.83 | $2 100 |
| Holland, J. N. | 22.2.76-22.2.83 | $1 650 |
| Blaskett, M. | 31.10.80-21.10.87 | $1 650 |
| State Bank of South Australia | | |
| Seaman, G. F. | 1961-1981 | $6 800 |
| Dunsford, J. R. | 1972-1982 | $4 700 |
| Hancock, K. J. | 1978-1983 | $4 700 |
| O'Loughlin, M. F. | 27.11.80-27.11.85 | $4 700 |
| Nankivell, W. F. | 8.6.80-8.6.85 | $4 700 |
| State Government Insurance Commission | | |
| Kean, V. P. | 14.6.79—reappointed every 5 years | $6 800 |
| Callaghan, J. P. | 23.12.70—reappointed every 5 years | $4 700 |
| Bywaters, Hon. G. A. | 23.12.70—reappointed every 5 years | $4 700 |
| Krantz, H. D. | 23.12.70—reappointed every 5 years | $4 700 |
| South Australian Development Corporation | | |
| Cavill, R. R. | 1975—At the pleasure of the Governor | $4 250 |
| Kean, V. P. | 1978—At the pleasure of the Governor | $3 500 |
| Sheridan, T. A. | 1974—At the pleasure of the Governor | $2 750 |
| Kowalick, I. J. | 1980—At the pleasure of the Governor | $2 750 |
| Brown, A. G. | 1979-1982 | $3 500 |
| Byrne, D. E. | 1980—At the pleasure of the Governor | $2 750 |
| State Clothing Corporation | | |
| Lees, I. J. | 16.2.78-16.2.82 | $70/half day |
| Bachmann, H. R. | 16.2.78-16.2.82 | $55/half day |
| Baggio, G. | 20.3.80-20.3.83 | $70/half day |
| Collins, K. J. | 16.2.78-16.2.80* | $70/half day |
| Heard, J. H. | 16.2.78-16.2.82 | $70/half day |

*Reappointed for three years on 21.2.78.

N.B. Not all members eligible for fees actually accept them.

6. **The Hon. FRANK BLEVINS** (on notice) asked the Attorney-General: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Mines and Energy?

**The Hon. K. T. GRIFFIN:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Name | Position Held | Date Appointed/ Reappointed | Term of Office | Fee Per Annum $ |
|---|---|---|---|---|
| Electricity Trust of South Australia | | | | |
| Mr W. H. Hayes | Chairman | 4.3.78 | expires 30.8.81 | 9 200 |
| Mr G. F. Seaman | Deputy Chairman | 26.8.78 | 5 years | 7 950 |
| Mr L. W. Parkin | Member | 4.12.80 | 3 years | 6 800 |
| Mr G. R. Broomhill | Member | 28.8.80 | 5 years | 6 800 |
| Mr K. W. Lewis | Member | 14.6.79 | 5 years | 6 800 |
| Mr J. B. Leverington | Member | 5.2.81 | 3 years | 6 800 |
| Mr J. W. H. Coumbe | Member | 19.10.78 | 5 years | 6 800 |
| Pipelines Authority of South Australia | | | | |
| Sir Norman Young | Chairman | 18.12.80 | 12 months | 6 800 |
| Mr W. L. C. Davies | Member | 18.12.80 | 12 months | 3 450 |
| Judge D. H. Taylor | Member | 18.12.80 | 12 months | 3 450 |
| Mr L. W. Parkin | Member | 18.12.80 | 12 months | 3 450 |
| Mr B. P. Webb | Member | 18.12.80 | 12 months | no fee payable |
| Mr R. D. Barnes | Member | 18.12.80 | 12 months | no fee payable |

7. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Community Welfare: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Industrial Affairs?

**The Hon. J. C. BURDETT:** There are no statutory authorities within these portfolio responsibilities with statutory corporate status.

8. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Local Government: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Water Resources?

**The Hon. C. M. HILL:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Statutory Authority | Membership | Date of Appointment | Term of Appointment | Salary $ p.a. |
|---|---|---|---|---|
| Renmark Irrigation Trust | V. R. Zadow (Chairman) | 5 July 1980 | 1 year | 3 000 |
| | D. C. Pedler (Vice-Chairman) | 5 July 1980 | 1 year | 1 000 |
| | R. F. Pinyan | 5 July 1980 | 2 years | 850 |
| | W. G. Crippen | 5 July 1980 | 2 years | 850 |
| | D. Coombe | 2 September 1980 | 9 months | 850 |
| | A. Katsaras | 7 July 1979 | 2 years | 850 |
| | J. F. Craker | 7 July 1979 | 2 years | 850 |
| Lower River Broughton Irrigation Trust | R. S. Crouch (Chairman) | 1 July 1979 | | |
| | P. G. Hunt | 1 July 1979 | | |
| | L. G. Afford | 1 July 1979 | | |
| | L. F. Stanley | 1 July 1979 | 2 years for all members | Nil |
| | R. R. Young | 1 July 1980 | | |
| | H. Beard | 1 July 1980 | | |
| | L. R. Keane | 1 July 1980 | | |
| Pyap Irrigation Trust | F. B. Tonkin (Chairman) | 22 September 1980 | 1 year for all office bearers | 125 |
| | K. W. Pontt (Deputy Chairman) | 22 September 1980 | | Nil |
| | E. Martineit (Watermaster) | 22 September 1980 | | 250 |
| | W. Pontt (Asst. Watermaster) | 22 September 1980 | | 125 |
| | A. Tonkin (Secretary) | 10 November 1980 | | Nil |
| | M. K. Connor | Members maintain membership of trust for as long as they own land in the Pyap Irrigation Area. | | Nil |
| | B. D. Milich | | | |
| | G. Gareffa | | | |
| | Estate of H. R. Reichstein | | | |

9. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Local Government: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Chief Secretary?

**The Hon. C. M. HILL:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

Members of the Fire Brigades Board

| Name | Date of Appointment | Term | Salary $ |
|---|---|---|---|
| Joseph, George | 16.11.72 | Continuous | 5 500 |
| Sutherland, William | 31.1.81 | 2 years | 2 800 |
| Keen, James G. | 31.1.80 | 2 years | 2 800 |
| Phelps, Kevin A. | 31.1.81 | 2 years | 2 800 |
| Harwood, Denis A. | 31.1.80 | 2 years | 2 800 |

| Name | Date of Appointment | Term | Salary $ |
|---|---|---|---|
| Milburn, Michael A. | 31.1.80 | 2 years | 2 800 |
| Morphett, Colin S. | (Acting Chief Officer, *ex officio*) | Continuous | 2 800 |

10. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Local Government: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Education?

**The Hon. C. M. HILL:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Members | Date and Term of Appointment | Board Fees |
|---|---|---|
| Board of Management, S.A. Teacher Housing Authority | | |
| J. L. Crichton (Chairman) | May 1979—4 years | $1 400 p.a. |
| A. B. S. Daw | May 1979—4 years | $1 150 p.a. |
| H. P. Moraw | May 1979—4 years | $1 150 p.a. |

Deputy Board members are Messrs J. Messner, J. McManus and B. Connor. Fees are $22 per meeting attended.

| Members | Date and Term of Appointment | Board Fees |
|---|---|---|
| Board of Management, Kindergarten Union of South Australia | | |
| B. J. Grear (President) | 1978-30.3.82 | $70 per meeting |
| M. R. Hurrel | 1.5.81-30.4.83 | $83.33 per meeting |
| Dr M. Lawson (Vice-President) | 1.5.81-30.4.83 | $70 per meeting |
| M. C. Montgomery | 1.5.81-30.4.83 | $83.33 per meeting |
| Dr F. N. Ebbeck (Chief Executive Officer) | 1976 | Nil |
| Dr M. B. Rugless | 1.5.81-30.4.83 | $55 per meeting |
| M. J. Cunningham | 1.5.81-30.4.83 | $55 per meeting |
| R. D. Rowley | 1.5.81-30.4.83 | Nil |
| J. M. LeMessurier | 1.5.81-30.4.83 | Nil |
| J. Mildred | 1.5.81-30.4.83 | $55 per meeting |
| D. G. Evans | 1980-30.4.82 | $55 per meeting |
| B. E. Windle | 1980-30.4.82 | $55 per meeting |
| H. J. Burton | 1976-30.4.81 | $83.33 per meeting |
| A. Raggatt | 1.5.81-30.4.83 | $70 per meeting |
| Tertiary Education Authority of South Australia | | |
| K. R. Gilding (Chairman) | 1.7.79—5 years | $46 195 p.a. |
| Dr J. A. Sandover (Deputy Chairman) | 1.7.79—5 years | $42 191 p.a. |
| *Sister D. F. Jordan | 1.7.79—3 years | $3 500 p.a. |
| P. W. I. Fleming | 1.7.79—2 years | $3 500 p.a. |
| L. G. Rowe | 1.7.80—3 years | $3 500 p.a. |

*D. Feather has been appointed as a board member for 1 year from 1.1.81 in the absence of Sister Jordan.

11. **The Hon. FRANK BLEVINS** (on notice) asked the Attorney-General: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Transport?

**The Hon. K. T. GRIFFIN:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Membership | Date of Appointment | Current Term of Appointment | Remuneration $ p.a. |
|---|---|---|---|
| Metropolitan Taxi-Cab Board | | | |
| W. L. Bridgland (Chairman) | 15.7.57 | 24.3.77-23.3.81 | 2 100 |
| S. G. Condon | 6.3.79 | 6.3.79-23.3.81 | 1 650 |
| J. F. Keough | 11.9.80 | 11.9.80-23.3.81 | 1 650 |
| G. Joseph | 9.8.79 | 9.8.79-23.3.81 | 1 650 |
| Assistant Commissioner B. Furler | 11.9.80 | 11.9.80-23.3.81 | 1 650 |
| W. Young | 1.4.65 | 24.3.77-23.3.81 | 1 650 |
| J. G. Linn | 1.11.73 | 24.3.77-23.3.81 | 1 650 |
| J. A. Mickan | 1.7.74 | 24.3.77-23.3.81 | 1 650 |
| Central Inspection Authority | 18.12.75 | | |
| E. O'Donnell | 18.12.75 | There is no fixed term of appointment and they | |
| B. J. Pittman | 4.5.78 | receive no remuneration. | |
| C. S. Bitter | | | |
| State Transport Authority | | | |
| A. G. Flint (Chairman) | 18.4.74 | 18.4.74-17.4.81 | Public servant full-time |
| R. J. Gregory | 23.3.80 | 18.4.80-17.4.84 | 5 700 |
| R. H. Fidock | 18.4.74 | 18.4.77-17.4.81 | 5 700 |
| H. B. Young | 18.4.74 | 18.4.77-17.4.81 | 5 700 |
| J. D. Rump | 18.4.74 | 18.4.80-17.4.84 | 5 700 |
| G. Foreman | 1.1.81 | 1.1.81-17.4.82 | 4 450 |
| Dr D. Scrafton | 5.5.77 | 5.5.77-4.5.81 | 4 450 |
| J. W. Spencer (or a Commonwealth representative) | 18.4.74 | No fixed term | Nil |

12. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Community Welfare: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Environment?

**The Hon. J. C. BURDETT:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

Coast Protection Board

The only appointments are 8 (4), 8 (1) *(d)*, 8 (1) *(e)* and 8 (1) *(f)* as set out below.

Members of the Coast Protection Board are appointed pursuant to section 8 of the Coast Protection Act.

The board consists of six members—three are members by virtue of their positions in the Public Service and are therefore not appointed. However, they are included because their nominees are entitled to a fee.

8 (1) *(a)*—Director of Planning—Mr S. B. Hart—has been seconded to other duties—no fee.

8 *(a)*—Deputy Director of Planning—Mr D. A. Speechley, Departmental Chairman was appointed in Mr Hart's absence—no fee.

8 (1) *(b)*—Director of Marine and Harbors or his nominee—currently Mr L. Taylor (Nominee's fee $55 per half day).

8 (1) *(c)*—Director of Department of Tourism—Mr G. Joselin or his nominee in his absence (Nominee's fee $55 per half day).

8 (1) *(d)*—Mr D. G. Mason—$70 per half day.

8 (1) *(e)*—Mr R. Culver—$70 per half day.

8 (1) *(f)*—Mr F. D. Morgan—$70 per half day.

Private members appointed pursuant to *(d)*, *(e)* and *(f)* were appointed by Cabinet on 7 July 1980 for the period expiring 30 June 1981.

Environmental Protection Council

| Member | Fee Payable (Per half day) |
|---|---|
| | $ |
| Professor Avon M. Clark (Chairman) | 85 |
| Dr Peter D. Clark | 55 |
| J. E. Harris | 70 |
| Professor Dennis O. Jordan | 70 |
| K. W. Lewis | 55 |
| M. I. McTaggart | 70 |
| Dr P. R. Reeves | 70 |
| J. L. O. Tedder | 70 |
| J. G. Tilley | 70 |

All members were appointed on 4 September 1980 for a term of four years.

Botanic Gardens Board

| Current Appointment | | Expiration of Term |
|---|---|---|
| 8.6.78 | D. W. Berry | 30.6.82 |
| 8.6.78 | W. L. Bridgland | 30.6.82 |
| 8.6.78 | D. S. Young | 30.6.82 |
| 30.7.79 | A. B. Bishop | 30.6.82 |
| 26.6.80 | E. D. Manley | 30.6.84 |
| 26.6.80 | J. M. Pedler | 30.6.84 |
| 26.6.80 | C. W. Wren | 30.6.84 |
| 26.6.80 | Prof. H. S. Womersley | 30.6.84 |

Black Hill Native Flora Park Trust

| Member | Term of Appointment | Salary $ p.a. |
|---|---|---|
| D. R. J. Morrisey | 26.6.80-8.6.82 | 1 050 |
| L. M. Amber | 26.6.80-8.6.82 | 1 050 |
| R. C. Smith | 26.6.80-8.6.82 | 1 050 |
| B. I. Foreman | 26.6.80-8.6.82 | 825 |
| Dr C. F. Laurie | 26.6.80-8.6.82 | 1 275 |
| Dr B. D. Morely | 26.6.80-8.6.82 | No fee paid |
| K. G. Lasscock | 26.6.80-8.6.82 | 1 050 |
| N. Gare (Nominee R. Paech) | 25.9.80-26.6.82 | No fee paid |

North Haven Trust

Chairman: M. D. Downer. Appointed 31 May 1979 for a term of three years. Salary—$85 per half day.

Members: J. M. Collins. Appointed 31 May 1979 for a term of three years. Salary—$55 per half day.

L. B. Taylor, appointed 12 November 1979 for a term of three years. No salary paid.

E. R. Charles. Appointed 31 May 1979—reappointed 5 July 1980 for a term of two years. Salary—$70 per half day.

G. E. Hunter. Appointed 31 May 1979—reappointed 7 July 1979 for a term of two years. Salary—$70 per half day.

South Australian Land Commission

Chairman: K. C. Taeuber. Appointed 18 December 1980 for a term of three months. Salary—$6 800 per annum.

Members: J. J. Roche. Appointed 18 December 1980 for a term of three months. Salary—$4 700 per annum.

A. N. Powell. Appointed 18 December 1980 for a term of three months. Salary—$4 700 per annum.

State Planning Authority

Chairman: D. A. Speechley. Appointed 9 June 1977. No salary payable.

Members: B. Anders. Appointed 30 September 1978. Salary—$1 700 per annum.

B. Bridges. Appointed 14 December 1978. Salary—$1 100 per annum.

J. Sibly. Appointed 1 January 1980. Salary—$1 700 per annum.

J. Chappel. Appointed 1 October 1971. Salary—$1 700 per annum.

K. Collett. Reappointed 1981. No salary payable.

A. K. Johinke. Appointed 11 March 1969. Salary—$1 100 per annum.

K. W. Lewis. Appointed 31 March 1974. Salary—$1 100 per annum.

T. R. Muecke. Appointed 2 November 1978. Salary—$1 700 per annum.

N. Minicozzi. Appointed 1 January 1980. Salary—$1 700 per annum.

D. Wilsdon. Appointed 19 December 1974. Salary—$1 700 per annum.

13. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Community Welfare: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Health?

**The Hon. J. C. BURDETT:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Member | Appointment Date | Term | Salary $ p.a. |
|---|---|---|---|
| South Australian Health Commission | | | |
| B. V. McKay | 1.7.80 | 7 years | 49 932 |
| N. D. Hicks | 1.7.80 | 2 years | 4 700 |
| H. E. Wesley Smith | 1.7.80 | 2 years | 4 700 |
| A. C. Ekblom | 1.7.80 | 2 years | 4 700 |
| B. M. Lockwood | 1.7.80 | 2 years | 4 700 |
| C. A. Prior | 1.7.80 | 2 years | 4 700 |
| A. J. Watson | 1.7.80 | 1 year | 4 700 |
| R. V. H. Harrison | 1.7.80 | 1 year | 4 700 |

| Member | Appointment Date | Term | Salary $ p.a. |
|---|---|---|---|
| Alcohol and Drug Addicts Treatment Board | | | |
| O. D. Hassam | 1.7.80 | 1 year | 2 550 |
| W. A. Dibden | 1.7.80 | 1 year | 2 100 |
| E. J. Abrahams | 1.7.80 | 1 year | 1 650 |
| The Commissioners of Charitable Funds | | | |
| L. C. Hughes | 1.7.70 | 3 years | 2 125 |
| G. Joseph | 16.11.72 | 3 years | 1 750 |
| D. H. L. Banfield | 1.7.80 | 3 years | 1 750 |
| The Dental Board of South Australia | | | |
| K. R. Moore | 31.1.81 | 2 years | Nil |
| J. B. Day | 31.1.81 | 2 years | Nil |
| R. J. Myhill | 31.1.81 | 2 years | Nil |
| T. Brown | 31.1.81 | 2 years | Nil |
| T. B. Lindsay | 31.1.81 | 2 years | Nil |
| Institute of Medical and Veterinary Science | | | |
| A. G. McGregor | 10.3.80 | 5 years | Nil |
| M. K. Smith | 10.3.80 | 5 years | Nil |
| J. H. Holmden | 10.3.80 | 5 years | Nil |
| B. J. Kearney | April 1981 | continuous | Nil |
| L. Barrett | 10.3.80 | 5 years | Nil |
| Prof. D. Shearman | 10.3.80 | 5 years | Nil |
| I. Pilowsky | 10.3.80 | 5 years | Nil |
| Metropolitan County Board | | | |
| S. G. Condous | 1.2.80 | 2 years | Nil |
| C. J. Soward | 1.2.80 | 2 years | Nil |
| R. G. Harris | 18.8.80 | until 31.1.82 | Nil |
| A. Lancione | 1.2.81 | 2 years | Nil |
| L. G. Bell | 1.2.80 | 2 years | Nil |
| W. D. Potter | 1.2.81 | 2 years | Nil |
| I. R. MacDonald | 1.2.81 | 2 years | Nil |
| A. W. J. Ashley | 1.2.80 | 2 years | Nil |
| C. M. Jeffery | 1.2.80 | 2 years | Nil |
| C. C. Smith | 1.2.81 | 2 years | Nil |
| J. W. Hull | 1.2.81 | 2 years | Nil |
| L. A. G. Pitt | 1.2.80 | 2 years | Nil |
| G. E. Hunter | 1.2.81 | 2 years | Nil |
| K. Martin | 1.2.80 | 2 years | Nil |
| D. R. P. Ellis | 1.2.81 | 2 years | Nil |
| T. F. Foley | 1.2.81 | 2 years | Nil |
| D. A. D. Sheridan | 1.2.80 | 2 years | Nil |
| E. C. Scales | 1.2.81 | 2 years | Nil |
| F. St. C. Spain | 1.2.81 | 2 years | Nil |

14. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Community Welfare: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under the jurisdiction of the Minister of Agriculture?

**The Hon. J. C. BURDETT:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Name | Position Held | Initial Appointment | Official Term | Appointment Expires | Salary/remuneration |
|---|---|---|---|---|---|
| Artificial Breeding Board | | | | | |
| Feagan J. T. | Chairman | 1.2.79 | to 30.6.82* | 30.6.82 | $45 per half day (NPS) $35 per half day (PS) |
| Davidson, P. A. S. | Deputy Chairman | 1.2.79 | to 30.6.82* | 30.6.82 | |
| Clements, R. L. | Member | 25.8.75 | 4 years | 30.6.82 | $35 per half day (NPS) |
| Diener, M. J. | Member | 25.8.75 | 4 years | 30.6.82 | $30 per half day (PS) |
| Burnell, B. N. | Member | 25.8.75 | 4 years | 30.6.82 | |
| Australian Barley Board | | | | | |
| Walker, A. J. K. | Chairman | 19.2.70 | 3 years | 31.8.81 | $3 520 per annum |
| Heylar, J. L. | Member | 1.9.69 | 3 years | 31.8.81 | |
| Cock, M. J. | Member | 2.12.71 | 3 years | 31.8.81 | |
| Pearce, A. M. | Member | 14.8.57 | 3 years | 31.8.81 | |
| Petras, H. W. | Member | 20.8.63 | 3 years | 31.8.81 | $2 880 per annum |
| Honner, J. J. | Member | 14.8.57 | 3 years | 31.8.81 | |
| Resch, C. E. | Member | 31.8.75 | 3 years | 31.8.81 | |
| Sims, H. J. | Member | 31.8.75 | 3 years | 31.8.81 | |
| South Australian Meat Corporation | | | | | |
| Inns, G. J. | Chairman | 9.11.72 as member 1.7.80 as chairman | 3 years | 30.6.81 | $8 950 per annum (NPS) $6 200 per annum (PS) |
| Atkinson, R. G. | Member | 9.11.72 | 3 years | 30.6.81 | |
| Kelly, K. S. | Member | 7.6.79 | 3 years | 30.6.81 | |
| Harnett, J. | Member | 1.1.79 | 3 years | 30.12.81 | $5 700 per annum (NPS) |
| Blunt, B. S. | Member | 1.7.80 | to 30.6.81* | 30.6.81 | $4 450 per annum (PS) |
| Price, R. F. | Member | 24.7.80 | to 30.6.81* | 30.6.81 | |
| Metropolitan Milk Board | | | | | |
| Hanaford, B. D. | Chairman | 12.5.69 | 5 years | 1.5.72 | $30 176 per annum |
| Langley, J. C. | Deputy Chairman | 23.1.64 | 5 years | 1.3.84 | $3 000 per annum |
| Bywaters, G. A. | Member | 26.3.71 | 5 years | 9.3.86 | $3 000 per annum |

| Name | Position Held | Initial Appointment | Official Term | Appointment Expires | Salary/ Remuneration |
|---|---|---|---|---|---|
| South Australian Egg Board | | | | | |
| Fuge, R. B. | Chairman | 5.4.73 | Appointed members 3 | 31.3.82 | $3 450 per annum (PS) |
| Mair, N. C. | Deputy Chairman | 5.4.73 | years. Elected | 31.3.82 | |
| Simpson, J. G. | Member | 13.4.73 | members—initial | 31.3.81 | $3 450 per annum |
| Freebairn, J. S. | Member | 5.4.73 | term of 2, 3, 4 years | 31.3.83 | (NPS) |
| Harvey, J. S. | Member | 18.10.79 | as determined by lot | 31.3.82 | $2 050 per annum |
| Roantree, C. | Member | 27.11.79 | under Ministerial direction after initial term of 3 years. | 1.4.82 | |
| Trustees of the Volunteer Fire Fighters Fund | | | | | |
| Harniman, W. R. | Chairman | 13.11.69 | 5 years | 4.3.83 | $45 per meeting (NPS) $35 per meeting (PS) |
| Orr, R. D. | Trustee | 1.2.73 | 5 years | 31.1.83 | $35 per meeting (NPS) |
| Gaetjens, J. F. | Trustee | 21.12.78 | 5 years | 21.12.83 | $30 per meeting (PS) |
| South Australian Potato Board | | | | | |
| Muir, G. R. | Chairman | 1.3.80 | to 30.6.81* | 30.6.81 | $4 100 per annum (NPS) $1 750 per annum (PS) |
| Bradshaw, A. F. | Member | 13.7.67 | 4 years | 30.6.81 | |
| Hodge, G. L. | Member | 1.7.70 | 4 years | 30.6.82 | |
| Braendler, B. R. | Member | 1.7.74 | 4 years | 30.6.82 | $1 850 per annum |
| Kentish, M. D. | Member | 1.1.74 | 4 years | 30.6.83 | (NPS) |
| Paschke, D. C. H. | Member | 1.7.75 | 4 years | 30.6.83 | $1 300 per annum |
| Clark, B. F. | Member | 1.7.78 | 4 years | 30.6.83 | (PS) |
| Baker, K. J. | Member | 1.7.77 | 4 years | 30.6.83 | |
| Schirripa, D. P. | Member | 1.7.78 | 4 years | 30.6.83 | |
| Pest Plants Commission | | | | | |
| Barrow, P. McK | Chairman | 21.7.79 | 3 years | 21.7.82 | $85 per half day (NPS) $70 per half day (PS) |
| Tideman, A. F. | Member | 22.7.76 | 3 years | 21.7.82 | |
| Groth, M. J. | Member | 22.7.76 | 3 years | 21.7.82 | $70 per half day (NPS) |
| Brockhoff, R. D. | Member | 22.7.76 | 3 years | 21.7.82 | $55 per half day (PS) |
| Barker, S. | Member | 22.7.76 | 3 years | 21.7.82 | |
| Ross, D. G. | Member | 29.11.79 | to 21.7.82* | 21.7.82 | |
| Country Fire Services Board | | | | | |
| Schwerdtfeger, P. | Chairman | 19.5.77 | 4 years | 18.5.81 | $2 550 per annum (NPS) $2 100 per annum (PS) |
| Orr, R. D. | Member | 19.5.77 | 4 years | 18.5.81 | |
| Prior, M. J. | Member | 19.5.77 | 4 years | 18.5.83 | |
| Arnold, M. G. | Member | 19.5.77 | 4 years | 18.5.81 | |
| Gershwitz, V. L. | Member | 19.5.77 | 4 years | 18.5.81 | |
| Pfeiffer, E. R. | Member | 19.5.77 | 4 years | 18.5.81 | $70 per half day (NPS) |
| Hare, F. J. | Deputy Member | 20.7.78 | 4 years | 18.5.81 | $55 per half day (PS) |
| Gaetjens, J. F. | Member | 21.12.78 | 4 years | 18.5.81 | |
| Swann, P. J. | Member | 12.7.79 | 4 years | 18.5.83 | |
| McArthur, A. J. | Member | 12.7.79 | 4 years | 18.5.83 | |
| Johns, L. C. | Member | Director, Country Fire Services | | | |
| Dwyer, L. M. | Deputy Member | 23.12.80 | 4 years | 18.5.81 | |

*Member occupies a casual vacancy

15. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Local Government: What are the names, dates and terms of appointment and salaries of all persons appointed to the boards and commissions of statutory authorities under his jurisdiction?

**The Hon. C. M. HILL:** Details as requested concerning persons appointed to boards and commissions of statutory authorities which are bodies with statutory corporate status are as follows:

| Members | Date Appointed | Expiry Date of Term of Office | Remuneration |
|---|---|---|---|
| Libraries Board of South Australia | | | |
| Crawford, J. A. | 26.5.77 | 31.1.82 | Nil |
| Bray, J. J. | 3.8.44 | 31.1.82 | Nil |
| McClure, A. D. | 18.5.72 | 31.1.84 | Nil |

| Members | Date Appointed | Expiry Date of Term of Office | Remuneration |
|---|---|---|---|
| Brewer, J. | 21.3.74 | 31.1.82 | Nil |
| Hankel, V. A. | 1.2.78 | 31.1.82 | Nil |
| Olding, R. K. | 26.4.74 | 26.4.83 | Nil |
| Geracitano, G. | 1.2.80 | 31.1.84 | Nil |
| Jones, A. W. | 1.2.80 | 31.1.84 | Nil |

Each term of office is for 4 years.

| Members | Term | Expiry Date | Fees p.a. $ (unless otherwise indicated) |
|---|---|---|---|
| Enfield General Cemetery Trust | | | |
| Noblet, D. G. | 4 years | 30.6.84 | 1 020 |
| Templer, G. | 4 years | 30.6.84 | 840 |
| Potter, P. | 4 years | 30.6.84 | 840 |
| May, R. L. | 4 years | 30.6.83 | 660 |
| Robinson, R. W. | 4 years | 30.6.83 | 840 |
| Amer, R. D. | 4 years | 30.6.81 | 840 |
| Garrett, W. M. | 4 years | 30.6.83 | 660 |
| Levi Park Trust | | | |
| Lewis, L. G. | 5 years | 31.7.84 | 540 |
| Whitehill, J. A. E. | 2 years | 31.7.81 | 360 |
| Norman, W. W. | 2 years | 31.7.81 | 420 |
| Marsland, H. A. O. | 2 years | 31.7.81 | 420 |
| Bonner, R. H. C. | 2 years | 31.7.81 | 420 |
| Outback Areas Community Development Trust | | | |
| Connelly, E. | 3 years | 21.5.81 | 25 204 |
| O'Donoghue, L. | 3 years | 24.5.83 | 45 per ½ day |
| Davis, G. L. | 3 years | 24.5.83 | 45 per ½ day |
| Amery, D. R. | 3 years | 24.5.81 | 45 per ½ day |
| Hyatt, N. W. | 3 years | 24.5.81 | 45 per ½ day |
| West Beach Trust | | | |
| Wright, J. A. | 5 years | 29.2.84 | 2 750 |
| Collett, K. J. | 5 years | 29.2.84 | 1 375 |
| Fenwick, M. | 5 years | 29.2.84 | 1 750 |
| Mason, D. G. | 5 years | 18.3.81 | 1 750 |
| Hamra, S. J. | 5 years | 1.3.82 | 1 750 |
| Baker, M. J. | 5 years | 1.3.82 | 1 750 |
| Boyce, H. W. | 5 years | 18.3.81 | 1 750 |
| South Australian Waste Management Commission | | | |
| Lewis, R. G. | 3 years | 30.6.82 | — |
| Simpson, G. | 3 years | 30.6.82 | — |
| Symes, W. D. | 3 years | 30.6.83 | — |
| McMahon, G. F. | 3 years | 30.6.83 | 55 per ½ day |
| Dangerfield, J. | 2 years | 30.6.81 | 55 per ½ day |
| Coventry, K. | 2 years | 30.6.81 | 55 per ½ day |
| Hume, W. | 3 years | 30.6.82 | 55 per ½ day |

| | Expiry Date | Term | Fee |
|---|---|---|---|
| S.A. Film Corporation: | | | |
| J. Lee | 15.4.81 | 5 years | $6 100 p.a. |
| J. J. Morris | 15.4.81 | 5 years | Voluntary |
| I. M. Cook | 15.4.81 | 5 years | $2 100 p.a. |
| W. L. Davis | 15.4.81 | 5 years | $2 100 p.a. |
| E. Peleska | 15.4.81 | 5 years | $2 100 p.a. |
| L. Hammond | 15.4.81 | 2 years | Voluntary |
| Northern Regional Cultural Centre Trust: (Trustees) | | | |
| B. O. Taylor | 27.4.81 | 3 years | $45/meeting |
| N. Robinson | 27.4.81 | 3 years | $35/meeting |
| V. A. Hannan | 28.4.82 | 2 years | $35/meeting |
| J. D. Francis | 28.4.82 | 2 years | $35/meeting |
| D. B. Gadaletta | 27.4.81 | 2½ years | $35/meeting |
| R. L. Wright | 27.4.81 | 1 year | $30/meeting |
| R. F. Fowler (Manager) | 27.4.80 | — | $35/meeting |
| South-East Regional Cultural Centre Trust: (Trustees) | | | |
| A. D. Noblet | 3.5.83 | 3 years | $45/meeting |
| A. L. Sealey | 3.5.81 | 1 year | $35/meeting |
| J. J. Johnson | 3.5.81 | 1 year | $35/meeting |
| J. McFarlane | 3.5.81 | 2 years | $35/meeting |
| R. J. Peake | 3.5.82 | 3 years | $35/meeting |
| D. J. Harris | 3.5.82 | 3 years | $35/meeting |
| Eyre Peninsula Regional Cultural Centre Trust: (Trustees) | | | |
| J. A. L. Menard | 23.2.81 | 3 years | $45/meeting |
| J. F. Watson | 23.2.81 | 3 years | $35/meeting |
| A. C. Ekblom | 23.2.83 | 3 years | $35/meeting |
| T. R. Whitehouse | 23.2.81 | 2 years | $35/meeting |
| J. F. H. Clark | 21.2.83 | 3 years | $35/meeting |
| C. S. Winzar | 23.2.81 | 1 year | $30/meeting |
| Riverland Regional Cultural Centre Trust: (Trustees) | | | |
| G. J. Kraehe | 4.2.83 | 2 years | $45/meeting |
| R. J. Sanders | 4.2.83 | 2 years | $35/meeting |
| P. Rooney | 4.2.83 | 2 years | $35/meeting |
| M. Jackson | 4.2.82 | 1 year | $35/meeting |
| M. M. Evans | 4.2.82 | 1 year | $35/meeting |
| M. K. Johnson | 4.2.82 | 1 year | $35/meeting |
| K. G. Smith | 4.2.82 | 1 year | $35/meeting |
| W. Santos | 4.2.82 | 1 year | $35/meeting |
| Constitutional Museum: | | | |
| Dr N. Etherington (C) | 15.6.81 | 3 years | $85/meeting |
| Dr D. Jaensch | 15.6.81 | 3 years | $70/meeting |
| B. Rowney | 15.6.81 | 3 years | $55/meeting |
| J. Parkes | 15.6.81 | 3 years | $55/meeting |
| J. Kirk | 15.6.81 | 3 years | $55/meeting |
| Adelaide Festival Centre Trust: | | | |
| S. J. Mann | 15.12.82 | 2 years | $700/quarter |
| R. B. Litchfield | 15.12.82 | 3 years | $500/quarter |
| L. Hammond | 15.12.82 | 3 years | $500/quarter |
| J. B. Jarvis | 26.7.82 | 3 years | $500/quarter |
| P. C. Bourke | 15.12.82 | 2 years | $500/quarter |
| J. Noble | 15.12.82 | 2 years | $500/quarter |
| State Opera of South Australia: | | | |
| H. Cunningham | 15.3.81 | 3 years | Voluntary |
| R. Mierisch | 20.4.82 | 2 years | Voluntary |
| T. A. Hodgson | 15.3.81 | 2 years | Voluntary |
| M. Handley | 15.3.81 | 1 year | Voluntary |
| R. A. Brown | 30.6.82 | 2 years | Voluntary |
| K. Steele-Scott | 30.6.81 | 2 years | Voluntary |
| J. D. Coogan | 15.3.81 | 2 years | Voluntary |

Art Gallery Board of S.A.

| Name of Member | First Appointed | Reappointed | Term Expires | Salary |
|---|---|---|---|---|
| Dr Wilfrid Robertson Prest, B.A., D.Phil. (Oxon.), Chairman | January 1978 | — | January 1982 | Nil |
| His Honour Senior Judge Neil Coutts Ligertwood, LL.B., Q.C., Deputy Chairman | February 1973 (vice Carter) | 1976, 1980 | January 1984 | — |
| Mrs Margarita Biezaitis, Dip.T. | January 1980 | — | January 1984 | — |
| Mr David Clyde Dridan, F.R.S.A. (Lond.) | January 1980 (vice Bishop) | — | January 1984 | — |
| Mr Philip John Fargher, B.E., F.I.E. Aust., M.Asce. | April 1970 (vice Morgan) | 1973, 1977, 1981 | January 1985 | — |
| Mrs Christine Valerie Michell | January 1981 (vice Dutton) | — | January 1985 | — |
| Mr Thomas Nash Phillips, F.S.I.A. | September 1980 | — | September 1984 | — |
| Mr David Emlyn Liddon Thomas, B.A. (Hons) | January 1978 (vice Farrell) | — | January 1982 | — |

| | Expiry Date | Term | Fee |
|---|---|---|---|
| State Theatre Company: | | | |
| M. F. Gray | 6.7.81 | 3 years | Voluntary |
| J. Blewett | 25.5.81 | 2 years | Voluntary |
| J. R. Giles | 25.5.81 | 2 years | Voluntary |
| M. Daniel | 6.7.83 | 3 years | Voluntary |
| B. Macklin | 6.7.83 | 3 years | Voluntary |
| M. Allen | 4.9.81 | 1 year | Voluntary |
| South Australian Museum: | | | |
| Dr R. Southcott | 16.3.82 | 4 years | Voluntary |
| C. W. Bonython | 16.3.84 | 4 years | Voluntary |
| E. R. Simpson | 16.3.84 | 4 years | Voluntary |
| R. D. Weathersbee | 16.3.82 | 4 years | Voluntary |
| Dr N. Etherington | 16.3.84 | 4 years | Voluntary |
| A. D. Hickinbotham | 16.3.84 | 4 years | Voluntary |

S.A. Housing Trust Board

| Name | Date of Appointment | Term of Appointment | Salary $ p.a. |
|---|---|---|---|
| Raymond Ford Paley (Chairman) | 4.1.80 | 4 years | 8 500 |
| Hugh Stretton (Deputy Chairman) | 4.1.80 | 4 years | 4 700 |
| Robert Murray Glastonbury | 4.1.80 | 4 years | 4 100 |
| Peter Bayford Wells | 4.1.80 | 4 years | 4 100 |
| Pasquale Tiberio Pirone | 4.1.80 | 4 years | 4 100 |
| Raymond John Emmett | 4.1.80 | 4 years | 4 100 |
| Edith Antonia von Schramek | 4.1.80 | 4 years | 4 100 |

I do, however, point out that at the last moment, amongst the details in my reply I notice that one of the appointees to the State Opera of South Australia has in fact resigned and a new appointee has been given his position on the board. I shall advise the honourable member of that in due course.

## NURSES

16. **The Hon. FRANK BLEVINS** (on notice) asked the Minister of Community Welfare: How many:

1. Male Student Nurses;
2. Female Student Nurses;
3. Male Trainee Nurses;
4. Female Trainee Nurses,

were employed in 1978, 1979 and 1980 by the following hospitals:

1. Royal Adelaide;
2. Adelaide Children's;
3. St Andrews;
4. Queen Elizabeth;
5. Repatriation;
6. Lyell McEwin;
7. Modbury;
8. Mount Gambier;
9. Port Augusta;
10. Port Pirie;
11. Whyalla;
12. Port Lincoln;
13. Victor Harbor?

**The Hon. J. C. BURDETT:** Nurses Board records do not identify student and trainee nurses by sex and, therefore, it is not possible to provide the break-up required.

| | | 1978 | 1979 | 1980 |
|---|---|---|---|---|
| Royal Adelaide Hospital | Student | 822 | 674 | 567 |
| | Trainee | 94 | 80 | 65 |
| Adelaide Children's Hospital | Student | 260 | 257 | 226 |
| | Trainee | 27 | 26 | 13 |
| St Andrew's Hospital | Student | 103 | 103 | 104 |
| | Trainee | 19 | 17 | 14 |
| Queen Elizabeth Hospital | Student | 565 | 468 | 374 |
| | Trainee | 46 | 42 | 45 |

| | | 1978 | 1979 | 1980 |
|---|---|---|---|---|
| Repatriation Hospital | Student | 57 | 52 | 54 |
| | Trainee | 12 | 7 | 17 |
| Lyell McEwin Hospital | Student | 117 | 96 | 95 |
| | Trainee | 21 | 9 | 16 |
| Modbury Hospital | Student | 118 | 110 | 109 |
| | Trainee | — | — | — |
| Mount Gambier Hospital | Student | 75 | 68 | 57 |
| | Trainee | 16 | 18 | 10 |
| Port Augusta Hospital | Student | 49 | 46 | 34 |
| | Trainee | 9 | 10 | 9 |
| Port Pirie Hospital | Student | 70 | 43 | 41 |
| | Trainee | 11 | 11 | 21 |
| Whyalla Hospital | Student | 108 | 81 | 71 |
| | Trainee | 17 | 1 | 10 |
| Port Lincoln Hospital | Student | 28 | 28 | 29 |
| | Trainee | 4 | — | — |
| South Coast (Victor Harbor) | Student | 4 | — | — |
| | Trainee | 15 | 13 | 15 |

## LEAVE OF ABSENCE: Hon. M. B. CAMERON

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

That three weeks leave of absence be granted to the Hon. M. B. Cameron on account of absence overseas.

**The Hon. N. K. FOSTER:** In view of the fact of the important position that the Hon. Mr Cameron held or holds with the Select Committee in relation to breathalyser tests, is any other member of the Chamber who is on that committee able to deputise as Chairman if a matter is referred to that committee in respect of its findings or deliberations during the absence of the said gentleman?

**The Hon. L. H. DAVIS:** The committee has the power to appoint an Acting Chairman and has done so on two occasions.

**The Hon. N. K. Foster:** Who is he?

**The Hon. L. H. DAVIS:** That is in the hands of the committee. On the two occasions that it has appointed an Acting Chairman I have been so appointed.

**The PRESIDENT:** I seek clarification. I realise that the power to appoint would rest with the committee when it is called together. However, I thought that the committee had finalised its deliberations.

**The Hon. N. K. FOSTER:** How can we discuss the committee's recommendations if the Chairman is not here? He has some responsibility under Standing Orders in respect of that position that he was given in accordance with the vote in this Chamber.

**The Hon. L. H. DAVIS:** The Select Committee's report was tabled in this Council yesterday.

**The Hon. N. K. FOSTER:** There was no opportunity yesterday for debate. With respect to what the position may be, it is not very often that these matters are queried. I am not querying the fact that Mr Cameron has sought leave to go overseas.

**The PRESIDENT:** Order! I make the point that it is a matter for the committee itself to appoint a Chairman. The question before the Council is that three weeks leave of absence be granted the Hon. Mr Cameron.

Motion carried.

## LEAVE OF ABSENCE: Hon. D. H. LAIDLAW

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

That three weeks leave of absence be granted to the Hon. D. H. Laidlaw on account of absence overseas on Commonwealth Parliamentary Association business.

Motion carried.

## LEAVE OF ABSENCE: Hon. B. A. CHATTERTON

**The Hon. FRANK BLEVINS:** I move:

That three weeks leave of absence be granted to the Hon. B. A. Chatterton on account of absence overseas.

Motion carried.

## WHYALLA BY-LAW: TRAFFIC

Order of the Day, Private Business, No. 1: Hon. J. A. Carnie to move:

That Corporation of the City of Whyalla By-law No. 34 in respect of one-way streets made on 27 November 1980, and laid on the table of this Council on 2 December 1980, be disallowed.

**The Hon. J. A. CARNIE:** I move:

That this Order of the Day be discharged.

Order of the Day discharged.

## CITY OF ADELAIDE BY-LAW: CENTRAL MARKET

Order of the Day, Private Business, No. 2: Hon. J. A. Carnie to move:

That Corporation of the City of Adelaide By-law No. 16 in respect of the Central Market made on 27 November 1980, and laid on the table of this Council on 2 December 1980, be disallowed.

**The Hon. J. A. CARNIE:** I move:

That this Order of the Day be discharged.

Order of the Day discharged.

## SELECT COMMITTEE ON URANIUM RESOURCES

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

That the Select Committee on Uranium Resources have leave to sit during the recess and report on the first day of next session.

Motion carried.

## SELECT COMMITTEE ON UNSWORN STATEMENT AND RELATED MATTERS

**The Hon. C. J. SUMNER (Leader of the Opposition):** I move:

That the time for bringing up the report of the Select Committee on Unsworn Statement and Related Matters be extended to Wednesday 10 June 1981.

In moving this motion I would like to indicate to the Council that when the report is brought up an interim report will be presented on that day and the committee will seek leave to continue its deliberations.

**The Hon. L. H. Davis:** You said it was straightforward and would not take long.

**The Hon. C. J. SUMNER:** The Hon. Mr Davis has interjected and said that I said the matter was straightforward. I did not say that; I said that the factual evidence that would be required was not very great. What I also said at the time that this was debated and the committee was set up was that with appropriate research assistance the matter could be dealt with expeditiously. One of the great problems that the committee has had has been the bloody-minded attitude of the Government in not providing the committee with any research assistance. I should also point out that some of the submissions have only just been received, in particular, the submission from the Law Society of South Australia. I would also indicate that the Victorian Law Reform Commissioner is in the process of preparing a report on this very question and I am advised that the report will be publicly available within a few weeks.

For those reasons, the report will be of an interim nature when it is presented. Also, next Wednesday I will ask the Council to endorse a resolution of the Select Committee that was passed on 27 April 1981. That resolution is as follows:

1. That this committee endorse the action of its Chairman (Mr Sumner) in asking the Premier (Mr Tonkin) to intervene with the Attorney-General (Mr Griffin) following the refusal of the Attorney-General and the President of the Legislative Council (Mr Whyte) to make funds available to enable the Select Committee to engage research assistance.

2. That this committee believes that:

*(a)* The failure of the Liberal Party to participate in the committee, the failure of the Attorney-General and the President to assist with research assistance and the failure of the Attorney-General to appear or permit the appearance of legal officers to put the Government's case has severely hampered the committee in its deliberations and makes a mockery of the Liberal Party's often stated belief in the Legislative Council as a House of Review.

*(b)* The Government's failure to co-operate with the Select Committee raises serious questions about the relationship between Parliament and the Executive and the role that Parliament has in carrying out investigative work through Select Committees.

*(c)* The fundamental principle of the supremacy of Parliament is under attack when a Select Committee can be set up by the Parliament but be obstructed and hampered by the failure of the Government to provide funds to enable it to carry out its work.

*(d)* The Government is holding Parliament in contempt by its actions, thereby adversely affecting the role of Parliamentarians and limiting their capacity to carry out their duty of making inquiries in the public interest.

3. That this committee regrets that the Premier has not seen fit to reply to the Chairman's letter, dated 19 January 1981, asking him to intervene with the Attorney-General and calls upon him to reply as a matter of urgency.

That was the resolution which was passed by the Select Committee on 27 April. The Premier subsequently replied, and, of course, that will be a subject for debate when this motion is considered next Wednesday. I now inform the Council that tomorrow I will give notice of the following motion:

1. That this House endorse the resolution of the Select Committee on the Unsworn Statement and Related Matters passed on 22 April 1981.

2. That this House call on the President of the Council to assert the rights of the Parliament over the Government and to take such steps as are necessary to ensure that the Select Committee's work is not hindered.

3. That this House authorise the Select Committee to expend such funds and engage such research assistance as it shall deem necessary to fulfil its obligations to report in accordance with its terms of reference specified in the resolution of the Council dated 24 September 1980.

I have read that motion to the Council this afternoon, although I had intended to do so when giving notice of motion. I will formally give notice of that motion tomorrow. I have read it today in order to give the Government a week to consider its position, because I will expect the Government to be in a position to debate the motion next Wednesday and to vote on it then, before Parliament is prorogued, so that the committee will have the Council's opinion on these matters when it proceeds with its further deliberations.

Regarding the Select Committee on Unsworn Statements, I have never said that the issue was simple; I said that it was reasonably confined. It is complex, in that there are a number of differing opinions on the issue, and research assistance could have brought those opinions together much more readily than has been possible, given the failure by you, Sir, as President of the Council, or the Government to provide the committee with such assistance.

Therefore, next week a report on this subject will be presented to the Council and, consequently, there will be an opportunity for the Council to debate the motion of which I have just given notice, so that the committee will have some guidance in its future deliberations. I do not think there is any point in my going through the matter at length today.

**The Hon. K. T. Griffin:** You've done that already.

**The Hon. C. J. SUMNER:** The motion was very long, as the Minister will realise. Because the notice of motion has been given for next Wednesday's debate, all the issues can then be canvassed.

**The PRESIDENT:** Before calling on the next speaker, I should like to say that I appreciate being forewarned of this motion, which will have to be considered in the light of Standing Order 190, in relation to whether it can be debated.

**The Hon. K. T. GRIFFIN (Attorney-General):** The Leader of the Opposition has obviously raised matters that can easily be debated next week. He has done it essentially, I suggest, for the benefit of the media, and to draw away from him some of the flak that he has received as a result of the delay in dealing with this matter. However, I draw attention to a statement made by the Hon. Mr Blevins on 24 September 1980, when he was moving for the appointment of a Select Committee. He said:

> For the sake of the few weeks that the Select Committee would take, we feel it is worth while having that delay so that we can attempt to solve the very real problems of unsworn statements without doing any harm to any other groups.

A paragraph or two later, the honourable member said:

> In this State, my legal friends tell me that they—

that is, unsworn statements—

> have existed for more than 80 years. The Select Committee will take a very few weeks, because everyone wants to get on with the job.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. K. T. GRIFFIN:** It was clearly indicated during the course of the debate on the Bill in September and during the debate on the Select Committee that the Opposition believed that it was a relatively simple matter to examine the issues, and then bring down a report. We were assured that there would be a report in the Parliament by, I think, last November. It was then extended until February, and thereafter until June. Now, notwithstanding the interim report, the Opposition wants to extend it to next week. The problem is that the Opposition cannot resolve the difference of opinion within its own ranks. The Premier has replied to the Hon. Mr Sumner in response to the resolution that has been read out at length.

*The Hon. Frank Blevins interjecting:*

**The PRESIDENT:** Order! If the Hon. Mr Blevins wishes to enter the debate, he may do so later.

**The Hon. K. T. GRIFFIN:** The Premier replied to the Hon. Mr Sumner in the following terms:

> I refer to your letter of 22 April 1981. You letters and public comments leave the clear impression that you are endeavouring to draw attention away from your Party's retreat from its policy commitment to abolish the unsworn statement and the divisions in your own Party as to whether or not it should be so abolished.

**The Hon. C. J. SUMNER:** I rise on a point of order. I do not wish to stop the Attorney-General unduly, but—

**The Hon. K. T. Griffin:** Why did you read this into *Hansard,* then?

**The Hon. C. J. SUMNER:** I explained the reason for the deferment.

**The PRESIDENT:** Order! What is the Leader's point of order?

**The Hon. C. J. SUMNER:** I explained the reason for the deferment until Wednesday, and indicated to the Council that I would move the motion next Wednesday.

**The PRESIDENT:** But what is the point of order?

**The Hon. C. J. SUMNER:** It is that the issues that the Attorney-General is now raising fall fairly and squarely within the ambit of the motion that I will move next Wednesday.

**The PRESIDENT:** That may be so but, in view of the explanation that the Leader gave, I believe that the Attorney-General has the right to make some reference to it.

**The Hon. K. T. GRIFFIN (Attorney-General):** The Leader of the Opposition wants to extend the date for bringing up the report. The Leader's speech was obviously designed to give a fairly broad coverage of the committee's difficulties, and it is appropriate for me to specifically respond to several of the allegations that he has made.

**The Hon. C. J. Sumner:** They're in the motion.

**The Hon. K. T. GRIFFIN:** No, the Leader said that the Government was being bloody-minded in the way that it was dealing with the request for research assistance. The Leader used that as the reason why he could not bring up a report after nine months. I was reading a reply from the Premier to the Leader of the Opposition in this Chamber before I was interrupted, so perhaps I should start it again for the sake of completeness. It states:

> I refer to your letter of 22 April 1981. Your letters and public comments leave the clear impression that you are endeavouring to draw attention away from your Party's retreat from its policy commitment to abolish the unsworn statement and the divisions in your own Party as to whether or not it should be so abolished.
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> The question of abolition of the unsworn statement has received close attention in a number of States of Australia and in overseas countries. It received attention from the Mitchell Committee in the early 1970's. Even if research assistance were available, it is clear that all of the work has already been done. The Attorney-General has previously intimated to you that he does not have research assistance which could be available to a Select Committee. He has, however, indicated to you that when your committee prepares its report he is willing to request the Crown Prosecutor to be available for the purpose of giving assistance to the committee at that stage.
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> The Secretary to the Select Committee wrote to the Attorney-General on 30 September 1980, indicating the scope of the Select Committee. The Secretary to the committee also wrote, as follows:
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> > The Select Committee will be taking evidence shortly, and I have been directed by the Chairman of the committee to inquire whether you, or an officer of your department, would care to appear and give evidence before the committee, or forward a written submission.
>
> The Attorney-General replied on 6 October 1980, as follows:
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> > Thank you for your letter of 30 September 1980. Neither I nor an officer of my department desire to give evidence before the committee. My views, which are the views of the Government, are already well expressed in *Hansard* relating to the debates on the Bill to amend the Evidence Act. I refer the committee to those views which I have expressed on the days when that Bill was being debated in the Legislative Council. The Government's policy is clear. It is for the abolition of the unsworn statement. Any proposition to abolish it partially will not work. The Government does not see a need for a Select Committee.
>
> It is clear from this that the Attorney-General has put the Government's point of view, and there is therefore no need for him to appear before the Select Committee.
>
> Far from your assertion that 'the Government has not permitted any of its legal officers to appear before the Committee', it can be seen that the Attorney-General has willingly agreed for the Crown Prosecutor to be involved at an appropriate time. The Crown Prosecutor is the appropriate legal officer of Government. I reiterate what I and the Attorney-General have stated *ad nauseam,* namely, that the Government is committed to abolishing the right of an accused person to make an unsworn statement in circumstances which provide adequate safeguards for an accused person.
>
> The Women's Adviser in my department has presented a submission and has attended before your Select Committee. Your public statements and letters of complaint will be seen for what they are—delaying tactics. I repeat that the

abolition of the right of an accused person to give an unsworn statement is a reform long overdue.

I am staggered that the Select Committee wants another week to prepare an interim report, which indicates that it is going to take even longer to present a final report. During the course of the debate on the Bill in September last year, the mover of the motion to establish a Select Committee indicated that the Opposition did not think that it was a particularly difficult task that would take a very long time. In fact, the Opposition told this Council that it would have the report before this Council in November last year so that this long-overdue reform would not be delayed any further.

**The Hon. C. J. SUMNER:** I certainly do not wish to get into a debate on the substance of this issue at this time, because this matter will be fully canvassed when my motion is before the Council next week. I was merely giving the Attorney notice of it as a courtesy so that he could consider it in the week before it is to be debated. The Attorney has opened up the debate to some extent, and I am obliged to reply to some of his remarks.

It is the committee's unanimous view that it has been grossly hampered in its work because of the Government's unco-operative attitude. I am informed that the Victorian Law Reform Commission will be presenting a report on this subject within a few weeks. Accordingly, that is a matter that the Select Committee should take into account. As I have said, some submissions have been received only in the last day or so or have not been received at all. In particular, the Law Society of South Australia (and the Attorney is a member of that society), has not yet made its submission available. This matter can be debated at length next Wednesday. I believe that the Attorney's assertions about the delay are quite unwarranted. If there has been a delay, I believe that it has been caused by the Government's unco-operative attitude. I believe that the Government has held the Legislative Council and you, Mr President, in contempt.

Motion carried.

## ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 2 June. Page 3658.)

**The Hon. C. J. SUMNER (Leader of the Opposition):** I support this Bill and the Bill to amend the Motor Vehicles Act. I will consider both Bills together because they arise out of the Select Committee on Random Breath Tests and the Government's proposal to introduce random breath testing in this State.

I should say at the outset that I do not believe that random breath testing can be seen as a panacea that will completely resolve all the problems of the drinking driver. It must be seen as one measure in a battery of measures which include heavy penalties, education, rehabilitation, and the like, to try to resolve what is undoubtedly one of the greatest problems in Australia today. I would like to canvass some matters which lead us to the point where we accept random breath testing. First, I refer to the general problem of alcohol in our community. In chapter 2 of the report produced by the Senate Standing Committee on Social Welfare in the Commonwealth Parliament, the committee dealt with alcohol and made these conclusions:

> Alcohol has been a major factor causing the deaths of over 30 000 Australians in the last 10 years.
>
> Deaths from cirrhosis of the liver have risen 75 per cent in the last 10 years.
>
> From 1965 to 1976, the per capita increase in the consumption of beer has been 27 per cent, of wine 122 per cent and of spirits 50 per cent.
>
> Over 250 000 Australians can be classified as alcoholics.
>
> 1 200 000 Australians are affected personally or in their family situations by the abuse of alcohol.
>
> One in every five of our hospital beds is occupied by a person suffering from the adverse effects of alcohol.
>
> Two in every five divorces or judicial separations result from alcohol-induced problems.
>
> In 1972-1973, problems directly related to alcohol, including industrial accidents and absenteeism, cost the national economy more than $500 000 000.
>
> Some 73 per cent of the men who have committed a violent crime had been drinking prior to the commission of the crime.
>
> Alcohol is associated with half the serious crime in Australia.
>
> Alcoholism among the young is increasing dramatically and as many as 10 per cent of school children between the ages of 12 and 17 get 'very drunk' at least once a month.

That was an all-Party report published on 25 October 1977. If one accepts the conclusions of the report, I doubt that one can say other than that alcohol in our community is a serious problem. If one accepts that it is a problem, there is then the next question of what relationship there is between the consumption of alcohol and road accidents. On the general question of road accidents, we need to look at some of the figures that indicate the enormity of road accidents and the road toll in Australia. Figures that I have had taken out by the Library Research Service indicate that in the Second World War the Australian war dead totalled 21 136 persons in the theatres of Japan, Europe and North Africa. In the period from 1946 to 1979, 91 425 people were killed on Australian roads. Road accident deaths in the last six years up to 1979 are about equal to the number of war deaths that occurred over the six years of the Second World War.

It is clear that alcohol is a problem in our society; it is clear that the question of road deaths, road fatalities and casualty accidents is also a grave problem in the Australian community. The question then is what relationship there is between alcohol and road accidents. I have already referred to the Senate Standing Committee on Social Welfare and its conclusions on this matter, that alcohol has been a major factor causing the death of over 30 000 Australians in the last 10 years. If members look at another report from the House of Representatives Standing Committee on Road Safety presented in May 1980 they will find that the figures given by the Senate committees are endorsed. I will not quote them all, but in chapter 2, paragraph 49 states:

> In 1979 3 506 people were killed in road crashes in Australia. At least one third of all adults killed, that is about 1 000 people in 1979, would have had significant concentrations of alcohol in their blood. Furthermore, many of those unaffected by alcohol would have been killed in crashes involving a driver who was affected by alcohol. Research suggests that alcohol is a factor in 50 per cent of crashes involving a fatality. It is generally accepted that these statistics are a minimum estimate of the involvement of alcohol in road crash fatalities.

Further, the Select Committee directed its attention to this matter and, in paragraph 1.2.4 of its recommendations in support of the conclusion that the introduction of random breath testing of drivers of motor vehicles is likely to contribute to a reduction in the road toll, the following statement is made:

> However, of the total number of road crashes where fatalities resulted (272), 111 or 41 per cent were alcohol-related and of the total number of crashes where personal

injury resulted (8 155), 1 183 or 14 per cent were alcohol-related.

Clearly, in the question of serious casualty accidents and in regard to fatalities, alcohol plays a significant part. Dr McLean, Director of the Road Accident Research Unit at Adelaide University, gave evidence to the Select Committee and today gave me additional figures which were that 56.9 per cent of those persons killed who were drivers, pedestrians or riders of motor bikes had a positive blood alcohol reading; that is there was some alcohol in the blood of persons killed; 45.5 per cent of those killed had a blood alcohol reading over 0.08.

Those figures establish without doubt that there is a direct and significant relationship between alcohol consumption and road fatalities. Obviously, other factors are involved as well. Clearly, if a person is under 25, that person has a much greater chance of being killed on the road than people in other age groups. I understand that the greatest cause of deaths among people under the age of 25 is road accidents. True, excessive speed is also a factor in road fatalities. Alcohol, youth and speed have been established as important factors in road fatalities.

Whatever other factors there are, there is no doubt in my mind and I think in the minds of most people who gave evidence to the Select Committee that alcohol is a significant factor in the road toll, and the figure of 50 per cent of fatalities being alcohol related is not open to serious challenge. Perhaps one could reduce that to 40 per cent and be absolutely certain, but if 40 per cent of road fatalities are alcohol related I believe that the case to try to do something about drinking and driving is very firmly made out.

If we assume that that relationship exists, we must then turn to what measures can be implemented. We can try hard options, such as heavier penalties for offences covering drink driving, and that has been done. We can try soft options, such as rehabilitation and education programmes, or we can look at matters that go beyond that, such as random breath testing. I think it is true that, in the case of offences and penalties, they have an initial effect on the drinking driver.

Whether they have a permanent effect is more open to doubt and it may be that as time goes by people become inured to the increased penalties, but I do not think anyone would suggest that the heavy penalties for drink driving should not continue to apply. They are some methods that members of the community can look at to try to deal with the problem.

The question then arises whether we should take this extra step and introduce random breath testing. One then gets the simple question: does random breath testing work in reducing the road toll? At one level, there is a simple answer. Unless the proposals are tried, we will never know. The answer is that the problem is so serious that random testing must be applied. To those who respond in that way, the question of statistics does not come into it and certainly there is some validity in the response that, unless it is tried, we will not know whether it works or not.

Many people who gave evidence to the Select Committee were of the view that the problem of the drinking driver is so serious that random breath testing was justified to see whether it had an effect on the raod toll. The committee gave a positive answer, albeit an answer that was slightly qualified, to the question whether it will work in reducing the road toll. The committee came to the conclusion that random breath testing is likely to lead to a reduction in the road toll. In coming to that conclusion, the committee examined the position in Victoria and, in particular, the period of intensive testing in Victoria carried out in 1978. The committee's conclusion in paragraph 1.2.15 was as follows:

> The Council for Civil Liberties was not convinced of the effectiveness of the Victorian experience as it had been presented by the Victorian Authorities and so the Committee made arrangements for the Victorian evidence to be submitted to an independent statistical analyst for a report. As mentioned earlier, this independent assessment supported the Victorian view that R.B.T. had contributed to a reduction in night-time serious casualty road crashes in the Melbourne metropolitan area.

That, of course, is not the end of the matter. Those intensive tests were carried out in 1978, and tests have been carried out at other times in Victoria. However, it could be said that, on a long-term statistical view of the position, random breath testing has had no effect in Victoria. Here I would like to quote the conclusions of the report of the House of Representatives Standing Committee on Road Safety of May 1980. Again, it was the report of a committee comprising members on both sides of Federal Parliament. In relation to random breath testing, in its conclusion the committee stated, at paragraph 125:

> Random breath testing legislation, as it was used during the evaluation in Victoria (in short, intense bursts, accompanied by widespread publicity) has been shown to be most effective in reducing alcohol related crashes. It is not established that continued low level enforcement of such legislation would be effective, nor is it certain that even short intense bursts will continue to be effective. Nevertheless, the Committee concludes that the potential value of random breath testing legislation is such that all States and Territories should introduce it.

That is another committee that carried out a wide-ranging inquiry into alcohol, drugs and road safety. It presented its report in May 1980 and recommended random breath testing in all States. There has been some criticism of the conclusion of the committee on the Victorian experience and I make clear that the conclusions that we came to related to the period of extensive testing in Victoria in 1978. The committee was very concerned that there had been criticism of the method of analysis that had been used in the so-called Vulcan papers, which were an analysis of the position in Victoria carried out by a firm of consultants in conjunction with the road traffic authorities in Victoria.

Because of that concern, the committee approached the Statistical Society in South Australia and it recommended Professor Darroch to the committee to place the conclusion in the Vulcan report under his statistical examination. He supported the conclusion of the Vulcan inquiry, in that the intense period of random breath testing had contributed to a reduction in night-time serious road crashes in the metropolitan area, so I do not believe that that aspect of the evidence that the committee received can be open to challenge. Professor Darroch is a professor at Flinders University, and I have been informed that he is a world authority on this sort of statistical analysis.

That does not mean, of course, that in three or four years time the introduction of random breath testing in Victoria will necessarily prove to have been completely effective, but at least the situation can be reviewed then, and certainly in South Australia the position can be reviewed at that time. The committee went out of its way to suggest to the Government (and the Government accepted the suggestion) that random breath testing in this State should be monitored, and its effect should be monitored so that, when the legislation expired in three years time, the Parliament would have concrete evidence on which to decide whether it ought to continue.

I have had drawn to my attention on this statistical point by the Australian Hotels Association a report by Mr F.

Yow in February 1981. It attempts to cast doubt on the conclusions of the report of the House of Representatives Standing Committee on Road Safety and to criticise the conclusion of the analysis of the Victorian experience. I have been advised by Dr McLean, of the University of Adelaide Research Unit, that, in respect of the criticisms by Mr Yow of the House of Representatives report, he believes they are not valid.

He believes that they are 'biased, naive and inaccurate'. Further, with respect to the criticism of the research methodology used by the Victorian Vulcan Report, Dr McLean had this to say:

> His criticism of the research methodology is naive and wrong.

So, with those sorts of comments on the analysis of Mr Yow, I believe they are open to serious questioning. I would also say that these documents were prepared in February 1981—three months ago. Members of the public and the Australian Hotels Association, now that the report has been presented to the Legislative Council, wish that their opposition and statistical analysis be considered in more depth. However, they should have brought it forward much earlier. I do not believe that they constitute grounds for further delay in the legislation. I am fortified in that view by the comments which I obtained from Dr McLean on the proposals.

I would like to turn now to some of the arguments raised against random breath testing. I put these into two categories: first, those which I consider to have some respectability and which deserve serious consideration; and, secondly, those that I consider to be absolute garbage. First, I refer to the criticism that the legislation is being rushed and that the community is not being sufficiently involved. Incidentally, I point out to the Council that I ascertained today that the Royal Commission into the liquor industry, conducted in 1966 by Mr Sangster, Q.C. (as he then was), recommended the introduction of roadside testing. So, it has certainly been an issue that has been around in the community for some considerable time. However, in terms of immediate discussion it was raised by the Liberal Party during the election campaign in September 1979—nearly two years ago. In March 1980 legislation was introduced and was referred to a Select Committee in April 1980. The Select Committee reported 11 months after that on 1 March 1981 so that during the whole of that period the legislation was under criticism and examination by the Parliament through its Select Committee. It is also interesting to note that on 2 April 1980, when the matter was referred to a Select Committee, the *News*, which some may have noticed seems to be not very enthusiastic about random breath testing, applauded the fact that the matter had been referred to a Select Committee. However, it does not now seem to applaud the fact that the Select Committee has come down with a view with which it does not agree.

The Committee reported on 1 March 1981. There has now been a further three months in which to consider the report. I cannot see any justification for further delay on the basis that the legislation is being rushed. The second argument is that the legislation has not proved to be effective in Victoria. I have canvassed that argument. It has proved to be effective in certain intensive situations. I believe that its effectiveness or otherwise in this State will be established in three years time when the legislation comes to an end. Another argument has been put forward by the Australian Hotels Association and its President, Mr Whalan. He has put forward arguments and talked of them in terms of striking a balance between random breath testing and the effects on the community's social life and employment on the one hand and the effect that random breath testing will have on the road toll on the other hand.

Mr Whalan said last night on *Nationwide* that he did not believe that the Labor members on the Select Committee would do the same again if we had the opportunity of participating in a similar committee. I reject that. The committee conducted a thorough investigation, and I have no qualms from a personal viewpoint about the recommendations which were made and I would certainly be prepared to do the same. The arguments put forward, some of which were canvassed by Mr Whalan in an article in the *Advertiser,* included that of civil liberties. I point out that licence checks are now carried out by police officers, and every person who is stopped must produce his licence without necessarily having committed an offence.

Secondly, the community has realised the importance of seat belt legislation. That is in some respects more an invasion of civil liberties than random breath tests. With random breath tests, if one is driving under the influence it is conceivable and probable that one's actions will have an adverse effect on other members of the public if an accident occurs while the driver is under the influence. Seat belt legislation is essentially self-protective legislation which also protects the community but in a much more tenuous way by reducing the injuries that occur in road accidents and thereby reducing the cost to the State. Seat belt legislation is not designed to protect other members of the community from injury. I believe that random breath testing legislation, from the civil liberties viewpoint, is less of an imposition on civil liberties than seat belt legislation.

The fact is that, if a person is driving with a blood alcohol reading of 0.08 or more, he is breaking the law. All that this legislation will do is discourage people from breaking the law in that way. That is an important aspect of the legislation. It has an educative effect and if people are apprehended or stopped at a random breath testing station and are found to be driving while their alcohol limit is over 0.08 then they have been breaking the law. There is no question about that. I believe that there is a minimal infringement of civil liberties. It is justified in terms of the social good that I trust will come from this legislation. The Select Committee recommended the Darwin situation where there is only a half to one minute's stop for members of the public who are required to go through the test. We found from our discussions with people who were stopped that there was general support for the legislation, and that is certainly brought out by a Gallup poll included in the Select Committee's report.

The second argument which needs to be canvassed is the effect that the legislation will have on the social life of the community. I believe that it will have some effect and perhaps it should have in view of the problems that alcohol brings to the Australian community. I believe that the claims that are made about the effect on the social life of the community are greatly exaggerated. They have been greatly exaggerated in articles that have appeared in the *News* over the last few days.

To look at this matter in perspective, over the past 15 years we have seen an enormous change in social and drinking habits. Indeed, there has been an increase in the consumption of liquor and certainly in the manner in which people take their liquor. There has been a natural tendency to go away from front-bar drinking towards drinking in restaurants and as an accompaniment to meals. Certainly, there has been a change in the sort of liquor that people drink: from a predominantly beer-drinking community years ago, we have now changed, with many people drinking wines and other beverages.

So, there has been a considerable change in the social pattern of life that revolves around alcohol. I do not

believe that the change that will occur as a result of the introduction of random breath testing will be anything like the sort of change that has occurred as a result of other factors over the past 15 years.

Adjustments will have to be made by people who drink and want to drive. This has happened in Victoria, and the anecdotal evidence on this is strong: Victorians either make arrangements for other people to drive if they consider that they have had too much to drink, or it is possible that people may consider drinking less, although that is unlikely. If the conclusions of the Senate Committee of Social Welfare have any bearing on the matter, drinking less may not be a bad thing.

**The Hon. J. E. Dunford:** The publicans might drive them home.

**The Hon. C. J. SUMNER:** That is another option. Adjustments will have to be made, but I do not believe that they will be insurmountable; nor do I believe that they will destroy the social life of the community as we enjoy it at present.

The other argument relates to the effect that this will have on industry and employment. I will not go into that argument at length now. However, I believe that the fears in this area are exaggerated. Of course, there is a difficult question to answer. If we believe that this legislation will assist in reducing the road toll, does that not mean that the employment aspect is secondary? It is obvious that, if no road accidents occurred, there would be massive unemployment of nurses, doctors and those in the crash repair industry. Does that mean that we should not try to improve road safety? That is putting the argument at its most extreme. However, I will let other speakers more able than I deal with the employment aspect.

There are some arguments which I completely reject and which I do not believe have any validity. One is the question of the indignity of blowing into the alco-test bag and the delay that occurs as a result of having to do so. The committee found that there was no evidence to suggest that anyone was unduly worried about this matter. In fact, the reaction was the opposite. It did not seem to be much of an anxiety for anyone to whom we spoke, and not much of a delay would be involved. The arguments in this respect have no validity at all. The people putting forward this argument have not considered the Select Committee's report adequately and have not seen random breath test stations in operation.

The other argument that I completely reject is the effect that random breath testing will have on police public relations. The evidence that the committee took and our observations indicated absolutely no evidence at all that there would be a reduction in the public's esteem for the police. That proposition is contrary to all the evidence that the Select Committee received. The Police Association put that proposition very early in the evidence that the committee received, and the committee was cognizant of it. We took it into account when we went to the Northern Territory and Victoria to look at the experiments in those States.

I now come to the final category of argument that has been raised on this matter. These are the arguments that I consider to be grossly irresponsible and verging on the idiotic. I do not know whether Mr de Luca, who I understand is the police roundsman for the *News*—

**The Hon. R. J. Ritson:** I thought he was their music critic.

**The Hon. C. J. SUMNER:** I do not know; nor do I know whether Mr de Luca was under instructions from his newspaper to write this article. It is one of the most irresponsible pieces of journalism that I have ever encountered. I do not like taking up the argument against a working journalist in this way. I suspect that in his article in the 2 June issue of the *News* Mr de Luca was under instructions from his proprietors. That would be obvious to most people in this Council who have seen the campaign that the *News* has run over the past 18 months, and particularly the intensive campaign of the past few days. It is quite likely that all journalists have been under instructions from their editors and proprietors to do what they can to whip up public support against this proposal. I believe that, in doing this, Mr de Luca has acted grossly irresponsibly, and that his argument is in the category of completely idiotic and unmeritorious. He said:

> It is nine o'clock on a Sunday evening, and a day's outing is about to be shattered. Those drinks at a peaceful country winery are about to get me into more trouble with the law than I have experienced before. It matters not that I am driving according to all the road rules.
>
> Without warning, a police officer steps out on to Main North Road and ushers my car to the kerb. His business then becomes sadly obvious. It is spelt out in bright red letters on the side of the parked police van.
>
> My throat is now dryer than it has been all day as I read with fright: Breath Analysis Unit. The police officer is a member of the new Random Breath Test Squad attached to the Police Traffic Section.
>
> He has chosen my car for no apparent reason . . . apart from the fact that he had just completed 'processing' the previous motorist he stopped. Fortunately for him, that motorist had not been drinking anything alcoholic. Nevertheless, he was still required to blow into the alco-test bag to make sure.
>
> The bag's crystals did not change color and he was allowed on his way—indignant at being forced to blow into a bag even though he had been drinking orange juice, like he always does. My impending fate is not as cheerful. The wife is fidgeting, the children are crying and I am huffing and puffing into the plastic bag.
>
> The news is bad. The crystals have changed color sufficiently for the officer to politely, but firmly, demand: 'Will you step into the van, please, sir?'
>
> The inside of the van is comfortable, but I'm not as another officer fiddles with equipment that looks like it belongs in Royal Adelaide Hospital's intensive care unit. Summoning more nervous breath under police instruction, I blow into a thin plastic tube. The machine's operator flicks a switch and waits, much more patiently than myself. Thirty seconds later he breaks the bad news.

And here is the bad news, not only for Mr de Luca but also for the rest of the South Australian community. The report continues:

> The alcohol reading is 0.11, just above the legal limit of 0.08. My heart sinks when I am told: 'You are under arrest.' My passenger, who has not been drinking, takes the family car home as I am placed in the rear of a police van to be taken to the nearest police station.
>
> There, I am held in the police cells until the duty officer is satisfied that my alcohol level has dropped sufficiently. This is done by means of a chart which points out the number of hours it takes for a specific level to drop below the legal limit.

I imagine that that was a hypothetical event: that it did not occur, and that Mr de Luca was lamenting what might happen to him in future.

**The Hon. K. T. Griffin:** I guess that, if he had had an accident, he might have shattered the lives of his kids, too, as well as those of the other people.

**The Hon. C. J. SUMNER:** That is what I was coming to. If Mr de Luca happened to be driving along a South Australian road with a blood alcohol limit of 0.11 per cent, I would be perfectly glad if he was stopped and arrested. If he is stupid enough to drive along a South Australian road

with an alcohol level of 0.11 per cent with his wife and children present in the car, he is being grossly irresponsible, because he is placing them at enormous risk of being involved in a road accident. At a reading of 0.15 per cent there is a 15 per cent increase in the chance of being involved in a road accident. I do not believe anyone is capable of driving a car at such a reading. I believe he would do himself, his wife and his children a grave disservice by driving his car while he had a reading of 0.11 per cent, and would certainly be doing the South Australian community a grave disservice, just as he was by writing the article that I have referred to.

The Select Committee conducted a personal test because it wanted to assess what effect the consumption of alcohol would have on members of the committee. Honourable members will recall that the journalist who accompanied the committee and myself recorded the highest readings, and I am not particularly proud of that. Between 6.20 p.m. and 7.05 p.m. I consumed five butchers of beer; at 8.19 p.m. I consumed a glass of white wine; at 8.47 p.m. I had a glass of Campari; at 9.05 p.m. I had a glass of white wine; at 9.21 p.m. I had a glass of red wine; at 9.36 p.m. I had a glass of red wine; at 9.58 p.m. I had a glass of red wine; at 10.30 p.m. I had a glass of red wine; and at 11.03 p.m. I poured my last glass of red wine. Therefore, I consumed five glasses of red wine between 9.21 and 11.32 p.m., when I finished the last glass. At 11.55 p.m. I was placed on the breathalyser and recorded a reading of 0.12 per cent.

I did not feel that I was capable of driving a motor vehicle with a reading of 0.12 per cent; although in my younger and more stupid days I may have done so. If I was feeling now as I felt at 11.55 p.m. on the night that the test was conducted, when I had a blood alcohol reading of 0.12, I would certainly not drive a motor vehicle. If Mr de Luca thinks that he would be any better at 0.11, I suggest that he conducts a similar test to see how he feels. Anyone who drives a motor vehicle at that level would be absolutely stupid—I cannot put it any stronger than that. My own personal experience and the experience of other members of the committee who conducted that test will surely bear that out.

I believe that some aspects of the campaign against this legislation have been grossly irresponsible. There are legitimate arguments, and I believe that the committee has done what it can in a careful and rational way to meet those arguments. I take umbrage at some of the tactics and some of the statements that have been made in opposition to this legislation. I believe that those statements are completely baseless and verging on the idiotic.

This has not been an easy issue for Parliament or the community to deal with. However, I believe that Parliament has treated the matter seriously and has done all that it can to ensure that the issue is debated properly. The Government wanted to rush this legislation through Parliament in March last year, but at the suggestion of the Opposition the matter was referred to a Select Committee. I believe that that Select Committee carried out its work seriously. It invited members of the public to present submissions and eventually came down with a unanimous conclusion. I do not believe that anything more could be expected of members of this Council or Parliament in relation to this matter.

The overall conclusion, which I support, is that the proposal is likely to reduce the road toll. It is certainly worth while trying to combat this very grave problem in the Australian community, that is, the relationship between alcohol and road safety. The committee was so aware of the complaints that have been made by some members of the community that it recommended that the legislation terminate three years after its introduction. Before the legislation can be reactivated a Bill will have to be introduced and passed by this Parliament. At that time there will be an opportunity to assess the effects of the legislation, and members of Parliament will have an opportunity to consider the matter further. I believe that the matter has been adequately canvassed. Given the procedures that have been gone through, I believe that the Council should support the Select Committee's proposals.

**The Hon. L. H. DAVIS:** I also rise to support this measure, and I concur in the observations that have been so ably expressed by the previous speaker. It is pleasing to note that this Select Committee, which was established last April, adopted a bi-partisan approach. I believe that the Bill now before us is much more practical than the legislation which was introduced early in 1980.

The Bill is relatively straightforward, encompassing as it does amendments to the Road Traffic Act. It provides for increasing fines, and one may argue that that merely takes into account the ravages of inflation, because those fines were last adjusted in 1976. Disqualification for driving whilst under the influence and driving with a prescribed concentration of alcohol in the blood has been increased quite significantly. Although imprisonment remains as a penalty, it is no longer mandatory for the offence of driving under the influence. Of course, that will be subject to amendments being made to the Offenders Probation Act, which will provide for community service as an option to imprisonment. Amendments to the Motor Vehicles Act will provide that drivers who have recently been granted a licence will also be subject to disqualification if they have a reading between 0.05 per cent and 0.08 per cent.

The report of the House of Representatives Standing Committee on Road Safety, which was tabled in May 1980, indicates that 3 506 people were killed in 1979 in road accidents in Australia.

At least one-third of adults killed would have had significant concentrations of alcohol in their blood. Obviously, innocent drivers and passengers were in many cases killed in accidents where drivers were affected by alcohol. Research accepts that alcohol is a factor involved in a minimum of 50 per cent of road fatalities. In other words, in 1979, of the 3 506 people killed in road crashes in Australia, at least 1 750 died as a result of alcohol. Although there is a general understanding and appreciation of the effect of alcohol in regard to road fatalities, it is important to put this matter in perspective. I seek leave to have inserted in *Hansard* without my reading it a table of a statistical nature.

Leave granted.

SELECTED CAUSES OF DEATH—AUSTRALIA 1976-1978

| Year | Road Traffic Fatalities | Water Transport Accidents | Air Accidents | Bites and Stings of Venemous Animals and Insects | Poisonings | Cataclysms (Act of God) | Accidental Falls | Accidental Drownings |
|---|---|---|---|---|---|---|---|---|
| 1976..... | 3 513 | 107 | 55 | 6 | 139 | 3 | 1 271 | 421 |
| 1977..... | 3 720 | 107 | 51 | 14 | 175 | 9 | 1 160 | 414 |
| 1978..... | 3 729 | 146 | 64 | 6 | 186 | 18 | 1 084* | 355 |

*Of the people who died from accidental falls 73 per cent were aged 70 years or more.
Source: A.B.S. Causes of Death. 1976, 1977, 1978 3303.0.

**The Hon. L. H. DAVIS:** The table sets out selected causes of death in Australia for the years 1976 to 1978. Road traffic fatalities in 1978 account for 3 729 people, water transport accidents account for 146 deaths, accidental drowning accounted for 355 deaths, yet air accidents accounted for 64 deaths, bites and stings of venomous animals and insects accounted for six deaths, poisonings accounted for 186 deaths, cataclysms (act of God) accounted for 18 deaths—these are all small figures and they put into perspective the importance of road traffic fatalities and, in particular, the fact that alcohol has such a devastating effect in the community. I believe that those figures help people to better understand how important it is to take every step to meet the ravages that alcohol creates in road accidents.

The report of the House of Representatives Standing Committee on Road Safety also observed that some of the best data on alcohol in road safety and road fatalities came from Tasmania. The evidence is dramatic—roughly half the deaths involved persons affected by alcohol, and the other half were deaths of persons killed by drunk drivers. In other words, we are saying that half the people killed as a result of road accidents involving alcohol are innocent people. As one of the witnesses to the Legislative Council Select Committee realistically observed:

> Any notion of freedom must include a concept of 'freedom from' as well as the concept of 'freedom to'.

It is not unreasonable for drivers to expect that they will not have their lives put at risk by persons whose driving skills have been severely impaired by alcohol—that is the concept of 'freedom from'. Certainly, there is an admitted 'freedom to' drive a motor vehicle without being unreasonably detained, and indeed this 'civil liberties' argument has been used quite strongly by oponents of random breath tests. But there are no civil liberties for the dead. In addition, 91 600 people were injured in road crashes in Australia in 1977. Data from the accident study conducted by the Adelaide University Road Accident Research Unit indicates that at least one active participant in 34 per cent of these crashes would have had a significant blood alcohol content; that is, over 30 000 people of those injured in road crashes in Australia in 1977 were affected as a result of alcohol related accidents. This is not to mention the property damage and the pain and suffering of victims and relatives.

Although one talks of random breath testing, the time for setting up random breath testing stations is clearly not altogether random. Obviously, they are invariably set up at night, but the selection of drivers will certainly be at random. Dr Peter Vulcan, Chairman, Victorian Road Safety and Traffic Authority, ascertained by examining the fatalities in the Melbourne area that almost 40 per cent of road deaths occurred between 4 p.m. and 2 a.m. on Thursday, Friday and Saturday nights, and that almost 75 per cent of drivers killed in these periods had blood alcohol readings above the legal limit.

In South Australia the Road Traffic Board analysed motor vehicle accidents in 1979. Of 144 fatalities resulting from night accidents, 81 (56.2 per cent) were alcohol related, and, of this 81, 67 (46.5 per cent) had readings above the prescribed 0.08 limit. These figures could well understate the true position. If any honourable member had any doubts about the role of alcohol in road accidents, that evidence is surely incontrovertible. Interestingly, but not surprisingly, whereas 46.5 per cent of all fatalities at night on South Australian roads in 1979 were 0.08 plus accidents, only 17 out of 128 day accidents (13.3 per cent) were classed as 0.08 plus accidents.

The Select Committee also received evidence from the Motor Cycle Riders Association. It is interesting to note that in 1979, 14 out of 33 motorcycle deaths in this State were alcohol related. That association in its evidence supported the introduction of random breath tests.

In recent days, as the Hon. Mr Sumner has observed, several arguments have emerged against random breath testing. First, I refer to the argument that the honourable member has already canvassed, that this legislation is hasty and ill conceived. It should be pointed out that the Liberal Party as part of its 1979 State election policy undertook to introduce random breath testing, and the Minister of Transport (Hon. M. M. Wilson) formally announced that the Liberal Government would introduce random breath testing legislation in December 1979, almost exactly 18 months ago. When this Bill was introduced in this Chamber, a Select Committee was established in April 1980 to inquire into whether random breath testing was likely to contribute to a reduction in the road toll and, if so, what procedures should be followed.

Following the appointment of that committee, it visited Melbourne, Darwin and Alice Springs, and received verbal and written submissions in response to advertisements placed in local and interstate papers from a variety of interested parties. Of course, this ensured that the community had an excellent opportunity to provide evidence, and it also provided the committee with a unique opportunity to thoroughly investigate all aspects of this important matter. The report laid on the table of this Council in March 1981 and the draft legislation which follows so closely the recommendations of the committee can hardly be said to be hasty or ill conceived.

Secondly, an argument put against random breath testing is that it has no effect on the road toll. The committee found otherwise. Appendix C on page 19 of the committee report sets out the number of persons killed in road crashes in Australia from 1969 to 1980. Whilst one must view all statistics with some caution, it is interesting to note that from the time random breath testing was introduced in Victoria in 1976, deaths from road crashes in that year were 938 and by 1980 they had fallen to 665, a fall of 29 per cent between 1976 to 1980 inclusive.

In New South Wales in the same period the number of deaths increased marginally. In Western Australia and Tasmania there were marginal falls. In South Australia, deaths decreased by 12 per cent, from 307 to 270. The committee would never claim that random breath testing *per se* will stop the road carnage: rather should it be viewed as an important weapon in a package of measures designed to reduce road accidents. I think we should not ignore the fact that, in addition to the fatalities people tend to focus on in discussion, there are also the medical, personal injuries, pain, property damage and costs.

Random breath testing is not designed to improve the rate of detection of drinking drivers so much as to raise the drinking driver's perception or assessment of the risk of his being apprehended. The available evidence suggests that widespread publicity and recurrent intensive random breath testing heightens drivers' awareness of the dangers of getting caught and, hopefully, leads to a better appreciation of the dangers of drink driving.

Although the evidence from Victoria on this point was, as the Hon. Mr. Sumner has said, anecdotal, there were persuasive views on the effectiveness of the Victorian random breath testing legislation that has been in force for five years. For example, wives were now driving husbands home after a party, or one person in a car undertook not to drink at a party. One superintendent gave this evidence:

> It is evident if you set up a random breath testing station in the suburbs and there is a function nearby, women will be driving half the vehicles. It is quite common to see women driving much more than in the past.

That view has tended to be confirmed by questioning many Melbourne friends who have had the dangers of drink driving heightened by random breath testing. Before I move on to the third argument, I think it is also important to note that prior to the introduction of this legislation Dr McLean's unit did extensive testing in the Adelaide metropolitan area and will continue to have intensive testing of drink driving and, hopefully, also attitudinal surveys so that at the end of the three years, when the sunset provision comes into operation, South Australia, unlike any other State or any other country, will be in a position to have comparative figures for before and after random breath testing legislation was introduced.

**The Hon. J. E. Dunford:** We will have a Labor Government then, too.

**The Hon. L. H. DAVIS:** I think the sun set on the Labor Government a couple of years ago. The third argument is that random breath testing is a gross infringement of civil liberties and will not have the support of the community. The *News* editorial of 2 June stated:

> Even responsible drivers will not take kindly to being delayed at random as they go about their daily business.

I have quoted the *News* because I have gathered that that newspaper is opposed to this legislation. First, public opinion in both South Australia and other States has, in recent times, shown strong community support for random breath testing. In early March 1980 a survey conducted by Peter Gardner and Associates at the time the legislation was first before the Parliament showed that 66.1 per cent of those interviewed supported the introduction of random breath testing and 29.7 per cent were opposed to it, with 4.2 per cent unsure.

Appendix E to the Select Committee's report sets out in some detail community attitudes in all States to random breath testing as measured earlier this year, and overall 73 per cent of Australians agree with the introduction of random breath testing. Interestingly enough, support was strongest in Victoria, where a remarkably high 89 per cent were in favour of random breath testing, which has been in operation for five years. The next strongest support, interestingly enough again, was in South Australia, where 79 per cent agreed with the introduction of random breath testing.

As if the Gallup polls were not enough, the committee, as the previous speaker has said, had the opportunity to speak to people as they were pulled into stations, and the Hon. Mr Cameron and I discussed random breath testing with 40 people on a typically cold and bleak Melbourne winter night. All except one were in support of random breath testing. That one exception was a person who looked glassy-eyed and claimed that the testing was an infringement of his civil liberties. He subsequently blew 0.07.

The introduction of random breath testing to Darwin was, to many people, a very grave move and perhaps one fraught with dangers. The people of Darwin are fun-loving people and Darwin is not one of the first places where we would assume random breath testing would be introduced. There are an estimated 20 000 drivers in the Northern Territory. From their introduction in February 1980, to the end of May 1981, 16 months later, 21 896 random breath tests had been conducted in the Northern Territory. The vast majority of those were in the Darwin area. In other words, there had been a very high exposure of all drivers in the metropolitan areas at least of Darwin and Alice Springs to random breath-testing units.

It has had a wide acceptance in the Northern Territory, and I think it is useful to note that that is the system being introduced in South Australia, where the delay to the driver is being minimised and where it will take no longer than 30 seconds to one minute to pull the driver off the road, conduct the alcotest, and allow the driver to proceed about his business. That is the method adopted in the Northern Territory. The committee, in interviewing people in Darwin, found that they accepted that drink driving was a critical issue and a killer. I seek leave to have inserted in *Hansard* without my reading it a table of a statistical nature.

**The PRESIDENT:** Is the honourable member quite sure that it contains nothing but statistical information?

**The Hon. L. H. DAVIS:** Yes, Mr President.

Leave granted.

**NORTHERN TERRITORY ROAD TRAFFIC ACCIDENTS, 1978-1980**

| | Killed | Injured |
|---|---|---|
| Northern Territory (including Darwin | | |
| 1978 | 68 | 1 006 |
| 1979 | 53 | 952 |
| 1980 | 63 | 979 |
| Darwin area | | |
| 1978 | 14 | 448 |
| 1979 | 10 | 474 |
| 1980 | 6 | 395 |

**The Hon. L. H. DAVIS:** Whilst those figures are not overwhelming in their support for the proposal of random breath testing, they do show that in the Darwin area there has been a decrease in the number of deaths and the number of injured people since the introduction of random breath testing, although Darwin's population growth has been 5 per cent per annum. The view of the Darwin police to whom I have spoken within the past week has confirmed the acceptance of random breath testing as an effective device to reduce the road toll. The civil liberties argument is an emotive one and at least superficially is an attractive one, but the fact is that more than 1 000 000 Australians travel overseas each year. Many million Australians also travel interstate each year by air. Invariably, this travel will require luggage checks and, in the case of overseas travel, body checks are often common.

No-one uses that argument as an infringement of civil liberties. People accept that to minimise the risk of explosive devices being taken on to aeroplanes. Ironically, members of the Select Committee had the civil liberties argument put into perspective when travelling back from Darwin on what is known locally as the 'red-eye special'. It normally leaves at 2.40 a.m. but on this day left at 3.20 a.m. because of heavy checks instituted at the airport on all passengers and their luggage. We later found that the reason for that was that an escaped prisoner from Yatala was being brought back to Adelaide from Darwin on that plane. I see an analogy between those sorts of examples and what we are seeking to do in random breath testing where we are trying to minimise the danger of innocent people dying on the roads.

The last argument used against random breath testing as stated in the editorial of yesterday's *News* was as follows:

> There would seem to be no way that the relationship between the public and the Police Force of this State can remain untarnished by such a clumsy effort to trap the drunk driver.

That was accompanied by an article headed 'Police esteem will be the victim'. That is an argument which the committee looked at seriously and in fact reported on. Both the police and the public should be reassured that

both the Victorian and the Northern Territory experience does not bear out that assertion. The police, independent witnesses, and members of the public interviewed at random breath test stations in both Victoria and the Northern Territory all recognised that drink driving is a problem, that random breath testing is the appropriate measure and that the Police Force is an appropriate body to administer random breath testing. I believe that the community is going to be well served by this legislation.

Again, I should say how pleased I was to be a member of that Select Committee and the fact that the decision of the committee was a unanimous one should reassure members of the public that this measure has not been introduced lightly but has been introduced only after a great deal of thought and careful investigation.

**The Hon. FRANK BLEVINS:** I support the second reading of this Bill. In fact, I am happy to say that I support the Bill in its entirety. I am also able to claim one-sixth of its authorship. I am proud to be one of the authors and have my name associated with this legislation. It is difficult on an issue like this to bring some new material into the debate. The two preceding speakers were on the committee, as I was, and have taken the opportunity to say just about everything that is to be said on the issue. I would have done the same had I been an earlier speaker. However, there are still a few points that I want to emphasise in supporting the previous speakers.

I will deal mainly at this stage of the address with the objections to the Bill. I suppose the objection which carried the most weight or at least a great deal of weight with me was the civil liberties question. It was alleged that this Bill was a violation of people's civil liberties. I have made a practice in my life of being a professional non-joiner. Apart from my trade union and the Australian Labor Party, I spent 36 years avoiding joining any other organisation. I have assisted many of them, subscribed to journals, and so on, but have resisted joining them. The one exception is the Council of Civil Liberties in this State. That council was re-formed in the late 1960s. Until a couple of years ago I had never been to a meeting. However, I felt so strongly about the question of civil liberties that I sent down a subscription and became a member of the association when it was re-formed in South Australia. I do not think I have to apologise to anyone about my stand on civil liberties. I have some sympathy with the argument of the South Australian Council of Civil Liberties; but I feel that in this case we have to strike a balance between the rights of individuals to do as they wish and the rights of society to be protected from possible excesses.

I believe on balance that we have to try to reduce the road toll with this measure, which I can see quite clearly violates a civil libertarian principle. The civil libertarian principle is, of course, that persons should be able to go about their business without having to prove their innocence of any kind. Society violates this principle constantly, because society believes on balance that the principle should not apply in certain instances. Some have already been outlined to the Council, such as the question of searching before going on to aircraft. We do not believe that somebody's civil liberties should not be violated at the risk of being blown out of the sky. Anybody who said that that violation of civil liberties should not occur would be quite mad. Therefore, right away everybody would agree that the principle has to be breached at some stage. It is a matter of where to draw the line. We draw the line on a lot less important issues than this.

We draw the line, for example, with somebody running a restaurant or a shop serving food, when the inspector can walk in and make them prove that they are not violating regulations under the Health Act and that they are not serving food in a manner which could be dangerous to their customers. The inspectors do not have to rely on complaints, as it may be too late when they get a complaint. The inspectors go around and say, 'Prove it'. So, people do have to prove that they are not violating the law.

Another matter which is dear to my heart and to the heart of the Labor Party where this movement away from the civil libertarian principle happens frequently, but not frequently enough, is in the case of the industrial inspectors. Employers, whether they are obeying the law or not, are confronted by an industrial inspector and asked to prove that they are not violating the law by underpaying their employees wages. Again, it depends on where one sits. Some people take the view that the line should be drawn in one place, and in other cases the line should be drawn elsewhere. Certainly the two examples that I have given of health and industrial inspectors involve principles that are nowhere near as important—even though they are important—as this question of death on the roads. I believe that we have to keep the civil libertarian argument in perspective.

In all fairness to the South Australian Council of Civil Liberties, they did not adopt a blind hard line on this issue. They did oppose the legislation. On page 226 of the evidence it states:

> The only thing that could alter your argument would be that it could be proved that there was a significant effect?

To that question they answered 'Yes'. Even the Council of Civil Liberties is prepared to digress from the civil libertarian argument that you do not have to prove your innocence. They have agreed (and this is on the transcript) that, if it could be proved that this measure had significant effect, they would change their attitude. The Northern Territory Council for Civil Liberties said:

> The N.T.C.C.L. decided in the mid-70s that, under the circumstances applying to the Northern Territory, the risk to our civil rights of being injured by drunk drivers was so great we would support properly organised random breath tests. We have, in fact, rather lobbied for this, and have been quoted by the Northern Territory Government on this issue.

We tried to ascertain what the position was with the civil liberties group in Victoria, but were unable to do so because of some internal problems in that organisation. I think the problems revolved around the Middle East, something far away from this topic. So, the civil liberties argument has been well and truly taken into consideration. The people on the Select Committee certainly did not want to ride rough shod over anyone's civil liberties. That goes for all members of the committee, who dealt with the question in a proper and an impartial way.

I now move on to the police opposition. I found their opposition rather strange, to say the least. The nub of their opposition was that it would do damage to their image if they had to stop cars at random and breath test drivers. I think that there is a small point in that somewhere. However, the point is very small. When I said to them, 'All right, what would be your reaction to taking this out of the hands of the police, and we will have random breath test inspectors, the same as we have parking inspectors, so that they are not associated with the police?', their reply was, 'No'. Sergeant Jennings of the Police Federation said, 'No. If it was introduced, it would be police work, and we would want it.' I think that there would be cases before the Industrial Commission and goodness knows what else if a separate group was given this work. The police would claim that this was their work and, of course, they are correct, because it is their work.

Regarding the question of image, we have in the community at present an argument about whether the police should wear short jackets and have large magnums on their hips. I understand that many policemen think that that is the way in which they should wear their firearms. In the past few days they have also stated that they want to carry shotguns in their cars. I think that it will do far more damage to the image of the police if they are marching around the suburbs and in our suburban shopping centres with exposed magnums on their hips or if they are driving around with shotguns in their cars.

I do not believe that the police are serious in saying that this legislation will damage their image, that is, unless the image that they want to put forward is more in line with the late-night movies which we see on television and quite a few of which star the present President of the United States. Also, a thing that really surprised the committee was something said when Sergeant Jennings was giving evidence. The transcript states:

> **The CHAIRMAN:** Would you consider that people believe that they may be apprehended and that may have an effect on them? Should that be considered? . . . I believe it has been proved in Victoria that people are no longer drinking at some hotels but are taking liquor home or drinking at hotels close to home. It has done considerable damage to hotels in the city of Melbourne.
>
> And less damage to the people? . . . Yes.
>
> **The Hon. L. H. DAVIS:** So, random breath testing has been a deterrent?—Yes . . .

So, the Police Federation admitted to the Select Committee that this was effective in Victoria, that it certainly had a deterrent effect, and that it had saved people from injuries. Yet, the Police Federation still said that it did not want the legislation passed in case it injured the image of the Police Force. I make no further comment on that. It seems to me not to be a very principled way of conducting police business. However, the Select Committee did give that submission its full consideration and decided unanimously to go along with the legislation. Having said that, I believe that in the not too distant future the Police Federation and policemen generally will be happy to work with the legislation.

In the main, the debate against this legislation has been one of self-interest. In this respect, I refer to the Australian Hotels Association, the Licensed Clubs Association and other associations such as those of restaurateurs, the Liquor Trades Union and, last but by no means least, the Adelaide *News*. The A.H.A. and its drink-dispensing members (if one can put it in that way) have a self-interest in this issue. It is a legitimate self-interest: it is a question of making a profit. They are interested solely in making a profit and in having as much alcoholic liquor as possible consumed by people, because that is how they make their money.

However, I suggest that the community (and the members of this Parliament represent the community) has a wider interest than the profits of the hotels, licensed clubs, restaurants, and so on. Having listened to the A.H.A. submission, the committee said, 'We think that there are some real problems with the structure of your industry. Would you agree to fragment these monolithic hotels? Let us have some smaller suburban hotels, to which people can walk, drink themselves stupid if they want to, and then walk home without killing themselves or anyone else.' However, they were rather cool on that idea and did not want the industry fragmented in that way.

These people claim constantly that they are interested in road safety and in protecting people from the excesses of alcohol, yet everything that they do is contrary to what they say. I refer to the hypocrisy of the A.H.A. in particular in pleading in the newspapers about their employees and what it will cost them. I am sure that my colleague the Hon. Mr Bruce will deal with that aspect when he speaks later in this debate. I state here and now that the A.H.A. and its members do not give two hoots about the employees in their industry. In fact, they have contributed towards destroying any stable working base for their labour. Should not the hotels and liquor dispensing industry have some corporate responsibility? Should not society say, 'Your profits may be important, but there are more important things than that. You have the corporate responsibility to organise your industry in a way that is not detrimental to the health of the rest of the community'?

It should not all be simply for the benefit of shareholders but, of course, that is wishful thinking in a capitalist society. Although we will never get that from the industry, it should not stop Parliament from forcing some corporate responsibility upon the industry. If it costs shareholders part of their profits, so be it, and I will certainly not cry about it. The Licensed Clubs Association has said that this legislation could damage family activities. All this legislation will do is stop some people from driving when they are drunk. The Licensed Clubs Association seems to consider it to be a legitimate family activity for Mum, Dad and the kids to go to a club on a Saturday or Sunday afternoon and for Dad to drink until he is a danger to himself and his family by driving home. If the Licensed Clubs Association believes that that will stop, then I for one will be delighted.

If a person wishes to kill himself by driving when he is drunk, then as far as I am concerned that is his business. However, I am afraid for innocent people, such as his wife and children and other members of the community who might become his victims. It is no good apologising after an accident has occurred. It is too late to apologise after an innocent person has been killed. I believe society will be better off if members of licensed clubs no longer drink until they are not in a fit state to drive.

The Liquor Trades Union did not directly forward a submission to the committee, but the United Trades and Labor Council did. The Liquor Trades Union objection to this legislation is twofold. First, it believes other things besides alcohol contribute to the lack of road safety. It believes that the roads and road lighting are badly designed, and that motorists drive too fast, and other things of that nature. Although I completely agree with that, I do not believe that it is a compelling argument. If the Government is taking longer to fix those deficiencies, that is no reason for it not to proceed with this legislation. The Liquor Trades Union believes that this Bill will solve, say, only one-tenth of the problem. Let us solve that one-tenth and continue pressuring Governments and authorities to solve the other problems which contribute to deaths on the roads.

The second part of the Liquor Trades Union argument relates to the loss of jobs in the industry. I have a great deal of sympathy with the union in relation to this argument. This is not the 1960s or 1970s, and we are now in a period of very serious and worsening unemployment. Therefore, I can understand any union supporting the right of its members to work. However, I believe the trade union movement should have a higher responsibility. I believe the trade union movement and the community must fight against opposing forces for the right to work, but they should also fight for work that is socially responsible.

For example, the trade union movement is aware that jobs are available in the uranium mines, but we say that those jobs are far too dangerous for workers and that it is

quite wrong for workers to take employment in that area. We do not believe that that work is socially responsible. Therefore, the trade union movement believes that some jobs are not worth having because they do far more damage to the community. I am a member of the Seaman's Union of Australia. During the Vietnam war we were ordered to take supplies to Vietnam on Australian ships, but we refused. Although we needed jobs, we did not need them that badly, and we would not accept them. The trade union movement accepts a social responsibility over and above the very real necessity to work. Whilst I am sympathetic to the arguments of the Liquor Trades Union and I understand what it is doing, I am afraid that its argument does not persuade me.

**The Hon. R. C. DeGaris:** Was there any loss of jobs in Victoria?

**The Hon. FRANK BLEVINS:** I have no idea. This Bill may cost some workers their jobs, but then again it may not. We just do not know what will happen until the Bill is introduced. I now turn to our old friend the Adelaide *News*. I started cutting clippings from the *News* intending to answer them one by one at the appropriate time. However, that would be absolutely impossible, because of their number, and so I quickly gave up. Instead, I will quote from today's edition, although it could be from yesterday, the day before or any other day. Today's edition of the *News* states:

> We do not oppose it because we are a mouthpiece for the pub keepers, the restaurateurs, the licensed club operators or any other of the State pressure groups.

What the *News* forgot to mention was the South Australian Brewing Company. Sir Norman Young, who is a leading light on the board of the Adelaide *News*, is also a leading light on the board of the South Australian Brewing Company. That fact has never been stated in the *News*. I note that members opposite are smiling, agreeing and warming to me. However, I point out that he is also a leading light in the Liberal Party.

Sir Norman Young carries enormous sway with the South Australian Brewing Company and the Adelaide *News*. He is using his clout, and he has a right to do that in a free society. I do not condemn him for that. The brewing company is doing very well, and Sir Norman Young is getting fatter and richer, and regrettably that is something to be proud of in this society. However, I believe that he is selling death and destruction, which is how he became rich and received his knighthood. I have not heard members opposite rail against the Adelaide *News*. A disturbing feature of the *News* is the way that is has prostituted its journalists. I do not believe that everyone who works for the *News* has a genuine opposition to random breath testing. One's credibility would have to be very high to believe that.

It is a tragedy that anyone has to accept employment where he or she is prostituted in that manner. That is really the only serious point that is worth making in regard to the campaign of the *News*. As I said, there will be some benefit for the Labor Party accruing from this *News* campaign because about 79 per cent of the South Australian population will now see the *News* for what it is and, hopefully, when it runs these stupid campaigns in the future—they are generally against the Labor Party—the people will see the *News* for what it is. This situation has pleased me in one way, because the *News* has put members of the Liberal Party—for the first time in the history of the *News*—on the receiving end of the garbage it prints.

Members on this side of the Council cop it 24 hours a day, five days a week from the *News*, but now Government members have copped it for five days and it was nice to see them get a taste of what we have copped in the past. I would like to give the *News* some advice—it should stick to running bingo games, which is about on a level with its ability as a newspaper producer.

In regard to this Bill, I have no intention of debating all the arguments. The Select Committee report and evidence are available for anyone in the community. I defy anyone to have sat through the hearings of that committee and then not come down on the side of the report. One must be bound to come to the same conclusion as the committee. To some extent the proceedings were a rehash of the previous committees that have examined the issue.

**The Hon. R. C. DeGaris:** Do you expect us to agree with all the recommendations?

**The Hon. FRANK BLEVINS:** You should. The evidence is strongly indicative that random breath tests work. Perhaps they work only for a limited period, and it may be that after two or three years such tests run out of steam as a deterrent. I do not know, but we will never know unless we try such tests. If at the end of three years it is found that it has an initial result but that the effect is tapering off and is no longer of real value (this could be determined on a cost-benefit analysis or on a civil-libertarian-benefit analysis that it is no longer worth while) because of the sunset nature of the legislation it will disappear.

What have we to lose by trying it for three years? We have nothing to lose but many lives to be gained. If we gain a few lives in the first year and fewer in the second year and fewer in the third year, without doubt there will be some people alive at the end of the trial period who would not otherwise be alive.

Honourable members in this Chamber know that after this Bill comes into force they will think twice on certain occasions about whether they should drive their cars home. I am not talking about people outside this Council but members here know that after this Bill comes into force, we will think twice about driving. It may be that thinking twice, that having that second thought, will be the thought that saves our life or, more importantly, the life of someone else. For the reasons outlined by the Hon. Mr Sumner and the Hon. Mr Davis, I am pleased and proud to support this Bill.

**The Hon. R. J. RITSON:** To begin with, I find myself in the situation perhaps of having to eat humble pie, which I can do fairly easily since I am possessed of an enormous amount of humility. Indeed, I am very proud of my humility. Just over a year ago I implied that perhaps the original Labor Party opposition to this measure was motivated by less than responsible consideration, but subsequently it has become clear to me that the contribution of A.L.P. members to the Select Committee and to the passage of this Bill has been a most responsible exercise of public duty.

The matters canvassed so far in debate leave little for me to say about the relationship of alcohol to road trauma. It leaves little for me to say about the probability of a reduction in the road toll by the introduction of random breath testing, but I do feel the need to have a look at some of the more absurd statements and criticisms of this legislation that have appeared in the *News*. It is important to take some steps to counter the scare tactics that are being used to try to give the community the impression that, from the moment of the passage of this Bill, everyone who has two or three drinks will be in trouble.

That is manifestly not so, and I would like now to bring to the Council's attention some of the physiological facts about alcohol consumption. The first thing is that the blood levels achieved are a function of dose for weight, so that if you weigh half as much, then under equivalent conditions you can consume half as much alcohol before

you reach a given blood level. On average, if one looks at the average adult person of 70 kilograms, each drink contributes about 0.01 to the blood alcohol scale. It matters little what one drinks, provided one sticks to the standard glass size, because one beer glass of beer, one wine glass of wine or one spirit glass of spirit all contain about the same amount of alcohol, and it is simply a matter of one counting one's drinks.

The next point is that it is important to understand that, at the same time as one is drinking, one is also eliminating alcohol through metabolism and excretion, and the rate that alcohol is eliminated from the body is fairly constant, regardless of the blood level or the individual. The parameters within which it varies are about one to 1½ drinks per hour eliminated. Therefore, if one drinks 1½ drinks each hour one will never become intoxicated. If one drinks three drinks in an hour, one accumulates 1½ drinks and it is easy to see that it is quite impossible to exceed the present legal limit by having four or five standard drinks from standard drinking glasses.

It is very difficult to exceed the limit of 0.08 by having 10 or 11 drinks if one takes two or three hours to do it. When the committee went to its experimental dinner, I consumed three butchers of beer before dinner, two white wines before dinner, one campari and seven glasses of red.

*Members interjecting:*

**The Hon. R. J. RITSON:** They were consumed over a period of five hours. My breath test result was 0.045.

**The Hon. J. E. Dunford:** How often do you do that?

**The PRESIDENT:** Order!

**The Hon. R. J. RITSON:** I might say that the white wine was a substance called Bannon's Winning White, for which I thank the Leader of the Opposition. It is quite a good drop. My test results fitted the formula very well. There were 11 drinks in five hours. That would be 0.11 discounted by my metabolism. There was a close correlation between what I actually tested at and what I had calculated.

There were a couple of other lessons learnt from that exercise. One member began the evening with five brandies in about 20 minutes, and was tested at that stage. He was 0.06, which is again about correct for those calculations. When we went to dinner, he consumed four glasses of white wine in the next four hours and at later testing his level had returned to 0.035 because he had slowed up his drinking rate and that had given him time to eliminate the alcohol. If you are going to drink and drive a motor car, you must understand that much about drinking, because it is a serious business.

If a person bothers to learn these simple facts (not all this silly garbage in the *News* about the dangers to our social life) it is very reasonable and safe for a person to have a sherry and to share a bottle of table wine at dinner, have one port and coffee, and go home. That sort of behaviour is completely unthreatened by this legislation.

**The Hon. Anne Levy:** Depending on their weight.

**The Hon. R. J. RITSON:** Yes. The average adult person weighs 70 kilograms. Assume that the weight is 35 kilograms. That would be a fairly small person. You would be looking at four drinks in an hour or nine drinks in two hours to take you to the limit. I do not think most small persons would find that level of restraint unacceptable. Unfortunately, sometimes some Government agencies fall into the same error of scare tactics because attempts have been made to deter people by advertisements indicating that three or four glasses of beer can put you over the limit. That is patently untrue.

Sometimes one hears statements made by people convicted of drink driving offences. I refer to statements such as 'I had three or four beers', when they breath-tested at 0.17. These people are either telling lies or were so drunk that they could not remember how many drinks they had.

Now let me describe the objective appearances of people at various blood levels. At 0.05, 50 per cent of the subjects will have minimal impairment, such as impaired pronunciation or personality change. At about 0.08, 90 per cent of people will be apparently slightly intoxicated. At 0.15, 50 per cent experienced drinkers will have vomited, and so it goes on.

I was impressed by some figures given by the Government Analyst to a symposium organised by the Crime Prevention Council. His figures, from memory, showed us that 69 per cent of positive alcohols taken from accident victims in hospital were above 0.12 and the median was something like 0.22, so the pattern that emerges is that there are two sorts of people. There is one group of people who drink socially to about 0.05 or 0.06 and that is enough for them. Then there is another group who determinedly and deliberately wipe themselves out of existence with alcohol and drive a motor car.

The aim of this legislation is certainly not to fill Cadell prison with the first class of people. It is to increase the chance of detection of this other group of people who are filling the hospital beds. It is quite irrational for a body like the *News* to try to scare everyone out of their wits. The newspaper produces articles indicating that all the restaurants at Hahndorf are going to go broke. I am sure that Parliament does not want that to happen, and it will not happen. A couple can go there and share one bottle of table wine without fear of exceeding the limit. If those restaurant people want to sell three bottles to everyone; if that is what is meant, I would not mind if those restaurants did go out of business. If they want to sell only about one bottle of wine per person, this legislation is not going to prevent that.

I would like to reconstruct an alternative version of Mr de Luca's fantasy that was described in the *News*. He described a happy Sunday afternoon that was shattered when he was innocently driving home with a blood alcohol level of 0.11 If that blood level of 0.11 was right, it would have meant that at about 11 a.m. he would have gone to the Barossa Valley, done a winery crawl until about 9 o'clock at night, drinking for about 10 hours. He would have metabolised perhaps 15 drinks in that time, and so would have had to consume 24 or 28 drinks on that winery crawl to get to that level.

He would have been manifestly drunk, and I could imagine his wife would have quarrelled with him and asked him not to drive. When he drove, he may have weaved and crossed double lines. His wife would have said, 'Dear, you cannot drive: let me drive'. The children could be crying because Mum and Dad were arguing. When Constable Blogg grabbed him, the wife would have said, 'Constable Blogg, thank you, we were in fear of our life'. That is how that afternoon would have gone if Mr de Luca really had a level of 0.11, and that is what we want to stop.

The question of penalties is of some interest, because where offences are difficult to detect and where they are serious, it is fairly usual to resort to Draconian penalties, and I believe that in various States increments in terms of imprisonment have been tried and have failed statistically to alter the road toll or the conviction rate. Therefore, the committee, looking at the question of random breath tests, felt that its principal purpose was that of increasing the chance of detection and that it may be possible to get a general deterrent effect because of an increase in the publicly perceived chance of detection. We will have to wait and see.

There are always some people who are not deterrable and they are usually not deterrable because they do not expect that they will be caught. When a person is committing an offence and is confident that he will not be caught, he believes the penalty is for the other stupid people who will be caught, not for him! Therefore, he is not generally deterred. I am pleased that the committee agreed with the recommendation for the removal of imprisonment for lesser offences and for giving judicial discretion in the case of the more serious offences.

The licence disqualification terms are Draconian. They are not there as a deterrent for the undeterable—they are there for community protection. It seems to me that a system of no prison, a three-year disqualification, and licence returned only at the discretion of the court is much better community protection than several months in Cadell with the offender driving again in a year. I am quite satisfied with the results of this legislative venture. I am appreciative of the Labor Party's position. I am absolutely appalled at the *News* campaign, which has been a series of bald statements unsupported by reason. Where evidence has been quoted by that newspaper it has been selectively quoted to support the position that the paper has already decided to take. However, I think this is a satisfactory result. It is in accord with the responsibilities of Parliament and it is in accord with the wishes of the electorate. I commend the Bill to the Council.

**The Hon. G. L. BRUCE:** I rise to support the second reading of the Bill. Most of the evidence has been dealt with by my predecessors in the debate. The terms of reference which the committee was given have been attacked by outside bodies as not being wide enough. I do not know how wide those terms of reference can be. The inference given to us was that it was acted upon in haste and that the terms were not wide enough. The committee has been going for about 12 months and the terms of reference are as follows:

> 1. Whether or not the introduction of random breath tests (meaning alco-tests or breath analyses as defined in the Road Traffic Act, 1961-1978) of drivers of motor vehicles by members of the Police Force is likely to contribute to a reduction in the road toll.
>
> 2. If such random tests are likely to make such contribution:
>
> *(a)* what procedures should be followed and what limitations should be placed on the police in the conduct of such random tests;
>
> *(b)* what notice, if any, should be given to members of the public and in what manner should that notice be given on the conduct of such tests.
>
> 3. Such other matters relating to the serious problem of persons who consume alcoholic liquor driving after such consumption as may be relevant to the Committee's consideration of random testing.

It has been indicated by some of the outside bodies that there has been no public debate. There have been no representations supporting the legislation in the *News* campaign of the last two or three days. Where do we go with the terms of reference? What would be the situation if they were wider and took into account the employment impact of people within the industry? We could go to the hospitals, as they might be affected through having fewer casualties coming in. I understand that 40 per cent of the hospitals' time was taken up with casualties from road accidents and traumas. A huge amount involve alcohol.

We could go to the ambulance drivers and crash repairers as well as insurance companies and tell them that they could all be out of a job. The Liquor Trades Union has been very vocal. I have no doubt that this Bill will affect their employment initially. I believe that employment will be influenced if this Bill is passed. The forecast will not be as Draconian as they would have us believe. If we start to look at the terms of reference we will be faced with the problem of where to stop. We accept drinking as part of a social outing. How could the terms of reference involve the social aspects of our community?

The one aspect I want to keep emphasising is that nowhere in the legislation or elsewhere has it been suggested that people stop drinking. A person can still go into a hotel or club of his choosing and get boozed to the eyeballs. We are not saying that he cannot do that. We are saying in the regulations and legislation that he will accept responsibility for his drinking and will not drive. If he does drive, the risk of being caught will be high. The Alcohol and Drugs Safety Report brought down by the House of Representatives Standing Committee in May 1980 states:

> The purpose of random breath testing is to show such people that there is a chance that they will be stopped and tested, whether their driving is obviously affected or not. It was for these reasons and because of the ineffectiveness of traditional enforcement measures that the Expert Group on Road Safety recommended the introduction of random breath testing.

What is going to happen is that the percentage that goes through the random breathalyser will be small in terms of people on the road. The perception level of those people being caught going through a random breathalyser will be high. The report continues:

> Since the object of random breath testing is to raise the drinking drivers' perception or assessment of the risk of his being apprehended, it is self-evident that the introduction of random breath testing must be accompanied by widespread publicity.

There is not a doubt that we have had that widespread publicity from the *News* in the last few days.

*[Sitting suspended from 6.57 to 7.45 p.m.]*

**The Hon. G. L. BRUCE:** When I left off at the dinner adjournment, I was discussing the Select Committee's terms of reference, and I said how wide they were. Admittedly, they were not as wide as some of the people who are opposed to the Bill outside this place would have us believe. I was a member of the committee and, therefore, heard the evidence that was taken before it. What the members of the committee saw on their travels convinced me that there is merit in random breathalyser legislation.

The committee met for about 12 months, and one can see from its report exactly who gave evidence to it. Only four or five of those witnesses opposed the legislation. Therefore, a large number supported it, and all facets of the community were represented in the evidence that was given. Over 300 pages of evidence were taken, and a large heap of written schedules was presented to the committee.

The committee also investigated the practicality of random breath testing when it went to the Northern Territory and Victoria, where it saw how this scheme worked. We were presented with evidence to show what had been done to prevent carnage on the roads. To my mind, there was no doubt that the evidence presented to the committee came down in favour of random breath tests.

My background puts me in an invidious position on the committee, because I spent most of my adult working life in this industry. I came to South Australia when I was about 21 or 22 years of age and, from then until I was elected to Parliament, the bulk of my time was spent in the industry. I worked in wineries, and went from there into

the union. If anyone had a conflict of interest or was concerned about what would happen to the industry, it was me. However, in no way did I blindly support random breath tests. I had to consider the effects on the industry, which had given me a wage for most of my adult life, and whether this outweighed the benefits accruing to people affected by the legislation.

I was very concerned about the decision which I made and which was not taken lightly, namely, that this move should be recommended to Parliament. I was also concerned at the media bias, especially that which was evident in the *News* during the past few months. This matter has been referred to by my colleagues. From the time that I was appointed to the Select Committee, I kept newspaper cuttings of what not only the press but also the general public had to say about random breath testing. One has merely to pick up this evening's *News* to see that this is being called a blow to freedom. Why is it a blow to freedom? What we are saying to anyone now is, 'If you drink and your blood alcohol level is over 0.08 per cent, you should not drive.'

Almost all the literature that I have read in the press suggests that almost everyone who comes out of a hotel would have a blood alcohol reading of over 0.08 per cent. It is an hysterical argument that the Australian Hotels Association and the restaurateurs and clubs are putting forward. I refer now to a recent article emanating from the Australian Hotels Association, which article was published by the *Bulletin* as an exercise to try to stop the excise on beer. The word is going around that beer will be taxed severely in the forthcoming Federal Budget. The report, headed 'Most Australians are moderate drinkers', states:

> Despite sensational claims about the drinking prowess of Australians, statistics indicate that the great majority of them drink moderately.
>
> In 1977, a large-scale survey was conducted by the Australian Bureau of Statistics into the pattern of alcohol consumption by people aged 18 years and over. The survey was undertaken by carefully chosen and specially trained interviewers.
>
> It covered two-thirds of 1 per cent of the Australian population (about 100 000 people). The survey found that the vast majority of males and females were moderate drinkers. The actual figures for moderate drinkers were:
>
> Males 18-24 years—94.4 per cent
> Males 25-44 years—94.1 per cent
> Males 45-64 years—94.1 per cent
> Females, all ages —99.4 per cent

The source of these figures is the Alcohol and Tobacco Consumption Pattern of February 1977, Catalogue No. 4312, Australian Bureau of Statistics, Canberra.

We have been told by the A.H.A. on the one hand that, if we introduce this legislation, we are sounding the death knell of social drinking in South Australia: drinking patterns in South Australia will change dramatically and people will not be able to go about their business and have that social drink which seems to keep us going. However, in the next breath they say that most Australians are moderate drinkers, and that 94 per cent are average drinkers. Are they suggesting that that 94 per cent consistently have a blood alcohol content exceeding 0.08 per cent when they leave a club or restaurant where they have been drinking?

I do not doubt for a minute that there will be some dislocation of the industry when it adjusts after random breath testing is introduced. However, I believe that the union, which is vitally concerned about employment, could be looking at a *fait accompli* in relation to the deletion of persons employed in the industry because of many other factors. I now refer to a report in 'Kennedy's Corner' in the 27 May issue of the *Australian*. The report, headed 'Three coins in the beer fountain', states:

> The Central Coast Leagues Club, one of the big pleasure palaces of the proletariat in New South Wales, is studying the idea of installing a coin-in-the-slot beer-vending system. Other clubs and pubs throughout the land must be considering the idea, too. Why? Cheapness, that's why.

The report later states:

> A dollar middy? Beer at 10c an ounce—or 28.5 ml? Horror, shock. Vending machines won't stop Governments levying extra excise—but they will cut down on labor costs.
>
> Drinkers may find it difficult to explain to a vending machine why their wives don't understand them. Others may find a machine less understanding than a barmaid—although, perhaps, no less difficult to chat up.

The fears expressed in that article are already on the drawing board. The industry will be attempting to cut down on labour, and I do not doubt for a minute that the industry will cut down on labour. Every national wage increase passed on to the industry has resulted in a reduction in jobs. There is no doubt that jobs will be lost if this Bill is passed. However, I do not know that that would not have happened whether this was passed or not.

The Australian Hotels Association is in a quandry over discounted bottled beer, and it has never been able to satisfactorily resolve that situation. Members of the community might be getting cheap beer, but those people who dispense it are paying for it. Drive-in bottle departments and other outlets that sell discounted beer cut the cost of their overheads back to the bone. Hotels and clubs have also tried to establish happy hours, by knocking 5c or 10c off the price of a schooner of beer. The union has been opposing that bitterly because it realises its members will pay for it in the long term.

If this Bill is passed, I believe that hotels, clubs, restaurants and other liquor outlets will attempt to cut their overheads to the bone, and their employees will suffer. History shows that every gain made by members of a union in any industry has resulted in a back-lash to union members in other areas. For example, 70 per cent of employees in the liquor industry are employed as casuals. If a person decides to devote his working life to this particular industry, he might have to serve in five or six hotels or clubs. There is no security in this industry and no superannuation. Employees are even lucky if they can qualify for long service leave, because an employee who looks like staying in a hotel or club for seven years could have his services terminated.

I can understand why the Liquor Trades Union is fighting for its members' livelihood in relation to this issue, and I would be disappointed if it did not. However, I do not believe that the evidence presented to the Select Committee indicates that I should not support random breath testing. This Bill is attempting to protect people from themselves. It is not stopping people from drinking alcohol. People can still drink as much as they like, but they must accept a certain amount of responsibility. People must realise that they cannot spend all day drinking at a hotel and then drive home. Hotels are to blame to a certain extent. Some hotels look like huge mausoleums with car parking for hundreds of cars, and people are encouraged to drive to those hotels and drink alcohol.

I do not believe that responsible people drink to excess. As a member of the Select Committee I also took part in the test referred to by other members. I began drinking at 6.20 p.m. and finished at 11.1 p.m. During that period I consumed 15 drinks. I paid for my own drinks, incidentally, and enjoyed myself immensely. At 11.39 p.m. I recorded a reading of 0.07 per cent on the breathalyser. During the evening no restrictions were

placed on my drinking, and if I had consumed any more I would have been completely out of this world. However, by law, I was quite capable of driving my car. Personally, I thought that I could not drive safely, and I took a taxi home.

If a person knows that he is going to be drinking when he goes out he should arrange alternative means of transportation so that he can enjoy himself. If no other alternative is available, one must drink sensibly and responsibly to ensure that one does not go over the limit. The President of the A.H.A. has said that this legislation will completely curtail the social behaviour of South Australians. It will do that to the extent that it will frighten people. If there is any doubt in a person's mind about whether he is over the limit, he should make alternative transport arrangements.

I believe that there is a social responsibility involved in drinking. Irrespective of who the person is, he must accept a social responsibility to the community. It is not acceptable for a publican to serve people with alcohol until they are over the limit and then simply turn his back on that situation. It has been stated that if people want to kill themselves by drinking and driving, that is their concern, but I do not agree. Even if a person kills or injures only himself, the community must bear the cost through court cases, and so on. I am sure that the largest percentage of hospital costs are incurred through accident trauma related to road accidents. All of those accidents may not be caused by alcohol, but the number of those accidents involving alcohol is far too high.

The Government must take steps to ensure that the Police Force is upgraded and that more money is available so that this Bill can be properly enforced. In Committee, I will be seeking an assurance in relation to the statistical figures. I am not a statistician, and I know that figures can be twisted to suit one's argument.

My agreement in regard to random breath testing was based not purely on statistical figures but on the evidence of people given in good faith without any statistics. They were concerned about what happened to people they knew, to sons, to daughters, to friends and relations. I was impressed by the ordinary people who gave evidence, and I was impressed by their evidence.

What has happened in South Australia—and I commend the Government for this—is that it has made available $78 000 to the research unit (as stated in the Attorney-General's speech) as an initial contribution for research. In Committee I will be asking whether that funding will continue to be made available after this legislation becomes law. I wish to ensure that, having gone this far in the collection of statistics, it will then not be forgotten once the measure is in force. I wish to ensure that funds will be made available so that statistics can be obtained during the sunset period of three years. Then, at the end of three years, we will have statistics that stand up properly. Those statistics will not be twisted around by people to suit their own purposes.

Another matter that convinced me that this scheme was worth a try was the sunset legislation covering three years. I do not doubt for one moment that the Australian Labor Party will be in Government when this sunset legislation runs out, and that Government will want statistics to prove to people that the legislation is either good or that it is bad and is not working. I do not believe that random breath testing on its own is the answer, and no-one will ever convince me that it is. The solution has to be a continuing and on-going programme.

We are faced with many dangers on our roads, involving youth and speed, and random testing or publicity on their own will not do a thing to reduce the road toll. However, all these matters, including publicity, the education of schoolchildren, and the like, will contribute towards keeping down the road toll. Last Easter we had only one fatal accident on our roads, and the *News* used that situation as the basis for criteria to argue that we should not introduce random breath testing. I do not agree. The fact that this matter has had such an airing has had a desirable result and has made people conscious of what is going on.

Certainly, there is no restriction anywhere on drinking. People can still go into hotels and restaurants and do all the things that they have done before. The only restriction is on driving if one considers that one's blood alcohol exceeds 0.08. The Select Committee has managed to convince the Minister of Transport regarding the provision in the legislation that anyone driving under the influence would lose his licence and could be gaoled. That has been changed, and I believe that is as it should be. I do not believe people should go to gaol for that type of thing. The community is prepared to accept alcohol in society, and we should be prepared to control its effect. There is no way that we can control alcohol, and no-one would suggest that we should.

The Northern Territory has experienced random breath testing, but it is not working as effectively as was hoped. I visited the Northern Territory for a couple of weeks on holiday recently and saw in the local press that the authorities are considering more Draconian legislation in relation to drinking. It was suggested that people should not drink in public places, but I do not know whether such a suggestion will be accepted, and it is still to be debated. It was suggested that one could not drink in a public place, which would mean that one could not take one's cans, bottles or casks to a barbecue, that one could not drink in a public place, at a picnic, on a river bank or anywhere else. The taking up of such suggestions would result in the introduction of much stronger and more restrictive legislation, and I believe that if such legislation was introduced this effect on the whole social pattern of our behaviour and the impact on society would be great.

I believe that the Australian Hotels Association and those bodies would then have something to scream about, but that is not being contemplated under this Bill. What is being asked for under this Bill is that we accept random breath testing, based on our experience of seeing how it operates. While some people may claim that it is a restriction on them and that their civil liberties will be violated, I consider that, if I was driving and was hit by a vehicle driven by a drunk person, my civil liberties would then be restricted. My car could be damaged or I might have to go to hospital. Figures show that these accidents are occurring, and alcohol is a contributing factor. In fact, the report of the House of Representatives Standing Committee states:

> At least one-third of all adults killed, that is about 1 000 people in 1979, would have had significant concentrations of alcohol in their blood. Furthermore, many of those unaffected by alcohol would have been killed in crashes involving a driver who was affected by alcohol. Research suggests that alcohol is a factor in 50 per cent of crashes involving a fatality. It is generally accepted that these statistics are a minimum estimate of the involvement of alcohol in road crash fatalities.

Some of the legislation we are considering will protect those people. The committee heard evidence from the Motor Cycle Riders Association. I was surprised the association gave evidence, but it supported the Bill. Its spokesman, Mr. Watkins, stated:

> Alcohol plays a very large part in motor cycle deaths. In fact, 14 deaths out of 33 are attributable to alcohol. Many

serious injuries also occur, so we would like to see some way of reducing this occurrence. My association believes that the only way to improve the situation, apart from banning alcohol, is to introduce random breath testing. My association believes that random breath testing is the fairest system, because everyone will be subjected to testing.

However, his association was worried about the location of random breath-testing units and felt that if the locations were publicised, people would find a different route by which to drive home. The report of the House of Representatives Standing Committee on Road Safety goes on to say in regard to motor cycles:

At the casualty level, 17 per cent of motor cyclists taken to hospital after a road crash in Victoria have measurable blood alcohol. The Adelaide In-Depth Accident Study showed that 50 per cent of single-vehicle motor cycle crashes to which an ambulance is called involved alcohol at a reading of 0.08 gms/100 ml BAC or over, with 33 per cent over 0.15 gms/100 ml BAC. In 29 per cent of multi-vehicle crashes involving motor cyclists, one active participant had a positive BAC, with at least one participant over 0.08 gms/100 ml BAC in 18 per cent of crashes. A noteworthy finding of this study was that, while only one of the 80 motor cyclists and pillion passengers did not wear a crash helmet, intoxicated riders often did not adequately secure the chin strap on their helmet and as a result helmets came off during the crash.

They were affected more than they would otherwise have been affected if they had had the helmet fastened properly. There is no doubt that somewhere along the line alcohol plays a vital part in road smashes. I support the Bill. I realise it has been bitterly campaigned against by the *News*, but I do not believe it has been a proper campaign by the *News* and I consider that *News* journalists have prostituted themselves to the extent that their integrity as journalists can no longer be trusted.

There is no way that I could understand the *News* editorial of 1 June. The whole middle page referred to this matter. In fact, about 2½ pages were devoted to it. Over the past three days we have been subjected by the *News* to all of this insult to our intelligence in regard to what random breath testing will do. The interesting part is the other day the *News* ran an article about how responsible its journalists are. It stated:

Why we warned you . . . The editorial columns of the *News* reflect the news of the day—local, interstate and overseas.

Their selection for news-worthiness and responsibility and presentation are not taken lightly. Far from it.

News is not imagination. It is happenings. And in reporting happenings as accurately as possible, we—like all news sources around the world—quote people, bodies, Governments, and so on.

I would like to know who are the bodies and people involved in the reports in the *News* in the past three days, apart from the journalists at the *News*. Nowhere has any journalist who has written that for the *News* gone through the committee's evidence and information. There was a huge volume of evidence comprising 398 pages. I would like to know how many media representatives have read that. There is also as big a volume of written submissions. The *News* is not basing any of that on information that we have. It is conducting a campaign, and there has been nothing from the other side. The vast majority of people are accepting the situation, and it would appear that the support for random breath testing is significant. In South Australia 79 per cent were in favour. How the *News* gets over that silent majority of 79 per cent and relates them to the hysteria that the newspaper has been whipping up in the public mind in the past three days, I do not know. I believe that there is a responsibility on this Parliament to try to do something to reduce the number of road accidents.

I have not had much experience in Parliament but I am a great believer in the Select Committee system. This Select Committee was a non-political commmittee. We have been trying to get the best legislation that we can. I believe that we have got better than we would have got when the Government introduced the Bill 15 months ago. The legislation resulting from the committee is an improvement and is of benefit to South Australia. Admittedly, random breath testing will affect the lifestyle, business interests, and job opportunities of some people, but the committee concluded its report by stating:

The committee concluded that although the question is open to some debate, on balance, the introduction of random breath testing (R.B.T.) of drivers of motor vehicles by members of the Police Force is likely to contribute to a reduction in the road toll.

I believe that that was the prime consideration and aim of the committee. It has done its job, and it is now up to the people of South Australia to support the legislation for three years. If it is not working, the people can tell Parliament. If the Australian Hotels Association and other groups believe that they are adversely affected, I am sure that no Parliamentarian will not give them a good hearing. If it is shown that we have achieved something, it will be worth while.

Familiarity breeds contempt and I cannot see breath testing as an on-going thing in bringing the road toll down. There is a time when whatever legislation we have runs out of steam and some other method of trying to control death on the roads will have to be looked at, but let us look at it then and not throw this legislation out now because of a hysterical campaign by the *News* and others. The report was well considered and is well worth the support of this Parliament.

**The Hon. J. A. CARNIE:** A little over 12 months ago this Council debated a Bill for random breath testing, and that Bill also gave the police much wider powers than they had previously had to require drivers to submit to a breath test. I said then that I strongly supported widening those powers and that previous provisions on prescribed offences only were ridiculous and anomalous. I will not canvass that now, because those anomalies have been corrected and, in any case, are outside the ambit of the Bill. It is interesting in retrospect that the provision widening police powers was passed and the provision regarding random breath tests was defeated. The report to the committee by the Road Accident Research Unit at the University of Adelaide stated:

Therefore, it is recommended that:

The police be empowered to conduct random breath testing and testing on the suspicion of the presence of alcohol in the blood and that these new procedures be introduced at different times and in such a way that their effectiveness can be evaluated.

We have had wider powers for the police in this State for about 12 months, and I hope that the police have used those wider powers and that statistical information is available to assess the effect, isolated from random breath testing. From what I have heard, perhaps the police have not made as much use of these wider powers as we hoped when we passed that part of the Bill. Perhaps Dr McLean's unit at the University of Adelaide has been able to get statistical data. We will find this out in due course.

The Bill before us deals with random breath testing but it is not true randomisation. True randomisation would mean that any policeman at any time could stop any driver at any place and ask that driver to submit to a breath test.

What we have before us is, fortunately, not that. The powers are outlined in clause 8, which inserts a new section 47da (i), providing:

> The Commissioner of Police may authorise members of the police force:
>
> *(a)* to conduct breath tests in relation to persons driving motor vehicles on a part of a road and during a day specified by the Commissioner; and
>
> *(b)* to establish for that purpose a breath testing station on or in the vicinity of the part of a road specified by the Commissioner.

It is not complete randomisation. The Commissioner of Police will decide and will set the testing up at a certain place at a particular time. I opposed the part of the Bill last year dealing with random breath testing, for a variety of reasons. I will not deal with them at great length now, because that would be going over ground that I covered adequately then. The matter could be best summed up by my quoting a paragraph from a speech I made on 1 April last year. I said then:

> The first thing that comes to mind is, as the Hon. Mr Blevins said, that it is an invasion of personal liberty. To me, that is the least important aspect involved, as at times we must accept a loss of personal liberty if we consider that it is for the greater good of the community. However, I will not accept that that applies in this case. There is no evidence that random breath testing has any effect on the road toll and in the only place that it has been tried in Australia, namely, Victoria, results are far from conclusive.

At that time I felt that there was not sufficient evidence that random breath testing would have a significant effect on the road toll. For that reason, whilst I opposed that section of the Bill last year, I did support the setting up of a Select Committee. I felt that such a committee should be able to find the latest available data and submit a considered report. I have no regrets whatever for my actions last year because I believe that the Select Committee's report is a good one, although there are some aspects of it with which I do not agree.

At the same time, following the Select Committee's report, a better Bill has resulted. The Bill that we are debating this year is vastly better than the hasty and ill-considered Bill of last year. I understood from various members of the Select Committee that the evidence given was overwhelmingly in favour of random breath tests. I read the evidence, and members who have seen it realise that there is quite a lot of reading in it. My interpretation of that evidence is that, whilst the opinion of most of the witnesses was in favour, the actual evidence in support was almost non-existent. I think this is borne out by the first paragraph of the committee's report which states:

> The committee concluded that although the question is open to some debate, on balance the introduction of random breath testing of drivers of motor vehicles by members of the Police Force is likely to contribute to a reduction of the road toll.

That is not really a very definite opinion on behalf of the Select Committee. I believe that the Select Committee also read in the evidence, as I did, that a lot of the evidence given was opinion rather than fact. The committee sat for 12 months and travelled to Victoria and the Northern Territory. Even after that time they could not quote any statistical evidence to support their findings. The only evaluation submitted that I could see was one entitled 'An evaluation of random breath testing in Victoria' by Cameron, Strang and Vulcan. This is referred to in the comments of the committee's report where obviously they paid a great deal of attention to the so-called Vulcan report, with which I will deal later.

The committee submitted figures as part of its report in appendix C. It is a table listing the number of persons killed in road crashes in Australia from 1969 to 1980, and it refers to each State individually and Australia as a whole. Certainly the table of figures shows a consistent drop since 1969 in Victoria, and road fatalities in particular show a drop in the average from 1969 to 1971, compared with the average of 1978 to 1980, which showed a substantial drop of 21 per cent. One would wonder how relevant that figure is when over the same period from 1969 to 1980 Tasmania, which does not have random breath testing, showed a drop of 19 per cent—only 2 per cent less than Victoria. Except for Queensland, the Northern Territory and the Australian Capital Territory and including Australia as a whole, all States showed some drop over that period. The figure for the Northern Territory must be given some attention.

I must confess that I cannot reconcile the figures in appendix C for the Northern Territory with those given in evidence by the Northern Territory Police Commissioner by way of a letter. The figures shown in appendix C indicate that in 1980 the total of road fatalities was 63. The evidence submitted by the police for February to June 1980 indicated a road toll of 22. There must have been a big jump to account for that discrepancy. Considering the figures from the Northern Territory given in evidence, we have a comparison of statistics since the inception of random breath testing. It was compiled only 2½ months after random breath testing began operating. In 1979 in Darwin two people were killed, and in 1980 none were killed in that time. For the Northern Territory as a whole seven people were killed in 1979 for that 2½ months, and five were killed in 1980 for those months. I do not consider that those figures are at all relevant. Figures of two to none and seven to five are so small a sample and taken over such a short period that they are not statistically relevant. I believe that it should not be seriously taken into consideration.

This is borne out by the Police Commissioner of the Northern Territory where he said that the sample period relates to a period of only 11 weeks. The sample is therefore too small to draw a bald statistical inference. 'It is suggestive rather than definitive', he said. I completely agree with that. In another page of figures given by the Northern Territory police, we see that this has now been extended from February to June. They have compared accidents, injuries and those killed for the years 1979 and 1980. We see that since random breath testing was introduced in the Northern Territory accidents have gone down by 10.9 per cent and injuries have gone down by 33.1 per cent but that deaths have gone up by 46.7 per cent. This is borne out by going back to appendix C. In 1979 for the full year there were 53 people killed, and 63 people were killed in 1980, which shows an increase after the introduction of random breath testing. I am not saying that it is because of random breath testing or that for that reason random breath tests do not work. I am saying that it is not statistically relevant. There are not enough figures to draw any inference.

For the purposes of any evaluation of the effects of random breath tests, Victoria is the only model that we have. In this regard we cannot ignore appendix C of the Select Committee's report. If we deal with Victoria alone it shows a fairly consistent drop in road fatalities between 1969 and 1980. Since 1976 when random breath testing was introduced in Victoria, with the exception of 1977 which showed an increase of 2 per cent, there has been a steady drop. Between 1979 and 1980 there was a dramatic drop of about 21 per cent. Whilst we cannot ignore that, we must be very careful not to attribute this solely to random breath testing. We must remember that random breath

testing in Victoria was introduced in 1976 as part of a package which also involved increased police activity in the area of road safety and the stepping up of public education. Random breath testing was just part of an overall campaign against the road toll. I said last year in the debate on the previous Bill that accidents including death and injury must be taken in conjunction with other factors.

I refer not only to the two that I have just mentioned but particularly to the number of vehicles on the road. I refer to figure No. 1, which was in the evidence submitted by Senior Chief Superintendent Bruce Furler. He submitted a graph which shows the number of persons killed per 10 000 vehicles in Victoria and the number of persons killed per 10 000 vehicles for the rest of Australia. This deals with the period from 1960 to 1979. One sees that the Victorian figure dropped from about nine deaths per 10 000 vehicles to about 4.3 deaths, which involves a reduction of about 52 per cent. I am sure all honourable members would agree that that is a substantial drop. Over Australia, there was a drop of 48 per cent, only 44 per cent different from the Victorian figure.

The interesting thing when looking at the graph is that in both Victoria and Australia as a whole there has since 1960 been a steady drop in the number of road fatalities per 10 000 vehicles. The interesting thing is that since 1976, when random breath testing was introduced in Victoria, there has been no noticeable difference in the rate of decline. Dealing with the question of persons injured per 10 000 vehicles, we see that in 1960, 198 persons were injured in Victoria. That dropped by 46 per cent to 110 in 1979. At the same time, the figure for Australia as a whole dropped from 225 to 150, involving a reduction of only 33 per cent. There is a much more substantial drop in Victoria over that period.

The interesting thing is that since 1976 there has been an 8 per cent rise in the number of accidents per 10 000 vehicles in Victoria. I would not attribute that rise to the introduction of random breath testing in Victoria. I hope also that the Select Committee does not attribute the drop since 1960 to random breath testing. My point is that other factors must be taken into consideration, and that random breath testing is only one of those factors. Sufficient figures are not available to show whether or not it has done any good. I point to the figures which show that really the difference in Victoria is not as great as a lot of people would have us believe.

One sees the same thing with the Northern Territory figures. They show that those figures are not evidence that random breath testing alone is responsible for a drop in the road toll. The only specific study done on the effect of random breath testing and submitted as evidence to the committee involved papers by Cameron, Strang and Vulcan to which I referred earlier. The paper done by Dr A. P. Vulcan, Chairman of the Road Safety and Traffic Authority of Victoria, dealt with the same evaluation, which was done in 1978 and which was referred to frequently in the debate last year. Some honourable members used the paper to substantiate their arguments in respect of random breath testing. This is still being done, as far as the public is concerned, during the current controversy.

Recently, I saw the President of the Australian Medical Association on television stating that studies were done in Victoria proving that there was a drop of 60 per cent in road deaths due to alcohol in that State. I have the greatest respect for Dr Linn but I do not think that the figures to which she has referred stand up in quite the way that she says they do.

The question of the validity of the Vulcan study was raised by a witness in evidence before the committee. As a result, a statistician was retained by the committee to check this statistical data. That statistician was Mr J. N. Darroch from the School of Mathematical Science at Flinders University in South Australia. In Mr Darroch's report he says:

> In a letter dated 29 September 1980, the Select Committee requested the Australian Statistical Institute, South Australian Branch, to comment on the evaluation of random breath testing in Victoria. I accepted an invitation by the President of the South Australian Branch, who assumed the responsibility for doing this.

His paper is largely statistical, and at the beginning of it he comments on the Vulcan paper, as follows:

> Broadly speaking, Cameron, Strang and Vulcan make two claims about the effect of the 1978 R.B.T. programme on (night-time, serious casualty) accidents:
>
> (1) that they were reduced in number across Melbourne as a whole;
>
> (2) that this reduction largely occurred in the 'R.B.T.-influenced' weeks in each sector.

He then says:

> I find that I can fully support No. 1 but cannot support No. 2 for the following reasons.

He then goes on to deal with statistical reasons why he felt that he could not support it. Although Darroch agreed with one of the two findings of the evaluation paper, it must raise the question of how much effect random breath testing had on Melbourne as a whole. He agreed with their findings that it reduced the number of accidents across Melbourne as a whole, but not particularly in the areas where the tests were being conducted. The assumption could be made from this that it was not random breath testing as such but the heavy media campaign that accompanied the exercise which had this effect. I will return to that aspect a little later. I recently heard of another statistician who had been asked to study the Vulcan Report. I refer to a Dr Yow from Western Australia.

**The Hon. Anne Levy:** I don't think he's a statistician.

**The Hon. J. A. CARNIE:** I will stand corrected there. I do not know. However, he was asked to comment.

**The Hon. Anne Levy:** I'd be surprised.

**The Hon. C. J. Sumner:** I dealt with his comments. Did you hear what Dr McLean said about him?

**The Hon. J. A. CARNIE:** No, I am sorry. Unfortunately, I happened to be out of the Chamber during most of the Leader's speech.

**The Hon. C. J. Sumner:** I will give you the information.

**The PRESIDENT:** Order! That is not necessary.

**The Hon. J. A. CARNIE:** Thank you, Sir. I will accept that he is not a statistician, although, when I was reading through the report, he lost me easily because of his use of what I would call statistical terms. I believe that he was retained by the West Australian Government to examine the Vulcan Report. All one can say is that he ripped the Vulcan Report to pieces in virtually every respect. His interpretation of the same data indicated an increase of more than 7 per cent in road fatalities for the test period. I cannot follow that. I admit that I have read the report rather quickly and not fully. I have no doubt that another statistician could be found to refute Dr Yow.

**The Hon. Anne Levy:** He is not a statistician.

**The Hon. J. A. CARNIE:** Very well. I am sure that a statistician could be found to refute Dr Yow. I am saying that it does not appear to be a very exact science. The Vulcan Report says one thing, Mr Darroch says another, and Dr Yow says something else. This uncertainty means that the Vulcan Report is questionable, to say the least. Several aspects of the study were queried by Chief

Superintendent Furler in the evidence he gave to the Select Committee. Referring to Victoria, Mr Furler stated:

> Since its inception the Police have maintained a low level of operations except for occasional periods of intensive enforcement.
>
> The validity of the conclusions drawn from the study can be questioned because the study did not consider the following factors:
>
> *(a)* The campaign period was contaminated by the effects of a strike by fuel tanker drivers and by the effects of the publicity given to the increase in the severity of penalties for drink driving offenders.

He also stated that the campaign was on a short-term basis, which he questioned. I agree with Mr Furler's comments.

Last year I said that the Victorian evaluation was based on an unnatural set of circumstances. As Mr Furler said, there is normally a low level of operation, in the vicinity of eight hours a week. For the purposes of the test in 1978 it was stepped up to 100 hours a week concentrating mainly on Thursday, Friday and Saturday nights over a seven-week period. The units were set up at about 7 p.m. so that motorists could see them on their way to hotels and clubs. In addition, the whole exercise was accompanied by an intensive media campaign, and I am sure that had an effect on the test also. In fact, it would have been very surprising if there had not been any significant results after that type of campaign.

There is no doubt in anyone's mind that intensive campaigns have an effect. We have seen evidence of that in South Australia whenever the police have announced blitzes over specific periods such as Easter. For example, there was a very good and intensive police campaign over Easter this year; there was one road fatality compared to 13 road deaths last year. This fact is borne out by the Vulcan Report, where it states in its conclusion on page 12:

> Random breath testing, when conducted intensively, results in substantial reductions in road accident fatalities and serious casualty accidents at night. The effect was predominantly in the areas and during the weeks of testing, with residual effects during at least two subsequent weeks.

That fact has been queried by Dr Yow, but that is not the point. The point is that Vulcan himself states that intensive campaigns are necessary to have an effect. This legislation does not deal with intensive campaigns, but normal situations. We are hoping, and it is only a hope, that the normal operation of random breath testing will have a substantial effect on the road toll in South Australia.

I believe that the title of the paper submitted to the Select Committee, 'An evaluation of random breath testing in Victoria,' is a misnomer. One cannot impose a set of criteria for evaluation purposes which are quite different or at best intensified in relation to the criteria applying to the subject to be evaluated. Another matter which makes the figures suspect was referred to by more than one witness, and certainly by Chief Superintendent Furler. The evaluation made a comparison between a very short seven-week period from October to December 1978 and the same period in 1977. I realise that it is very difficult to arrive at a baseline when dealing with such a variable subject. One only has to look at a graph of road fatalities from year to year to realise, whilst there may be a trend over a period, the graph does rise and fall during that trend.

Vulcan used figures from only one year, but I believe that a much longer period should have been used. Several witnesses stated that 1977 was an above-average year for road fatalities in Victoria. Appendix C of the Select Committee's report indicates that 1977 was the highest year for road fatalities since 1970. However, the Vulcan Committee used that year as its base; therefore, I must seriously question the Vulcan Report. A study conducted over a short intensive period is of little help. What is required is a trend over a long period. Appendix C supplies figures over a five-year period. Whilst that may not be as long as we would like, it is certainly much better than one year. The short-term situation indicates that there was an increase in road fatalities in 1977 after random breath testing was introduced in Victoria in 1976. Therefore, opponents of random breath testing could say that, because of that increase, random breath testing does not work. That is ridiculous because it has not been tested over a sufficient period. That is another indication that the Vulcan Report is suspect.

A comparison between the five-year period from 1971 to 1975 (which is the period before random breath testing was introduced in Victoria) with the period from 1976 to 1980 (which is the period when random breath testing was used in Victoria) indicates that there was a total of 4 484 road deaths in the five years before breath testing was introduced. There were 3 403 road deaths in Victoria in the five-year period after random breath testing was introduced, which is a drop of 24 per cent. In the five years leading up to 1976, there was a total of 17 954 road deaths in Australia as a whole. In the five-year period after 1976 there were 17 635 road deaths, which is a drop of 1.8 per cent. Therefore, there is a very great difference which cannot be ignored. Those figures certainly have a greater effect on me than the artificial figures produced by the Vulcan committee. The Vulcan study did not cover a sufficient period of time, and an unnatural set of circumstances applied. The recommendations of the Select Committee are worth considering in this context. One recommendation of the committee states:

> The Committee considered that there should be a sound basis for evaluation of the scheme and, accordingly, the Government, on advice from the Committee, arranged for prelegislation statistical information to be collected by the Adelaide University Road Accident Research Unit.

The report then refers to the recommendations and states:

> It is considered that statistical information on driver habits and attitudes should continue to be collected by the Adelaide University Road Accident Research Unit, or some other equivalent group, at selected times over the three-year period to enable a properly based assessment of the effectiveness of R.B.T. to be determined.

I suggest that such testing be carried out and that it should be carried out at normal times, not during blitzes or intensive advertising campaigns because, in this way, we will be able to tell in three years what is the true effect of random breath testing and not what I consider to be an artificial result. We will obtain a result taken under normal conditions over three years.

Much is made of the belief that random breath testing will act as a deterrent. I am sure that most people would have to accept that there must be some deterrent, but the question that we must consider is how much deterrent there will be and who will it deter. Again, there is no statistical evidence available, and I do not know how such evidence can be obtained. Certainly, it would be unfair for me to say that because there are no statistics available I will not accept that there is a deterrent, because I do accept that there will be some deterrent. In a matter such as this one must really work on opinion. As I said in my speech last year, and I say it again now, I spoke to a senior police officer before the introduction of the Bill last year. This officer was much in favour of random breath testing, but at the same time he said that he believed it would not

be a long-term deterrent, that the deterrent would be negligible. That was his opinion.

The Vulcan Report does not give us any data on this because it carried out studies only for two weeks after the removal of breath testing units. I believe some evidence was given to the committee that even in those two weeks there were signs that the deterrent factor was dropping off. In regard to the Northern Territory, I refer to the letter from the Commissioner, who states:

> At the end of March—

that is, after it had been operating for two months in Darwin—

> we made an assessment of the situation and concluded that although there had been a remarkable improvement in the Darwin accident situation, and to a lesser extent in the Territory-wide situation, there had in fact been an increase in rural areas. We therefore made a decision to shift the emphasis of our campaign to rural areas. An inference can be drawn from the figures for the first 18 days of April suggesting that the accidents in the Darwin area are beginning to drift upwards. At this stage there is no perceptible improvement on the rural roads.

There is just no data available as to the degree of the deterrent. While I agree that there will be some deterrent, I believe the effect will be on the moderate or social drinker. I do not believe it will have any results at all on the person whom I consider to be the far greater menace on the road, that is, the conditioned and habitual drinker, the person who goes to the hotel every night and has six or seven schooners before he goes home, and the one who has Saturday afternoon in the pub and consumes 20 schooners. I do not believe that such a Bill as this will have any effect at all on such people. As the Hon. Dr Ritson stated, that sort of person does not consider that he will ever be caught, and so penalties or deterrents have no effect at all. We are dealing with the serious issue of the reduction of our appalling road toll. This matter concerns us all and it should be dealt with objectively and not emotionally. Unfortunately, last year and again this year there has been too much emotionalism brought into this matter. It is time that the whole problem was dealt with dispassionately.

One fact that came through the Select Committee evidence clearly is that no one factor is sufficient to lower the road toll. I doubt that any honourable member would seriously dispute that fact. I am sure honourable members will have seen the *News* report yesterday concerning the formation of a committee for alternatives to random testing. The committee asked for a wide study to be made of all factors likely to contribute to the road toll, the road conditions, the traffic conditions, lights, alcohol and everything that could have any bearing on the matter.

**The Hon. C. J. Sumner:** That has never been done before, I suppose?

**The Hon. J. A. CARNIE:** The difficulty is to isolate any one factor and say that it is a cause of the road toll and to isolate something else and say that it contributes, say, 3 per cent to the road toll. One can only do this as a total package, and it is almost impossible to isolate anyone thing. No-one denies that alcohol is a significant factor in road accidents, particularly fatal accidents.

I do not have the figures with me, and I cannot quote them accurately, but I understand that there are more fatal accidents per number of accidents on country roads, and often they are one-person accidents: it is the driver only who is killed. I would like to see statistics on where those people come from, because it is my belief, supported by conversations with country people, that often those fatal accidents involve city people who are not used to driving on country roads. However, there is no way to prove that point.

**The Hon. C. J. Sumner:** You're in real trouble if you're under 25, if you're drunk and if you're speeding on a country road.

**The Hon. J. A. CARNIE:** I accept that those statistics are right. The question we are debating is whether random breath testing will have any significant effect on the part that alcohol plays as a cause of accidents. On this aspect there are no reliable figures to prove the argument one way or another. One point that I made last year concerned the mandatory gaol term for second and subsequent offences. I made the point that, if a driver was found to be over the limit in a random breath testing station, he was probably obeying the law in all other respects—otherwise he would probably have been apprehended under the wider powers that I mentioned some time ago.

If he was obeying the law in all other respects, it seemed most unjust that such a person should be gaoled. I am glad that the Government has removed that requirement in this Bill. On the other hand, the question of gaol remains in respect of driving under the influence and reckless driving. In fact, this Bill provides for greater penalties for those offences of driving under the influence and reckless driving.

As I have said, it has removed the question of mandatory gaol, in particular for people who have been apprehended for being over the legal limit. There was another recommendation of the Select Committee with which I did not agree and I am pleased to see that the Government did not follow it. It is on page 20 of the report, where the committee recommends:

> In all offences involving driving under the influence, where the driver's B.A.L. is between 0.05 and 0.08 the following provisions shall apply. The police shall issue a notice requiring that person to:
>
> *(a)* not to drive a vehicle until his/her B.A.L. falls below 0.05 and
>
> *(b)* to attend lectures within a period of one month from the date on which the notice is issued.

I could not agree with that and I am glad that the Government agrees with me. To accept it would create a ridiculous situation. As I think a member of the Police Association said, they would need to have pens to keep people in for two hours to get the blood alcohol to 0.05 but those people would not be guilty of an offence, because the level for an offence is 0.08. There would be a grey area. If the committee considers that 0.05 is a dangerous level, it should have recommended a reduction to that, but it did not do so. All the evidence recommended retaining the level at 0.08, so it would have been ridiculous to have this grey area.

When I supported the appointment of a Select Committee last year, I hoped that current comprehensive investigation would provide more definite evidence one way or the other but I do not consider that this has happened. I am not reflecting here on the Select Committee. There is no doubt that members of the committee worked very hard over a long period but the evidence comprised 31 submissions, of which 21 supported the introduction of random breath testing. The report did not state that the majority of 21 that supported random breath testing were not providing facts but were expressing an opinion.

While no-one denies anyone the right to express an opinion, it is difficult to arrive at an assessment without firm evidence, and that evidence was not there. I will support the measure after deep consideration about doing so. First, I have dealt with Appendix C, in which one cannot doubt that, in comparing two five-year periods,

there has been a drop of 21 per cent in Victoria, compared with an Australia-wide drop of 1.8 per cent.

**The Hon. R. C. DeGaris:** Victoria was the highest in road deaths.

**The Hon. J. A. CARNIE:** Victoria was very high in relation to population. I have not taken out figures on proportion of population. I am looking at percentage drops. Figures such as these for comparable periods of five years cannot be ignored. We must assume, where we have figures such as these and when we are weighing an Australia-wide figure and a State figure, that the only variation is because of random breath tests.

Another reason for supporting the Bill is that one cannot ignore public opinion polls, and they have consistently shown that the public accept random breath testing. In 1979, three years after the introduction of random breath testing in Victoria, in South Australia 79 per cent agreed with its introduction here and 89 per cent agreed in Victoria. Obviously, there has been public acceptance of it in Victoria and for that reason one cannot pay attention to the long-running campaign that has been going on in the *News*. I will not refer to it except to say that I think the *News* has overplayed its hand.

The main reason why I support random breath testing is that the recommendation came out of a Select Committee. There is no reliable statistical information on the matter and I reject the Cameron-Vulcan paper as being irrelevant to random breath testing as proposed here. I have referred to the Road Accident Research Unit that is carrying out an evaluation of the scheme, and pre-introduction statistical information is being prepared now. The Government has made a contribution towards that. The whole matter will be reconsidered in three years by virtue of the inclusion of clause 8, which inserts the following new section 47da(7):

> The provisions of this section, other than subsections (5) and (6), shall expire on the expiration of the period of three years from the date of commencement of this section.

At that time, this Parliament hopefully will be in possession of much more information than it has now, and I and all other members will take stock of the position at that time and, in the light of the information then, which will be far more accurate than any that is before us now, we will be able to decide whether the legislation will continue. At this time, I support the Bill.

**The Hon. K. L. MILNE:** You have taken me by surprise, Mr President. I felt like the chap with his pads on waiting for Bradman to make his third century. Like other members I want to associate myself and the Australian Democrats with this legislation. I congratulate the Select Committee on its work and the Government on implementing so many of its recommendations. I trust that the entire Parliament will support the Bill, and I think that will be so.

We ought to get straight what the opponents of random breath testing are saying. They are saying, in effect, that the Bill will discourage them from selling too much alcohol to people who are going to drive. If they have made their living by allowing their customers to get over 0.08 knowing that those customers will drive, this Parliament should not condone that. Opponents also say that there are better ways to improve the situation. The *News* today states:

> This newspaper is against it because we believe, as the Tonkin Government insists it believes, that the State should not intrude into people's lives without very good reason.
>
> We are against the measure now before the Legislative Council because we believe there are other, better ways of dealing with the lethal menace of the drunken driver.

They do not say what those methods are. Police powers have been increased and this Parliament has tried to find a solution. This may be only a part of the solution but it is an important part. On the civil liberties question, I feel that the effect of this legislation will be felt to the extent that the attitude of the police is sympathetic and understanding. If they are tactful (and I am sure they will be) the scheme will work without much difficulty.

My hope is that they will in fact be truly random and not aim their tests at certain hotels or other organisations or at individual people or groups. Those sort of problems are the responsibility of a different kind of Police Force altogether. This will be a very special part of the Police Force with a very special attitude and a very special responsibility. I trust that those involved in these tests will be carefully chosen and specially trained. I am quite sure that the Commissioner will see to that. I am quite sure also that, in spite of what the Hon. Mr Carnie said, this Bill will help reduce the road toll resulting from drunken drivers and the tragedies which come in their wake. I support this Bill and am pleased and proud to do so.

**The Hon. R. C. DeGARIS:** Although the Hon. Mr Milne may have felt as though he had his pads on waiting for Bradman to make his third century, I feel like Bill Johnson. When this Bill was previously before the Council, I opposed it on two grounds. The first ground was that the Bill gave the Minister power to direct the police where and when random breath tests would be conducted. I took strong objection to giving that power to a Minister. The second ground for my objection was that the existing powers of the Police Force were not being fully utilised. I believe that that question should still concern the Council. A lot has been said on this Bill with which I concur. Every person in this Council would like to take action to reduce the road toll, but I believe that random breath tests may not be the most efficient way to go about tackling that problem.

I point out to the Council that proper random breath tests will be a costly operation for the Government and will take a lot of police from other work to breath test people at random where it can be said that 99 per cent would be non-offenders under the legislation. We must recognise that that must be a wasteful way to go about handling the problem. It has been said that no-one else made any suggestion as to how to handle the problem. I point out that there must be a more efficient way than random breath testing 99 per cent who are non-offenders. Those figures are taken from the Victorian situation. In Victoria the limit is 0.05, as everybody knows. I believe that 98 per cent tested are below 0.05.

**The Hon. K. L. Milne:** It is the deterrent effect—the fear.

**The Hon. R. C. DeGARIS:** The deterrent effect can be applied in other ways. I do not want to get into statistical arguments on this, because I will support what Mr Carnie said, that is, that statistics from Cameron, Strang and Vulcan must be viewed with suspicion. Statistics, as I understand it, is not an exact science in how it is applied. To quote statistics for or against the case is rather a dangerous precedent.

I did not place any weight on my opposition to this measure when it was before the Council on the civil liberties argument. I agree with what the Hon. Frank Blevins said in that regard. We do not agree very often but when we do we must be right. I do not think we can advance the civil liberty argument when we are dealing with a measure that will improve the situation concerning deaths occurring on the road. The first Bill was defeated but the question with the terms of reference agreed to by that Council were placed before a Select Committee. That committee has taken evidence, considered the evidence

and made its report to Parliament.

Before making any further comment, I commend the Select Committee, particularly the A.L.P. members, for the assessment they made of the position. The committee came to a unanimous decision. It would have been easier for the A.L.P. members to play the adversary role and ignore the evidence that came before the committee.

They did not do that, and I express my appreciation to them for the independent manner in which they tackled their task. I would say that we have had in this Council on a number of occasions Select Committees that have worked extremely well and presented measures to the Council that may not have passed Parliament but have reached a concensus opinion that should be accepted on our Statutes. I believe that the role of this Council should be advanced by more of that type of work.

That does not mean, of course, that I agree entirely with the committees recommendations, although in those recommendations one of the important aspects of my opposition to the orginal Bill—that is the Ministerial direction clause—has been removed. I still remain unconvinced of the need for the random breath test approach. However, the Government made a clear promise during the election campaign that it would introduce random breath testing. The Council is now faced with the unanimous joint Party report recommending its introduction. I believe the Hon. Mr Carnie has already quoted the first clause of the report in which the committee admitted that the question is still open to debate but said that on balance it is likely to contribute to a reduction in the road toll.

I think that every member in this Council would accept that as a factual statement, although it does indicate that in the opinion of the committee the question is not one where a definite opinion can be expressed. I would agree with that on the statistics placed before the committee. This conclusion was reached by the committee after considering, amongst other things, statistical evidence from Victoria and the Northern Territory. I agree with what the Hon. John Carnie said, that as far as the statistical evidence is concerned the Northern Territory must be discounted because the sample was so small. An argument exists as to whether the statistical evidence or conclusions on the Victorian figures can be looked at as being absolutely valid.

I am not a statistician, nor do I understand the methods that these people use. However, it is clear that certain conclusions reached by the Victorian researchers have to be treated with some caution. Faced with the fact that the Government did make a clear promise to introduce random breath testing, and faced with the Select Committee's report, I will with reluctance, support the second reading.

On the Bill itself, I will direct a question to the Minister in charge of the measure or to members of the Select Committee as to whether any consideration has been given to the position of a cyclist. This may seem a silly question but, if we accept the principle of random breath testing the drivers of motor vehicles, I can see little reason to exclude other users of the road who can contribute to a road accident. Is it an offence to ride a bicycle on the road with over 0.08 blood alcohol level? If not, why not? A cyclist can contribute to a road accident just as much as a motorist can. Although a cyclist may not kill a motorist, there could nevertheless be a contributing factor. I ask whether the position of cyclists was considered by the committee or by the Government.

The second question that I raise relates to a peculiar provision in legislation of this kind, namely, the three-year sunset clause. In this context, I see little reason for the inclusion of such a provision. A case can be made out in certain instances for this type of clause, but this does not appear to be such an instance. If the Parliament or the Government wants to get rid of the legislation, it always has the means to achieve that end. If the Council is convinced that random breath testing is desirable, let it pass the legislation and be done with it. If the Council wants a further inquiry at some stage in future, it can take the necessary steps to implement such an inquiry. I am of the opinion that the sunset clause should not be included but, if the Council insists on it, I believe that it should be for a shorter period than three years. For the reasons that I have given, I support the second reading, although with some reluctance.

**The Hon. M. B. DAWKINS:** I rise to support this Bill, and refer particularly to clauses 8 and 9. I indicate that I intend to be very brief. The arguments that have been put up against the Bill, particularly with regard to the civil libertarian aspect, I could not accept. I presume that some people could be up-tight and resent having to take a test. However, I believe that that is a trifling infringement of liberty. It is trifling indeed when one compares it to the permanent cessation of liberty of those who are tragically killed or maimed by road accidents. I am sure that every member of this Council is concerned about the carnage on the roads and the very serious situation that exists at present.

I believe that this measure will reduce road carnage, and that this has been shown in Victoria, where similar legislation has been in vogue for five years and where it is accepted by a high percentage of the people. It has also been shown to a lesser degree in the Northern Territory, although it is possible that the amount of evidence there does not constitute a very great reason for the introduction of the measure. Nevertheless, it does contribute further evidence towards the value of random breath testing.

I believe that the introduction of this measure into law will encourage responsible driving and that it will tend to reduce irresponsibility in this matter. In fact, the alterations to the law that have already been made in the past 12 months and those that appear in the pipeline as a result of this Bill have already had a deterrent effect, and people have been more careful about the situation with regard to driving home after attending a social evening.

I believe that this Government was elected on an undertaking to do something positive about reducing the road toll and, at the same time, increase safety and encourage responsible driving on our roads. This Bill will, I believe, contribute significantly (I certainly would not say that it will do more than contribute) to that end. Furthermore, I have no doubt that a very considerable majority of South Australians favour random breath testing and want this Government to do something about it. Other members who have spoken this afternoon and this evening have made this quite clear by quoting the results of opinion polls.

I should like to congratulate the Select Committee on the work that it has done. I believe that this committee has done very valuable work indeed. I join with the Hon. Mr. DeGaris (although I do not by any means agree with everything else he said) in commending the work of the Select Committee as a whole and that of the members of the Labor Party on that committee, because I believe that all members of the committee applied themselves to this problem. I believe, too, that they have come up with something which, to my mind, is very much better than the Bill that came before us last year.

I still remember the Hon. Cyril Hutchens, who was at the time the Deputy Leader of the Opposition in another

place, saying to me when I was a very new member that when the Government and the Opposition can work together the best results are often obtained. This is an occasion when Government and Opposition members have worked together on a committee which was to a considerable degree apolitical and which has produced a very good result indeed. I believe, as I have already said, that this is a very much better Bill than that which we had before us previously, and I have much pleasure in supporting it.

**The PRESIDENT:** Just before the Hon. Mr Foster speaks, I remind honourable members that it is not proper for them to speak to persons in the gallery; nor is it correct for persons in the gallery to be heard in the Chamber. I therefore ask those involved to desist from that practice.

**The Hon. N. K. FOSTER:** Thank you, Sir, for silencing my opposition in that quarter. I support the Bill, although there was perhaps a better solution to this problem. I only wish that the Minister involved had been advised along these lines. I refer to the late Mr Shannon, who, when Chairman of a committee, used to get a bit sloshed and drive home in his car. The then Premier said, 'We cannot have this going on. For goodness sake provide him with a car and chauffeur, and he will not get pinched for drunken driving.'

**The Hon. C. M. Hill:** That's a nice way to talk about a deceased person.

**The PRESIDENT:** Order! The Hon. Mr Foster is quite out of bounds, and I ask him to withdraw any reflection he is making on previous members of this Parliament, and to concentrate on the matter before the Council.

**The Hon. N. K. FOSTER:** I said what I said, Sir, in a jocular manner, although it is spoken of openly and accepted by those who were here at the time.

**The PRESIDENT:** Order! I ask the honourable member to make no further mention of it.

**The Hon. N. K. FOSTER:** I heard on television this evening that it was not always the duty of an Opposition to oppose. I am aware that the Adelaide *News* has taken that role on itself in the past few weeks. Having had a look at the comments reported in the newspapers, and having searched editorials and statements to the public in respect of this matter when it was raised by the Premier in his policy speech during the last election campaign, I know that they were absolutely silent about what it was thought should happen regarding the then Government. One *News* report stated 'Tonkin has a secret plan.' The next one, which was a Liberal Party splurge, said, 'Don't let Labor take away your rights.' If one wanted to go on about this measure this evening on the basis of the manner in which the *News* has dealt with it, one could—

*The Hon. J. C. Burdett interjecting:*

**The Hon. N. K. FOSTER:** Hang on a minute, John. Get off your pedestal. After all, I am supporting you on this. In those days, the *News* said, 'Don't let Labor take away your rights.' Now, they are kicking the hell out of the Government because they say that it is now taking away people's rights. At no time in the *News* editorial of 14 September 1979 did they demand that the Government of the day be defeated. At no time did they make any attempt to warn the public that, if this Government was elected, it would introduce random breath testing, which would have as its purpose the taking away of individual rights.

My colleague the Hon. Mr Blevins dealt quite adequately this afternoon with the *News* and its new found morality in relation to this legislation. I point out that I have not purchased a copy of the *News* since 1975, when I ceased that bad habit. One can only hope that this legislation will have a real effect. I am concerned about one or two areas of this Bill. Parliament can legislate as much as it likes and tighten up rules and regulations, but I do not believe we will catch the habitual offender. The restrictions that Parliament imposes will only inconvenience and effect the responsible members of the community who certainly make up the majority.

That situation has occurred in Victoria, where it is no secret that habitual drinkers are still getting away with drinking and driving. One honourable member advocated the use of B.Y.O. restaurants. I point out that they are scattered all over Melbourne and really have no effect. Hotel bars have become deserted in Victoria as a result of the random breath test legislation, and that is causing some concern amongst employees in the liquor trades industry. I was employed in an industry which faced a 40 per cent reduction in its work force over a very short time, so I know what kind of an effect that has. Both the Trades and Labor Council and the Liquor Trades Union have expressed concern about this legislation.

Whether we are trade unionists or small business people, once we know we are going to be hurt we will yell about it quite loudly. The Australian Hotels Association has been very vocal about this legislation. Obviously there has been no collusion between liquor trades employees and the A.H.A. Those two organisations have not seen fit to join together in relation to this matter.

**The Hon. R. C. DeGaris:** Once a year they do.

**The Hon. N. K. FOSTER:** Yes, they have a picnic once a year, and more strength to the Liquor Trades Union for retaining it. That union and the meat industry union are the only two who retain their picnics. I am sure that if the A.H.A. could sack half its members tonight it would do so. I am aware of hotels in the urban areas of this State which employee married women at all sorts of odd hours. For example, they are employed in the lunch hour between 11.30 and 1.30. If an employee takes a 10 minute break she is taken off the pay-roll for that period. Sexual discrimination has been topical lately, but this form of discrimination is just as bad. I cannot support an organisation which treats its employees in that way. That treatment is degrading to workers. I condemn employers in this industry to hell and damnation for taking unfair and terrible advantage of some women in this State. I have never known this to happen to men, probably because men are not as easily exploitable. This situation also occurs in supermarkets, where married women employed at the checkouts are dismissed at 4.30 and girls coming home from school are employed until 5.30 (and later when night shopping occurs).

The A.H.A. members are really the only ones who will be hurt by this legislation. I am surprised that undertakers have not had something to say about this, because they will certainly be losing business if there is a decrease in the number of drunken drivers. However, I suppose that wise counsel prevails, and the undertakers realise that they only have to wait and they will get all of us. I have a great deal of sympathy for the Liquor Trades Union. Obviously the Minister and Cabinet are unaware of the terrible things that are inflicted upon employees in the hotel industry. The Minister of Industrial Affairs should keep a very watchful eye on this industry once this Bill is passed. I believe that he should think again about cutbacks in his department which could, unfortunately, result in a reduction in the number of industrial officers employed to watch unscrupulous employers who infest the hotel industry.

I do not believe that the *News* has printed a shred of credible information that this Parliament could look at seriously. Rather, as has been said before, the *News* has come up with a whole heap of emotional rubbish, similar

to the disease that infects evening newspapers throughout all the Australian capitals, including the *Mirror* in Sydney.

A classic example was the headline the other day in respect of the weather. The *News* gave a false headline and then built it its story around that headline. Certainly, I will retract what I have said about the Adelaide *News* if it examines the debate that has gone on today and one of its competent people properly examines today's debate and reports it as a centre spread during the course of this two-week sitting. I challenge the *News* to do this. I challenge those who are in the *News* press gallery to report that. It is time that the *News* accepted its responsibility as the only evening newspaper in this State.

It is time it learnt that emotionalism is no substitute for safety and that one cannot be selective in one's emotionalism. The *News* has failed to deal with any of the terribly emotional aspects that surround the death of the young in a road accident situation. I saw no emotionalism in the *News* when four kids were trapped under a semi-trailer in Modbury North last Saturday night. Indeed, it is only due to gallant assistance and expertise that the police were able to save at least two of those people.

No emotionalism was expressed by the *News* about whether or not it would inquire into the sort of equipment that was used, whether equipment was lacking or whether there was enough of it. I understand that more 'jaws of life' are needed; I think there is a great need for them. The *News* did not come out on this issue, yet it wants to ride roughshod over the community and does not want anyone to raise opposition in even a feeble way to how it sees its God-given right to ride roughshod over the community. It is one thing to ride roughshod over a political Party which can take it and which must learn to take it if its hide is not thick enough. It is not good enough for such a newspaper to ride roughshod over the properly expressed fears of people in the community, and the *News* has paid no regard to this whatever, it has merely paid lip service to the problem of road accidents. Perhaps the *News* could have said something about paraplegics and sent a representative to the Adelaide Festival Centre during the school holidays when hundreds of kids in wheelchairs attended the Come Out Festival. The *News* could have had some compassion for others—

**The PRESIDENT:** The honourable member should have some regard to the Bill.

**The Hon. N. K. FOSTER:** I am dealing with a matter that has been raised in condemnation of this Bill, and I do not think it needs me to yell out every two minutes that I support it. My remarks of condemnation against this newspaper demonstrate my strong support for this measure and the proposal inherent in the Bill to give the legislation a life of three years, subject perhaps to some periodic review. I could not support the Bill without registering bitter criticism of the actions of the Adelaide *News* in this matter, and I condemn if for that.

**The Hon. ANNE LEVY:** I support the Bill. I will be very brief in my remarks indeed, as I imagine that everything that can be said on this subject has been said. My only reason for taking part in the debate relates to the remarks that I made at the time when this legislation was debated 15 months ago in this place. At that time I supported the setting up of a Select Committee, rather than the passage of the Bill which was then before the Council, on the grounds that I was not convinced that the benefits that would result from the Bill would outweigh the cost to the community in terms of the loss of civil liberties that were involved.

The report of the Select Committee and the voluminous evidence presented to it have convinced me that it is worth giving this Bill a trial. A three-year trial will result and, interestingly, it will be one of the first times when legislation can be regarded as part of a scientific experiment, where proper surveys and valuations will be carried out both before this Bill comes into force and afterwards when there will be a continuing evaluation during the three-years of its operation. I am sure that this will give adequate data on which one can decide whether the experiment should be continued beyond three years.

Certainly, there are costs in terms of civil liberties to individuals, but I am sure that all people concerned with civil liberties have always taken the view that the benefits and costs must be weighed together and that civil liberties cannot reign supreme if, in doing so, there are costs to the community which it regards as unacceptable. Certainly, for a three-year period it is worth a try to see whether the loss of civil liberties will be balanced by a reduction in drink driving and a reduction in the road toll. I certainly hope that this will eventuate because, like most people in the community, I wish to be able to drive on the road without fear that some drunken lunatic will cause me to end up in the the Royal Adelaide Hospital or the cemetery.

I feel that the setting up of the committee was extremely valuable, and the results of the committees investigations have certainly convinced me that we should give this legislation a trial for the three year period and then decide in the light of the evaluation which will take place whether it should continue any further. I support the second reading.

**The Hon. K. T. GRIFFIN (Attorney-General):** The Bill has aroused considerable interest amongst members, who have adequately covered a wide range of issues which impinge on this legislation. It is not really appropriate for me in the light of that to recount any of those issues, and it is not necessary to expand at length on any questions that have been raised. In fact, there have really been only two questions that I think need to be commented upon. One concerns the three year time limit, which the Hon. Mr DeGaris suggested was too long but which all other members accepted as being a reasonable period within which to allow research to be conducted and to allow the proper assessment of the effectiveness of this legislation.

Any shorter time, I suggest, would be quite destructive and would not allow proper scientific assessment to be undertaken. Cyclists have been the subject of another comment on the question of whether they should be covered by this random breath test legislation. It is interesting that under the Road Traffic Act cyclists are covered by the offence of riding while under the influence of intoxicating liquor or a drug but are not covered by random breath testing or other aspects of the legislation.

I am not criticising the present Road Traffic Act or the Bill before us in that distinction. I just draw it because of one question raised by the Hon. Mr DeGaris. I thank the members of the Select Committee who so diligently undertook the task of hearing evidence and making their own assessment of the need for this legislation and who subsequently participated in the working party to develop the legislation before us.

As the Hon. Boyd Dawkins has said, this piece of legislation reflects perhaps a unique feature, and that is the ability, on these sorts of sensitive questions, for members from both sides to reach some consensus on how they are to be implemented. I thank members of the Select Committee and of the working party for what they have done to develop the legislation and I thank members for their contributions to the debate.

I have no doubt that the measure will be seen by the

community at large as an important and significant contribution to the reduction of the road toll. I have no doubt that the community will come to accept it as important legislation and will not regard it as an unnecessary infringement of their civil liberties. I believe, on the information available to us from other jurisdictions, that it will make an impact on the road toll, and that is in the best interests of the whole community.

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

## MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 2 June. Page 3659.)

**The Hon. C. J. SUMNER (Leader of the Opposition):** This Bill is related to the Bill that we discussed and deals with the provisions that the Select Committee recommended for P plate drivers and learners. I think the issue was covered fully in the previous debate and I indicated my support for the package of legislation to give effect to the recommendations of the Select Committee. Accordingly, I support the measure.

**The Hon. J. A. CARNIE:** This Bill, as the Leader has said, implements part of the recommendations made by the Select Committee on the Bill just dealt with regarding random breath testing. The committee recommended that during the first year of driving after obtaining a licence (that is, the P plate period) or when driving with an L plate, a person should not be allowed to drive with a blood alcohol level over 0.05. I have mentioned earlier that the committee recommended that the level remain at 0.08. I did not like the suggestion that there should be a grey area where people could be retained at 0.05, but I agree that 0.05 is acceptable for people learning to drive. Usually, they are young people and one aspect is that the legislation should educate people that they should not drink and drive. They may drink or drive but they should not drink and drive.

**The Hon. FRANK BLEVINS:** I support the Bill. The Select Committee went considerably further than the Bill goes and, whilst I am supporting it, I am not totally convinced that the measure is in the best interests, particular of young drivers. I think the situation in Tasmania is well documented. There, probationary drivers are not permitted to have any alcohol in their blood for the initial period of the probationary licence, and that has much to commend it. I think that, as more evidence becomes available of the effects in Tasmania, other Governments will have to consider doing what is being done in Tasmania and bar alcohol for P plate drivers in total.

The Government has not stated clearly why it has rejected that recommendation but I think the problem of youth drinking and driving is so bad that I would like to think that, as more evidence becomes available, the Government will reconsider what the Select Committee said on this question.

**The Hon. K. T. GRIFFIN (Attorney-General):** I thank members for their indications of support for the Bill. It is really supplementary to the principal piece of legislation that passed the second reading stage earlier.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

## OFFENDERS PROBATION ACT AMENDMENT BILL

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

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

*That this Bill be now read a second time.*

The principal object of this Bill is to implement a scheme whereby adult offenders may be put on a bond under which they are required to perform community service, as an alternative to a fine or imprisonment. Fines are often inappropriate as sentences both for persons who are impoverished and therefore simply unable to pay a fine, and for those for whom a fine of a couple of hundred dollars does not constitute a particularly serious penalty. Imprisonment in some cases involving offences of a less serious nature is also an inappropriate sentence in that the disruption caused to an offenders family as a result of loss of employment is counter-productive from every point of view. The community service scheme will offer an offender an opportunity to repay his debt to the community in a tangible manner and outside a prison environment. The consequent reduction in the prison population will lead to obvious savings in money and resources, but of equal importance is the hoped-for rehabilitative effect community service may have on some offenders.

Similar schemes are operating successfully in several other States, and of course another variant of the scheme is already in operation in this State for young offenders who default in paying fines. The Chief Secretary has had the opportunity of inspecting the schemes operating in Victoria and Tasmania, and has been most impressed. It is proposed that our scheme will be administered from local district probation officers which from Tasmanian experience appears to be the most cost-effective system.

The Bill before us provides that an offender will be required to undertake community service for a total number of hours fixed by the sentencing court. He will be required to carry out actual community work for eight hours each Saturday, and also to attend for two hours at evening classes on a week night, where he will have the opportunity to undertake courses of instruction. The maximum number of hours of community service that can be imposed upon an offender is 240, spread over a period not exceeding one year.

Work projects selected for the scheme will not deprive the community of employment opportunities. The Bill establishes a community service advisory committee which is comprised of between three and five members. One of the members is the nominee of the United Trades and Labor Council and another member is nominated by the Director of the Department of Correctional Services. The function of the committee is to formulate guidelines for the approval of projects and tasks suitable for the community service scheme. The Bill also provides for community service committees. The function of these committees is to approve, within the guidelines formulated by the community service advisory committee, specific projects to be performed by probationers attending the community service centre in respect of which the committee was established. These projects will be regularly reviewed by the local committees.

A community service scheme for offenders was one of the recommendations contained in the First Report of the Criminal Law and Penal Methods Reform Committee. It surprises me that the Opposition, when in Government, did not itself introduce the scheme, as that report was

handed down eight years ago.

The Offenders Probation Act has also undergone a thorough review, and consequently the Bill contains a number of amendments designed to clarify various sections of the Act, and to bring the Act into line with today's requirements. For example, the conditions that may be attached to a bond are more clearly spelled out, and the powers and duties of probation officers are stated in more realistic and positive terms.

Another provision of the Bill allows the Minister, in selected cases, and upon the recommendation of the probation officer, to waive the obligation of supervision during the latter part of an offender's bond. In such cases, the offender will still be required to be of good behaviour and to conform with any other bond conditions, but nonetheless will be rewarded for making the most of the opportunities provided to him while under supervision. It will also enable the Department of Correctional Services to utilise its resources more productively.

The other provision of the Bill which I believe requires explanation relates to the courts being given greater discretion in dealing with breaches of bonds which carry a suspended sentence of imprisonment. When faced with a minor breach, the courts may now take into account the circumstances surrounding the breach and may or may not order that the suspended sentence come into effect, may extend the period of the bond by up to one year, and may, if it orders that the suspended sentence come into effect, reduce the term of that sentence in special circumstances, take into account time spent in custody pending determination of the breach proceedings, or direct that the suspended sentence be served cumulatively upon any other sentence of imprisonment. As the Act now stands, a suspended sentence must be served concurrently, and, as members of the Judiciary have pointed out on several occasions, the effectiveness of the suspended sentence is thereby diminished. 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 for the commencement of the Bill on a day to be proclaimed. The definition of 'offence' is amended so as to make it quite clear that the Act does not apply in relation to murder and treason. Clause 3 inserts new definitions required by the amendments contained in the Bill.

Clause 4 provides for the establishment of probation hostels and community service centres, and any other necessary or desirable probation facilities. The Minister is directed to promote the use of volunteers where practicable in the administration of the Offenders Probation Act. New section 3b gives the Director of Correctional Services the power to delegate his powers, etc., to another officer of the department. Clause 5 provides that where a person is put on a community service bond, the term of the bond may not exceed one year. Compensation orders may be enforced either by being a condition of the bond, or in the usual summary manner.

Clause 6 sets out an expanded list of the conditions which a court may attach to a bond under the Act. It is provided that a probationer may be put under the supervision of a probation officer, may be required to reside, or not to reside, with a certain person or in a certain area or place, may be required to undertake community service, may be required to undergo medical or psychiatric treatment, or may be required to abstain from drugs or alcohol. If the court makes a compensation order under section 4, compliance with the order may be made a condition of the bond. The court is at liberty to include any other conditions it thinks fit. A probationer may not be required to be both under supervision and to undertake community service. The court is obliged to be satisfied, before including any condition in a bond, that the condition is viable and appropriate for the probationer. It is provided that a probationer subject to more than one bond requiring him to undertake community service cannot be required to undertake more than 240 hours in the aggregate. The court is obliged to satisfy itself that a probationer, at the time of sentence, clearly understands all the conditions and implications of his bond.

Clause 7 inserts three new sections. New section 5a requires the court imposing a bond with supervision or community service to also include in the bond a condition requiring the probationer to report to a specified centre within two working days, unless the probationer is contacted by the department first. New section 5b sets out various provisions relating to community service. A probationer will normally be required to perform community service work eight hours each Saturday, with an hour for lunch, and to attend classes for two hours on a week night. However, a community service officer can change the days and times (but not the number of hours) to suit the particular probationer. Community service must not interfere with a probationer's paid employment or his religion. Community service work will not be remunerated. The Director is given the power to impose a penalty of extra hours of community service work if a probationer fails to obey a direction of a community service officer as to the conduct or behaviour of the probationer while he is undertaking community service. This penalty may be imposed in lieu of proceedings for breach of bond, and a total of 24 hours may be imposed during the term of a bond. The Director may suspend a community service condition where proceedings for breach of that condition have been commenced. New section 5c establishes a community service advisory committee for the purpose of formulating guidelines for the approval of tasks and projects for community service work. Each community service centre will have a committee established for it, for the purpose of approving the actual projects and tasks to be performed by probationers attending the centre. Projects and tasks must be for disadvantaged persons, for non-profit organisations, or for Government or local government authorities. A committee may not approve a project or task if it would mean that a paid job would be displaced or would not be created.

Clause 8 substitutes two sections. New section 6 provides for the assignment of probationers to particular probation officers or community service officers, as the case may require. The basic duty of such an officer is to see that a probationer complies with his bond. New section 7 sets out the various directions that such officers may give to probationers assigned to them. All such directions must be reasonable. Clause 9 is a consequential amendment. Clause 10 provides that a probative court may not only vary a condition of a bond, but may also revoke such a condition. The Minister is given the power to waive a supervision condition where he thinks special reason exists for doing so.

Clause 11 widens the range of powers of a probative court dealing with proceedings for breach of a bond where a suspended sentence of imprisonment is concerned. The court may refrain from ordering that the suspended sentence be carried into effect and, in that case, may extend the term of the bond for a further period of not

more than one year. The court may, if it orders that the suspended sentence be carried into effect and, in that case, may extend the term of the bond for a further period of not more than one year. The court may, if it orders that the suspended sentence be carried into effect, reduce the term of imprisonment, may take into account time spent in custody pending determination of the breach proceedings, or may direct that the suspended sentence be served cumulatively upon any other sentence of imprisonment. It is provided that a court of a superior jurisdiction to that of the probative court may, if it is dealing with the probationer for a subsequent offence, also deal with the proceedings for breach of the bond, but that superior court is bound by any sentencing limits that the probative court would have been bound by in sentencing the probationer for the original offence. It is made clear that any amount payable upon estreatment is recoverable in the same manner as a fine.

Clause 12 is a consequential amendment. Clause 13 provides immunity for probation officers and community service officers.

**The Hon. G. L. BRUCE** secured the adjournment of the debate.

## ARCHITECTS ACT AMENDMENT BILL

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

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

*That this Bill be now read a second time.*

There are two principal objects of this Bill. First, the Bill embodies the final resolution of the conflict on the question of whether or not the building designers profession ought to be regulated by way of a registration system similar to that applying to architects. As honourable members will be aware, the Architects Act was amended in 1975 for the purpose of tightening the provisions dealing with the requirement to register under the Act. The Act at that time virtually only prohibited the use of the title 'architect' by an unregistered person and so a person could hold himself out to the public as being qualified or willing to do architectural work without offending against the Architects Act.

The 1975 amendment remedied this situation. After strong representations from building designers and others, a power to exempt was provided by an amendment in 1976, and, since then, building designers have been exempted from the registration provisions of the Act, pending resolution of the various problems. In March, 1980, the Minister set up a working party chaired by Mr Stan Evans, and comprising representatives of the Architects Board, the Building Designers Association, the Institute of Draftsmen, the Master Builders Association, the Housing Industry Association and the Institute of Engineers, and a research officer from his office. This working party concluded that the cost of establishing and maintaining another registration system was not warranted in the light of the relatively few complaints about the professional competence of building designers. The working party finally concluded that the situation existing prior to the 1975 amendment ought to be re-established, subject to some exceptions permitting certain categories of persons to use the word 'architect' or 'architectural' as part of their title or description.

The second object of this Bill is to deal with a problem that has arisen in relation to one-director companies registered as architects. Some registered architects who were in practice on their own formed family companies with themselves as sole director, and then registered the company as an architect under the Act. However, since then, the Companies Act has been amended requiring a minimum of two directors. The Architects Act currently provides that all directors must either be registered architects or hold other qualifications prescribed by the by-laws of the Architects Board. If an architect on his own does not employ a person with such a prescribed qualification, he is unable to comply with both the Companies Act and the Architects Act, and so must be in breach of one or the other. The Architects Board has therefore sought the amendment proposed in this Bill whereby the other of the two directors may be a relative of the architect, an employee of the company, or an accountant or solicitor who acts for the company. 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 an unregistered person shall not use the word 'architect' or 'architectural' as part of his title or description, and shall not use any other title or description that implies that he is a registered architect. It is an offence for any person to apply those words in relation to an unregistered person; for example, an employer must not describe an employee in such a way. This offence was created by the 1975 amendment and is to be retained. The listed exemptions from the requirement to register as an architect relate to landscape architects, naval architects and golfcourse architects, and also to architectural draftsmen and technicians employed by registered architects. By-laws made by the board will allow persons such as architectural technicans and draftsmen to state their qualifications. Subsection (3)(a) makes it clear that an unregistered person who designs a building or superintends building work does not offend against this section. The power to exempt further categories of persons by regulation is provided, as it is impracticable to amend the Act every time a new profession emerges that wishes to use the word 'architect' or 'architectural' in a way that is acceptable to the Architects Board.

Clause 3 provides that where a company to be registered as an architect has only two directors then, if only one is a registered architect, the other must hold a prescribed qualification, be a relative of the architect ('relative' is defined in subsection (2)), an employee of the company, or an accountant or solicitor who acts for the company. A safeguard is provided in this situation, ensuring that the opinion of the registered architect will prevail in the event of a disagreement between the two directors.

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

## LEGAL PRACTITIONERS BILL

Adjourned debate on second reading.

(Continued from 2 June. Page 3672.)

**The Hon. K. T. GRIFFIN (Attorney-General):** I thank honourable members for their comments on this Bill. The Leader of the Opposition has raised a number of matters, some of which can appropriately be dealt with now and others of which can probably be dealt with more specifically in Committee.

The first matter to which the Leader referred was the Commission for Legal Education which was in the former Government's Bill in 1976 but which is not in the present Bill. The Government is satisfied that the present Bill adequately deals with questions of legal education. They have been dealt with responsibly by the Supreme Court in consultation with the Law Society, representing practitioners, the University of Adelaide in relation to the degree course, and, more recently, the Institute of Technology in relation to the post-graduate course on legal practice.

I think the Leader should be reminded that in the previous Bill the Commission for Legal Education was at best a body that would have a consultative role rather than a decision-making responsibility. My recollection is that it had no control over the contents of the degree course at the university. Really, it could only make rules.

**The Hon. C. J. Sumner:** Advise and consult.

**The Hon. K. T. GRIFFIN:** It could advise and make rules, but only with the concurrence of the Chief Justice. The Government has taken the view that it was an unnecessary appendage which did not really achieve anything that the present system is not achieving. For that reason, the Government took the view that it would not be appropriate to incorporate a Commission for Legal Education in the present Bill.

The Leader has also commented on the absence from the Bill of a provision for a Legal Practitioners Board. Of course, that was a provision in the former Government's 1976 Bill. It sought to be an independent regulating body to regulate the conduct of the legal profession.

Again, there has been nothing to suggest to me or the Government that the present means of regulating the profession is not doing it effectively or properly. When one takes into account the new initiatives incorporated in this Bill with respect to complaint resolving, unprofessional conduct, audits (including stock audits), and compulsory professional indemnity insurance covers), one sees that the scheme of the present Bill does even more than the 1976 Bill in the context of a Legal Practitioners Board, having an independent responsibility for regulating the profession.

The Leader of the Opposition has on file an amendment relating to the definition of 'unprofessional conduct' in clause 5. He has suggested that paragraphs *(a)* and *(b)* of that definition will to some extent qualify the common law definition of 'unprofessional conduct'. I would not agree with that assessment, as the definition of 'unprofessional conduct' really includes paragraphs *(a)* and *(b)* and is not limited only to those paragraphs of the definition.

I suggest that the amendment proposed by the Leader of the Opposition really does not do anything effectively to the meaning of the concept of unprofessional conduct. In fact, to amend the definition as the Leader suggests so that it should not just include certain characteristics but should mean certain things may mean a very much more limiting definition than that which is proposed in this Bill.

The last thing that I want to see or that the Law Society wants to see is some technical means by which practitioners who may be guilty of unprofessional conduct, under the present definition, escape because of a technicality by virtue of the definition. One of the features of the Leader's speech related to the disciplinary tribunal. He suggested a concept that would involve representatives appointed by the Chief Justice and representatives appointed by the Law Society. I draw the Council's attention to what I see as an important feature of the disciplinary tribunal, that is, that its functions are essentially judicial.

The disciplinary tribunal will hear facts, make judgments and impose penalties. I believe it is inappropriate for someone who is not judicially trained to be placed in a position where he has very important responsibilities that would have very significant effects on the future of a legal practitioner. In addition, it is important to recognise that the present statutory committee is appointed by the Governor-in-Council upon the recommendations of the Chief Justice and comprises senior practitioners who have an ability to assemble facts and make judgments, just as a member of the Judiciary will make judgments and assemble facts. If it is to have a power to impose sanctions, the tribunal should be comprised of persons who are trained to assess facts and make an appropriate judgment on the penalty that should be imposed.

**The Hon. C. J. Sumner:** There are lay people on the Planning Appeal Board.

**The Hon. K. T. GRIFFIN:** The Chairman of the Planning Appeal Board makes all the decisions in relation to matters of law. The Planning Appeal Board does not impose sanctions on individuals which could seriously prejudice their professional careers. One should make that emphasis when considering whether or not the disciplinary tribunal should comprise lawyers who are fit to be judges, or lawyers and lay persons without any special training for this particular task.

The other difficulty is that, if hearings are open to the public, as suggested by the Leader, it would have a devastating effect on a practitioner who may not be guilty of unprofessional conduct. The very fact that a professional person is charged and is required to answer the charge would be a penalty which a practitioner should not have to bear if it took place in a public forum, particularly if the charge is subsequently not proven. I draw honourable members' attention to the fact that it is not a criminal court, and that a practitioner would not be charged with a criminal charge, but with unprofessional conduct. If the charge is serious engough to warrant a practitioner being struck from the roll, it is at that point that the Full Court will make the practitioner's name public; when the charge has been proved and the penalty imposed.

I also suggest that the presence of a lay observer at hearings of the disciplinary tribunal would in itself be sufficient incentive to members of the tribunal to ensure that they discharge their functions reasonably and responsibly. A lay observer has been included on the tribunal for many years in Victoria. I am informed not only by legal practitioners and members of the Government but also by others that the presence of a lay observer at tribunal hearings, with the wide powers that a lay observer has there and will have under this Bill, has worked very effectively. There have been no complaints from members of the community about the way in which disciplinary tribunals operate in Victoria. Therefore, a lay observer is an important adjunct to the disciplinary process.

The lay observer, having the wide powers expressed in the Bill, including the power to report to the Attorney-General, will act as a watchdog over hearings of the disciplinary tribunal and the complaints committee. The Leader has also suggested that the complainant should have direct access to the lay observer. I agree that a dissatisfied complainant should have access to the lay observer, and that is probably quite reasonable and proper. However, if every complainant has direct access to the lay observer before exhausting the complaint procedures in the complaints tribunal, it would create an unnecessary workload for the lay observer. In fact, it may be a departure from what I would like to see as an orderly procedure for resolving complaints.

The majority of complaints are relatively straightforward and are resolved at a very early stage before they even reach the complaints committee. I suggest that only a dissatisfied complainant should have direct access to the lay observer, rather than all complainants who could approach the lay observer at whatever stage, even before the committee has deliberated. As I have said, it would place an unnecessary burden on the lay observer.

The Leader of the Opposition has also commented on clause 6 of the Bill in relation to the division of the profession. I see no reason why that clause should not remain. There is a balance between the Supreme Court on the one hand and the profession on the other. I believe that it is appropriately left to those two bodies, rather than involving the Government in this type of decision. I recollect that in the 1976 Bill the Supreme Court alone would have had the power to do this, without involving the Law Society. I think it is undesirable to have that power of unilateral action.

The question of incorporation of legal practitioners has been raised by the Leader of the Opposition. It is important to recognise that, under the Architects Act, architects have the power to incorporate. Accountants by internal regulation have the ability to incorporate as unlimited companies. Engineers have the ability to incorporate, and certain pharmacists previously had the power to operate by way of company, not to incorporate in the way in which the Legal Practitioners Bill deals with the incorporation of legal practitioners. Doctors, physiotherapists and dentists so far do not have that opportunity, and there is no Government policy with respect to those groups of professionals.

Incorporation of legal practitioners has several advantages as well as a number of safeguards. I will deal with the safeguards first. The provision of the Bill is clear, that all of the direct members of an incorporated practice will have joint and several liability to their clients. They will all be covered by compulsory professional indemnity insurance as will the incorporated practice, and there will be a limit to the number of employee practitioners who may be employed by any incorporated legal practice. So the persons dealing with practitioners in an incorporated practice will have all the protections that they currently have. With large legal practices there are advantages in incorporation. In other States we have practitioner firms which are large indeed. In this State there are only three or four practices of any significant size, but they would find some advantages in incorporation, particularly with the movement of partner practitioners into and out of the firm.

One has to recognise that in a partnership situation each time a new partner is admitted there must be an amendment under the Partnership Act, and there by must be a change under the Business Names Act. There are a number of statutory obligations placed upon partnerships which must be complied with each time a partnership varies and, when partners resign and leave a firm, again there have to be various agreements and adjustments, capital accounts and other accounts which affect a legal partnership. But, with an incorporated practice, there is much less required for all those sorts of agreements to be entered into.

The retirement of a director and the sale of shares is a simple and straightforward process. Under the Companies Act, because the company is incorporated, it would still need to file an annual account and to file changes of directors, so that the public will still be aware of who participates as director members of a legal practice. Also, in terms of leasing accommodation in the case of professional rooms, landlords presently require the signatures of all members of a partnership, and each time the partnership changes not only does it mean a change in the partnership agreement but also it means a change in the leasing arrangement, perhaps even with personal guarantees to the landlord for each of the partners, whereas with an incorporated legal practice there is not that requirement.

The incorporated practice will have a legal status of its own, and at any time when there is a change it will not require an amendment to the partnership agreements and leases. There will also be an advantage for members of the incorporated practice to make provision for their requirements through superannuation, for which they will contribute as the principal earners of income for that legal practice.

The Leader has raised questions about professional indemnity insurance and has asked whether barristers will be allowed to participate. It is intended at this stage of the development of the master professional indemnity policy that it will be open to all solicitors in private practice, including employed solicitors, and it will be open to barristers and members of the Law Faculty at Adelaide University in so far as they have a liability arising out of any opinions that they may give independently of their university position.

The present proposal by the Law Society, as I understand it, is that the scheme will provide for a flat cover of $300 000 or even more, that there will be a flat fee payable by all solicitors regardless of claims experienced. Presently it is difficult for practitioners against whom claims have been made to obtain insurance at a reasonable fee. In many cases it is unobtainable. The master scheme will seek to involve even those practitioners who presently cannot be covered with professional indemnity insurance. That is an important consideration in this scheme.

The Law Society proposes to call tenders from insurance brokers for a master professional indemnity scheme, to assess those and then to make a proposition for the scheme which will need to be submitted to me, as Attorney-General, for my approval before it becomes effective, and it will also need to be accepted by a general meeting of all members of the Law Society. The scheme is an important one and has worked most effectively in Victoria and other States. It will be a significant advance on the present professional indemnity proposals under which practitioners operate at present. It will provide a significant protection for members of the community. It is important to indicate that the guarantee fund will not impinge upon professional indemnity insurance. It is intended that the guarantee fund will deal with defalcations and such matters, and the professional indemnity policy will deal with such things as professional negligence.

**The Hon. C. J. Sumner:** That's what I said.

**The Hon. K. T. GRIFFIN:** Yes, the Leader did say that, and I am just clarifying it from my point of view. It may be possible under the professional indemnity scheme to obtain additional cover for defalcations. Presently that is a cover which can be obtained privately by practitioners under the private professional indemnity policy.

The Leader has asked whether a levy to the guarantee fund would be considered. I must say that that is not really practicable at this stage. Already, legal practitioners will be called on to make increased contributions to the operation of the Act by virtue of increased practising certificate fees and other services. I doubt that it is reasonable to expect practitioners to make a contribution to guarantee funds in those circumstances.

At present there is more than $1 000 000 in the guarantee fund. I would see that fund gradually increasing from the Statutory Interest Account and that it does not

need to be supplemented by an increased imposition on the Law Society members. They are the principal matters to which the Leader referred. I believe that they have been answered adequately but, if further clarification is required, I will be pleased to give that in the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Interpretation.'

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

Page 3, after line 16—Insert definition as follows:

'approved auditor' means an auditor approved by the Supreme Court:

This technical amendment is being inserted because of the lack of clarity throughout the Bill in the role that is to be played by accountants compared to auditors. Members will see that there are other amendments relating to 'approved auditor', which is part of the process of clarifying the role and responsibilities of auditors and accountants.

Amendment carried.

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

Page 4, line 9—Leave out 'the' where it occurs for the third time in this line and insert 'The'.

This is technical and corrects the name of The Law Society of South Australia.

Amendment carried.

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

Page 4, after line 17—Insert definition as follows:

'moneys' includes any instrument for the payment of money that may be negotiated by a bank:.

Some concern has been expressed during the period of exposure of the Bill since March that the term 'moneys' may not be sufficiently clear. It has been intended at all times that moneys should be cheques and other instruments for payment of money that may be negotiated by a bank, and that is the reason for the amendment. It is relevant at a later stage, because we want to ensure that all trust account moneys, which include cheques, are paid into a cheque account, except those cheques directly payable to clients from, say, settlement moneys. In those cases, we would propose that a regulation may be made that would exempt those sorts of payment from going through a solicitor's trust account because of the terms.

Amendment carried.

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

Page 4, lines 20 to 24—Leave out definition of 'public accountant'.

This amendment is consistent with the amendment that has been passed relating to the definition of 'approved auditor'. The definition of 'public accountant' is unnecessary.

Amendment carried.

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

Page 4, line 4—Insert paragraph as follows:

*(ab)* Any failure by the legal practitioner to act in accordance with the proper standards of legal practice.

My concern was that I did not want there to be any risk that, by defying 'unprofessional conduct' in some way in this Bill, we were in any way limiting the common law definition in the case *In re a Practitioner of the Supreme Court* in 1927, to which I referred in the second reading debate. I think the amendment would make clear that unprofessional conduct is not only any illegal act or act of a dishonest or infamous nature, but applies to any failure by a legal practitioner to act in accordance with the normal standards of his profession.

I think a second reason for inserting this is that, given that the Government has seen fit to insert a definition of 'unprofessional conduct', we ought to say whether we support the definition as it has been interpreted by the courts, and I believe that my amendment does that. Parliament has the responsibility of approving this legislation and should know what we mean. My amendment would cover the matters that have taken up in the definition of 'unprofessional conduct' and add to what I consider to be unprofessional conduct.

It raises the question why the Goverr.ment has seen fit to introduce a definition of 'unprofessional conduct' and actually to make clear that unprofessional conduct includes illegal acts or offences of a dishonest or an infamous nature. I should not have thought that there was a need to clarify what is meant by 'unprofessional conduct' but, as the Government seems to consider that there is such a need, I think that it should be clarified properly.

**The Hon. K. T. GRIFFIN:** The Leader's amendment is certainly better than it appeared on the list of amendments, because no longer does the definition provide an exclusion definition of 'unprofessional conduct'. However, I still have my concern about the amendment. The Government had originally included paragraphs *(a)* and *(b)* to ensure that the principal ingredients of what could ethically be regarded as unprofessional conduct were covered by the definition. I do not believe that the Bill does create the problem that the Leader has suggested. I would be a little concerned about paragraph (ab) because I think it is a rather curious addition to what would otherwise be a fairly clear indication of what is unprofessional conduct.

Amendment negatived; clause as amended passed.

Clause 6—'Separation of legal profession.'

**The Hon. C. J. SUMNER:** The Opposition believes this matter to be of considerable significance. I did not divide on the previous amendment because I ascertained from my friend the Hon. Mr Milne that he would oppose our amendment, which we thought would have provided further clarification. However, for that reason, I did not call for a division.

The Opposition believes that clause 6 raises a matter of considerable principle. It deals with who should have the responsibility for dividing the profession between barristers and solicitors. At present, the profession in South Australia is a fused profession, as it is in some other States but not as it is in New South Wales or the United Kingdom. A debate rages amonst legal practitioners (perhaps more so in the other States than in this State) as to whether those who practise the law should be divided between barristers and solicitors, that is, those who have a right to appear in court and those who do the legal work which is not litigious or, if it is, they do it up to the point of appearance in court.

This matter has been dealt with by the United Kingdom Royal Commission into the legal profession. It has also been considered by the New South Wales Law Reform Commission. I understand that a report will be presented by that commission on this topic at some time in the near future. I should say that the United Kingdom report did not recommend that the profession in the United Kingdom be fused. Rather, it recommended that the present system of a divided profession should pertain.

I do not know what the New South Wales Law Reform Commission will recommend. Howéver, I know that Mr Julian Disney, who has had most of the conduct of the inquiry into the legal profession in New South Wales, is strongly of the view that the profession should be fused. In South Australia, there is a fused profession, and I think at present that that has a majority support in the profession. At present, it is a matter for the Supreme Court to decide

under the Act whether or not the profession should be divided. This amendment provides that the Supreme Court will decide the matter, but on the application of the Law Society.

So, what we have if this passes is a situation in which the Supreme Court will continue to be able to divide the profession between barristers and solicitors. There is no provision under the present law or under this amendment for the Attorney-General or the public in any way to be involved in the matter of whether or not the profession should be divided. I believe that that decision is a matter of considerable public importance and interest and for it to be left up to the judges alone, or the judges in consultation with the Law Society, is totally inappropriate.

There is no input from the Attorney-General; he cannot stop it, as he has no power at all apart from making submissions to the society or the Supreme Court on the matter. Neither the Attorney-General nor the Parliament has any rights. A matter of this kind does not impact just on the courts and the profession. It also impacts on the public, because it has ramifications on the standard of service that the public receives, as well as on the question of costs, as it is often alleged that a divided profession is more expensive for the client than a fused profession.

Often, complaints are made, as clients feel aggrieved when their solicitor has the conduct of the case right up to the court door, at which stage it is handed over to a barrister. Therefore, the client is very much concerned with whether or not the profession is divided. Under this provision, the client has absolutely no say in whether that significant public interest decision is taken. I believe that that is inappropriate and that it is appropriately a matter for the Parliament to decide.

**The Hon. K. T. Griffin:** But it will have the power to disallow the rules.

**The Hon. C. J. SUMNER:** Maybe, but I believe that it should be a power that does not exist just with the judges in the first instance. It is a matter that ought to require the *imprimatur* of the Parliament by legislation, perhaps with some provision relating to consultation with the judges and the Law Society. However, I believe that the primary responsibility for a division of the profession ought to rest with the Parliament, and this amendment leaves it to the Supreme Court and the society. For that reason, I oppose this clause.

**The Hon. K. T. GRIFFIN:** I do not have the same difficulty with this clause as the Leader has. The division of the profession can occur only if three things happen: if the Law Society makes an application to the Supreme Court, the Supreme Court makes a decision to effect the rules, and those rules are laid before Parliament and are not disallowed. Therefore, Parliament is involved in the decision. The Opposition knows that rules and regulations can be and have been disallowed in this Chamber and in another place. If the Law Society believed that there should be a division of the legal profession (it does not support such a move at the moment), it would take considerable time and persuasion to effect it. The Law Society should be able to apply to the Supreme Court, and if the Supreme Court agrees with the Law Society, the rules should be made and tabled in both Houses of Parliament. I believe there are sufficient controls on this course of action along with the control of public opinion to satisfy the major objections referred to by the Leader.

**The Hon. C. J. SUMNER:** I do not accept that. It may be that the rules of the Supreme Court will come before Parliament, but I believe this clause empowers the judges of the Supreme Court, once they have decided to divide the profession, to make rules to give effect to it. Those rules would provide in what circumstances people should have the right to appear in courts, whether there should be exemptions for solicitors, and whether solicitors should have the right to appear in a court of summary jurisdiction. In other words, there are two processes. The first is the decision by the Supreme Court, and the second is the rules to give effect to that decision. Except in a very superficial way, I do not believe that Parliament has any real power over the actual decision. This clause is quite clear and provides:

> The Supreme Court may, on the application of the Society, divide legal practitioners into two classes, one class consisting of barristers and the other class consisting of solicitors.

The decision to divide the profession does not come before Parliament at all. The rules giving practical effect to the decision will have to come before Parliament, but the decision has already been made. It may be that Parliament could thwart the decision of the Supreme Court by disallowing the rules and making the decision impractical, but the Supreme Court would then assert that under this law it has the right to divide the profession.

Parliament only has the right to oversee the rules and to ensure that the rules give effect to that decision. I imagine that the Supreme Court would not concede that Parliament has the right to overturn a decision to divide the legal profession. I know that Parliament would have power to override the rules which would give effect to the decision, but the actual decision to divide the profession is a decision which, under clause 6 (1), clearly rests with the Supreme Court. When the Supreme Court sent the rules to Parliament it would maintain that it had made its decision and it is for Parliament to look at the rules in relation to that decision. I believe that the Supreme Court would assert that its decision should not be challenged by Parliament.

**The Hon. J. C. Burdett:** It cannot implement the decision.

**The Hon. C. J. SUMNER:** No, I have said that Parliament would try to frustrate the decision of the Supreme Court in a backhanded way by disallowing the rules. However, the Supreme Court would then assert that under the law it has power to divide the profession. If that happened, we would get ourselves into a terrible mess. I believe that Parliament should be involved in this in the initial stages and should not simply have a supervisory role at the tail end of the procedure. If the profession is to be divided, that decision should be made by the Attorney-General, and he should divide the profession through a Bill introduced in Parliament. He would do that after consultation with the judges and the Law Society. I believe it is quite inappropriate in a decision of this magnitude, for Parliament to be left at the tail end of the procedure. I do not accept the reasons for supporting the proposition put forward by the Attorney-General.

**The Hon. K. T. GRIFFIN:** The Leader and I will have to agree to disagree on the way that this is implemented. It is clear to me that, if the Supreme Court makes a decision, it can only be done by making rules. If Parliament disallows those rules it effectively denies the division resulting from a decision of the Supreme Court.

The Committee divided on the clause:

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

Noes (7)—The Hons. Frank Blevins, G. L. Bruce, J. R. Cornwall, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Pairs—Ayes—The Hons. M. B. Cameron, J. A. Carnie, and D. H. Laidlaw. Noes—The Hons. B. A. Chatterton, C. W. Creedon, and N. K. Foster.

Majority of 1 for the Ayes.

Clause thus passed.

Clauses 7 to 11 passed.

Clause 12—'Minutes of proceedings.'

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

Page 8, lines 4 to 6—Leave out subclause (4).

This clause deals with the minutes of proceedings of the Law Society. Subclause (3) requires that the society, at the request of any member, shall produce for his inspection the minutes of any general meeting, any meeting of the council and any meeting of any committee established by the council to any member of the society on request. It is difficult to justify having minutes of an organisation that are not available to members. It is inappropriate. There is always a tendency for executives of organisations, committees or councils of organisations to get protective about their own decisions. There is a tendency, and I believe that this clause could exacerbate the tendency to treat certain matters as confidential and to have them reported in a minute book which is not accessible to society members.

I believe it is quite contrary to the general concept of democracy and accountability which ought to exist in any organisation. It is verging on the obnoxious to say that a member of an organisation should not have access to the minutes of that organisation, and my amendment would allow any member access to the minutes, which is right and proper. Any alternative is unacceptable, because there is then the difficulty of a membership holding accountable its executive or council for their actions.

**The Hon. K. T. GRIFFIN:** The principal reason for subclause (4) is that the Law Society Council may still be required to make certain decisions which, if they were readily available, might create some hardship for society members. I refer to clause 76 (1), which provides that the Secretary, at the direction of the Attorney-General, the committee or the society may make an investigation into the conduct of a legal practitioner. If the Law Society Council makes such a direction, it would have to be reported in the minute book and, if that book is readily available to all members, it may create much hardship to the practitioner into whose affairs an investigation has been directed by the society, even before that practitioner has been found guilty of unprofessional conduct.

There are some other areas that may well be kept confidential, for example, matters of staff salaries or other isolated matters, perhaps superannuation or decisions on the dismissal of staff. They are matters which are properly kept confidential, and in my experience where organisations keep confidential minute books, they are only for a very limited number of matters which affect the personal interest of staff or members of the society where disciplinary action is proposed.

**The Hon. C. J. Sumner:** That should be included in the Bill.

**The Hon. K. T. GRIFFIN:** It is included in subsection (4).

**The Hon. C. J. Sumner:** It refers only to a confidential nature.

**The Hon. K. T. GRIFFIN:** I have sufficient confidence in the Law Society to use the provisions of subclause (4) sparingly and only for those instances where it could be objectively assessed to be proper that certain matters should be kept confidential. I urge the Committee to support the retention of this subclause.

The Committee divided on the amendment:

Ayes (7)—The Hons. Frank Blevins, G. L. Bruce, J. R. Cornwall, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Noes (8)—The Hons. J. C. Burdett, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. B. A. Chatterton, C. W. Creedon, and N. K. Foster. Noes—The Hons. M. B. Cameron, J. A. Carnie, and D. H. Laidlaw.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 13 passed.

Clause 14—'Rules of the Society.'

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

Page 9, lines 20 to 24—Leave out subclause (3).

The clause deals with the rules of the Law Society and provides for methods for the society to make rules and provides for access by a member of the society to the rules. Subclause (3) states that the Attorney-General may certify that a rule made by the secretary relates only to internal administration of the society; such a certificate is given under section 10 of the Subordinate Legislation Act. The provision requires certain subordinate regulations and rules to be laid before Parliament and to be subject to disallowance.

I believe that, as the Law Society is performing a public function in the regulation of the legal profession and as no doubt its rules in many respects will relate to that regulatory function, the question of rules is a matter in which the community has a significant interest, and Parliament should have power to scrutinise the rules of the Law Society.

The clause as introduced would mean that certain rules would not come before Parliament. There would be little way for the Parliament to ever query the Attorney-General and no way for Parliament to review the rule. I believe it is safer and more open that the rules be laid before Parliament in the way other rules of statutory authorities that carry out regulatory functions are laid before Parliament.

**The Hon. K. T. GRIFFIN:** Subclause (3) was really only inserted out of an abundance of caution, because it is arguable that the rules of the Law Society are, in any event, delegated legislation. There is a very good argument that they are not subject to the Subordinate Legislation Act, 1978. Subclause (3) was inserted only to ensure that that was not so. Company articles of association, trade union rules, and rules governing other professional associations are not subject to interference by Parliament.

**The Hon. C. J. Sumner:** Trade union rules are subject to review by courts.

**The Hon. K. T. GRIFFIN:** We are not talking about that. It seems anomalous that the rules of the society should have to be tabled in both Houses, because they deal only with matters of internal management and are really only the business of the Law Society.

**The Hon. C. J. Sumner:** How do we know?

**The Hon. K. T. GRIFFIN:** You are a member of the Law Society and you can ask for them and check them.

**The Hon. C. J. Sumner:** How does Parliament know?

**The Hon. K. T. GRIFFIN:** You will get your chance and you have individual members in the Labor Party who are members of the Law Society who can check this. The Attorney-General will have the opportunity of assessing the rules and, if they are of an internal nature only, he can give a certificate that will take them outside the ambit of the Subordinate Legislation Act.

**The Hon. C. J. Sumner:** How will Parliament know whether that certificate is justified?

**The Hon. K. T. GRIFFIN:** Your members who are members of the Law Society can make their own inquiry. The subclause is there only to ensure that the rules of the society that relate to internal management only do not have to go through the procedures under the Subordinate

Legislation Act.

**The Hon. C. J. SUMNER:** My point was about how Parliament will know what action the Attorney-General has taken. It will have no opportunity unless the Attorney-General reports to Parliament. It will be his decision whether a matter is deemed to be an internal rule of the society and therefore not a matter to come before Parliament. We are not giving Parliament any scrutinising role. The reason for public and Parliamentary accountability on the activities of the Law Society is that the Law Society carries out the function of regulation, to a large extent, of the legal profession.

It is not just a lawyers trade union. I pointed out this inherent contradiction in the function of the Law Society. On the one hand, it acts as a lawyers trade union and looks to lawyers' interests and, on the other hand, it is charged with the task of regulating the legal profession, and regulation of that profession is a matter of considerable public interest, and the two may conflict. Given that that regulatory function exists in the Law Society, I believe that the community ought at least to know what is happening in the Law Society. One way of knowing this is for any rules that it makes to be tabled in Parliament.

**The Hon. K. L. MILNE:** All of us would feel embarrassed to some extent when discussing someone else's profession. We must be careful about what sort of contribution we make if we are not lawyers. However, I look upon the legal profession with the same respect as do the Attorney-General and the Leader of the Opposition. I am frightened that we may do something to impinge a little on the freedom and ability for self-control that the legal profession has had and should have.

I look back on the history of the profession to the early days of 1066 when with the Normans came the pleaders and a new concept for England that someone could be employed to protect the individual against the King. This was a new concept altogether and a new kind of important freedom. From that has developed the barristers, solicitors, inns of court and the tremendous professional organisation of courts that we have today.

I know that faults exist and that the Law Society has tried consistently to overcome them. However, we must distinguish between what public obligation a profession like the legal profession has and what are the rights of its members as individuals, to control that society. The internal administration of the society is one example. We will find others on which I will have an attitude as we go through the Bill.

The internal administration as outlined in this Bill is a quite simple thing that happens to all sorts of groups. The professions as a whole are part of our democratic freedom, and I think that we should interfere with them only with the utmost care. This is not intended by the Leader of the Opposition to be an interference, but in my view it could perhaps be such. I should prefer to see this provision left in the Bill so that this Parliament is not trying to tell an adult, sophisticated society like the Law Society how to run its small, intimate internal administration.

Amendment negatived; clause passed.

Clause 15 passed.

Clause 16—'Issue of practising certificate.'

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

Page 11, lines 10-16—Leave out subparagraph (vii) and insert new subparagraph (vii):

(vii) The shares of a person who is a shareholder by virtue of being the spouse of a legal practitioner shall—

*(a)* upon dissolution or annulment of his marriage with a legal practitioner or

*(b)* in the case of a putative spouse upon cessation of cohabitation with the legal practitioner

be redeemed by the company or distributed amongst the remaining members of the company in accordance with the memorandum and articles of association of the company.

I should like to ask one or two preliminary questions before dealing with my amendment. My questions relate to the comments I made in the second reading debate. I am not sure that the Attorney-General answered them adequately. In particular, I asked the Attorney-General whether he could outline the taxation advantages that would be available as a result of incorporation. As I said in my second reading speech, some people are of the opinion that this is the only reason why the legal profession is seeking the right to incorporate.

I also asked the Attorney-General whether he and the Government would view a proposal from the medical profession in the same light and agree that it might incorporate, and, if so, what taxation benefits would be available to it. In particular, under one provision a single practitioner may have another director, as under the Companies Act two directors are required, and the other director need not be a person holding a current practising certificate, which is an exception to the general scheme of incorporation.

The question is again asked whether, if that other director can be the wife of the legal practitioner, it can in some way provide taxation advantages to the practitioner concerned. In other words, I should like to be satisfied that it is not just a matter of taxation concessions and the capacity to enter into arrangements that will minimise the taxation liabilities involved, if not involving the avoidance of taxation.

**The Hon. K. T. GRIFFIN:** I did outline a number of reasons why incorporation of legal practices was desirable. From the taxation point of view, I do not think there really are any taxation advantages. There may be some in the area of superannuation, where practitioners employed by an incorporated practice will be able to make some provision for their retirement.

However, they will be making whatever contribution is necessary out of the income of the practice, and I cannot see how there is anything wrong with that. Many people benefit from superannuation. That includes members of Parliament, who, provided that they serve their minimum period of office in order to qualify, will receive what some people would say is a handsome superannuation benefit.

**The Hon. C. J. Sumner:** They don't get much of a taxation benefit, though.

**The Hon. K. T. GRIFFIN:** That is so, and one will not get it in the legal practice context, either.

**The Hon. C. J. Sumner:** You will.

**The Hon. K. T. GRIFFIN:** I have said that there will be some. However, why should not legal practitioners, who are in essence self-employed, be able to make adequate provision for their retirement and for their families, as can many other members of the community at present? If one does not need to have special qualifications such as legal qualifications or to be a legally qualified medical practitioner, dentist, or someone in that category, one is entitled to make some provision for one's retirement through superannuation by establishing a company to carry on one's business, trade or profession.

**The Hon. C. J. Sumner:** We can't.

**The Hon. K. T. GRIFFIN:** That is correct, but there are many others in this category who have other trades or skills. It is anomalous that lawyers, doctors and others should not have that advantage.

**The Hon. C. J. Sumner:** Do you support this measure for doctors?

**The Hon. K. T. GRIFFIN:** I have indicated that the

Government has not made a decision about doctors and other professionals who are presently precluded from incorporating. There may be some minimal advantage in diverting some income to children, but the most recent Federal income tax amendments seem to prevent any significant tax advantage being obtained from sharing income with members of one's family.

**The Hon. C. J. Sumner:** There would be some income tax benefit as a result of this measure.

**The Hon. K. T. GRIFFIN:** I am not denying that. However, any substantial benefit to be obtained by companies employing directors will largely be lost by the recent Federal income tax amendments. I believe there are many other commercial reasons why incorporation should be allowed, and I have already referred to the change in partnerships and the lease of commerical premises where there is a change in a partnership. They are more important commercial advantages than tax advantages. One must also remember that lawyers who incorporate will still be liable for their debts, and the community will still be adequately protected.

**The Hon. J. R. CORNWALL:** This measure sets an enormous precedent. Traditionally, the professions have stood apart from the trades for hundreds of years. This Bill allows the legal profession to incorporate, and the Attorney-General has admitted that special class have to be introduced to create professional indemnity for the work done by professional individuals.

**The Hon. K. T. Griffin:** As well as indemnity for the incorporated practice.

**The Hon. J. R. CORNWALL:** That takes away one of my principal objections. This Bill opens the door for all of the professions to claim that if it is good enough for the legal profession it is good enough for the medical and paramedical profession. It is an enormous advantage in arranging affairs in a successful practice, and it certainly has significant taxation advantages. Apparently, the Attorney-General is not prepared to inform us of the Government's intention in relation to the medical profession. It appears that the Government is keeping its options open on that. I seek an indication about the Government's general intention in relation to doctors, dentists, physiotherapists and other sections of the paramedical profession. This is a significant departure from tradition.

**The Hon. C. J. Sumner:** And it allows considerable tax advantages.

**The Hon. K. T. GRIFFIN:** I have not denied that. I am surprised that the Hon. Dr Cornwall should suggest that we should be bound by tradition, because I always understood that he professed to be a progressive. It would be appropriate to see some progressiveness in this area.

**The Hon. J. R. Cornwall:** Would you prefer it to be known as the legal industry instead of the legal profession?

**The Hon. K. T. GRIFFIN:** It is still a profession. Architects are permitted to incorporate.

**The Hon. K. L. Milne:** Did the Institute of Architects allow that, or the Act?

**The Hon. K. T. GRIFFIN:** The Architects Act was amended by the previous Government in 1975-76. Architects were subject to an Act of Parliament, and it is only because of that that I suppose they required an amendment to allow incorporation.

**The Hon. K. L. Milne:** They have unlimited liability.

**The Hon. K. T. GRIFFIN:** I understand that is correct. Engineers are also able to incorporate under their own rules. A large number of professional bodies are able to incorporate at the present time, and I see no reason why lawyers should not be included in that group. It may also be appropriate for the medical profession, physiotherapists and dentists. However, the Government has not made a decision about those groups.

**The Hon. C. J. SUMNER:** The previous Bill introduced by the Labor Government in 1976 provided that upon incorporation the members of a company could be prescribed relatives of the legal practitioner. Clause 16, which dealt with incorporation, also referred to the spouse of a legal practitioner. Of course, a spouse is a prescribed relative and therefore could be a member of the company. The 1976 Bill also referred to a putative spouse and defined a putative spouse in the same terms as the term is defined in another Act of Parliament which gave a putative spouse certain rights under the old succession duties legislation and in other areas.

It provided that a putative spouse was a person who had cohabited continually over a period of five years with the other person or who had sexual relations with the other person resulting in the birth of a child. My amendment brings this clause back to the position that applied when the Bill was introduced by the Labor Government in 1977. It says that the same rights that apply to a spouse ought to apply to a putative spouse defined in the way that I have indicated. That is consistent with other legislation which has been passed by this Parliament.

**The Hon. K. T. GRIFFIN:** With respect, it is not consistent with other legislation. The Family Relationships Act has been the subject of a Supreme Court case in 1976, and the present Chief Justice recommended that the Act should be repealed. It made reference to a putative spouse and provided for the status of a putative spouse to be resolved by order of the court as at a particular day. That was appropriate in succession duty legislation, because one could pinpoint the date of death as being the appropriate date at which the various conditions would apply and, if they are satisfied, the person who made the application for a declaration that he or she was a putative spouse could be by determination of the court so declared to be. The very real problem with that drafting is that nowhere do we specify the date at which the determination should be made that a person is a putative spouse. The proposition is unworkable.

**The Hon. C. J. Sumner:** Look at the drafting and tell us about the principle: do you approve of the principle or not?

**The Hon. K. T. GRIFFIN:** I do not believe that it is a feasible proposition and, if one is to take into account the judgment of the Chief Justice in the Supreme Court case to which I have referred, one will see that it creates untold difficulties. The Chief Justice recommended the repeal of that Act. I suppose the possibility exists that, when the company lodged its annual return with the court and the Corporate Affairs Commission, it would be required to answer a series of questions which would enable a determination to be made about whether a particular shareholder is or is not a putative spouse. The answer to those questions would be on the public register, because there is a responsibility to determine whether a person claiming to be a putative spouse is a putative spouse and is thereby eligible to hold shares under the provisions of this clause.

The other point I want to make is that the proposed amendment seeks not to allow but to require a redemption of the shares of a spouse, which includes a putative spouse upon dissolution or anulment of marriage with a legal practitioner or, in the case of a putative spouse, upon cessation of cohabitation with the legal practitioner. The first is easily determined, because dissolution or anulment is by order of the court. It is clear, it is on the record and no-one can argue with that. How do we determine for the purposes of this provision, that is, the requirement that

shares should be redeemed, that cohabitation has ceased?

Does the legal practitioner file a return to the court saying that the practitioner has ceased to live with the person who was the putative spouse, or do the legal practitioners forming the directors redeem the shares of a person who purports to be a putative spouse on no evidence or on the say of a legal practitioner? If the redemption is challenged by the person who purports to be a putative spouse, how does one determine whether that person is a putative spouse, and at what date? I do not believe that the amendment is workable, and I do not believe that, however much time one spends trying to get the drafting correct, it can ever be workable. It is for that reason that I do not believe that we should put an unworkable provision in the Act. Therefore, I oppose the amendment.

**The Hon. J. C. BURDETT:** I oppose the amendment. As the Attorney-General has said, it does not provide any mechanism whatever for deciding who is the putative spouse, whereas the Family Relationships Act does. It says that a person is on a certain date a putative spouse, and it sets out a mechanism for the court to declare a person to be a putative spouse. It is so tight, even though it was criticised by the Chief Justice, that it provides:

> It shall not be inferred from the fact that the court has declared that two persons were putative spouses, one of the other, on a certain date, that they were putative spouses as at any prior or subsequent date.

It had to be precisely on that date, and it seems to me, as the Attorney-General has said, that because there is not this mechanism—and I do not think there should be in this regard—the amendment is unworkable. I therefore oppose it.

**The Hon. C. J. SUMNER:** I do not accept that the amendment is unworkable. Government members are trying to run away from deciding whether they agree with this proposition in principle. Neither the Minister of Community Welfare nor the Attorney-General was prepared to say whether they agreed with the proposition in principle or whether he agree that the principle established by the Family Relationships Act should apply in this sort of situation.

They have done what they often do, which is to throw up a legal smokescreen by talking about the technicalities of the amendment without actually coming to grips with the principle. I want to know from the Attorney-General and the Minister of Community Welfare whether or not they agree with the principle that a putative spouse so defined should have the same rights as an ordinary spouse has under the Family Relationships Act.

The principle ought to be established by this amendment. If the Attorney-General believes that there are technical difficulties with the amendment, I am, as usual, happy to discuss that with members opposite, but they are hiding behind a smokescreen of criticising the amendments, which are in the same terms as those introduced in the 1976 Bill, and I understand that at that time the Hon. Mr Burdett, who was then the shadow Attorney-General, did not raise any objection or move any amendments.

**The Hon. J. C. Burdett:** We didn't get that far.

**The Hon. C. J. SUMNER:** I saw the amendments that you intended to move, and they did not include an amendment to delete this provision relating to a prescribed relative or a putative spouse. Now the Liberal Party has gone back on the principle and is hiding behind a technical criticism of the amendment, which is the same as the one introduced in 1976 and which was drafted by Parliamentary Counsel.

**The Hon. K. T. GRIFFIN:** The question of principle does not arise.

**The Hon. C. J. Sumner:** Why didn't you oppose it in 1976?

**The Hon. K. T. GRIFFIN:** I was not a member then. The amendment is so unworkable that I do not accept it.

The Committee divided on the amendment:

Ayes (8)—The Hons. Frank Blevins, G. L. Bruce, J. R. Cornwall, J. E. Dunford, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Noes (7)—The Hons. J. C. Burdett, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Grifin (teller), C. M. Hill, and R. J. Ritson.

Pairs—Ayes—The Hons. B. A. Chatterton, C. W. Creedon, and N. K. Foster. Noes—The Hons. M. B. Cameron, J. A. Carnie, and D. H. Laidlaw.

Majority of 1 for the Ayes.

Amendment thus carried.

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

> Page 11, lines 24 and 25—Leave out 'the practising certificate of the company shall, by virtue of this subsection, be suspended during the period of non-compliance' and insert 'the company shall, within 14 days, report the non-compliance to the Supreme Court, and the court may give such directions (if any) as may be necessary to secure compliance with those stipulations'.

There are occasions when it would be quite inappropriate to have mandatory suspension of the practising certificate of a company; for example, on the death of a particular shareholder and when the transfer of shares has not been undertaken within the brief period allowed. It is really just a tidying up amendment.

Amendment carried.

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

> After line 25 insert subclause as follows:
>
> (3a) If a direction of the Supreme Court under subsection (3) is not complied with within the time allowed by the court, the practising certificate of the company shall, by virtue of this subsection, be suspended during the period of non-compliance.

This is consequential, in that, if a company does not comply with the directions of the Supreme Court, during the period of non-compliance the practising certificate is suspended.

**The Hon. C. J. SUMNER:** What obligation is there and how will the Supreme Court know about any non-compliance by the company? As the Bill was originally introduced, the clause was preferable. It provided a strict liability on a company to act in accordance with its memorandum and articles of association and provided that, if it did not comply with the conditions specified in the Act as necessary as part of the memorandum and articles, it would be suspended from practice. I do not understand how the Supreme Court will be apprised of any breaches and, therefore, how it will be able to make the orders that the amendment suggests.

**The Hon. K. T. GRIFFIN:** Under the previous amendment, a company was to notify the Supreme Court within 14 days of any non-compliance with the Act. It is at that point that the Supreme Court would give directions and those directions, I would envisage, would include a subsequent report by the company to the Supreme Court as to compliance. If a company does not report any non-compliance, the ultimate sanction is to have the practising certificate suspended or removed. There are provisions for annual applications for issue of practising certificates. I envisage that they will not be automatically renewed or that they will be as simple as paying money over the counter in the Master's Office, but that they would require some form of application for renewal that would relate to

compliance or non-compliance with the Act.

As I indicated, I think that it could create some injustice if there was automatic suspension for non-compliance, for example, on the resignation or death of a director, where there might be temporary non-compliance which might be in breach and as a result of which a practising certificate might be suspended. Then, the company would not be able to carry on the practice. It is much more appropriate that the court should have a regulatory power that would enable this unforeseen non-compliance to be remedied within guidelines specified by the court.

**The Hon. C. J. SUMNER:** I make clear that I would prefer the provision in the Bill as origainally introduced by the Attorney-General.

Amendment carried.

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

Page 11, after line 30—Insert definitions as follows:

'putative spouse' in relation to a legal practitioner means a person who is cohabiting with the legal practitioner as the husband or wife *de facto* of the legal practitioner and—

*(a)* who has so cohabited continuously over the last preceding period of five years, or for periods aggregating five years over the last preceding period of six years; or

*(b)* who has had sexual relations with the legal practitioner resulting in the birth of a child:

'spouse' includes a putative spouse.

This amendment is consequential on the one that has just been carried dealing with putative spouses. I ask the Committee, rather than making a mess of the Bill as we have done from time to time, to accede to this consequential amendment.

**The Hon. K. T. GRIFFIN:** I am opposed to the amendment but because I regard it as consequential on the earlier amendment relating to putative spouses, although I intend to call against the clause, I do not intend to call for a division on it.

Amendment carried; clause as amended passed.

Clauses 17 to 20 passed.

Clause 21—'Entitlement to practise'.

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

Page 13, after line 11—Insert paragraphs as follows:

*(ab)* an unqualified person from charging a fee for the preparation of a bill of sale, stock mortgage or lien over wool or fruit to which he is himself the party in whose favour the security is given or an instrument varying or discharging a bill of sale, stock mortgage or lien over wool or fruit to which he is such a party;

*(ac)* an unqualified person from charging a fee for the preparation of a mortgage over land to which he is himself the party in whose favour the security is given, or an instrument varying or discharging a mortgage over land to which he is such a party, provided that the mortgage or other instrument is prepared by a legal practitioner or licensed land broker;

This amendment arises out of a representation made to me during the period of exposure of the Bill. It preserves the present position with respect to stock firms that prepare bills of sale, stock mortgages, wool liens, or fruit liens, where the stock firm is a party. Presently, they prepare these documents and make a charge for it. The amendment really preserves the *status quo* and allows them to make a charge for that work.

I should also state that new paragraph *(ac)* does not really relate to stock firms but rather relates more to banks that presently prepare mortgages for their customers. When lending money to clients, the banks make a separate charge. New paragraph (ac) allows that practice to continue.

Amendment carried.

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

Page 13, after line 31—Insert paragraph as follows:

*(ea)* a person licensed under the Land Valuers Licensing Act, 1969-1974, or licensed or registered under the Land and Business Agents Act, 1973-1979, from representing, for fee or reward, a party to proceedings before an assessment revision committee constituted under the Local Government Act, 1934-1981;

This new paragraph allows valuers or persons licensed under the Land and Business Agents Act to appear on behalf of a ratepayer before an Assessment Revision Committee constituted under the Local Government Act. This specifically arises from submissions made to me during the exposure period and recognises the *status quo.*

Amendment carried.

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

Page 14, lines 1 to 3—Leave out paragraph *(j).*

This amendment is a deletion, because it is not really appropriate that we include in State legislation the recognition of rights of persons authorised under the Income Tax Assessment Act, which is Commonwealth legislation, to prepare income tax returns for fee or reward. Their entitlement is derived from Federal legislation. The basis upon which they charge is fully set out and, with patent attorneys who are not covered by this Bill, their right to do the work authorised under the present legislation is preserved under Federal legislation.

Amendment carried.

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

Page 14, lines 8 to 10—Leave out 'provided that he is remunerated only by commission and makes no separate charge for the preparation of the instrument' and insert 'provided that the instrument is prepared by the agent personally or by a registered manager or registered salesman in his employment and no charge (apart from the commission payable to the agent in respect of the transaction) is made for the preparation of the instrument'.

This amendment again tidies up a provision that allows a licensed agent to prepare contracts relating to the sale and purchase of any land or business. His responsibilities are set out under the Land and Business Agents Act and, provided that the instrument is prepared by the agent personally or by a registered manager or registered salesman in his employment, and no charge is made apart for commission, he will continue to be able to perform this function. The drafting in the amendment clarifies the position in the Bill.

Amendment carried.

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

Page 14, lines 11 to 26—Leave out paragraph (1) and insert paragraph as follows:

(1) an agent licensed under the Land and Business Agents Act, 1973-1979, from preparing for fee or reward—

(i) a tenancy agreement—

*(a)* relating to residential premises; and

*(b)* under which a rental not exceeding a maximum prescribed for the purposes of this subparagraph is payable; or

(ii) a tenancy agreement:

*(a)* arising from a transaction in respect of which he has acted as agent;

*(b)* relating to non-residential premises; and

*(c)* under which a rental not exceeding a maximum prescribed for the purposes of this subparagraph is payable;

provided that the instrument is prepared by the agent personally or by a registered manager or registered salesman

in his employment;

This clause has been the subject of some discussions with land brokers and the Real Estate Institute. Presently, I am informed that the land agents prepare tenancy agreements. They sometimes prepare them in the course of a transaction in which they are, in fact, agents, that is, where they are the letting agent for a certain property.

They also prepare tenancy agreements for people who walk in off the street and ask them to do so. This happens when the agent has not acted in any transaction out of which the tenancy arises. So, I know from the representations made to me that the agents want to retain the rights that they presently have, probably by default rather than design.

The Government is prepared, by virtue of this amendment, to allow agents to prepare, for fee or reward other than commission, and in transactions in which they are not acting as agents, tenancy agreements that relate to residential premises, provided that the rental does not exceed a maximum that is to be prescribed by regulation, and also to allow them to prepare tenancy agreements arising out of transactions in which they have acted as agents for non-residential premises where the rent does not exceed the maximum prescribed by regulation. There are some safeguards in the amendment of compliance.

**The Hon. C. J. Sumner:** Do they do this now?

**The Hon. K. T. GRIFFIN:** Apparently they do. Rather than tightening up too much of that practice, the Government has decided that it will allow that practice to continue with the provision that it continue where the rent does not exceed a maximum which will be prescribed by regulation. There has been no discussion about the amount of that maximum at this stage.

Amendment carried.

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

Lines 27 and 28—Leave out paragraph (m) and insert paragraph as follows:

*(m)* a licensed land broker from preparing for fee or reward an instrument registrable under the Real Property Act, 1886-1980, the Bills of Sale Act, 1886-1972, the Stock Mortgages and Wool Liens Act, 1924-1975, or the Liens on Fruit Act, 1923-1975;

Amendment carried.

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

Lines 29 to 32—Leave out paragraph (n) and insert paragraph as follows:

*(n)* a licensed land broker from preparing for fee or reward—

(i) a contract for the sale and purchase of land or a business;

(ii) a tenancy agreement;

(iii) an assignment of the benefit of a contract for the sale and purchase of land or a business or of a tenancy agreement;

(iv) an instrument that is incidental to a contract, agreement or assignment of the kind mentioned in subparagraph (i), (ii) or (iii);

Once again, this is an amendment which clarifies the working rights of a licensed land broker.

**The Hon. C. J. Sumner:** What will be left for lawyers?

**The Hon. K. T. GRIFFIN:** Under the present Legal Practitioners Act it is difficult to prevent some of these people from undertaking what would generally be regarded as legal work. I am sensitive to the rights of clients who may be affected by the drafting of documents by persons who are generally untrained. However, I think it is fair to point out that licensed landbrokers now undertake a three-year course to equip them to prepare instruments under the Real Property Act. They also prepare contracts for the sale or purchase of land. That is a *pro forma* contract which is generally acceptable. Whilst in a minority of cases there may be some problem for clients, the Government was not inclined to limit the work currently performed by land brokers and agents. This amendment clarifies the situation.

Amendment carried.

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

Lines 33 to 40—Leave out paragraph (o) and insert paragraph as follows:

*(o)* an agent licensed under the Land and Business Agents Act, 1973-1979, being the employer of a legal practitioner or licensed land broker from charging a fee for the preparation of an instrument of a kind mentioned in paragraph (m) or (n) where—

(i) the instrument is prepared by the legal practitioner or licensed land broker; and

(ii) the agent is authorised by the Land and Business Agents Act, 1973-1979, to charge a fee for the preparation by the legal practitioner or licensed land broker of instruments registrable under the Real Property Act, 1886-1980;

Once again, this amendment tidies up the areas of responsibility of agents and land brokers and the work which they are currently authorised to undertake under the Land and Business Agents Act and the Real Property Act.

Amendment carried.

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

Page 15, lines 39 to 41—Leave out all words in these lines and insert definition as follows:

'business' means a business as defined by the Land and Business Agents Act, 1973-1979:

It is only necessary to define 'business' as it is defined in the Land and Business Agents Act. It is not necessary to define 'acquisition' and 'disposal', because their meanings are clear for the purposes of the Bill.

Amendment carried; clause as amended passed.

Clause 22 passed.

Clause 23—'Unlawful representation'.

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

Clause 23, page 16, line 30—Leave out 'practise of the law' and insert 'practice of the law (otherwise than as permitted by this Act, or as may be authorised by the society)'.

This amendment seeks to clarify and qualify the reference to the practice of the law. It creates an offence where a person is practising otherwise than as permitted by the Act or authorised by the society. Certain provisions of the Bill allow directions to be given by the society as to the way in which a practice will be carried on. Once again, this amendment tidies up a drafting deficiency.

**The Hon. K. L. MILNE:** Does this mean that the society can make a ruling on what is and what is not legal practice?

**The Hon. K. T. GRIFFIN:** No, it relates largely to incorporated practices and the form in which a practice may be carried on. It does not regulate what is or what is not legal practice.

Amendment carried; clause as amended passed.

Clause 24 passed.

Clause 25—'Companies not to practise in partnership.'

**The Hon. C. J. SUMNER:** This clause was not contained in the 1976 legislation, and I wonder why it is necessary now. Does the Attorney think it is appropriate for a company that is a legal practitioner to enter into a partnership with another person? It is interesting to note that the clause refers to 'any other person'. That does not necessarily mean another legal practitioner. Does that mean that a company which is a legal practitioner will be able to enter into a partnership with a person who is not a

legal practitioner? I would have thought that that was contrary to the scheme of the Act. What is the justification for it?

**The Hon. K. T. GRIFFIN:** There is no provision in the Bill which prevents a legal practitioner company from entering into a partnership with any other legal practitioner company. There is nothing to prevent such a company also being in partnership with any other legal practitioner. It was intended that there should be some constraints upon this sort of practice, but we did not want to prohibit it absolutely. It was decided that it should be allowed only if it was approved by the Supreme Court. At this stage I cannot envisage where the Supreme Court would authorise that, but there may be future cases. It was believed to be important that, rather than making an absolute prohibition, there should be this flexibility of supervision by the Supreme Court.

**The Hon. C. J. SUMNER:** I think the Attorney is saying that perhaps one company that is a legal practitioner may wish to enter into partnership with another company that is a legal practitioner or a single practitioner; if that is the intention, it is certainly not what the clause says. It says that the company may enter into partnership with any other person subject to the authorisation of the Supreme Court. The 'any other person' could be an accountant or his wife, and I would have thought that was contrary to the normal provisions. It is presently not possible for a legal practitioner to enter into a legal partnership with any other person, but the Attorney is now providing for that to happen, and this position has not been justified to Parliament. The Attorney's explanation does not provide justification for what is a departure from traditional principle. He should give a better explanation.

**The Hon. K. T. GRIFFIN:** 'Any other person' here must mean necessarily a company that is a legal practitioner or a person who is a legal practitioner. If the clause is not there at all then, because it is not prohibited, there could be these partnerships. I do not think that presently legal practitioners can be in partnership with any others, although in one of the more recent High Court cases—I think it was the Phillips case—it was permissible to assign interests in income. That was an accountancy practice, and I think it has been extended to all those professional areas so that income can be shared legally under the Income Tax Assessment Act. There are ways whereby that can be done even though the person with whom the income is shared does not hold a practising certificate, medical qualifications or whatever.

**The Hon. C. J. Sumner:** Are you supporting that?

**The Hon. K. T. GRIFFIN:** I am not supporting it—I am merely giving background. There is no mischief in this clause, which provides a useful brake on what would otherwise be an unimpeded opportunity to practise in partnership. Provision is made for supervision by the Supreme Court in all cases.

**The Hon. C. J. SUMNER:** This clause is more significant than the Attorney states because it permits legal practitioners to enter into partnership to practise the law with non-legal practitioners if the Supreme Court approves. It is subject to the authorisation of the Supreme Court, but it does not provide that it is to facilitate legal practitioners who are companies entering into practice with other companies who are legal practitioners. It simply provides that they may enter into partnership with anyone subject to the authorisation of the Supreme Court. The explanation provided is not satisfactory.

**The Hon. K. T. GRIFFIN:** Persons who carry on the practice of the law have to hold a practising certificate. Provided companies meet that requirement and have a practicing certificate, they can carry on the practice of the law. The clause was intended to deal essentially with legal practitioner companies joining together in partnership. Although one could provide a complete prohibition on such activity, I was not prepared to do that, because there may be appropriate occasions when two legal practitioner companies should be allowed to carry on in partnership.

**The Hon. C. J. Sumner:** What about a legal practitioner and a person who is not a legal practitioner? Do you approve? It refers to 'any other person'.

**The Hon. K. T. GRIFFIN:** It could have been said that it was any other company that was a legal practitioner or any individual who is a legal practitioner. It is a good drafting to say 'with any other person'. If one refers to the other provisions of the Bill, a person who does not hold a practising certificate would not be eligible to carry on a legal practice. If one is in a partnership which is carrying on legal practice and one has not a practising certificate, one is in breach of the Act. It is that simple.

Clause passed.

Clause 26—'Employment of legal practitioners by company.'

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

Page 17, line 18—Leave out 'or ten (whichever is the lesser number)'.

Some big legal firms in Adelaide employ a significant number of staff solicitors. If they want to take advantage of the legislation, they would not be able to comply, because they would have more than 10.

**The Hon. C. J. Sumner:** Make them directors.

**The Hon. K. T. GRIFFIN:** There are many occasions when they do not want to make them partners under the present system, and they are entitled to employ solicitors if they want to be employed but do not necessarily want to be partners. The provision will not prejudice the community at large or anyone else.

**The Hon. C. J. SUMNER:** There is no limit now on the number of legal practitioners who participate in a company.

**The Hon. K. T. Griffin:** There is no company.

**The Hon. C. J. SUMNER:** It was 20 but, under the present provision, there will be a capacity for enormous legal firms to be created. I suppose it is for the Attorney to work out whether that is desirable, but that is one effect.

**The Hon. K. T. GRIFFIN:** I think there can be up to 50 partners of a legal practice. It is 50 under the Companies Act. We can check that, but there is no limit on the number of employed solicitors that a partnership can have and that is what we are doing in this case. We can have any number of directors of a company but they can employ no more than double the number of directors as employed solicitors. I had not taken into account that there were large firms that employed more than 10. I thought that 10 or some other number might be appropriate but I think that a ratio of two to one is appropriate and will not prejudice anyone who deals with the firm.

Amendment carried; clause as amended passed.

Clauses 27 to 29 passed.

Clause 30—'Exemption from certain provisions of Companies Act.'

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

Page 17, line 35—After 'provisions of' insert 'Division III of'.

This is technical, to ensure that Division III is referred to as the division in which the incorporated legal practice is referred to.

Amendment carried; clause as amended passed.

Clause 31—'Disposition of trust moneys.'

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

Page 18, line 2—After 'he is given a' insert 'written'.

Clause 31 deals with the question of disposition of trust

moneys and it is in the part of the Act that deals with trust accounts and audit. My amendment would require that the direction be in writing before the legal practitioner could so deal with the trust moneys he has received on behalf of another person. That was in the proposed 1976 legislation and I believe that it is a necessary protection in the area of trust accounts and perhaps particularly necessary in view of recent controversy about taking costs out of trust account money.

**The Hon. K. T. GRIFFIN:** I accept the amendment.

Amendment carried.

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

Page 18—After line 15 insert paragraph as follows:

*(ea)* for making payments to the society under Part IV for the credit of the combined trust account;

Again, this just tidies up the purpose for which a legal practitioner may withdraw moneys from a trust account, and it authorises withdrawal for the purpose of making payment to the society under Part IV of the Bill. That has always been taken into account. We are recognising it by legislative effect.

**The Hon. K. L. MILNE:** What is a combined trust account and what is making payment to a society under it?

**The Hon. K. T. GRIFFIN:** The combined trust account is Part IV of the Bill. This really reflects what currently is the position in the Legal Practitioners Act. A legal practitioner is required to make a calculation presently on 1 July each year, I think, of the lowest balance that has been in the practitioner's trust account for the preceding year and then the practitioner is required to have credited to a combined trust account, which is administered by the banks and the Law Society, an amount which I think at present is two-thirds of the lowest balance during that year. Interest is paid by banks on the amount credited to the combined trust account. The interest is then paid to the statutory interest account. From the statutory interest account a proportion is applied to the guarantee fund and there is an appropriation to the Legal Services Commission.

It is really a means by which that large sum of money in lawyers' trust accounts which previously did not earn interest for anyone except the banks can be used to provide a guaranteed fund to cushion clients of defaulting solicitors against losses and also to contribute to the provision of legal aid in South Australia. The combined trust account is called that because it represents a proportion of the minimum balance in all lawyers' trust accounts for the preceding year to be especially allocated so that they will earn interest not for the lawyers but for the guarantee funds and legal aid.

**The Hon. K. L. Milne:** It still belongs to the solicitor's trust account?

**The Hon. K. T. GRIFFIN:** Yes. If, as a result of the withdrawal of those funds and the identification thereof for the purpose of earning income, the remaining balance within the solicitor's own trust account is nil, by a certain procedure that is established he can call upon the amounts that he deposited in the combined trust account.

**The Hon. K. L. Milne:** So it is a deposit?

**The Hon. K. T. GRIFFIN:** Yes, and it allows income to be earnt.

**The Hon. K. L. Milne:** But not for him?

**The Hon. K. T. GRIFFIN:** That is so.

Amendment carried.

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

Page 18, lines 24 and 25—

Leave out paragraph *(b)* and insert paragraph as follows:

*(b)* that enables the receipt and disposition of trust moneys to be conveniently and properly audited.

This is a different form of drafting which, I recollect, comes from representations made by accountants. It really reflects probably more accurately what accountants see as the appropriate way of reflecting in accounts all trust moneys, receipts, and dispositions of money.

Amendment carried.

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

Page 18, line 27—After 'that are' insert 'by virtue of a direction to which subsection (2) relates,'.

This amendment relates back to subclause (2) of this clause, and again ensures that loose ends have all been tied together. It is really just a drafting amendment.

Amendment carried.

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

Page 18, after line 28—Insert subclauses as follows:

(5a) Unless the Supreme Court otherwise approves:

*(a)* a legal practitioner shall not permit trust moneys to be intermixed with other moneys; and

*(b)* a trust account of a legal practitioner must be kept at a bank, or a branch of a bank, within the State.

(5b) An approval under subsection (5a) may be given upon such conditions as the Supreme Court thinks fit.

This amendment also arises from representations made by accountants. One must remember that accountants must audit the trust accounts of lawyers. It also deals with a situation where lawyers who are admitted to practise here live interstate and carry on a very small portion of their practice in South Australia. The amendment seeks to clarify what has been normal practice, so that the legal practitioner does not intermix his trust moneys with his own moneys. The amendment also provides that, where an interstate practitioner holds a practising certificate in South Australia, any moneys that he receives in relation to clients in South Australia must be kept within a bank account in this State.

**The Hon. K. L. Milne:** And audited in South Australia?

**The Hon. K. T. GRIFFIN:** Yes.

Amendment carried.

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

Page 18, line 29—After 'this section' insert 'or a condition imposed by the Supreme Court under this section,'.

This is a drafting amendment which relates back to the earlier provisions that allow the Supreme Court to give certain directions.

Amendment carried; clause as amended passed.

Clause 32 passed.

Clause 33—'Audit of trust accounts, etc.'

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

Page 19, lines 1 and 2—Leave out subclause (2).

Again, this amendment is in consequence of the change from accountants to approved auditors throughout the Bill. A number of these amendments follow because the Committee is dealing largely with trust accounts and audit matters. I doubt whether it is necessary for me to speak on all amendments, although I will indicate accordingly on those occasions where some explanation is necessary.

Amendment carried; clause as amended passed.

Clause 34—'Appointment of inspector.'

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

Page 19, after line 22—Insert new subclause as follows:

(4) In this section—'legal practitioner' includes a former legal practitioner.

This amendment ensures that the affairs of a legal practitioner who has died or who ceases to practise for other reasons are still subject to investigation.

Amendment carried; clause as amended passed.

Clause 35—'Obtaining information for purposes of audit or examination.'

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

Page 19—

Line 23—Leave out 'accountant' and insert 'approved

auditor'.

Line 24—Leave out 'or examination'.

Line 29—Leave out 'accounts'.

Lines 33 and 34—Leave out 'accountant or other person' and insert 'approved auditor'.

Line 38—After 'audit of that trust account' insert '(but the auditor shall not be required to produce his own working papers)'.

Line 42—Leave out 'accountant' and insert 'approved auditor'.

Line 45—Leave out 'accountant' and insert 'auditor'.

All of these amendments are largely consequential upon the change from 'accountant' to 'approved auditor' and really back up submissions that have been made by accountants.

Amendments carried.

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

Page 20—After line 3 insert subclause as follows:

(5) In this section—

'account' includes any record required to be kept under this Division in relation to the receipt and disposition of trust moneys:

'legal practitioner' includes a former legal practitioner.

This clarifies and defines 'accountant' and 'legal practitioner'.

Amendment carried; clause as amended passed.

Clause 36 passed.

Clause 37—'Confidentiality.'

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

Page 20, line 8—Leave out 'accountant' and insert 'approved auditor'.

This is merely a consequential amendment.

Amendment carried; clause as amended passed.

Clause 38—'Regulations.'

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

Page 20, after line 36 insert paragraph as follows:

*(ba)* exempting legal practitioners from this Division, or specified provisions of this Division, in respect of transactions of a specified class;.

There should be power to prescribe by regulation a situation where legal practitioners should be exempt from the necessity to keep a trust account and have it audited. That power is already available under the Legal Practitioners Act where a practitioner holds a practising certificate but does not practise. This amendment merely allows such an exemption to be included in the regulations.

Amendment carried; clause as amended passed.

Clauses 39 and 40 passed.

Clause 41—'Bill of costs to be delivered.'

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

Page 21, line 26—After 'specifying the amount of those costs' insert ', and describing the legal work to which the costs relate,'.

This clause provides that no legal practitioner shall bring an action for the recovery of legal costs unless his bill specifies the amount of those costs and has been delivered to the person liable to pay the costs either personally or by post addressed to that person at his last known place of business or residence. Clause 41 merely states that a practitioner has to send a bill specifying a total amount. That could simply be a one-line bill stating the amount of charges. This amendment provides for the account to prescribe the legal work to which the costs relate, and I believe that is reasonable. I believe a legal practitioner should be obligated to outline the work done and the cost of that work when forwarding bills.

**The Hon. K. T. GRIFFIN:** The Government has no real objection to this amendment.

Amendment carried; clause as amended passed.

Clause 42—'Taxation of legal costs'.

**The Hon. C. J. SUMNER:** I have a question in relation to subclause (4). What money will be made available to enable the Commissioner of Prices and Consumer Affairs to institute proceedings? Will this facility be made known and advertised in any way?

**The Hon. K. T. GRIFFIN:** No decision has been made about those two matters at this stage.

Clause passed.

Clause 43 passed.

Clause 44—'Control over trust accounts of legal practitioners.'

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

Page 22, line 31—Leave out 'believes' and insert 'suspects'.

Page 23—after line 35 insert subclause as follows:

(8a) The Society shall cause notice of the appointment, or the renewal or revocation of the appointment, of a supervisor to be published in the *Gazette*.

This clause deals with the appointment of a supervisor in relation to a legal practitioner who has died or for some other reason is unable to properly manage his business. Supervisors will have control over trust accounts of legal practitioners. I believe that this clause should be strengthened and that it should only require a suspicion on reasonable grounds before the Law Society has power to appoint a supervisor. It is not enough for the Law Society to have to wait to have reasonable grounds before it can act. This is an area where the society must act very quickly in some circumstances, so I believe that reasonable suspicion is appropriate.

**The Hon. K. T. GRIFFIN:** I am prepared to accept the amendment, although I believe there is very little practical difference between the two phrases.

**The Hon. K. L. MILNE:** How does one suspect that someone has died?

**The Hon. C. J. SUMNER:** This clause presently states that the society must have reasonable grounds before it can act. It is much more difficult to know things than it is to suspect them. I believe it is a potential hindrance to the swift operation of the procedures to appoint a supervisor. Whilst the Hon. Mr Milne may consider it to be a legal quibble, I believe that 'suspicion' is different from 'knowledge' or 'belief'. It is fair for the society to be able to act upon 'suspicion' provided it is on reasonable grounds, rather than having to have a belief or definite knowledge. It extends the capacity for the society to act expeditiously. I hope I have answered the question of the Hon. Mr Milne.

Amendment carried.

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

Page 23—After line 9 insert paragraph as follows:

*(ba)* the auditor (if any) of the trust account of the legal practitioner;

This amendment arises from the submission of accountants. When a supervisor has been appointed, the auditor ought to be notified, and this amendment implements that submission.

Amendment carried.

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

Page 23—After line 35 insert subclause as follows:

(8a) The society shall cause notice of the appointment, or the renewal or revocation of the appointment, of a supervisor to be published in the *Gazette*.

Clause 44 deals with the Law Society appointing a supervisor to have control over trust accounts of a legal practitioner who is not able for some reason or other to attend properly to the affairs of his practice. If the society is forced to take that action, notice should be provided to the community, not by publication in the daily press but by publication in the *Government Gazette* so that at least

there is some public knowledge of why it has been necessary to appoint a supervisor. This is another aspect of public accountability of the profession. The public has a right to know whether or not the society has seen fit to appoint a supervisor. Clients of a firm may wish to know. A supervisor may be appointed because of a significant breach of the law, and it is only fair, if this has occurred, for the client to know and to make decisions in relation to it.

**The Hon. K. T. GRIFFIN:** That puts the legal practitioner in a position of double jeopardy. The publication of a notice in the *Gazette* is as good as publishing it in the daily newspaper. Such a notice would be quickly communicated in the community and amongst clients that something has gone wrong. In subclause (1) *(a)* a supervisor is appointed if a practitioner has died, and in that case there is no problem with a notice in the *Gazette*. But if for any other reason a practitioner is unable to properly attend to the affairs of his practice—he may be sick—it could be disastrous to have such a notice in the *Gazette*. It could ruin him for life.

**The Hon. C. J. Sumner:** That's a bit stiff.

**The Hon. K. T. GRIFFIN:** There needs only to be a whisper in regard to a practitioner in any profession and people quickly compound the story and the practitioner's reputation is substantially affected if not ruined. He may just be in a mess in his office and guilty of delay.

**The Hon. C. J. Sumner:** Perhaps the public should know about that.

**The Hon. K. T. GRIFFIN:** It makes the punishment fit the crime before the crime is proved. It is shortsighted and demonstrates an unreal approach. If a notice is published in the *Gazette* people will think the worst.

**The Hon. C. J. Sumner:** If he is sick, give the reason, but what if he has ticked off with $100 000? People should know about that.

**The Hon K. T. GRIFFIN:** Different provisions then apply. I have given good reasons why notice ought not to be given of such an appointment.

**The Hon. C. J. SUMNER:** The Attorney has given good reasons why notice should be given. If a practitioner is in a mess in his practice and has had a series of delays and cannot cope, members of the public should know in order to make their own judgment about whether to consult that practitioner. The public should know if there have been serious irregularities about trust funds held by the practitioner. If a practitioner has been ill, the reason for intervention could be explained in the notice. If a supervisor was appointed merely because a practitioner could not attend his office for two or three weeks, that would not have any adverse impact on his practice, and I doubt whether the press would be interested in those reasons. But the press, the public and clients would be interested if a supervisor is appointed because of irregularities in trust accounts through delays or the like. I cannot see any harm in such notification. I can only see public good—the public would know.

The Committee divided on the amendment:

Ayes (7)—The Hons. Frank Blevins, G. L. Bruce, J. R. Cornwall, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Noes (8)—The Hons. J. C. Burdett, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. B. A. Chatterton, C. W. Creedon, and N. K. Foster. Noes—The Hons. M. B. Cameron, J. A. Carnie, and D. H. Laidlaw.

Majority of 1 for the Noes.

Amendment thus negatived; clause as amended passed.

Clause 45—'Appointment of manager.'

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

Page 23, line 42—Leave out 'believes' and insert 'suspects'.

The clause deals with the appointment of a manager, and my amendment is for the same reason as that concerning a similar amendment that was acceptable to the Government in regard to appointing a supervisor over trust accounts. It means that the Law Society can act on a reasonable suspicion.

**The Hon. K. T. GRIFFIN:** I accept the amendment.

Amendment carried.

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

Page 24.

Line 16—Leave out 'and'.

After line 17—Insert—

and

*(c)* the auditor (if any) of the trust account of the legal practitioner;

Again, that relates to notice being given to the auditor when a manager is appointed.

Amendment carried.

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

Page 24—After line 30 insert subclause as follows:

(5) The society shall cause notice of the appointment of a manager to be published in the *Gazette*.

The Attorney-General seems to want to shroud the appointment of managers and supervisors with excessive secrecy and I believe, as I did in the case of the appointment of the supervisor, that where the society appoints a manager, notice of it should be given in the *Gazette*.

**The Hon. K. T. GRIFFIN:** I have spoken at length on the appointment of the supervisor and I do not think I need to reiterate the points, except to say that such notice of appointment of a manager is even more serious than that of a supervisor.

Amendment negatived; clause as amended passed.

Clauses 46 to 50 passed.

Clause 51—'Right of audience.'

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

Page 26, lines 15 and 16—Leave out 'or a legal practitioner who is in the full-time employment of any such legal practitioner' and insert 'or a legal practitioner who is acting in the course of his employment by such a legal practitioner.'

The clause deals with the right of audience that legal practitioners have before courts and tribunals of the State, and it sets out who is entitled to practise before those courts or tribunals. One of the categories of people who go before any courts is a legal practitioner who is practising the profession of law as a principal for a legal practitioner and who is in the full-time employment of any such legal practitioner.

I believe that that is unduly restrictive. There could be situations where a person was not in the full-time employment of another legal practitioner. A person may be employed for four or five hours a day by the legal practitioner. I do not believe that that would be considered full-time employment but that employee would not have a right of audience before the Supreme Court. One could imagine the situation of a housewife who had to return to work with a legal firm because of her obligations to her children and did not wish to resume full-time employment but wished to work, say, from 10 a.m. to 3 p.m. or 4 p.m. As I read this provision, she would be excluded from appearing before the courts.

I think it is too restrictive and not what the Attorney intended. I would have thought he intended that a person who attended before tribunals was not a person who had some other occupation, such as a company director, and was employed outside the legal profession. My amendment would allow a part-time employee of a legal

practitioner to appear before courts, provided the person was not carrying out some other occupation.

**The Hon. K. T. GRIFFIN:** I have some sympathy with the principle that the Leader is putting. I think it certainly was intended that the employment need not necessarily be full-time employment but employment with only that legal practitioner so that it did not encompass a person who was a part-time lawyer, a part-time accountant, and a part-time employee of someone else.

I do not think it really applies to persons such as members of Parliament, who are not really employed by anyone else. There may be some philosophical debate on that, but let us not embark on that matter at this hour of the morning.

The problem with the amendment is that it runs the risk of opening up an opportunity for the Supreme Court, when an employee attends before it, to require the principal to attend that court to establish that the employee is acting in the course of that employment. We certainly want to avoid that, because some technical constructions have been put on the present Legal Practitioners Act which has meant that employees have not had a right of audience.

I suggest that we might oppose the amendment, and I will give an undertaking that later today, after taking advice from the Parliamentary Counsel, we could recommit the clause and deal with this problem.

**The Hon. C. J. SUMNER:** I agree with that.

**The Hon. K. L. MILNE:** That is a good idea, and I was going to suggest it myself. However, why could we not say 'or a legal practitioner who is in the full-time or part-time employment of any such legal practitioner' or even 'substantial part-time employment'? Is it not as simple as that?

**The Hon. K. T. GRIFFIN:** I do not think that it is as simple as that. I was making the point that it was intended to cover a person who was employed, whether full-time or part-time, as a legal practitioner. I made the point that someone might be a part-time lawyer, accountant or salesman.

**The Hon. K. L. Milne:** But you have not said that here.

**The Hon. K. T. GRIFFIN:** I know. I am suggesting that, in order to save time, the amendment not be passed. I will take advice on the concept which I am enunciating and which I believe is similar to that being enunciated by the Leader of the Opposition, and get it put into a form of amendment that we think is appropriate and that does not have the possible difficulties of the amendment now before the Committee. We can then recommit the clause and deal with the amendment later today. If honourable members do not like the amendment, it would not be my wish to stifle debate on it. However, I think that we are fairly close to agreement on the principles.

Amendment negatived; clause passed.

Clause 52—'Professional Indemnity Insurance Scheme.'

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

Page 27, after line 32—Insert paragraph as follows:

*(ea)* exempting arbitration agreements that are related to the arbitration of disputes between legal practitioners and insurers in relation to professional indemnity insurance from any statutory provision that would, apart from the exemption, have the effect of invalidating such an agreement or any provision of such an agreement;.

I believe that this clause is important, because under the professional indemnity policy disputes may arise between a practitioner and the insurer, and it would be inappropriate for that dispute to be aired in a court that is open to the public. It is more appropriate for it to be dealt with by arbitration. If it was to be aired in public, it would necessarily mean that what would otherwise be confidential affairs of the client would have to come out in public, and that is not desirable in the general area of confidentiality between solicitor and client.

Amendment carried.

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

Page 27, after line 42—Insert definition as follows:

'legal practitioner' includes a member of the faculty of law of a university:

This amendment ensures that members of the Faculty of Law at the university can be members of the professional indemnity scheme in so far as they give opinions for which they may be liable in negligence.

Amendment carried; clause as amended passed.

Clause 53—'Duty to deposit trust moneys with the society.'

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

Page 29, line 13—After 'that day' insert '(which balance is to be determined by reference to a bank statement)'

This amendment arises out of submissions made by accountants and is designed to clarify what is meant by a balance in so far as a trust account is concerned. It relates that balance to the balance on the bank statement.

Amendment carried.

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

Page 29, line 18—After 'account' insert '(which balance is to be determined by reference to a bank statement)'.

This amendment is consequential on the amendment that has just been carried.

Amendment carried.

**The CHAIRMAN:** A typographical error has been noticed in line 20. It will be corrected.

Clause as amended passed.

Clauses 54 and 55 passed.

Clause 56—'The Statutory Interest Account.'

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

Page 31, lines 23 and 24—Leave out 'or for any purpose approved by the Attorney-General and the society'.

This provision deals with the Statutory Interest Account, into which moneys earned on the combined trust account are paid. It provides for a guarantee fund to assist people who have been adversely affected by defalcation and the like by members of the legal profession. It deals with moneys which are paid to the Legal Services Commission for legal aid. Subclause (6) provides that, if at any time the amount of money in a guarantee fund exceeds a specified amount, the excess is to be paid to the Legal Services Commission by the society, or may be applied for any other purpose approved by the Attorney-General and the Law Society. My amendment deletes the words 'or for any purposes approved by the Attorney-General and the Society'.

That would mean that, if there were any excess funds in the statutory interest account which exceeded what was necessary for the guarantee fund, that excess should be paid to the Legal Services Commission, which would provide more money for legal aid. Much of the money which goes to the Legal Services Commission for legal aid at the moment comes from interest on trust accounts.

We believe that, if there is an excess of funds to cover the guarantee, that excess should automatically go to the Legal Services Commission to be used for legal aid. Does the Attorney-General contemplate using it for any other purpose?

**The Hon. K. T. GRIFFIN:** If there is agreement between the Law Society and the Attorney-General there would be no problem. If there is no agreement, the excess would automatically be paid to the Legal Services Commission. If there was a surplus, it is envisaged that it could be used for the development of a legal practice

course or for post-graduate legal education, or for any other area which would enhance the capacity of legal practitioners and students at law to keep pace with current legal developments. It is not intended to use the excess for other areas, but it would be useful to have this authority. I doubt whether there will be any such excess for many years.

Amendment carried; clause as amended passed.

Clauses 57 to 69 passed.

Clause 70—'Quorum, etc.'

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

Page 37—After line 25 insert subclause as follows:

(6) The committee shall not meet to transact business on premises of the society.

This clause relates to the investigation and inquiry of the disciplinary committee and the establishment of a Legal Practitioners Complaints Committee. This clause specifically deals with the quorum and other procedural requirements of that committee. My amendment provides that the committee should not meet and transact business on premises of the society. I believe that the committee should be seen to be independent of the Law Society. The constitution of a complaints committee involves three lay members; at least there is a potential for three lay members out of a membership of seven.

It is important for the complaints committee to be seen by the public as independent of the society and the profession. In that way it would be able to carry out its task and investigate complaints without the accusation that its lawyers are investigating complaints against other lawyers and because of that the investigation could not be carried out satisfactorily. I believe that this degree of independence is vital for public confidence in the committee. Concern has been expressed about the way that complaints have been dealt with in the past. I believe that the establishment of this committee is a significant advance. However, if it is to get off on the right foot it should establish some degree of independence so that the complaints can be dealt with properly and can be seen to be dealt with in a manner independent of the professional organisation which represents lawyers. This is one aspect of that independence, and it is followed up in subsequent amendments.

**The Hon. K. T. GRIFFIN:** I oppose the amendment. I believe that there may well be some administrative difficulties, because one could envisage a number of day-to-day administrative matters being undertaken in conjunction with the Law Society, such as the use of dockets and documents available through that society. If the committee was not able to transact business on the premises of the Law Society, if that were determined to be an appropriate course once the new scheme was up and running, then I think it would be unfortunate to place an embargo on the committee. I believe the committee should be able to meet where it thinks it is appropriate. On some occasions it may decide that it is appropriate to meet on premises of the society, and on other occasions on other premises. It may be appropriate for the committee to have some of its administrative functions undertaken by the Law Society staff. All of these matters will have to be worked out. I think it would be a pity if an embargo were placed on the committee.

The Committee divided on the amendment:

Ayes (8)—The Hons Frank Blevins, G. L. Bruce, J. R. Cornwall, J. E. Dunford, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Noes (7)—The Hons J. C. Burdett, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, and R. J. Ritson.

Pairs—Ayes—The Hons. B. A. Chatterton, C. W. Creedon, and N. K. Foster. Noes—The Hons. M. B. Cameron, J. A. Carnie, and D. H. Laidlaw.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 71 passed.

Clause 72—'Secretary of the Committee.'

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

Page 37, lines 36 and 37—Leave out subclause (2) and insert subclauses as follows:

(2) The secretary shall be appointed by the Governor upon the nomination of the Attorney-General and shall hold office subject to the provisions of the Public Service Act, 1967-1981.

(3) The office of secretary to the committee may be held in conjunction with any other office in the Public Service of the State.

This clause deals with the appointment of a secretary to the complaints committee, and my amendment gives expression to the same principle to which I referred in the previous amendment. The committee should be seen to be independent of the profession in this area. Presently the society is to appoint a secretary with the approval of the Attorney, but we believe that the secretary should be appointed by the Governor upon the nomination of the Attorney and he should be a public servant. Any public servant would hold this office of secretary to the committee in conjunction with other offices that he may hold in the service. There would then be a person who would be independent of the society who would be responsible for carrying out the investigations and directions of the committee. It is important for the public to have confidence in the committee, and that it can have confidence in the fact that inquiries are being carried out independently and thoroughly. The appointment of a public servant would ensure that public confidence.

**The Hon. K. T. GRIFFIN:** I oppose the amendment. The last thing we want is to establish the position of secretary to the committee as a Public Service position. It is important to have some flexibility in the appointment of a secretary who does not have a significant public presence. If the committee meets on premises other than those of the society, that independence will be visible. There is no difficulty with the clause as it stands. The appointment cannot be made without the approval of the Attorney, which is where the safeguard rests.

Amendment negatived; clause passed.

Clause 73 passed.

Clause 74—'Functions of the Committee.'

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

Page 38, line 13—Leave out 'counsel' and insert 'such persons as it thinks fit'.

It may be that the committee will want some one other than counsel to assist in carrying out its functions. It may require an accountant, and it ought to have the ability to appoint such a person. That is the reason for the amendment.

Amendment carried; clause as amended passed

Clause 75—'Power of delegation.'

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

Page 38, lines 17 to 19—Leave out all words in these lines and insert 'to any person'.

I take the view that the committee should have a broad power of delegation, which is the reason for this amendment.

Amendment carried; clause as amended passed.

Clause 76—'Investigations by Secretary.'

**The CHAIRMAN:** Both the Attorney and the Hon. Mr Sumner wish to move amendments and, whilst the Hon. Mr Sumner wishes to insert a new paragraph *(ba)* after line 26, the Attorney-General's amendment is to leave out

subclause (1) and insert a new subclause (1). I propose to put the question 'That the words proposed to be struck out stand part of the clause.' If they stand, the Hon. Mr Sumner can move to insert the new paragraph *(ba)*. Consequently, I will now ask both members to discuss their amendments before putting the case for vote.

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

Page 38, lines 24 to 29—Leave out subclause (1) and insert new subclause as follows:

(1) The Committee may of its own motion, and shall at the direction of the Attorney-General or the Society, make an investigation into the conduct of a legal practitioner.

I take the view that, rather than the secretary making an investigation, the committee should exercise that responsibility, having the power to delegate to any person. My proposal is quite simply that the committee may, of its own motion, and shall, at the direction of the Attorney-General or the society, make an investigation into the conduct of a practitioner. It is the committee's responsibility, not that of the secretary.

**The Hon. C. J. SUMNER:** I have not any great argument with that in principle. I suppose it is the committee that ought to direct the secretary to carry out the investigations and it ought to be the Attorney or the society that in appropriate cases directs the committee. There could be an amendment to the Attorney's amendment. I would not seek an amendment of the clause but would seek to insert in the Attorney-General's amendment the words 'or the Ombudsman' after the word 'society' in the Attorney-General's amendment. I move:

To amend the Attorney-General's amendment by inserting the words 'or the Ombudsman' after the word 'Society'.

If my amendment were carried, new subclause (1) would read:

The committee may of its own motion, and shall at the direction of the Attorney-General or the Society or the Ombudsman, make an investigation into the conduct of a legal practitioner.

**The Hon. K. T. Griffin:** What has the Ombudsman got to do with it?

**The Hon. C. J. SUMNER:** He knows about Government and semi-government activities. The Law Society is a statutory body. The Complaints Committee is a statutory body with the duty of carrying out investigations into the activities of legal practitioners. Many of these complaints could be taken to the Ombudsman, and I believe it is just another aspect of providing some additional public surveillance in anticipation of the activities of the committee and giving another avenue to get complaints investigated.

**The Hon. K. T. GRIFFIN:** I cannot accept the involvement of the Ombudsman in complaints against private legal practitioners by their clients. That is an incredible extension of the authority of the Ombudsman. The Ombudsman has authority under the Ombudsman Act to investigate Government, semi-government or local councils. He has no authority under the Ombudsman Act to investigate the private affairs of any professional person or the client of any professional person. To give the Ombudsman this power would be a dramatic departure from the role of the Ombudsman not only in Australia but in any jurisdiction in the world where there is an Ombudsman. It is not even an act of the Law Society that he is to investigate. It would be an action by a private legal practitioner and, if that is not Big Brother, I do not know what is.

**The Hon. C. J. SUMNER:** It is absurd to make an allegation that the Ombudsman is Big Brother. All this means is that the Ombudsman would be another avenue whereby complaints could be fed into the committee. It does not mean that the Ombudsman would decide what conclusions the committee would come to. It is another conduit pipe about complaints.

**The Hon. J. C. BURDETT:** I oppose the amendment. This has nothing to do with the Ombudsman, whose sole role is to investigate governmental and semi-governmental matters. There is no way in which this amendment is acceptable. We already have a complaints committee, on which there is lay representation. We have a lay observer on the tribunal, and it is sufficient to have lay persons with some ability to feed something into the system.

**The Hon. K. L. MILNE:** I feel the same way. It would be a mistake to write into the Act in this way a provision that the Ombudsman will have a part to play. If an aggrieved person wished to test a matter to see whether a complaint could be referred to the Ombudsman, he could test it under the Ombudsman Act. However, it would be a great mistake to bring a third party, a non-lawyer, into the professional process that we have got here.

The Hon. Mr Sumner's amendment to the Attorney-General's amendment negatived.

The Attorney-General's amendment carried.

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

Page 38, line 30—Leave out 'Secretary' and insert 'Committee'.

This amendment corrects the proposal so that it is the committee, and not the Secretary, that has the responsibility.

Amendment carried.

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

Page 38, line 31—Leave out ', the Committee'.

Under this amendment, no direction shall be given to the committee under this section unless the Attorney-General or the Society as the case may require has reasonable cause to suspect. This is consistent with the other amendments. If the words 'the committee' are left in, it will involve the committee giving itself directions, and that is inappropriate.

**The Hon. C. J. SUMNER:** I raised a query in the second reading debate regarding clause 76 (2), namely, regarding whether there was conduct which was not technically unprofessional within the definition but which might require investigation by the committee. In other words, there may be complaints about matters against practitioners, which complaints may not amount to unprofessional conduct but may nevertheless be such as to require investigation.

I think I put the example of a combination of acts which, on their own, may not constitute unprofessional conduct but which, when taken together, would. There may be other examples of conduct which did require investigation but which did not involve unprofessional conduct within the terms of the proposed Bill.

**The Hon. K. T. GRIFFIN:** I must confess that it is very difficult to be specific. I would think that the committee, if it received a complaint of unprofessional conduct, might well move to investigate it under clause 76 if there was a *prima facie* case. However, the functions of the committee are not just investigative; they are also consultative, and, if the committee is to do its job and establish its credibility, I do not think that it will be able to refuse very easily an opportunity to investigate where a complaint of unprofessional conduct has been made.

The protection given in clause 76 (2) is that the Attorney-General of the day and the society cannot give directions unless there is reasonable cause to suspect that the practitioner is guilty of unprofessional conduct. I think that that is an appropriate protection.

Amendment carried.

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

Page 38, lines 34 and 35—Leave out 'purpose of carrying out an investigation under this section, the Secretary or a person authorised by him,' and insert 'purposes of an investigation, a person authorised by the Committee to exercise the powers conferred by this subsection'.

This amendment accommodates the change of emphasis from the Secretary to the committee undertaking the investigations.

Amendment carried.

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

Page 39, lines 2 and 3—Leave out 'the Secretary or a person authorised by him' and insert 'an authorised person'.

Amendment carried.

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

Page 39, line 3—Leave out 'this section' and insert 'subsection (3)'.

Again, this is merely a matter of clarifying the drafting.

Amendment carried.

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

Page 39—

Line 7—Leave out 'the Secretary or'.

Lines 11 and 12—Leave out subclause (5).

These amendments are consistent with the change from the Secretary to the committee.

Amendments carried; clause as amended passed.

Clause 77—'Report upon investigations.'

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

Page 39—

Line 13—Leave out 'Subject to subsection (2), where' and insert 'Where'.

Lines 17 and 18—Leave out subclause (2).

This clause provides for the committee, when it is satisfied that evidence of unprofessional conduct has been found, to report the matter to the Attorney-General and the Law Society. Subclause (2) states that 'a report need not be made under subsection (1) where the subject matter of the complaint has been successfully resolved by conciliation'. I propose that a report ought to be made in all circumstances to the Attorney-General and the Law Society where a case of unprofessional conduct exists. As this clause presently exists it could be used in a situation where unprofessional conduct has been found but has resulted in conciliation between a practitioner and a client and the matter has been resolved to the client's satisfaction. However, I do not believe that the matter should end there. As the clause stands there would be no compulsion to report the findings to the Law Society or the Attorney-General, and it would remain within the confines of the complaints committee. There could be a number of unprofessional acts of misconduct which on their own may not be particularly significant, but when put together would represent a course of conduct which should be reported.

A later amendment also proposes that the complaints committee should make a public report on its activity. If the committee had to make a public report my concern would not be as great, because the committee could at least indicate the sorts of matters it had investigated and report on what action had been taken. I believe that a report should be made even when the matter has been resolved by conciliation. The conduct of a practitioner is serious, and if there is any unprofessional conduct it should be made known to the Attorney-General and the Law Society.

**The Hon. K. T. GRIFFIN:** I cannot support this amendment, because many trivial matters which are the subject of complaints are resolved very quickly. Some of those complaints are the result of a personality difference between the solicitor and the client.

**The Hon. C. J. Sumner:** I am referring to the report where there is evidence of unprofessional conduct. The committee has to decide that unprofessional conduct exists.

**The Hon. K. T. GRIFFIN:** Where there is delay, that in itself might be used as evidence towards establishing unprofessional conduct. If the delay is resolved through either the termination of instructions, through conciliation or in some other way, that could be regarded as rather trivial. This clause endeavours to avoid the expense and work involved in preparing reports in those sorts of matters. If the matter is resolved by conciliation, and it is a matter of substance justifying the laying of a charge of unprofessional conduct, that is not the end of the matter.

**The Hon. C. J. Sumner:** They do not have to report anyway.

**The Hon. K. T. GRIFFIN:** It will be taken further in the disciplinary process. The lay observer has the power and responsibility to gain access to all these matters. I believe that the lay observer will periodically make his own inquiries through the complaints committee and peruse the dockets. If he is not satisfied, the matter can be taken further. Therefore, there is a check and balance and we will not create unnecessary work in circumstances where reports are not necessary.

**The Hon. C. J. SUMNER:** I do not believe that the preparation of a report would require that much work by the committee. This type of provision could lead the committee and the whole system into disrepute. There could be an allegation of covering up a particular complaint. Surely if a practitioner is guilty of unprofessional conduct it is a serious matter. I do not believe that there are such things as trivial instances of unprofessional conduct. If there is unprofessional conduct, and it is found to be unprofessional by the committee, then I believe that there ought to be an obligation to report.

While it should be possible to resolve the issue by conciliation, we should ensure that there is no suggestion of complaints being covered up. We should also ensure that the Law Society and the Attorney-General are made aware of any unprofessional conduct. Therefore, the report procedure should be obligatory.

**The Hon. K. L. MILNE:** Admittedly I am looking at this matter through the eyes of another profession, but my profession is just as serious about its disciplinary decisions as is the Law Society. We have to be, and I am talking about the Institute of Chartered Accountants. If it had reports and went on with such endeavours on minor matters, they would never stop. A man's career can be wrecked and when that threat exists that is when the strain is greatest. One must help such people and not frighten them all the time. It is fashionable to sue auditors, lawyers and medical practitioners, but they need support. I refer to the privacy of a professional investigation. It is not like a court, and it does not pretend to be a court. Here one's peers make a judgment from the rules and ethics that are known. If they do not want the matter reported, it should not be reported. It is up to the society. It is my view, and I hope that it is other members'.

**The Hon. C. J. SUMNER:** I take it from the discourse of the Hon. Mr Milne that he does not favour my amendment. He seems to think that somehow the professions are comprised of people who should float around in the clouds untouched by human hands. In view of this, I will not proceed with my amendment, although it should not be taken as an indication that I do not feel strongly on the matter.

Amendment negatived; clause passed.

Clause 78—'Establishment of the tribunal.'

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

Page 39, lines 26 to 28—Leave out subclause (2) and insert

subclause as follows:

(2) There shall be twelve members of the tribunal of whom—

*(a)* four shall be legal practitioners appointed by the Governor on the nomination of the Chief Justice;

*(b)* four shall be legal practitioners appointed by the Governor on the nomination of the society; and

*(c)* four shall be persons appointed by the Governor on the nomination of the Attorney-General.

It is proposed that the tribunal shall be comprised of 12 legal practitioners. My complaint about the composition of this tribunal is that it will be all legal practitioners who are appointed and who will be charged with the responsibility of judging their fellow practitioners. They will be doing that without the judicial independence that comes from a permanent appointment to a court. They will be doing it as practising members of the profession.

If the Attorney chose to appoint non-legal practitioners to the tribunal, then a third of the tribunal members would be lay people. The Attorney could appoint four as legal practitioners, but I believe they should be lay members because it is vital that the public should have confidence that investigations into complaints about the discipline of the profession are carried out in a proper and thorough manner. My amendment also provides that, where a panel of the tribunal is established to adjudicate on an issue, there should always be one of the persons appointed by the Attorney-General on that panel of three members, and there would always be one lay person to two legal practitioners on a panel. It is common for there to be lay people on tribunals which affect people's rights in a substantial way. The argument in favour is the question of public accountability and ensuring that investigations are carried out properly and that there is no suggestion of favouritism by one group of legal practitioners towards another legal practitioner that they are investigating.

**The Hon. K. T. GRIFFIN:** I oppose the amendment. In the second reading debate I gave what I regard as good reasons why we should retain this provision in the Bill. Tribunal members have a difficult task in assembling and assessing the facts before judging them. They should be persons who are not only qualified to undertake those tasks but who have had experience in them. The tribunal is akin to the present statutory committee which has worked exceptionally well in dealing with problems involving legal practitioners. The appointments are made upon the recommendation of the Chief Justice, and I have every confidence that he will make appropriate recommendations. The overriding safeguard is the involvement of the lay observer. It has worked well in Victoria and it should work well here.

Amendment negatived; clause passed.

Clause 79 passed.

Clause 80—'Constitution and the proceedings of the tribunal.'

**The Hon. C. J. SUMNER:** I do not intend to proceed with the amendment standing in my name.

Clause passed.

Clauses 81 to 84 passed.

New clause 84a—'Proceedings of the tribunal to be open to the public unless the tribunal otherwise orders.'

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

Page 43—After clause 84 insert new clause as follows:

84a (1) Subject to this section, a place in which the tribunal conducts its proceedings must be open to the public.

(2) Where the tribunal considers it desirable to excercise powers conferred by this subsection—

*(a)* in the interests of the administration of justice; or

*(b)* in order to prevent undue prejudice or undue hardship to any person,

it may, by order—

*(c)* direct that any persons specified (by name or otherwise) by the tribunal, or that all persons except those specified, absent themselves from the place in which the proceedings before the tribunal are being held during the whole or any specified part of the proceedings;

*(d)* forbid the publication of specified evidence, or of any account or report of specified evidence either absolutely, or subject to conditions determined by the tribunal; or

*(e)* forbid the publication of the name of—

(i) any party or witness;

or

(ii) any person alluded to in the course of proceedings before the tribunal,

and of any other material tending to identify any such person.

(3) When the tribunal makes an order under subsection (2) *(d)* or *(e)*, the tribunal shall report the fact to the Attorney-General and shall embody in its report of statement of—

*(a)* the evidence or name (as the case may be) forbidden to be published; and

*(b)* the circumstances in which the order was made.

(4) An order made under this section may be varied or revoked by the tribunal.

(5) An appeal shall lie to the Supreme Court against a decision of the tribunal to make, or not to make, an order under this section.

(6) The appeal shall be heard and determined as expeditiously as reasonably practicable.

(7) A person shall not contravene, or fail to comply with, an order of the tribunal under this section.

Penalty: Five thousand dollars.

This would provide that proceedings of the tribunal should be public unless the tribunal otherwise orders. It is regrettable that many of these issues that are important are not getting the consideration that they deserve because of the hour at which we are required to sit tonight—2.45 a.m. at this stage. There must be a better way of conducting the proceedings of Parliament than to have Parliamentarians sitting until almost 4 a.m., as we will be. The Federal Parliament has tried to resolve this problem, has definite cut-off times in the evening and sits in the morning. I believe that the Government ought to consider stopping this madness.

**The Hon. M. B. Dawkins:** What did you do when you were in Government?

**The Hon. C. J. SUMNER:** We did not sit the Parliament to such late hours as you do. Certainly, there were some late sittings, but the situation has got absolutely ridiculous.

**The CHAIRMAN:** Order! This would be an excellent subject for a debate at another time.

**The Hon. C. J. SUMNER:** I am really lamenting the fact that some of these issues are perhaps not getting the consideration they deserve, and I think it behoves the Government to try to do something about the matter. It could sit the Parliament for another week or have morning sittings. This is getting quite ridiculous.

One of the important issues that I do not think will be canvassed properly because of this situation will be whether the proceedings of this tribunal should be open. My amendment provides that, in general, proceedings should be held in public but it may be that, in the interests of justice or to prevent undue hardship to any person, the tribunal could order that certain people be removed,

certain publications be forbidden, and the like. In other words, it asserts the principle that the proceedings of the tribunal should be public but provides some exception.

It is a difficult question to decide whether these hearings should be public. The argument against it may be that the tribunal is hearing a complaint by an individual person and that the complaint is capricious and has no basis to it, and it would be wrong for the practitioner to have his name published in the press for what might be a comparatively minor offence. I believe my amendment covers that situation.

However, I think that if it were decided to prosecute a complaint before the tribunal the matter would be one of considerable seriousness. Complaints committee hearings will not be, and I do not maintain that they should be, but by the time the matter has got to the hearing, I believe, public hearing is desirable, with the safeguards in the amendment.

**The Hon. K. T. GRIFFIN:** I oppose the proposal. The disciplinary tribunal is halfway between the complaints committee and the Full Supreme Court. At present the statutory committee has very limited powers to impose penalties. This Bill gives to the disciplinary tribunal the power to fine, to make certain orders, and to suspend for a particular period, so it does have wider powers than the statutory committee has at present. I think that is desirable, because a number of matters that will go to the disciplinary tribunal are not serious enough for the full impact of the Supreme Court and do not warrant striking from the roll.

I think it would be wrong if this forum became a public forum where the practitioner's whole future could be wrecked by something that is not an offence and is not proven until the conclusion of the court. Again, a lay observer will, I think, act as a safeguard if the community should be concerned about how the tribunal operates. There have never been any complaints about the statutory committee and about how it has referred matters to the Supreme Court for action. I do not think there will be any complaints with the disciplinary tribunal.

New clause negatived.

Clauses 85 to 87 passed.

Clause 88—'Rules of the Tribunal.'

**The Hon. C. J. SUMNER:** I wish to ask two questions about the procedures of the tribunal. First, will the complainant be entitled to legal representation before the tribunal? Secondly, will a complainant, where that complainant is an individual person, even if the complaint is being taken on his behalf by the Attorney-General or the committee, have the right to attend the hearings of the tribunal?

**The Hon. K. T. GRIFFIN:** I would think that would be covered by the rules made by the judges of the Supreme Court for the conduct of the tribunal. Certainly, the complainant at some stage would have to be present, if only to give evidence. I would think it not inappropriate that a lay complainant should be present, but I must say that that is a matter I had envisaged dealing with when rules for the conduct of the tribunal were being developed.

**The Hon. C. J. SUMNER:** I ask whether the Attorney will include a provision to that effect in the rules of the tribunal and also the question of legal representation.

**The Hon. K. T. GRIFFIN:** I am not prepared to give an unequivocal undertaking. However, I assure the Leader that, in drafting the Bills, the points that he has made will certainly be taken into consideration.

Clause passed.

Clause 89 passed.

Clause 90—'Lay observers.'

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

Page 45, lines 45 and 46—Leave out 'and may report to the Attorney-General on any aspect of the proceedings of the committee or the Tribunal' and insert 'and, where he is present at any such proceedings, he shall report to the Attorney-General on whether the proceedings were, in his opinion, fairly conducted and on any other aspect of the proceedings that should, in his opinion, be brought to the attention of the Attorney-General'.

This clause deals with an important part of the Bill, namely, the provision of lay observers. It provides that the Attorney-General may appoint suitable persons who are not legal practitioners to be lay observers. It also provides that the lay observer shall be entitled to be present at any proceedings of the committee or tribunal, and may report to the Attorney-General on any aspect of the proceedings of the committee or tribunal.

This is a significant and important part of the Bill, and I believe that we must ensure that the lay observer has the powers that he needs to carry out his tasks properly. My first amendment is to provide tha the lay observer must, where he has observed proceedings, report to the Attorney-General on whether those proceedings were fairly conducted, as well as on any other aspects of the proceedings that he believes should have been brought to the notice of the Attorney-General. The present provision is that the lay observer may report.

**The Hon. J. C. Burdett:** He has got the power.

**The Hon. C. J. SUMNER:** I realise that.

**The Hon. J. C. Burdett:** You said before that he didn't.

**The Hon. C. J. SUMNER:** The Minister has misunderstood me. I said that he may report to the Attorney-General, and that it is important that we ensure that a lay observer has the power properly to carry out his functions.

**The Hon. J. C. Burdett:** He's got it.

**The Hon. C. J. SUMNER:** He has not, as I will explain. We must ensure that the lay observer is properly armed with powers so that he can perform his functions under the Act. I made that general statement, and then turned to the specific question whether or not a report ought to be presented to the Attorney by the lay observer. I then said that under the present provision the lay observer may report to the Attorney-General.

I want to ensure that the lay observer does report to the Attorney, and I believe that, by placing that obligation on the lay observer, it will ensure that he carries out his functions adequately, that he is aware of what he is supposed to be doing, and that the Attorney-General can obtain regular reports about the activities of the complaints committee and the disciplinary tribunal.

**The Hon. K. T. GRIFFIN:** The amendment does not really credit the lay observer with any intelligence, because he is being appointed to perform a specific task. He has the specific responsibility of observing the proceedings and of being involved in the complaint resolving process. If there is anything there that the lay observer believes ought to be reported to the Attorney-General, he has that power.

To make it mandatory for the lay observer to report would place an unnecessary burden on him in circumstances where he may see nothing that needs to be commented on. In any event, because the lay observer is to be responsible to the Attorney-General, I would expect that any competent and responsible lay observer undertaking the obligations placed on him by the Act would want to report on a regular basis, not so much on each case, but on the general attitude towards complaint resolving procedures demonstrated by the complaints committee or the disciplinary tribunal. I frankly see the amendment as being quite unnecessary.

Amendment negatived.

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

Page 45, line 46—Insert subclause as follows:

(4) A complainant in proceedings before the committee or tribunal shall be entitled to make representations to the lay observer.

I should inform the Committee that I have moved my amendment in a form different from that which is on file. I have deleted the word 'directly', as I think that the use of that word in the original proposition could have been interpreted to mean that the complainant would in the first instance feel entitled to go directly to the lay observer.

That is not the intention of the amendment. It is the intention to make quite clear that the complainant has access to the lay observer at any point in the proceedings. Therefore, the complainant, if he felt that he was not being dealt with satisfactorily, could go to the lay observer and lodge his complaint, and the lay observer could then take whatever action he deemed necessary, attend the proceedings, and make his own assessment. I believe that this amendment is absolutely vital to the proper operation of the lay observer concept.

When I was talking about ensuring that we arm the lay observer with the authority to enable him properly to carry out his task, I was referring in general terms to this amendment, which provides that a complainant in any proceedings shall be entitled to make representations to the lay observer. The lay observer should not be someone who just floats around in mid-air and who attends some of these tribunals when he wants to, misses some of them, and has no contact with the actual complainants before the committees and tribunals.

I therefore consider that it is of crucial importance to the public confidence in the system that the complainant be given the access suggested in this amendment.

**The Hon. K. T. GRIFFIN:** I do not disagree with the principle of this amendment. However, one of my concerns is that if the access is unlimited the lay observer, rather than the committee, will become the first point of contact. I wonder whether the Leader of the Opposition might consider the proposal in a slightly different form, so that the complainant in proceedings before a committee or tribunal who is dissatisfied with the decision thereof shall be entitled to make representations to the lay observer.

That seems to be the crux of this particular difficulty. If the Leader does not want to consider this matter now, I would ask him to consider recommitting it. I really want to avoid the lay observer being burdened with all the complaints and being the first point of contact. I do not believe that is what the Leader has in mind. I do not disagree with the lay observer being accessible to complainants who are dissatisfied with the decision of a committee or tribunal.

**The Hon. C. J. SUMNER:** I do not share the fears held by the Attorney about the amendment. If complainants approached the lay observer as the first port of call, the lay observer would refer them to the complaints committee. The lay observer would only be involved after proceedings had begun. Obviously, the complaints committee would be the first port of call. In fact, the lay observer might be acting contrary to the Act if he did not refer complainants to the complaints committee in the first instance. Therefore, the lay observer would have no alternative but to refer complainants to the complaints committee in that situation.

**The Hon. K. L. MILNE:** I understand that the complaints committee includes three lay members, but that does not seem to be specified in the Bill. The Bill only refers to a lay observer. I do not think a committee should be mentioned, because we are dealing with a tribunal. Further, I do not believe the word 'directly' should be deleted. At some stage a complainant should be able to approach the lay observer. The Attorney has said that a complainant could approach the lay observer if the complainant was not satisfied with the tribunal's decision. Is the lay observer observing the committee as well?

**The Hon. K. T. Griffin:** Yes.

**The Hon. K. L. MILNE:** I think we should be careful not to give the lay observer too much influence. If the lay observer has to take on a lot of responsibility it will involve a lot of time and money. I support this measure in principle, but I believe that it should be recommitted.

**The Hon. C. J. SUMNER:** The lay observer would not participate in the proceedings of the committee or the tribunal, but would be entitled to be present at the proceedings of the committee or the tribunal. There could be up to three lay persons on the complaints committee, and they are entitled to participate in the deliberations and vote. The lay observer is only entitled to attend. The lay observer is independent and is crucial to this scheme of public accountability in the Act.

Amendment carried; clause as amended passed.

Clauses 91 to 94 passed.

Clause 95—'Payment of moneys to society.'

**The CHAIRMAN:** I point out to the Committee that this clause, being a money clause, is in erased type. Standing Order 298 provides that no question shall be put in Committee upon any such clause. The message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clause 96 passed.

Clause 97—'Regulations.'

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

Page 47, after line 33—Insert new subclause as follows:

(2a) Regulations may, with the concurrence of the society, be made under this section—

*(a)* declaring that in circumstances specified in the regulations the business of a company is to be regarded as being conducted in association with a legal practice;

*(b)* making special provision with respect to the keeping and auditing of the accounts of any such company; and

*(c)* regulating the conduct of business by any such company; and restricting the classes of transaction into which any such company may enter.

This clause enables regulations to be made with the concurrence of the society and to deal with companies interstate rather than in South Australia which act as trustee companies where clients' money is invested on clients' instructions. The difficulty is that often they work closely in association with the practitioners' practices.

Perhaps at some time in the future regulations will have to be made to regulate the use of these sorts of investment companies by legal practitioners where clients' moneys are involved. There are other companies which may come into vogue and which may also need to be regulated in respect to practitioners' practices, and this amendment provides power to do that with the concurrence of the society.

Amendment carried; clause as amended passed.

New clause 98—'Reports by the Society and Committee.'

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

Page 47, after clause 97—Insert new clause as follows:

98. (1) The society shall, on or before the thirtieth day of September in each year, report to the Attorney-General upon the operation of this Act during the financial year ending on the preceding thirtieth day of June.

(2) A report under subsection (1) must contain particular reference to the operation of Part IV.

(3) The committee shall, on or before the thirtieth day of September in each year report to the Attorney-General upon the work of the committee during the financial year ending on the preceding thirtieth day of June.

(4) The Attorney-General shall, as soon as practicable after his receipt of a report under this section, cause copies of the report to be laid before both Houses of Parliament.

This new clause provides for reports by the society and the complaints committee to the Attorney-General, who should lay the report before both Houses of Parliament. Reporting by the society is an important aspect of public accountability. The new clause provides for a general report by the society, and it would involve references to matters of public concern and regulation of the profession. There should be a report on the operation of the combined trust account, the statutory interest account and the guarantee fund. This is important: it provides that the complaints committee should report to the Attorney-General on its work. That is essential for public confidence in the scheme, that a general report of some kind is provided on how complaints are received, in what areas and the like, so that the public knows that the committee is carrying out its work. I can see no harm to anyone, especially the society, in the reporting procedure.

**The Hon. K. T. GRIFFIN:** I oppose the new clause. The statutory obligation on the society under this Bill is limited, and it would be inappropriate for it to have to present reports within specific times.

**The Hon. C. J. Sumner:** What about the complaints committee?

**The Hon. K. T. GRIFFIN:** We have the lay observer, who reports to me. It is inappropriate for such reports to be tabled in Parliament.

The Committee divided on the new clause:

Ayes (7)—The Hons. Frank Blevins, G. L. Bruce, J. R. Cornwall, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Noes (8)—The Hons. J. C. Burdett, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. B. A. Chatterton, C. W. Creedon, and N. K. Foster. Noes—The Hons. M. B. Cameron, J. A. Carnie, and D. H. Laidlaw.

Majority of 1 for the Noes.

New clause thus negatived.

Progress reported; Committee to sit again.

## MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Adjourned debate in Committee (resumed on motion).

(Continued from page 3772.)

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment. Committee's report adopted.

## COOBER PEDY (LOCAL GOVERNMENT EXTENSION) BILL

Adjourned debate on second reading.

(Continued from 2 June. Page 3660.)

**The Hon. FRANK BLEVINS:** The Opposition is happy to support the second reading. As the Minister has said, the Bill will be referred to a Select Committee. The measure is certainly an interesting proposal, and the Australian Labor Party looks forward to sitting on the committee and seeing whether we can assist the people of Coober Pedy.

Bill read a second time and referred to a Select Committee consisting of the Hons. Frank Blevins, J. A. Carnie, R. C. DeGaris, C. M. Hill, Anne Levy, and Barbara Wiese; the quorum of members necessary to be present at all meetings of the Select Committee to be fixed at four members and Standing Order 389 to be so far suspended as to enable the Chairman of the committee to have a deliberative vote only; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on the first day of the next session.

## LOCAL GOVERNMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 June. Page 3660.)

**The Hon. C. W. CREDDON:** This is a matter that should have been dealt with when we considered the Statutes Amendment (Valuation of Land) Bill in February this year. Somehow or other its effect on local government was not considered or thought of by the originators of the Bill. One would think that the Government or the Minister would canvass such matters as a new Act and/or amendments among his departments in order to determine who or what would be affected before introducing measures. If that had been done in relation to the Statutes Amendment (Valuation of Land) Bill, changes to the Local Government Act would have taken place in February and it would not be a matter that we would have to deal with twice in the past four months or at this hour of the morning.

One other comment I would like to make relates to councils that make their own assessment. It seems to me that we have a perfectly reputable Valuer-General's Department that is constantly assessing values around the State. In fact, these valuation are relied on by such bodies as the Engineering and Water Supply Department, the State Taxes Department, and the majority of councils. The Valuer-General charges a modest $1 per valuation to his customers and, if for some reason, such as a subdivision, a revaluation of certain areas becomes necessary within the five years, a further $1 per assessment is levied against the area that has to be reassessed. A rural council with 1 000 assessments would pay $1 000 and a small allowance of, say, $200 to cover reassessment throughout the five years, making a total payment of $1 200. I have inquired as to what private valuers charge and I find that the charges vary according to whether it is an unused block, a block with a house on it, a factory site, and so on, but never is the charge less than the Valuer-General's charge. In fact, it is likely to be three or four times as much.

Councils that are small and rate disadvantaged should look upon a saving in their site valuations as a means of allowing them to spend more of their rate money in the community. In fact, when councils wish to do work that is not being done by their own labour force, they are required to call tenders. Perhaps the same requirement should be applied to the subject of valuations. It is then more likely that more of the ratepayers will become aware of where their rate revenues disappear to in some councils. The Minister, in his second reading explanation, has said that this short Bill is consequential upon the provisions of the Statues Amendment (Valuation of Land) Act that this Parliament passed earlier this year, and we support it.

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

thank the Hon. Mr Creedon for his contribution to the debate. I simply point out to him that it is entirely the prerogative of a council whether it accepts valuations by the Valuer-General's Department or turns to valuers in private practice to have values assessed. The matter of cost is a matter that councils can consider when they are faced with the need for new assessments.

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

## ADJOURNMENT

At 3.35 a.m. the Council adjourned until Thursday 4 June at 2.15 p.m.