LEGISLATIVE COUNCIL

Tuesday 23 February 1982

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Community Welfare (Hon. J. C. Burdett)—

Pursuant to Statute—

Planning and Development Act, 1966-1981—Metropolitan Development Plan—Corporation of the City of Kensington and Norwood Planning Regulations—Zoning.

By the Hon. K. T. Griffin for the Minister of Local Government (Hon. C. M. Hill)—

Pursuant to Statute—

Friendly Societies Act, 1919-1975—Amendment of General laws—The South Australian United Ancient Order of Druids Friendly Society, The Independent Order of Oddfellows Grand Lodge of South Australia, The Friendly Societies' Medical Association Inc., Independent Order of Rechabites Albert District No. 83.

Town of Thebarton—By-law No. 50—Keeping of Dogs.

District Council of Crystal Brook—By-law No. 27—Traffic.

District Council of Willunga—By-law No. 35—Penalties.

By the Hon. K. T. Griffin for the Minister of Arts (Hon. C. M. Hill)—

Pursuant to Statute—

History Trust of South Australia—Report, 1980-81.

State Theatre Company of South Australia—Report, 1981.

QUESTIONS

USED CARS

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before directing a question to the Minister of Consumer Affairs about a used car deal.

Leave granted.

The Hon. C. J. SUMNER: The most recent report of the Commissioner of Consumer Affairs indicates again that the used car industry is the most troublesome area for consumers and that the purchase of a used car results in more consumer complaints than any other transaction. The situation has not been improved by the run-down in funds and staffing in the Department of Public and Consumer Affairs.

A very disturbing example has recently been drawn to my attention involving Gawler Datsun and Mr and Mrs Hass of Lyndoch. Mr and Mrs Hass were interested in purchasing a Ford F100, which was advertised at Gawler Datsun car yard for $8 500. They spoke to a Mr Kassan and told him that they had three vehicles which they would consider trading in if the valuation was satisfactory. A retail buyers vehicle order and agreement was signed by Mrs Hass but was only partly filled in. Gawler Datsun collected the three cars, and Mr and Mrs Hass were told that they would be returned in a couple of hours. The cars were not returned and indeed were subsequently sold. The cars still had personal belongings in them and the Hasses still had spare sets of keys. The valuation placed on the three cars was $4 200, which was quite inadequate and would not have been accepted by Mr and Mrs Hass.

The Ford F100 was to be approved by the R.A.A., but this has not been forthcoming. It has now been readvertised for sale for $11 892. The three cars sold by Gawler Datsun were security for a loan to Mr and Mrs Hass from A.G.C. That firm, a finance company, now requires repayment. In summary, Mr and Mrs Hass allege, first, that the agreement they signed was altered and filled in later by Gawler Datsun; secondly, that their three cars were sold without their permission (they have not signed registration transfer papers or received any money); and, thirdly, that they have not received the Ford F100, and its price has increased from $8 500 to $11 892.

Clearly they are in a desperate situation. They have had their three cars sold allegedly as a trade-in; they have not received the car that they were supposed to have bought; and they are now being required to meet the debt to A.G.C. Will the Minister investigate this situation as a matter of urgency?

The Hon. J. C. BURDETT: I will certainly investigate the situation as a matter of urgency. I note from what the Leader said that neither the people who reported this matter to him nor anyone else has been to see the Department of Public and Consumer Affairs. The usual process would have been for these people to go not to the Opposition but to the Department of Public and Consumer Affairs.

The Hon. N. K. Foster: They would get a 'no-go' from your department—you've wound it down.

The PRESIDENT: Order! The Hon. Mr Foster must come to order.

The Hon. J. C. BURDETT: The normal position is that, if a consumer approaches the department with a complaint, the department requires that, first, the consumer go back to the supplier to complain. It seems strange that this complaint has been brought to the Council instead of going through the usual channels of the consumer's going to the department and making a complaint; the department would then investigate the matter, consult the consumer and advise the consumer about what to do.

The Hon. C. J. Sumner: And how they can do it.

The Hon. J. C. BURDETT: Yes, and how they can do it. I repeat that to bring the matter before the Council is an extraordinary way to obtain the services of the Department of Public and Consumer Affairs. The proper way would have been for the constituent who approached the Leader to have first approached the department for assistance. As the matter has been raised in this unusual way, I will, as a matter of urgency, refer it to the department. When a matter is referred to the department through a member of Parliament the request receives priority. This matter will receive priority.

The Hon. N. K. FOSTER: I desire to ask a supplementary question. Do not members of the public have the right to approach any elected member of Parliament, including members of the Opposition? Was not that right exercised by this constituent of the Hon. Mr Sumner exercised correctly in every detail, ethically and having regard to all aspects of public responsibility? Is there not inherent in the Minister's answer to the Hon. Mr Sumner the suggestion that members of the public do not have a right to approach members on this side of the Council but that they should go to the Minister's run-down, worn-out Department of Public and Consumer Affairs to obtain some protection? The Minister is wrong and he knows it.

The Hon. J. C. BURDETT: I am not wrong. It is perfectly correct that a constituent can go straight to the Opposition if he wishes, if he has a consumer complaint. However, I suggest that the normal procedure, the procedure which is most likely to produce the least trouble for everyone and to produce the correct answer, is that a consumer who has a complaint should first go back to the supplier, because that is a prerequisite condition of the department. If the consumer does not receive satisfaction when he goes back to the supplier, he should then go to the Department of Public and Consumer Affairs, which was set up for that

very purpose. While I do not deny the right of any member to go straight to the Opposition, I suggest that the proper way is to go to the department in the first place and, if satisfaction is not received, then to go to the Opposition.

USED CAR DEALER

The Hon. C. J. SUMNER: I seek leave to make a brief explanation prior to asking the Minister of Consumer Affairs a question on the subject of another used car dealer.

Leave granted.

The Hon. C. J. SUMNER: The reason why consumers are reluctant these days to go to the Department of Public and Consumer Affairs with their complaints is that the service they get from that department has been downgraded since the change of Government.

Members interjecting:

The PRESIDENT: Order!

The Hon. C. J. SUMNER: The Minister has admitted, and it is on public record, that there has been a reduction in staff and funds to that department since the change of Government.

The Hon. C. M. Hill: There has been an improvement in standards.

The Hon. C. J. SUMNER: Furthermore, every member of Parliament who has some contact with consumer complaints realises that the number of complaints received from members of the public about the Department of Consumer Affairs and the way it handles matters has increased considerably over the past year or so. I pointed out in a previous question how consumer protection has been downgraded. A further example involves a Ms McNamara, who purchased a Fiat 124 sports car for $3 000 from Showground Cars last November or thereabouts. She has now been advised that the trade-in value of the vehicle is only $1 200 to $1 500.

The Hon. J. C. Burdett: Who advised her?

The Hon. C. J. SUMNER: I think that she received this information from another dealer. She has had little experience in purchasing cars but now believes she paid more than twice its value. Further, since November (that is, in three months) she has been able to drive it for a total of only two weeks. She is a sales representative and needs a car for her job. The vehicle was under warranty and should have been properly repaired. Ms McNamara had to take the vehicle back on numerous occasions and on each occasion there was still something wrong with it. She approached the Department of Consumer Affairs and was advised that the company had to repair the vehicle in the three-month warranty period. However, she found the attitude of the department 'negative' and 'complacent'. I do not blame the officers of the department, because the attitude of the Government to consumer protection is such that funds and staff have been cut and morale is low. This is an increasing complaint from consumers. Showground Cars put Ms McNamara to considerable trouble and inconvenience by fixing only one complaint at a time. Will the Minister investigate this matter as a matter of urgency and ensure that Ms McNamara's rights are protected?

The Hon. J. C. BURDETT: I will investigate the matter as a matter of urgency. The service supplied to consumers by the Department of Public and Consumer Affairs has never been better. This reflects credit on the officers in the department. I have noted from the files (and this applied before this Government came into office, as well as since) that individual consumers not satisfied with the service they get sometimes make extravagant claims. Regarding this particular complaint, it will be investigated. The usual practice has been that, when a constituent is not satisfied with the service he has received and goes to a member of Parliament, that member of Parliament contacts me.

The Hon. J. R. Cornwall: Discreetly, so that there is no adverse publicity.

The Hon. J. C. BURDETT: It appears that that practice has ceased. It is not a matter of being discreet. If a member of Parliament comes to me, I expect questions to be raised in the Council, but I have not had any of those questions. There has not been one case when a member of Parliament from either side of this Council or another place has been to me and has believed that a constituent has not received satisfaction and has then come to Parliament and told me that.

STAFF APPOINTMENT

The Hon. B. A. CHATTERTON: I seek leave to make an explanation before asking a question of the Minister of Community Welfare, representing the Minister of Forests, about a staff appointment.

Leave granted.

The Hon. B. A. CHATTERTON: The Minister of Forests is trying to distance himself from officers in the Woods and Forests Department who were implicated in the woodchip and the T.M.P. plant fiasco. One example was that the Minister refused to attend the farewell given to Mr Norm Lewis, who was one of the officers who wrote some of the fairly incriminating minutes that were a part of that whole sorry episode. Mr Tony Cole, who is Assistant Director, Harvesting, in the department was also involved in the woodchip fiasco. In fact, he was the officer asked by the department's director to investigate the infamous Merubini letter. It has now come to my attention that Mr Cole is in fact being victimised by the Minister because of his involvement. The Minister is refusing to make decisions about the future career of particular officers. He is not either accepting or rejecting recommendations; he is just not making decisions at all.

The Hon. K. T. Griffin: It's not up to the Minister but to the Public Service Board.

The Hon. B. A. CHATTERTON: It is not the Public Service Board but the Minister who submits minutes to Executive Council. Since when does the board submit minutes to Executive Council? The Minister has to sign minutes.

The Hon. K. T. Griffin: The Public Service Board is responsible for the management of the work force in the Public Service.

The Hon. B. A. CHATTERTON: The Minister is responsible. Can the Minister explain why delays have occurred in a number of areas affecting Mr Cole, and can he explain when decisions can be taken?

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

TRESPASS

The Hon. J. A. CARNIE: I seek leave to make a brief explanation before asking the Attorney-General a question about trespass.

Leave granted.

The Hon. J. A. CARNIE: The publication *Farmer and Stockowner* raises the question of responsibility for injury to trespassers on property. The matter was raised by the Chairman of the land use committee, Mr D. B. Pfitzner, who apparently sought legal advice on the matter through that committee. The legal advice given provides:

. . . an occupier of land or premises owes a duty of care to persons who enter upon those premises. Strict rules of law govern the duty of care owed by the occupier to an entrant upon the land and the burden of the duty depends on the category of the entrant. For instance, a lesser duty of care is owed to a trespasser than to a licensee or invitee of the occupier.

Mr Pfitzner's comment on that was:

We do not believe that a landowner should be held responsible for injuries a person might sustain if that person enters a property without permission.

I must say that that is a sentiment with which I entirely agree. My questions are: Is it a fact that an occupier or owner of land is responsible for injury to a trespasser? In other words, is that legal opinion a correct one and, if so, does the Attorney intend to introduce an amendment to the appropriate Act to make an occupier not liable for injury to a trespasser?

The Hon. K. T. GRIFFIN: The body of law to which the member refers is particularly complex. It was the subject of a Law Reform Committee report several years ago that suggested that there ought to be some simplification of the liability of occupiers and owners for injury caused to invitees, licensees and trespassers on land. There have been some discussions with the interested parties, including the United Farmers and Stockowners Association, as to how that simplification of the law ought to occur.

The matter is reasonably well advanced and at some stage during this year I hope we would be in a position to bring proposals for legislation before Parliament to simplify that area of law. It is a body of law that has grown up over very many years and there are rules of court that the courts have established that are not easily set aside when one considers questions of simplification. I agree that it needs to be simplified. I hope that that can be achieved and that it will be achieved after the consultation process that I have mentioned is completed.

HOSPITAL ADMINISTRATION

The Hon. J. R. CORNWALL: I seek leave to make a short statement prior to addressing a question to the Minister of Community Welfare, representing the Minister of Health, concerning hospital management.

Leave granted.

The Hon. J. R. CORNWALL: It has recently been brought to my attention by several medical and business administrators that accounting and business management procedures and patient information systems in Adelaide's teaching hospitals have reached a crisis situation.

The Hon. C. M. Hill: Not again!

The Hon. J. R. CORNWALL: Not again—it is getting worse. It is 'still'. It is not a question of 'again'.

The PRESIDENT: Order!

The Hon. N. K. FOSTER: I rise on a point of order. Last week you warned me three times that you would boot me out if I interjected. Have a shot at the galahs on the front bench.

The PRESIDENT: I justed called 'Order!' If the honourable member interjects when I call 'Order!' he will meet the fate about which he was warned last week.

The Hon. J. R. CORNWALL: As I was saying before I was rudely and quite improperly interrupted, it has been drawn forcibly to my attention by numerous medical and business administrators that accounting and business management procedures and patient information systems in Adelaide's teaching hospitals have reached a major crisis situation that continues to deteriorate. I point out, if the Hon. Mr Hill doubts my word (he should know by now that I have the highest credibility in Parliament)—

Members interjecting:

The PRESIDENT: Order!

The Hon. J. R. CORNWALL: Recently a letter signed by all heads of laboratory departments at Flinders Medical Centre was sent to the hospital's Administrator, pointing out just how desperate the situation had become. That letter was signed by all the heads of laboratory departments at Flinders Medical Centre. There are also inordinate delays in processing accounts. This was confirmed last Friday by Mr Allan Bansemer, a senior Health Commission officer. He confirmed it in a public statement that he made on radio, and I am sure that that is obtainable through the media monitoring unit on Greenhill Road.

He said that, five months after the introduction of the new health insurance scheme, the commission was unable to assess its bad and doubtful debts. The cost of processing each account at the hospitals has become astronomical. In addition, accounts that remain unprocessed or that are literally lost in the system (and there are thousands of those) are costing more than $100 000 each month in those three hospitals.

At Royal Adelaide Hospital and Queen Elizabeth Hospital there are more than 140 sundry manual ledgers ranging from parking fines to laundry bills. Inventory and stores checks are in a similar mess at all three hospitals. Investigations by the Parliamentary Public Accounts Committee into hospital computers and management are being obstructed. Members of that committee, who are not computer experts, are having great difficulty in unravelling the terrible mess into which the computer programme has degenerated. Let me give an example. Recently the Public Accounts Committee wrote to all hospitals asking for a report on their computer programmes, and the progress of those programmes. The administration at Queen Elizabeth Hospital was so afraid of recriminations from the Minister of Health that it asked the Health Commission to write its reply. In fact, the Health Commission did write the reply on behalf of Queen Elizabeth Hospital. Other hospitals had their replies vetted by the commission before sending them. They were so terrified of the recriminations if they set out the whole terrible picture that they asked the Health Commission to write the reply to the P.A.C.

An honourable member: They were only terrified about you becoming Minister of Health.

Members interjecting:

The PRESIDENT: Order!

The Hon. J. R. CORNWALL: What a disgusting display of irresponsibility by a Government with a smell of death about it. Members opposite sit and laugh while I chronicle this dreadful incompetence that is going on within the Health Commission—they sit there and laugh.

The Hon. L. H. Davis: Are you trying to get a bit part in the Festival of Arts?

The Hon. J. R. CORNWALL: I would be more likely to get a part than you would. It shows how badly the Government is going when that thing that sits there is touted about as a possible Minister—front bench material. My God, what have we come to!

Members interjecting:

The PRESIDENT: Order!

The Hon. J. R. CORNWALL: The other hospitals, as I said, had their replies officially vetted by the commission before they sent them in. Almost all of these problems—the accounting problem, the loss of hundreds of thousands of dollars, the loss of accounts in the system, and the loss of patients (and patients are literally getting lost: not dying, but getting lost between wards)—are being caused by the failure of the Health Commission to implement its computer programme. The commission produced grandiose plans for common computer systems between the major hospitals almost three years ago.

On 4 December 1980, almost 15 months ago, the Minister of Health announced that a common Admissions, Transfers and Separations (A.T.S.) computer system would be in operation at all the major teaching hospitals (Royal Adelaide Hospital, Queen Elizaberth Hospital and Flinders Medical Centre) by June 1981. She said that the system had been carefully planned and costed at no more than $260 000 for all three hospitals and that there was absolutely no chance that it would fail (her words, not mine). In the event, it never got started. The commission and the Minister eventually settled for an A.T.S. computer system at one hospital only, the Royal Adelaide, at double the cost. The I.B.M. system which they selected at a cost of more than $500 000 followed expensive evaluation trips to Sydney and the United States, which I have previously related to this Council.

However, and the story gets even worse, permission to purchase this system was refused by the Automatic Data Processing Board of the Department of Services and Supply in December 1981. So, 12 months after the Minister made that firm announcement about the A.T.S. system being introduced in all three hospitals at a cost of $260 000, which was the upper limit (it was said that it might cost as little as $170 000), they produced an I.B.M. system for one hospital after touring the world, and that system was eventually knocked back by the Automatic Data Processing Board of the Department of Services and Supply which said it was not suitable and they could not have it.

The data processing section of the Management Services Division of the Health Commission is a disaster area. More than 1 000 man hours per week have been wasted for the past two years and is still being wasted at this moment to devise computer systems which are never implemented because they are unworkable. The commission currently has a Mr McDonald Taylor of Computer Science of Australia wandering about the commission at a cost of $1 500 a week. He is another of the consultants brought in to try to get them out of the mess, but still nothing happens. Ten days ago they advertised in the *Weekend Australian* for a futher computer guru at a salary negotiable between $35 000 and $40 000 a year—not bad hay. In the meantime, nothing has happened. Will the Minister say when an A.T.S. computer system will be installed at Royal Adelaide Hospital; what system will be used; what is the current revised cost; what was the total amount of accounts owing at Royal Adelaide Hospital, Queen Elizabeth Hospital and Flinders Medical Centre respectively on 31 January 1982; what was the total number of individual accounts rendered or current; and what is the estimated cost of processing each account at each hospital?

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

ROYAL FLYING DOCTOR SERVICE

The Hon. M. B. CAMERON: I seek leave to make a short statement prior to directing a question to the Attorney-General about the Royal Flying Doctor Service.

Leave granted.

The Hon. M. B. CAMERON: Members would be well aware of the value of the Royal Flying Doctor Service to the northern areas of the State over a number of years, and members would also be aware that over the years new aircraft have had to be purchased on a continual upgrading basis. Although it is granted that the purchase of larger more sophisticated aircraft for the Royal Flying Doctor Service will provide a better, faster service, concern is now being expressed that quite a number of the present station airstrips will not be able to accommodate such aircraft.As a result, some outback people who have spent a considerable amount of money on airstrips will have no service. Will the Minister confer with the appropriate authorities to ascertain what can be done to overcome what people in the North see as a potential problem for many of the people who live in isolated circumstances?

The Hon. K. T. GRIFFIN: That is a matter that ought to be taken up by the Minister of Transport with his Federal colleague. My understanding is that the certification of those airstrips is the province of the Federal Department for Transport. I will refer the question to my colleague, the State Minister of Transport, with a request that he consult with his federal colleague, and endeavour to bring back a reply.

WOMENS SHELTERS

The Hon. N. K. FOSTER: I seek leave to make a brief explanation before directing a question to the Minister of Community Welfare about womens shelters.

Leave granted.

The Hon. N. K. FOSTER: I deplore the fact that the Government took the action it did in respect of a shelter, quite swiftly and abruptly—

The Hon. C. M. Hill: They have gone now.

The Hon. N. K. FOSTER: I don't—

The PRESIDENT: Order! The Hon. Mr Foster has to have his attention drawn to the rules of this Council far too often.

The Hon. N. K. FOSTER: Did you hear what he said? It was insulting.

The PRESIDENT: If you do not want to ask your question—

The Hon. N. K. FOSTER: Ask him what he said. Keep your trap shut and be a bit decent about things, Mr Hill. I deplore the fact that the shelter was closed. I am not referring, nor can I refer, to the aspect the Minister interjected on. It is time he went and spoke to the President and ceased getting members on this side of the Council into trouble.

I deplore the fact that this shelter has been closed down. It was a pioneer for the whole women's shelter movement in South Australia. The Government has stated that it recognises the need for women's shelters. I am not simply concerned about Naomi as a name or as a shelter. I am concerned about the fact that it has been closed down in a manner which leads me to believe, and I hope I am wrong, that it may lead to an attack on some other shelters. None of the other shelters is free from the allegations made by the Minister last week.

I remind the Council that Meals on Wheels was started in South Australia by the late Miss Doris Taylor, who was a well-known South Australian socialist and at one time a member of a so-called extreme left-wing political Party. When Miss Taylor first started the organisation she was criticised and ostracised by the then Government. In the intervening years, during the early 1950s, it was consistently attacked by Government members. It received trade union backing and originally commenced operations alongside the Port Adelaide railway station. About five or six years later, the Liberal Party recognised that it would not be able to bludgeon it out of existence, so it took the attitude that if it could not beat it it would join it. Since then, the retiring manager of Elder Smith has been President of that organisation. I have no complaint about that at all. In fact, that gentleman, the late Mr Hooper, always did a sterling job, and deserves to be commended.

At last, the Federal Government started to fund the Meals on Wheels organisation. Meals on Wheels branches are spread far and wide throughout the suburbs. Some are

better conducted and better run than others, but the Federal Liberal Government did not take the steps that the State Liberal Government has taken of picking out one or two in spite and closing them down or denying them funds. At least the Federal Government recognised the principle behind their coming into existence and persuaded and counselled those that were remiss to put their house in order by proper, fair and ethical means.

That is my criticism of the State Government in respect of the closure or non-funding of this particular shelter. What I have said about the early criticism and non-acceptance of the Meals on Wheels organisation, its funding and the manner in which its branches were all required to put their houses in order away from the public gaze and away from any recriminations is equally applicable to the women's shelters. That is how this matter should have been handled. Only last week the Minister said in this Council that the Government would set up another shelter nearby to provide the service that Naomi had been providing. I know that the shelter is not the most popular issue to raise. However, it would not be fitting for me to remain silent on this matter.

I am also concerned about another closely related matter which has been drawn to my attention. Is there a shelter known as Hope Haven Women's Shelter? Is it situated in Hutt Street in the city? Has it received Government funding? Is its proprietor the Adelaide City Mission? Is the foregoing a corporate body? Has Government funding been used for personal reasons by the management? Is the shelter operated by a Reverend Burns? Is he an ordained minister of religion, or has he conferred that title on himself? Is he an Australian citizen or an American citizen? On how many occasions has this shelter been closed by the proprietors? On how many occasions has the Reverend Burns or his family gone overseas, particularly to the United States of America? On how many occasions has the shelter been reopened? Is the shelter managed and operated by the Reverend Burns, a Mrs Burns and an Elizabeth Burns? Will the Minister have my questions investigated and inform the Council of the outcome?

The Hon. J. C. BURDETT: I certainly assure the honourable member that when funding to Naomi was ended no attack was intended on other shelters. It appears that the honourable member is making an attack on another shelter.

The Hon. N. K. FOSTER: Mr President, I rise on a point of order. I did not attack the Naomi shelter. I am merely asking a question. I do not know whether this other place exists, but I have been told that it does. I have not been into Hutt Street to look for it, and I have no idea where it is. I want the Minister to find out for me, because that is his department's responsibility. I have not spoken to anyone there. I am not as dishonest as—

The PRESIDENT: Order! I take the honourable member's point of order.

The Hon. J. C. BURDETT: I wish to make clear, as I have said before, that I am not attacking other shelters, as was implied in the honourable member's explanation. I thought I made that quite clear when I made a Ministerial statement last week and in reply to earlier questions. I have said that the Government supports the women's shelter movement and intends to continue to provide the same amount of funding and the same number of shelters. The honourable member suggested that I should have asked Naomi to put its house in order away from public controversy. We are sick and tired of doing that. We have asked for that to be done on many occasions but it has not been done. It is not possible with the present membership of the management committee of that shelter to get that place to put its house in order away from public controversy.

I repeat what I said last week that, when women's shelters or any other voluntary organisations are entitled to apply for Government funding, the Government and the funding authority, which in this case is the Department for Community Welfare, have an obligation to be satisfied that the funds are used in the best way and that the bodies receiving those funds are giving support to those people in need—in this case women and children. We have not been satisfied that that is happening.

It is not only the Government that is not satisfied. An article in this morning's *Advertiser* referred to the women's shelter movement in general and Naomi in particular and, in fact, supported the stand that I have taken. When I made my Ministerial statement in this Council about cutting off funding, I noted that the Opposition spokesman for community welfare released a statement to the press, which was printed in the media, stating that he was aware of the problems that existed at Naomi. He hoped that these could be resolved through negotiation. The final point he made, and the point I reiterate, is that he felt the need for women's shelters had never been greater and that he hoped total support for them would continue.

The Hon. J. R. Cornwall: What about a judicial inquiry? Let the other side be heard, instead of smearing Annette Willcox.

Members interjecting:

The PRESIDENT: Order!

The Hon. J. C. BURDETT: I would not think that Mrs Willcox would be enamoured about a judicial inquiry. In regard to the matters raised in the explanation of the question, the action I took was not swift or abrupt; it was over a period of years. I have not been satisfied that the large amount spent on Naomi ought to be spent. Regarding Hope Haven, it does exist and it is funded. The people managing it include Reverend Burns. Complaints have been made recently, including complaints from Mrs Willcox, about its management. I have asked the Director-General to inquire into the management of that shelter.

AUSTRALIAN HISTORY

The Hon. L. H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Education, a question about the teaching of Australian history in schools.

Leave granted.

The Hon. L. H. DAVIS: In the 1982 issue of 'Bicentenary '88', the Newsletter of The Australian Bicentennial Authority, an article appeared about the need for schoolchildren to be aware of the history of Australia. It stated:

> In 1988, slightly less than half of the students at present in New South Wales junior secondary schools will have studied any Australian history. In South Australia only a quarter of such students will be in the position. What is the situation in your State? Does it matter?

I believe it does. In New South Wales, junior secondary schools cover the equivalent of grades 8, 9 and 10 in South Australia. Therefore, the suggestion contained in this newsletter is that, of all schoolchildren in South Australia of 13, 14 or 15 years of age, only a quarter will have studied any Australian history at all. While I accept that schools have flexibility in arranging their curriculum, I would hope that all schoolchildren have the opportunity to learn something of the history of the country in which they live; that would seem fairly fundamental to developing a national spirit and pride in one's country and State.

The education system in South Australia during the 1970s did not appear to provide for Australian history to be taught in an adequate form. It is hard to believe that there would

be many other countries in the world where such little emphasis would be placed on the country's heritage and history. The present arrangement allows teachers to avoid teaching units relating to Australian history, geography and culture, so that a student in South Australia can go through primary and secondary schooling without any study of these subjects. However, it is pleasing to see that the second Keeves Report on 'Education and Change in South Australia' argued that knowledge and understanding of the society in which we live and our relationship to it as individuals is one of the key curriculum areas in both primary and secondary schools.

There is an evident growing interest in Australian history, as is reflected by the success of the Advance Australia Campaign. The sesquicentenary of the founding of South Australia will be celebrated in 1986 and the bicentenary of Australia will be celebrated in 1988, so that there will be two excellent opportunities for children to re-live the history and heritage of their State and country. That understanding can surely be assisted by the teaching of Australian history in schools.

Can the Minister say whether the observation about the teaching of Australian history contained in the 'Bicentenary '88' newsletter is correct? If so, does the Minister believe that all schoolchildren in this State should receive some tuition in Australian history and geography? Will the Minister ensure that the curriculum review and development recommended by the Keeves Report specifically covers this point?

The Hon. C. M. HILL: I commend the honourable member for asking this question and for his adequate explanation. I particularly do so because the whole question of history is deep in my heart. Honourable members will recall that the present Government last year established a History Trust in South Australia, the first such statutory body in Australia, which is now acclaimed nationwide and about which inquiries are coming from all other States as to whether they should also establish a comparable form of statutory body so that they, as we have done, can preserve the history of their State. It is with much pleasure that I will refer the honourable member's question to the Minister of Education and bring back a full reply for him in due course.

ON-THE-SPOT FINES

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General a question about on-the-spot fines.

Leave granted.

The Hon. FRANK BLEVINS: In perusing the South Australian *Government Gazette* the other day, I noticed that on 23 December the Government gazetted the form to be used for the issuing of traffic infringement notices. Yesterday, the Attorney stated that there was some difficulty with this form because it does not allow the alleged offender to split the offences with which he is charged, to expiate some and contest others. It appears that there will have to be amendments to the legislation. Perhaps the Government will amend the way in which the form is presented. Instead of its being, as it is now, as the Minister wishes, it should be included as a schedule to the Act itself, and then Parliament can have an opportunity of examining the form and seeing whether it is appropriate. Had this been the situation before, perhaps the Government would have been saved some embarrassment.

One feature of the form that struck me was that it provides for the police to fill in the occupation of the motorist who is charged. My understanding of the law has always been that the police do not have the right in traffic offences to ask the motorist's occupation. I have researched the Statutes as best I am able, with the assistance of the Parliamentary Library staff, and nowhere can we find any authorisation whatsoever for the police to require anybody to give his occupation. The reasons for this are fairly obvious, particularly after reading a report in this morning's paper to the effect that a review procedure within the Police Department is conducted whereby the police can approve or reject expiation, etc. Apparently, over 100 cases have not been proceeded with.

It seems to me that the inclusion of the occupation of a person on the traffic infringement notice could create some problems because, since they are all perused again by the police, there could be accusations that people with certain occupations had been victimised while people with other occupations had received favourable treatment. I am not saying that that is occurring, but the danger is there when people have to state their occupation. I do not think that this is a trivial matter. I would prefer that, when the review procedure is carried out, it be carried out on the basis of the alleged offence and have nothing to do with a person's occupation but, since this is included on the form 1in. away from the list of offences, I cannot see how it can be missed. If the Attorney looks at the form he will see that it gives brief details about the offence, the offence number, and the expiation fee. If the offence committed has to do with having failed to stop at a 'stop' sign, I cannot understand how the police can judge whether or not it is a trivial or serious offence, because all the form shows is that it was a failure to stop at a 'stop' sign and the number.

How do the police differentiate between serious and trivial offences? How does the new review procedure work? Does the Government have the legal right to require persons being issued with a traffic infringement notice to give their occupation to police? If so, what section of what Act provides that authority? If not, will the Minister have new traffic infringement notices printed immediately that comply with the law?

The Hon. K. T. GRIFFIN: The Government is not embarrassed by the traffic infringement notice scheme. I have indicated that we are committed to it and, in fact, the Opposition in both Chambers supported the scheme when the legislation was before Parliament. There is nothing about which we should be embarrassed in the operation of this scheme. I have indicated that, in the light of some matters that have been raised in the past few weeks, those matters will be reviewed, and I would expect to have a report within a few days, but I do not expect any major changes to be made to the scheme. Changes, if any (and I emphasise 'if any'), would be on the basis of some fine tuning as a result of the past six weeks or so of experience since the scheme's implementation.

The Hon. J. R. Cornwall: Why don't you bring it into line with Victoria and New South Wales, instead of the monster you've produced?

The Hon. K. T. GRIFFIN: The experience in New South Wales was that in the first months reported offences doubled; they did not increase by 30 per cent—they doubled. The mere 30 per cent increase in South Australia indicates to me that a degree of caution is being exercised by police officers in the detection and reporting of these traffic infringement cases.

The honourable member has drawn attention to what he regards as some improper requirement, on the traffic infringement notice, for offenders to provide their occupation. The law quite properly requires that an offender must disclose his name and address and produce his or her licence when requested so to do by a police officer. There is no mandatory requirement for disclosure of occupation.

Members interjecting:

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: The honourable member ignores the practice of many years when accidents are reported for not only the name, address and licence number to be reported, but also age, occupation, sex and details of the accident. Most people in the community are prepared to volunteer that information.

The Hon. J. R. Cornwall: That's never happened before with road traffic offences.

The Hon. K. T. GRIFFIN: It has. If one has an accident one goes along—

The Hon. J. R. Cornwall: Not in accident cases—cases of traffic offences.

The PRESIDENT: Order! I ask the Attorney-General to address his reply to the questioner and not enter into a debate with the Hon. Dr Cornwall.

The Hon. K. T. GRIFFIN: I am pleased not to enter into a debate with the Hon. Dr Cornwall, because that will only put him to shame.

The Hon. J. R. Cornwall: You're beyond contempt.

The Hon. K. T. GRIFFIN: I ask the honourable member to withdraw. He can leave the Chamber; he cannot face up to the proper procedures.

The Hon. J. E. Dunford: Why don't you sack him?

The PRESIDENT: Order! If honourable members keep quiet, I am sure that the Attorney will complete his answer.

The Hon. J. E. Dunford: He tells a lot of lies. Don't point at me like that, you little liar.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: I ask the Hon. Mr Dunford to withdraw and apologise.

The Hon. N. K. Foster: It's too one-sided in this bloody place. You can have it. I'm leaving.

The PRESIDENT: Order! That may save the honourable member further bother. The Hon. Mr Dunford has been asked to withdraw and apologise.

The Hon. J. E. DUNFORD: I will withdraw, but I will not apologise, because the Attorney is a liar.

The PRESIDENT: I have no option but to inform the Hon. Mr Dunford that, if he does not withdraw and apologise, I will name him.

The Hon. J. E. DUNFORD: My Leader suggests that I withdraw—

The Hon. L. H. Davis interjecting:

The Hon. J. E. DUNFORD: What about that bloke over there? With the advice of my Leader, I am prepared to withdraw and apologise.

The PRESIDENT: I hope that is acceptable.

The Hon. K. T. GRIFFIN: I was dealing with the question of traffic infringement notices and accident investigation reports. When parties report accidents, they are asked for their occupation. There is no legal obligation on them to do it, but most comply with that. When offenders against the law, apart from those offences which occur in an accident situation, are detected, they are asked for their occupation, and most are prepared to provide that information. The fact that there is a space on the traffic infringement notice for an occupation is consistent with the long-standing practice where road traffic offenders are detected. I see no reason at all to vary the form in that respect.

To suggest that the police officers in the review process would have regard to the occupation of the offender is something that I have much difficulty in accepting. I do not believe that that has any bearing on whether or not an offence is regarded as so trivial as to have the notice withdrawn. Accordingly, I would not seek to make any recommendations with respect to that notification on the form. What I said yesterday in respect of the form—and it was more in respect of the regulations than the form—was that there may be a technical difficulty in the regulations, where more than one offence is noted on the traffic infringement notice. I said that I would have my officers examine that and report to me in the next few days, and that is being done.

LOXTON WATER SUPPLY

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

Loxton Water Supply Improvement.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Legal Practitioners Act, 1981. Read a first time.

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

That this Bill be now read a second time.

This short Bill is designed to overcome a minor problem that has arisen in the course of making arrangements for the new Legal Practitioners Act to be brought into operation on 1 March. Division II of Part III gives the Supreme Court certain powers and discretions with regard to the issue of practising certificates. The question has been raised as to how the court is to exercise these powers and discretions. No doubt rules of court could be made on the subject. However, in order to expedite matters the Government has thought it advisable to introduce an amendment providing that, subject to any rule, order or direction of the court to the contrary, the powers are to be exercisable by the registrar.

Clause 1 is formal. Clause 2 inserts a new section 20a which provides for the powers, discretions, functions and duties of the court in relation to the issue of practising certificates to be exercised (subject to any rule, order or direction of the court to the contrary) by the registrar.

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition has no objection to this piece of legislation.

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

LAND AND BUSINESS AGENTS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

TRAVELLING STOCK RESERVE: HUNDRED OF NAPPERBY

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:

That the reserve for camping ground for travelling stock, section 345, hundred of Napperby, as shown on the plan laid before Parliament on 25 November 1980, be resumed in terms of section 136 of the Pastoral Act, 1936-1977: and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

LAND SETTLEMENT ACT REPEAL BILL

Read a third time and passed.

RIVERLAND CO-OPERATIVES (EXEMPTION FROM STAMP DUTY) BILL

Second reading.

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

That this Bill be now read a second time.

The shareholders of the two large Riverland co-operatives, as a result of a recommendation from their respective boards, have now agreed to proceed to merge. The wine industry at this point of time is in a difficult position in so far as there are over-supplies of wine in the market place. The two co-operatives, representing in excess of 1 100 individual shareholding growers and directly employing in excess of 200 people in the Riverland, need to ensure that they can survive in this extremely competitive market place.

The concept of merging the two co-operatives is predicated upon the assumptions that a sufficiently large and rationalised single entity will be better able to compete in the market place, first by having some strength to resist the pricing pressures on their product and, secondly, by being able to rationalise their production and administration so as to reduce costs. One possible major obstacle to the merger is the liability to stamp duty that it would entail. It would be possible to organise the new co-operative in such a way as to avoid the actual transfer of assets and shares and thus to avoid stamp duty, but the result would be a cumbersome arrangement of three interacting co-operative societies which would inevitably reduce the psychological effect of a single strong co-operative identity. The payment of stamp duty would totally negate the anticipated savings by rationalisation of the two co-operatives in the first two years of operation. These first two years of operation will be the vital years which may well dictate the success or otherwise of these industries in the Riverland.

The Government believes an exemption from stamp duty is justified in the present case. The two co-operatives support a substantial proportion of the general business, work and job opportunities in the area and deserve the support and encouragement of the Government. The exemption from stamp duty will not in fact deprive the Government of any funds as it is possible to structure the co-operatives so that these duties do not have to be paid. However, a statutory exemption from stamp duties will permit the co-operatives to merge in such a manner as to take full advantage of all the benefits which will flow from a complete merger of interests. Clause 1 is formal. Clause 2 provides the necessary definitions. Clause 3 confers the exemption from stamp duty in respect of the amalgamation of the co-operatives.

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

EVIDENCE ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 16 February. Page 2848.)

The Hon. C. J. SUMNER (Leader of the Opposition): This Bill is to abolish the right of a defendant to give an unsworn statement at a trial before a jury. It also carries out certain related amendments. It has come to the Council on this occasion after having been passed in the House of Assembly. I have no intention of speaking at great length on the Bill, because the issue of the unsworn statement and whether it should be abolished or reformed in some way has been canvassed in this Council on a number of occasions since the Government, in the middle of 1980, introduced a Bill to abolish the unsworn statement. The Bill that was introduced then dealt with the topic of the unsworn statement and also the topic of inspection of bankers' records.

The House of Assembly and the Legislative Council could not agree on the abolition of the unsworn statement and the Bill lapsed after it went to a conference of managers. Subsequently, a Select Committee of this Council was set up to investigate the unsworn statement and to report on the desirability of retention or reform. That Select Committee met over a period of approximately 12 months and reported to this Council on 30 September last year. At the same time, I introduced a private member's Bill giving effect to the recommendations of that Select Committee. That Bill is still on the Notice Paper, but I have not proceeded with it because we now have this Bill before us and I will move as amendments to it the clauses that were contained in my private member's Bill.

I will not canvass at length the recommendations of the Select Committee which have been before honourable members now for five or six months. Indeed, some honourable members have commented on the Select Committee when responding to my private member's Bill. Needless to say, the Select Committee recommended retention of the unsworn statement but also recommended significant reforms in the law and practice relating to it. Perhaps I can summarise briefly the recommendations which are in the Select Committee's report as follows:

(1) The right of any accused person on trial to make an unsworn statement be retained.
(2) The unsworn statement be made subject to the general rules of evidence applying to sworn evidence, except those relating to cross-examination.
(3) Section 34i of the Evidence Act be amended so that 'evidence' in Section 34i (2) includes assertions in unsworn statements.
(4) Section 18 VI *(b)* of the Evidence Act be amended.
(5) It should be made clear that the defendant's right to make an unsworn statement is an alternative right, not cumulative upon the right to give evidence on oath.
(6) Where an unsworn statement is not read, the defendant's counsel with leave from the trial judge, be permitted to take the defendant through his statement.
(7) The Prosecution have the right to rebut any new matters raised in an unsworn statement.
(8) Section 69 of the Evidence Act be amended.
(9) Suggestions be made to the Law Society of South Australia and the South Australian Bar Association regarding the contents of and practice relating to unsworn statements.

There were some additional recommendations which were not central to the committee's inquiry, but in so far as its position on legislation is concerned the amendments I have placed on file give effect to the recommendations in that Select Committee's report.

The final recommendation, recommendation (9) which I read out, is not really a matter that is within the purview of the Legislature, but if my amendments are carried and the Bill becomes law then they are matters that I suggest the Government should take up with the Law Society and the South Australian Bar Association to ensure that there are rules which are written into the ethics of the legal profession, those rules being similar to those which exist in Victoria. They would govern the conduct of counsel and solicitors in the preparation of unsworn statements. The effect of the ethical rules is, of course, that the statement should be the statement of the defendant and that as far as possible the role of the barrister or solicitor is assisting in preparing the unsworn statement, which is essentially the statement of the defendant and certainly should not in any way be embroidered by the barrister or solicitor. That is a suggestion of the Select Committee that the Government should take up with the professional bodies concerned if the Bill incorporating reforms is eventually passed.

There are other matters which are not included in the amendments such as recommendation (6), which I suggest ought to be referred to the judges for their consideration.

That suggestion is that where a defendant is not able to read a statement then the defendant may be taken through that statement by his counsel. That would require some change in practice, as I understand, by the courts and ought to be referred to the courts if this Bill is passed in its amended form. The basis of the Select Committee's report was that in all respects, except the right of cross-examination, an unsworn statement ought to stand on the same basis as sworn evidence and, particularly, that this should be the case in relation to admissibility on the grounds of relevance and whether it is hearsay or not. In other words, evidence which would be inadmissible in evidence on oath should also be inadmissible in an unsworn statement.

The Attorney-General, in his contribution on my private member's Bill, and I think in his second reading explanation of this Bill, tended to denigrate the work of the Select Committee. I think that most people who have read the Select Committee's report recognise that it was a well-prepared report, whether or not one agrees with its final conclusions. Indeed, I would say that its recommendations are basically those which were arrived at by the Victorian Law Reform Commissioner, Sir John Minogue, who has recently had a reference on the unsworn statement and who reported on it with conclusions very similar to those of the Select Committee of this House. Those conclusions are summarised in Appendix E of the Select Committee report.

I believe that the Select Committee did its job with its limitations, and those limitations are well known to members of the Council: first, the Government boycotted the committee in quite a childish fashion and, secondly, it then refused for many months to provide any assistance to the committee. Eventually, assistance was available and the report, I believe, was carefully researched and argued and, as I said, came to similar conclusions to those of an eminent jurist in Victoria. Even if honourable members do not agree with the Select Committee's final conclusions, I do not think that the petty and gratuitous criticisms that have been made by the Attorney-General really take the argument much further. The position of the Opposition is that it will not oppose the second reading of this Bill, but that in no way means that it supports the abolition of the unsworn statement. We will not oppose the second reading so that we will have the opportunity to move amendments, thus trying to obtain reforms in the use of the unsworn statement which we think are desirable. If those amendments are not passed, and indeed related amendments which the Select Committee suggested are not passed, then the Opposition will vote against the third reading of the Bill. I reserve any further comments to the Committee stage.

The Hon. K. T. GRIFFIN (Attorney-General): Once again, the battle lines are drawn. We have already been over the relative advantages, disadvantages, merits and demerits of the respective points of view on the unsworn statement. The Government is clearly committed to the abolition of the right of an accused person to make an unsworn statement. That was the Government's policy before the last election, and the Government has consistently maintained that view in the intervening period. The Government believes that the safeguards provided in this Bill will prevent hardship to an accused person. The Government's stand is consistent with an overwhelming majority of recommendations in Australia and other countries in relation to the abolition of the unsworn statement.

The Hon. C. J. Sumner: Rubbish!

The Hon. K. T. GRIFFIN: An overwhelming majority favour abolition of the unsworn statement. I indicate that in Committee there will be some review of the relative positions, but the Government will not support Opposition amendments.

Bill read a second time.

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

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider new clauses relating to the right to make unsworn statements, evidence in sexual cases, and the repeal of section 68 and substitution of new section therein.

Motion carried.

In Committee.

Clause 1 passed.

The Hon. K. T. GRIFFIN: I understand that the Leader is having several amendments printed. Therefore, I ask that progress be reported.

Progress reported; Committee to sit again.

RURAL ADVANCES GUARANTEE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 February. Page 2970.)

The Hon. M. B. DAWKINS: I rise to support this measure with some reluctance and with some misgivings. I refer to the Minister's second reading explanation when he introduced this Bill. He said:

The Land Settlement Committee has the functions of looking at all applications for guarantees of rural loans, and at requests made by borrowers for deferment of mortgage repayments, and of making appropriate recommendations to the Treasurer. It is believed that these functions can be carried out by the Industries Development Committee, being another Parliamentary committee which has the necessary expertise.

I repeat the reservations that I expressed in my speech on the Land Settlement Act Repeal Bill. With great respect I query the suggestion by the Minister that the Industries Development Committee has the necessary expertise to consider applications under the Rural Advances Guarantee Act. That Act was introduced in 1963, when I was a very junior member of this Council. It was an initiative of the late Sir Thomas Playford and the then Acting Minister of Lands, Mr Brookman, and later the late Mr Quirke, who subsequently became Minister of Lands.

The Act provided valuable opportunities for young would-be farmers. Later, as money values were eroded, the Act was used by would-be 'blockers', as they were called as would be recalled by primary producers in the Riverland. The Land Settlement Committee, as you are probably well aware, Mr President, was quite busy with proposals under this Act as well as other activities in the 1960s and early 1970s. These proposals involved a guarantee by the Treasurer in cases where finance would not otherwise be available. The activities of the committee have decreased considerably in recent years.

As I have said, I have some reservations about the Minister's statement that the Industries Development Committee has the necessary expertise. As I said in an earlier speech, the Industries Development Committee may be gifted with expertise in its field. It is used to making relatively vast decisions—especially in comparison with the Rural Advances Guarantee Act—on industry and assistance to it. However, one wonders about the comparatively small decisions on small parcels of land and the suitability or otherwise of prospective candidates and just whether these decisions come within the field of the Industries Development Committee.

The Hon. D. H. Laidlaw: Mr Dunford has a property.

The Hon. M. B. DAWKINS: He was described as a socialist squatter the other day. He does have a property in the south. It is for other people to decide whether he has the expertise to decide whether a person is a suitable

candidate for approval under the Rural Advances Guarantee Act. With great respect to all members of the Industries Development Committee, I suggest that they do not have experience in relation to the selection of suitable candidates and the small decisions which have to be made under this particular Act. They are certainly small decisions when compared to secondary industry. However, the decisions are not small for prospective candidates; nor are they small, in the aggregate, for the rural industry in this State as a whole. However, the Land Settlement Act has been repealed and there appears to be no alternative to this legislation.

I hope that the Industries Development Committee, if it does this work, will do it in a more thorough manner than was sometimes the case where, under the Land Settlement Committee, the dockets were passed from member to member and no formal meeting was held. I do not agree with that procedure and when I was Chairman of that committee I made sure that it ceased and that members did look at these propositions in the proper manner. However, as I have said, there seems to be no alternative to this legislation and I support it.

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

CORRECTIONAL SERVICES BILL

Second reading.

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

That this Bill be now read a second time.

It is the foundation on which the Government will build a restructured correctional system. It has been pointed out by many people over many years that the present Prisons Act and regulations are outdated and do not reflect current practices, philosophies and attitudes within the Department of Correctional Services.

Indeed, Her Honour Justice Mitchell, back in 1973, in the First Report of the Criminal Law and Penal Methods Reform Committee, recommended that 'the Prisons Act and regulations made thereunder be repealed and re-enacted in revised form to reflect accurately the actual state of affairs in the South Australian prison system'.

The Royal Commissioner, in his recent report, also recommended that the Act and regulations be rewritten. I point out to honourable members that the Opposition had 10 years to introduce such legislation and the opportunity was there for six years after Justice Mitchell had reported. In contrast, this Government has taken the first opportunity available to introduce such reforms. A Bill to amend the Prisons Act was passed last February in this place.

At that time, an undertaking was given to introduce a new Correctional Services Bill dealing with all aspects of correctional services, when the Royal Commission had completed its findings. That time has now come and the majority of the recommendations contained in the Royal Commissioner's report have been incorporated in the Bill now before us or will be dealt with by regulation.

This legislative reform, coupled with the action we have taken to date and the recently announced restructuring of the department, will rejuvenate the department and pave the way for modern correctional practices and effective planning in the next decade and beyond. Let us not forget the progress this Government has already made in a portfolio which was sorely neglected by previous Governments because 'there were no votes in prisons'.

Sophisticated television monitoring and surveillance equipment has been installed at the Adelaide Gaol and Yatala Labour Prison and a radio communication system also installed. A full-time Dog Squad has been established to increase activity in the detection of drugs, and staffing has been increased by almost 50 at a time when staffing levels were being contained in other departments.

The industries complex at Yatala will be completed by April this year, a site for a remand centre has been chosen, and the approvals for work given. A new remand wing at Port Augusta Gaol is under construction, and a new supermaximum security unit will be built. These are just some of the programmes that have been initiated by this Government. There are also others which we can look forward to.

For the first time, the Government will have developed a staffing and capital plan within which the department can operate. As was recently announced, the Government will implement the recommendations of the Touche Ross Report in relation to the head office structure of the department.

It will also implement the majority of the recommendations contained in a Public Service Board report which dealt with custodial staff, and will appoint a legal officer as recommended by the Royal Commissioner. This is the most substantial package of staffing restructuring approvals any Government has ever announced in the correctional services portfolio. It involves the appointment of an additional 31 personnel over a five-year period.

In the first year of our staffing plan, an Executive Director will be appointed. He will be the permanent head of the department, and have primary responsibility for the development of long range plans and management strategies. A Director of operations will have the responsibility for the day-to-day operations of all South Australian penal institutions.

It is anticipated that, in the second year, a legal officer will be appointed as well as a marketing officer and planning officer in the Prison Industries Division. Several custodial positions will also be created. This staff creation plan will continue over five years. A capital works programme for future projects will be developed by a task force whose job will be to advise the Government on departmental needs.

The Hon. J. E. Dunford: You are committing the next Labor Government to all of this.

The Hon. C. M. HILL: The next Labor Government will be a long time in coming. The Government recognises that decisions in these vital areas can only be made after proper research is undertaken. Indeed, our actions to date show that the Government is making a determined effort to provide the department with the resources which it has lacked for the past decade.

The Bill before us deals with all aspects of the correctional system and reflects modern correctional thinking. It provides for certain new initiatives which the Government strongly believes are vital to the better functioning of the correctional system. There are several matters which should be highlighted. First, the Bill provides for the establishment of the Correctional Services Advisory Council that was provided for in the 1981 amending Bill. The recommendation for such an advisory body originally came from the Criminal Law and Penal Methods Reform Committee chaired by Justice Mitchell, and the Government strongly endorses the recommendations of that committee that the correctional system as a whole ought to be kept under regular review by a permanent body.

The Bill also seeks to clarify, strengthen and generally improve the system for dealing with offences committed by prisoners while in prison. Under the present procedures, offences of a disciplinary nature are either heard by the Superintendent of the correctional institution or by visiting justices. Prisoners are not entitled to legal representation and there is no right of appeal. The Bill proposes that offences committed in prison may be dealt with at three

alternative levels: first, the Superintendent of the institution; secondly, a visiting tribunal comprising either a magistrate or two justices of the peace; and, thirdly, the outside courts.

Breaches of the regulations will be dealt with either by the Superintendent or a visiting tribunal, and offences against the general law will be dealt with by the courts in the usual manner. Where a matter is heard before a Superintendent, there will be no right of legal representation. However, appeals against orders made by the Superintendent can be made to the visiting tribunal.

The Superintendent's powers are limited to ordering the forfeiture of privileges or indulgences for a period not exceeding 28 days, ordering the forfeiture of up to 10 conditional release days, and ordering exclusion from work for up to 14 days. Prisoners will have a right to legal representation when appearing before a visiting tribunal. Furthermore, a limited right of appeal is available.

Where a person pleads not guilty to a charge that is to be heard before a visiting tribunal, the visiting tribunal must be comprised of a magistrate. Where a magistrate is acting as the visiting tribunal he will be empowered to impose an additional term of imprisonment of up to 90 days where the charge is proved. Where two justices are acting as the visiting tribunal, they will be empowered to impose an additional term of imprisonment of up to 28 days where the charge is proved.

In addition, the visiting tribunal is empowered to order loss of up to 30 days of conditional release, to order forfeiture of privileges or indulgences, to order forfeiture of past or future earnings to an amount not exceeding fifty dollars, to order exclusion from work for up to 28 days, and to order payment of compensation for any damage caused by the prisoner either out of the prisoner's accumulated funds or out of future earnings. This revamped system is fair and just. The system allows for greater flexibility in dealing with prisoners, in that a wide range of options is available in this sensitive area of discipline.

Another new initiative is the provision for the introduction of an independent investigatory process upon the receipt of complaints from prisoners. Provision has been made for prisoners to have access to a visiting tribunal if they wish to make complaints. The visiting tribunal will have the authority to seek the assistance of an investigator independent of the Department of Correctional Services to assist in investigating any matter. A report from the visiting tribunal containing its findings and recommending action to be taken will then be required to be sent to both the Attorney-General and the Chief Secretary. This is a step forward in dealing with grievances of prisoners and is consistent with the recommendation of the Royal Commissioner on this subject. These new procedures, however, will not restrict the Ombudsman from investigating administrative Acts in accordance with the Ombudsman's Act.

The Bill also provides for the establishment of a prisoner's assessment committee. An assessment committee already operates within the prison system but only on an administrative basis. The function of the assessment committee is to make a recommendation to the permanent head as to the institution in which a prisoner should serve his or her sentence if the sentence exceeds six months. This is reviewed at regular intervals.

A provision is also made in the Bill for the permanent head of the department to arrange for prisoners to attend courses of education and instruction. Prisoners are encouraged to attend various education programmes already operating within our institutions, and trained teachers are also available. The Government recognises the importance of such training as a means of improving prisoners' literacy and numeracy skills, thereby improving his or her chances of gaining employment upon leaving the institution. The participation of prisoners at such classes is encouraging and this Government will continue to accord high priority to these programmes.

The Bill also specifies clearly and in detail the degree to which prisoner's mail may be examined. This is necessary to ensure that appropriate steps are taken to prevent the introduction of contraband and other prohibited articles, and at the same time to protect the privacy of prisoners' mail. To this end, all mail will be opened to check for contraband, but detailed examination and perusal will be carried out only on a random basis, except in the case of prisoners who are security risks.

The Act also includes those changes which were made to the parole system, and passed in this place last February. The newly restructed Parole Board is maintained. The release on parole of prisoners who are serving indeterminate sentences will continue to be given upon the consent of His Excellency the Governor in Executive Council and non-parole periods will continue to be fixed by the courts for all sentences of more than three months.

The system of conditional release, where a prisoner must earn his early release on a monthly basis, is also maintained in the Act. This replaces the previous system in which remission of a third of a prisoner's sentence was automatically credited to him when he was first admitted to prison. It also means he is liable to serve the unexpired balance of his sentence if he re-offends while on conditional release, whereas a prisoner released from prison upon remission under the present Act is completely free of his sentence by reason of the fact that remission is in effect an actual reduction of sentence.

The Act also seeks to clarify the circumstances in which a prisoner may be held in separate confinement. The present system of separate confinement was criticised by the Royal Commissioner and various checks and balances are built into the system by this Bill. For example, the Superintendent can only direct that a prisoner, who is alleged to have committed an offence, be confined separately from other prisoners for a period not exceeding seven days. The same applies where the Superintendent believes that it is in the interests of the prisoner's welfare or that he is likely to injure another person. In the latter case, the permanent head may, with the approval of the visiting tribunal, extend such period of separate confinement from time to time for a period of one month. These are several of the significant reforms contained in this Bill. Other changes are referred to in the detailed explanations of the clauses. There is no doubt that the Bill will significantly improve the prison system in this State. 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 Act. Different provisions of the new Act may be brought into operation at different times. Clause 3 sets out the arrangement of the Act. Clause 4 provides the necessary definitions. Clause 5 repeals the Prisons Act. Clause 6 contains various transitional provisions necessary upon the repeal of the Prisons Act. Clause 7 provides the Minister and the permanent head of the department with a power of delegation. Clause 8 directs the Minister to use volunteers in the administration of the Act to the extent he thinks appropriate.

Clause 9 requires the Permanent Head to report annually in writing to the Minister on the work of the department during the year. Clause 10 provides for the establishment of the Correctional Services Advisory Council. Clauses 11 to 16 set out the powers, functions and duties of the advisory

council. These provisions are the same as those contained in the 1981 amendment. Clause 17 provides for the establishment of visiting tribunals for each correctional institution. There must be at least one such tribunal for each prison and police prison. Where more than one is to be established for a prison, a tribunal may be appointed comprised of two justices of the peace, but otherwise a visiting tribunal will be comprised of a magistrate appointed by the Governor. Clause 18 empowers the Governor to declare premises to be either a prison or a police prison for the purposes of the Act. Clause 19 places all correctional institutions under the control of the Minister.

Clause 20 provides for the regular inspection of all correctional institutions by visiting tribunals for the purpose of ascertaining whether the Act and the regulations relating to the treatment of prisoners are being complied with. A tribunal will have the power to receive and investigate complaints from any person with the correctional institution. A tribunal may be assisted by persons authorised by the Attorney-General. Where a complaint has been investigated, a report on that matter must be furnished by the tribunal to both the Minister and the Attorney-General. Monthly reports must also be furnished to the Minister on all matters inquired into by the visiting tribunal during the month as a result of its weekly inspections.

Clause 21 provides for the day on which sentences of imprisonment shall commence. This provision largely follows the present Prisons Act, but makes it clearer that a court can backdate sentences.

Clause 22 gives the Permanent Head the sole right to determine which correctional institution a person sentenced to imprisonment is to be imprisoned in. Where a sentence does not exceed 15 days, the person can be detained in a police prison. Clause 23 provides for the establishment of a prisoners assessment committee to assist and advise the Permanent Head on the appropriate institution for each prisoner. The committee must look at the case of each prisoner as soon as practicable after his initial detention, and thereafter at regular intervals. The committee must always have regard to the best interests of the prisoner and is required to consider a wide range of relevant material and issues. Clause 24 places all prisoners in the legal custody of the Permanent Head. Clause 25 empowers the Permanent Head to transfer prisoners from one correctional institution to another. Clause 26 caters for the temporary holding of a prisoner in a place that is not a correctional institution while he is being transferred to or from a correctional institution.

Clause 27 gives the Permanent Head the power to grant leave of absence to a prisoner for medical, educational, recreational or compassionate purposes, and for purposes related to criminal investigation. Leave of absence may be granted subject to conditions. Leave of absence may be revoked at any time. Prisoners at large after revocation or expiry of their leave of absence may be apprehended by police officers or prison officers. Clause 28 provides for the removal of a prisoner for the purposes of various court appearances. Clause 29 places an obligation on a prisoner to perform work at the direction of the superintendent of the prison. Prisoners on remand are not required to work, but may work if there is work available.

Clause 30 directs the Permanent Head to arrange courses of instruction or training for the benefit of prisoners. Clause 31 gives each prisoner an entitlement to a basic weekly allowance. A further allowance will be paid to a prisoner as recompense for the work he performs. Clause 32 directs superintendents to make certain items available for purchase by prisoners. These items will be set out in the regulations, but a superintendent has a discretion to make further items available if he thinks fit.

Clause 33 sets out a complete code for the way in which prisoners' mail is to be dealt with. All parcels may be opened, and incoming letters may be opened, for the purpose for checking whether prohibited items are present. The censor may open and peruse all incoming and outgoing letters of prisoners who are belived to be security risks, who have previously written letters that contravene the Act or whose letters are in a foreign language. Other letters may be opened and perused on a random basis. Letters sent to or by the Ombudsman, a member of Parliament, a visiting tribunal or a legal practitioner are privileged. A wide range of options is provided for dealing with letters or parcels that are found to contravene the Act. A prisoner must be advised of any action that is taken by the superintendent over any letter or parcel sent to or by the prisoner.

Clause 34 sets out a prisoner's right to be visited while in prison. His basic entitlement is to be visited once a fortnight, but this entitlement may be increased by regulation. Remand prisoners may be visited on three occasions each week, and this entitlement may also be increased by regulation. A superintendent may allow extra visits for a prisoner, and is also permitted to bar a particular person from visiting a prisoner. Clause 35 provides that a prisoner is not to be debarred access to legal services. A visit from a lawyer rendering legal services does not constitute a visit for the purposes of the previous clause.

Clause 36 sets out the circumstances in which a prisoner may be confined separately from all other prisoners. Where it is alleged that a prisoner has committed an offence, he may be separately confined for up to a week while the allegation is being investigated. Where a prisoner is likely to injure or unduly harass another person, or where it is in his interests to be protected from the other prisoners, he may be confined separatey for up to a week. After one week, the Permanent Head, with the sanction of a visiting tribunal, may extend such a prisoner's separate confinement for a month. This power may be exercised from month to month. A prisoner separately confined for these latter reasons is entitled to make representations to the visiting tribunal.

Clause 37 authorises the search of a prisoner upon his entering a correctional institution, or where the superintendent believes that he may have a prohibited item in his possession. Only reasonable force may be used, and inspections of a body orifice may only be conducted by a doctor. Clause 38 provides for the release of a prisoner from prison when his sentence expires (if he has not been earlier released on parole or conditional release). Clause 39 states that a prisoner can be released early if the day of his release would fall on a public holiday or Sunday. Moneys held to the credit of a prisoner must be paid to him on his release, but may be paid to him in instalments where he is released on parole subject to supervision.

Clause 40 sets out the jurisdiction of visiting tribunals. A plea of not guilty must be heard by a visiting tribunal comprised of a magistrate. Where a prisoner pleads guilty, he may request that the question of penalty be heard and determined by a visiting tribunal comprised of justices of the peace. However, a visiting tribunal comprised of justices of the peace may always refer a question of penalty to a visiting tribunal comprised of a magistrate if a greater penalty is thought to be appropriate.

Clause 41 vests a visiting tribunal with the usual powers to issue summonses, etc. Clause 42 gives immunity from liability to members of visiting tribunals. Clause 43 provides that a superintendent may conduct an inquiry where he has charged a prisoner with a breach of the regulations. The superintendent may, if he finds the charge proved, impose certain penalties upon the prisoner, or he may merely caution and reprimand the prisoner. Clause 44 empowers a superintendent to refer an alleged case of breach of the regulations

to a visiting tribunal for hearing and determination. A visiting tribunal is empowered to impose up to 90 days imprisonment if comprised of a magistrate, or 28 days if comprised of two justices of the peace. Other penalties may be imposed, or the prisoner may be cautioned and reprimanded. A sentence of imprisonment must be served forthwith and all other sentences are suspended until that sentence has been served. A visiting tribunal may order the prisoner to pay up to $200 in compensation for loss of, or damage to, property.

Clause 45 sets out various procedural matters for cases of breach of regulations. The rights of a prisoner to hear or view all evidence, to call, examine and cross-examine witnesses and to make and hear submissions as to penalty, are set out in detail. A conviction is not to be recorded for a breach of the regulations. Clause 46 gives a prisoner the right to appeal to a visiting tribunal against a penalty imposed by a superintendent. Clause 47 gives a prisoner the right to appeal to a district court against an order of a visiting tribunal under this Division, if the proceedings in which the order was made were not conducted in accordance with the Act.

Clause 48 provides that the Justices Act does not apply to proceedings for breaches of regulations. Clause 49 provides that offences committed by a prisoner (not including breaches of the regulations) are to be dealt with in all respects as if he were not a prisoner. Clause 50 makes it an indictable offence for a prisoner to escape or to be otherwise unlawfully at large. The penalty is imprisonment for a term not exceeding five years. Clause 51 makes it an offence for a person to communicate with a prisoner in a manner prohibited by the regulation, to deliver a prohibited item to a prisoner, or to loiter outside a prison for an unlawful purpose. The penalty is imprisonment for a term not exceeding six months.

Clause 52 gives a prison officer the right to apprehend a person whom he believes has committed, is committing or is about to commit an offence under either of the two previous clauses. Clause 53 makes it an offence for a person to harbour a prisoner who is unlawfully at large, or to employ him or assist him to stay at large. The penalty is imprisonment for a term not exceeding two years. Clause 54 provides that all offences under this Part (other than an indictable offence) are to be dealt with summarily. Clauses 55 to 64 (inclusive) continue in existence the Parole Board established under the repealed Act, with substantially the same powers as were provided by the repealed Act. Clause 65 provides for the mandatory fixing of non-parole periods for all persons who are sentenced to more than three months imprisonment. This clause is identical to the provision inserted in the repealed Act by the 1981 amendment.

Clauses 66 to 78 (inclusive) provide for the release of a prisoner upon parole. These provisions are identical to the provisions passed by Parliament in the recent 1981 amendment, and therefore do not require detailed explanations. Clauses 79 to 82 (inclusive) provide for the earning of conditional release at the rate of 10 days for each month served by a prisoner in prison. These provisions are also identical to the new Part IVB that was inserted in the repealed Act by the 1981 amendment, but not yet brought into operation. The remission system is therefore still in existence and will continue to apply to all sentences of imprisonment imposed before the new Act comes into force. Clause 83 empowers a superintendent to make rules for the management of the correctional institution. Rules may only be made or varied with the approval of the Permanent Head. These rules are not to be subject to the Subordinate Legislation Act.

Clause 84 requires superintendents of correctional institutions to comply with orders of those persons who are by law empowered to execute orders of court. Clause 85 requires the superintendent of a correctional institution to furnish a prisoner, upon entering the institution, with a written statement of the rights, duties and liabilities of the prisoner under the Act, the regulations and the rules of the institution. Clause 86 gives a prison officer or a police officer the power to use such force as may be reasonably necessary in exercising his powers or discharging his duties under the Act. Clause 87 empowers all judges and magistrates to enter and inspect any correctional institution. Clause 88 empowers the Minister to acquire land compulsorily for the purposes of the Act.

Clause 89 is the regulation-making power. Regulations may be made (amongst others) regulating the treatment of prisoners, the conduct of prisoners, the duties of persons employed in correctional institutions and the directions that parole officers can give to prisoners released on parole subject to supervision.

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

EVIDENCE ACT AMENDMENT BILL (No. 2)

Adjourned debate in Committee (resumed on motion).

(Continued from page 3005.)

Clause 2—'Evidence by accused persons and their spouses.'

The Hon. C. J. SUMNER: Clause 2 amends paragraph VI *(b)* of section 18, which provides a protection to a defendant from having his character brought into issue and therefore being subject to cross-examination on his previous conviction, but provides that, if the nature or conduct of his defence is such as to involve imputations on the character of the prosecutor or witnesses for the prosecution, then at the discretion of the judge that basic protection from having his character brought into issue is lost.

The Government's Bill abolishing the unsworn statement also provides for some greater protections to a defendant from having his character brought into issue. In general terms, I do not disagree with that aspect of the Government's Bill. However, the Select Committee that looked into this matter felt that the whole area of character being put into issue should be looked at. The basic protection is available to the defendant because it is felt that the disclosure to the jury of previous convictions of the defendant may result in the jury's coming to its decision on the basis of some prejudice that it has as a result of hearing about these convictions, not on the basis of the facts of the case.

I believe that it is paramount that a jury should make its decision in a particular case on the facts of that case, not because it feels that a person is of a criminal character or has previous convictions. That clearly would be contrary to all the principles of justice. There are very limited exceptions to that principle. Similar fact situations may be permitted. In that case, a persons's convictions may get before a jury, or, as the law stands at the moment, if imputations are made against the prosecution or the witnesses, those convictions may get before the jury.

Clearly, the basic principle which I think is paramount and which I think all members should support is that a decision of a jury should be based on the facts of the case, not on any prejudice that may enter the mind of the jury as a result of hearing about previous convictions. In general terms, the Select Committee felt that there was not really any justification for drawing a distinction on this point between sworn evidence and unsworn evidence.

At present, if a person chooses to give an unsworn statement, his character cannot be placed in issue but, with the recommendations of the Select Committee, which are in effect to place the unsworn statement and evidence of character in the same category, except in relation to cross-examination, it was thought that the rules regarding evidence of bad character ought to be the same in relation to sworn evidence as to an unsworn statement.

In this respect, the Opposition basically accepted the Government's proposition. The Opposition did not feel that gratuitous insults or imputations against prosecution witnesses that had nothing to do with the issues in hand should be permitted by the defence and, if the defence did make such imputations (for instance, if the defendant made an imputation against a detective that that detective, on previous occasions, in some way unrelated to the facts of the trial, had taken a bribe, or something of that kind), the defendant's character should become an issue and the prosecution should be able to cross-examine about previous convictions. However, the position adopted by the Select Committee was that, if the evidence was produced by the defendant for the proper conduct of his defence, the defendant should still have protection from his character being put in issue.

Basically, I think that that is the intention of the Government's Bill, although the Select Committee came up with a different form of words. The only difference is that the Opposition wants to retain the unsworn statement in some amended form, but believes that the rules relating to character being brought into issue ought to be the same in relation to the unsworn statement as to evidence in chief. My amendment to clause 2 deals with that aspect of the matter; I believe that it does so in terms similar to but slightly more precise than the Government's amendment.

I think there are some situations in which a defendant would be able to raise issues that would be construed as an imputation on the Crown which would not be caught by the Government's amendment but which would be caught by our amendment. Therefore, it would result in proper protection regarding evidence of bad character being called by the defendant. I move:

Page 1, line 17— Leave out 'subsection (3)' and insert 'subsection (2)'.

The Hon. K. T. Griffin: Is it a test case?

The Hon. C. J. SUMNER: The first amendment can be treated as a test case and, if that is carried, I assume that the Attorney will accept that the rest of the amendments should be carried.

The Hon. K. T. GRIFFIN: The Leader is correct in that I will regard the decision on this amendment as indicating whether the Committee will support either the concept of the Government (and that is to abolish the unsworn statement but with protections for the accused) or, alternatively, the Opposition's proposal that the unsworn statement should be retained but with some amendments. Those amendments are embodied in the Leader's proposals. We have debated at length over the past two years the respective merits of both the Government and the Opposition proposals, and for that reason I do not want to make an extended statement on the amendments.

Suffice to say that the protections for the accused, in the Government's belief, are adequate for the accused in the event that the right to make an unsworn statement is removed from the law. It is correct that juries ought to reach their conclusions as to innocence or guilt on the evidence before them relating to that case, but there are instances where the accused will make allegations against the character of the prosecutor or a witness for the prosecutor in circumstances that are largely irrelevant to the matter before the court. It is in the context of such imputations being made that we would want to provide in the Bill, as we have provided, that the accused loses the protection given by the measure.

I will divide on this amendment on the basis that it will be an indicator of the Committee's mood towards the whole concept of either abolishing the right of an accused person to make an unsworn statement or to retain that right. If the amendment is carried, then, whilst I would propose calling against other amendments because they all go to the substance of the Government's Bill, I would not want to take the time of the Committee in having a division on each of those amendments. I believe that the Government Bill is a cohesive package, just as the Opposition proposals are to be regarded as a package. The loss or success of any part will determine the outcome of the whole.

The Hon. K. L. MILNE: This is the key amendment in this matter. I think it is true to say that many of us are disappointed at the way in which the Government has handled this matter. I cannot understand why the Government has reintroduced this Bill in the same form as it was introduced earlier and laid aside, knowing that a Select Committee had already considered the whole matter. When I happened to be listening to the amplification system in the press office of proceedings in the Lower House, I heard someone refer to the Select Committee, and the voice of a senior member of the Government said, 'That wasn't a proper one.'

The Hon. C. J. Sumner: Who said that?

The Hon. K. L. MILNE: I am not quite sure of the voice, but I will tell the honourable member after. The comment was not called for, because Government members did not want to serve on the committee and they therefore, foolishly to my mind, refused to serve on it. Not only did that happen, but the Government made it as difficult as possible for the committee to act effectively by trying to withhold finance. I can understand the feeling of Government members when the numbers went against the Government on something about which it apparently feels strongly, but I think one can carry a feeling of that kind too far, as I believe the Government has done now.

This raises the question whether the political Party in office should conform to the wishes of a Parliament or whether the Parliament should obey the political Party in power. If the Parliament is expected to be subservient to the Government, then the House of Commons and the Westminster system of Government need never have been fought for and introduced. It was introduced to take power away from the monarch and put it in the hands of the Parliament elected by the people. Whether one likes it or not, this is the Parliament elected by the people under that system of Government.

The Hon. M. B. Dawkins: With a clear mandate to take away the unsworn statement.

The Hon. K. L. MILNE: I will not discuss the electoral platform your Party had then. With all the disadvantages that the system had, the numbers came out like this and that is nobody's fault; I think we have to face the fact that this is what the Upper House consists of. We have a distinct example of the Government trying to overrule a House of Parliament. Since the political Party controls the Government, the Cabinet controls the Liberal Party, and the Premier controls the Cabinet, we are coming back to a dictatorship very similar to that of the old time monarchs. Instead of the divine right of kings, we are asked to submit to the divine right of Premiers and Prime Ministers. To me this is not a case of Dante's *Divine Comedy*; it is nearer to the Liberal Party's 'divine farce'. I, for one, do not intend to put up with that. If we allow this kind of behaviour—

The Hon. J. C. Burdett: Select Committees aren't Parliaments; they don't pass legislation.

The Hon. K. L. MILNE: Let us be fair about this. If a Select Committee is going to be treated like this and the Government is going to completely ignore it—

The Hon. R. J. Ritson: It's the Parliament that counts.

The CHAIRMAN: Order!

The Hon. K. L. MILNE: I will tell you this, Mr Chairman: I sincerely believe that, had members of the Government served on that Select Committee and heard the evidence (which may not have the effect in writing) actually being given, they would have recommended roughly the same things as the committee has recommended.

The Hon. J. C. Burdett interjecting:

The Hon. K. L. MILNE: It would not have hurt for honourable members opposite to change their minds.

The Hon. M. B. Dawkins: You're pretty good at changing yours.

The CHAIRMAN: Order! The Hon. Mr Milne does not need to take notice of interjections that do not help him.

The Hon. K. L. MILNE: They are so vulgar in the way they put them. There have been no complaints about which I know concerning the recommendations. They seem to have been accepted in all quarters, including many quarters that did not want to accept them, such as my colleague in another place, who was in favour of the unsworn statement being kept as it was but who now is in favour (and he has said so) of the conditions applying under the recommendations of the Select Committee. The Government must be hoping that the Bill will fail again because it knows perfectly well that I must, should and will support the recommendations of the Select Committee.

The Hon. J. C. Burdett: You don't have to support it just because you were on it.

The Hon. K. L. MILNE: It is the honourable thing to do. If the honourable member is referring to the switch on the Prostitution Bill, that is another matter.

The Hon. J. C. Burdett: You don't have to support the recommendations.

The CHAIRMAN: Order!

The Hon. K. L. MILNE: If one agrees with the recommendations, and says that one agrees with them in a report, then it would be a pretty funny thing to turn around and disagree with those recommendations.

The Hon. G. L. Bruce: You have to have some credibility, Lance.

The Hon. K. L. MILNE: That is right. The Government says that the abolition of unsworn statements was one of its election promises, but it must have been in small print. Even if it was, it is, in my view, an exceptional case and will simply be an election promise which the Government made and which it has not been able to fulfil, although it has tried to do so.

I think that the Government would be grateful if it listened, in the long run, to what the committee has recommended. Do not forget that one of the main reasons the Bill was introduced was the injustice to women involved in rape cases. There were two extremely intelligent and forceful women on the Select Committee and they approved of these recommendations. They realise the solution to problems that face women in rape cases lie in other legislation. I see no reason why the Government should lose any face whatever by saying that the Select Committee has a point or by fully considering what it has recommended and giving it a try. If it does not work and if it does not solve the problem that the committee was asked to consider, I would support the Government's taking further steps.

The Government has caused a reform to be made and to that extent it should be congratulated. Apparently, the Government has done what it said it would do. In fact, it was quite open about it. The Government received a lot of criticism and a lot of applause. The Government should take credit for introducing a reform which took years and years to come about. I believe the Government can rest content with the result. I will not go over the arguments for and against the Select Committee's solution any more than the Attorney-General did, because the Leader of the Opposition did so extremely well. I congratulate the Leader on the way in which he chaired the Select Committee. It was a complicated matter which required a great deal of work, and it would not have been the same without a barrister of his calibre.

I make a final plea to the Government to be sensitive to the situation in which we find ourselves. There is no need to worry about the public, the prosecution or the defendant. What the Select Committee recommended has been accepted as a good solution. In fairness to the Parliamentary system and the trouble that has been involved in reviewing this subject properly, I make a final plea to the Government to consider the Select Committee's recommendations. I think it would be much more dignified for the Government and Parliament if that occurred.

The Hon. K. T. GRIFFIN: It is nonsense to suggest that the Government is trying to override Parliament. There has been no suggestion that that has occurred at all. The Government is entitled to bring Bills before Parliament, just as any private member is entitled to do.

The Hon. K. L. Milne: You're trying to pretend that a Select Committee did not exist.

The Hon. K. T. GRIFFIN: One could always hope that reason would prevail and that those who sat on the Select Committee might change their mind in the time that has elapsed. The Government is perfectly entitled to reintroduce a Bill relating to one of its election commitments. If both Houses of Parliament do not support the Bill, no-one can suggest that the Government is trying to override Parliament.

The Hon. J. E. Dunford: What about 'Stop the job rot'?

The Hon. K. T. GRIFFIN: We are talking about this Bill. However, we have stopped the job rot.

The CHAIRMAN: Order! The interjection and the reply are not relevant to this subject.

The Hon. K. T. GRIFFIN: Thank you, Mr Chairman. I was just about to say that that can be saved for another time, because it is totally irrelevant to the matter currently before the Committee. The Hon. Mr Milne also raised a question that I understood had been settled long ago, namely, the question of research assistance for the committee. He said that the Government tried to withhold finance—that is quite false. In fact, I said that when the Select Committee had reached tentative conclusions an officer from the Crown Law Office would be available to consult with the committee. As it turned out, you, Mr Chairman, were prepared to authorise the expenditure of certain funds on research assistance out of the funds voted to the Legislature. It was a matter for the Legislature. The Government did not decline to give the type of assistance which was relevant and appropriate for the consideration of this question by the Select Committee. I am disappointed that the Hon. Mr Milne has not been prepared to change his mind on this issue. The Government has a commitment but, if a majority of the Committee decides that it should not support the Bill, so be it.

The Hon. C. J. SUMNER: I am reluctantly forced to enter the fray because of the quite false statements made by the Attorney-General about whether or not assistance was available to the Select Committee. Mr Chairman, you know full well that for many months no assistance was forthcoming, because you said that you had no funds. No assistance was forthcoming from the Government, despite requests to the Attorney-General and to the Premier. Eventually, this Council passed—

The Hon. J. C. Burdett: There have been many reports on the subject.

The Hon. C. J. SUMNER: That is a different topic.

The CHAIRMAN: Order! This is not really relevant to the amendment before the Committee.

The Hon. C. J. SUMNER: That may well be, Mr Chairman, but I feel compelled to respond to the quite inaccurate impression given to the Committee by the Attorney-General. Everyone knows that no research assistance was available until the new financial year in 1981, when the amount of money given to you, Mr Chairman, by the Government was once again available to be drawn on by the Select Committee. At that time, the Select Committee was able to engage a research assistant, eight months after the committee had been established. Research assistance was necessary to complete the report. The Attorney-General said that a Crown Law officer was made available when the Select Committee had finished taking evidence, and that is correct. However, virtually no assistance was given. The Crown Prosecutor simply perused the report and made one or two technical comments. The fact is that for about eight months no research assistance was available and no money was made available either by you, Mr Chairman, or by the Government to assist the committee, despite persistent requests.

The Committee divided on the amendment:

Ayes (11)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Noes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Majority of 1 for the Ayes.

Amendment thus carried.

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

Page 1, lines 18 and 19—Leave out paragraph *(c)*.

I think that it was agreed that the last division was a test case and that the rest of the amendments to clause 2 would pass. I have already explained the substance of the amendment.

The Hon. K. T. GRIFFIN: I have indicated that, whilst I will call against the amendments, I do not intend to divide.

Amendment carried.

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

Pages 1 and 2—Leave out proposed new subsections (2) and (3) and insert subsections as follows:

(2) Subject to subsection (3), a defendant forfeits the protection of subsection (1) VI if—

(a) the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or a witness for the prosecution; and

(b) the imputations are not such as would necessarily arise from a proper presentation of the defence.

(3) A defendant does not forfeit the protection of subsection (1) VI by reason of imputations on the character of the prosecutor or a witness for the prosecution arising from evidence of the conduct of the prosecutor or witness—

(a) in the events or circumstances on which the charge is based;

(b) in the investigation of those events or circumstances, or in assembling evidence in support of the charge; or

(c) in the course of the trial, or proceedings preliminary to the trial.

Amendment carried; clause as amended passed.

New clause 3—'Right to make unsworn statement.'

The Hon. C. J. SUMNER: I move to insert the following new clause:

3. The following section is inserted after section 18 of the principal Act.

18a. (1) Subject to this section, a person charged with an offence may, at his trial, make an unsworn statement of fact in his defence.

(2) No assertion may be made by way of unsworn statement if, assuming that the defendant had chosen to give sworn evidence, that assertion would have been inadmissible as evidence.

(3) Where an assertion made in the course of an unsworn statement is such as would, if made on oath, have been liable to rebuttal, evidence may be given in rebuttal of that assertion.

(4) Where—

(a) in the course of making an unsworn statement, a defendant makes assertion with a view to establishing his own good character or involving imputations on the character of the prosecutor or the witnesses for the prosecution; and

(b) the defendant would, if the assertions had been made on oath, have been liable to be asked questions tending to show that he has been convicted or is guilty of an offence (other than that with which he is charged), or is of bad character,

then, evidence may be given to show that the defendant has been convicted or is guilty of an offence (other than that with which he is charged), or is of bad character.

(5) A person is not entitled both to make an unsworn statement under this section and to give sworn evidence in his defence.

(6) This section operates to the exclusion of the right, previously existing at common law, to make an unsworn statement but, subject to the provisions of this section, the rules of the common law relating to unsworn statements apply in relation to unsworn statements under this section.

(7) In this section—

'assertion' means any allegation or statement of fact.

Clause 3 deals with the reform of the practice and law relating to the unsworn statement. It inserts a new section 18a into the Act and makes it clear that a person may make an unsworn statement in his defence at a trial. It further provides that no assertion can be made in an unsworn statement which would be inadmissible if it was given as evidence on oath, but that matters contained in an unsworn statement are liable to rebuttal. It also provides that if a defendant makes an assertion with a view to establishing his own good character or involving implications on the character of a prosecution witness, and if those assertions have been made in evidence on oath, the prosecution can ask the defendant questions tending to show that the defendant is of bad character or has had previous convictions, and then evidence may be given by the prosecution to show that the defendant had been convicted or was guilty of an offence or was of bad character. Further, it makes clear that a defendant is not entitled both to make the unsworn statement and give sworn evidence in his defence. This is not a cumulative right. There is some suggestion in the case law, in New South Wales particularly, that the right to give an unsworn statement could be exercised along with the right to give sworn evidence. It is made clear that the defendant must opt for one or the other.

These amendments to the practice relating to the unsworn statement accord with the recommendations of the Select Committee and place the evidence that may be given in an unsworn statement on all fours with the evidence that may be given on oath and, in particular, relate to relevance and admissibility. This is the crucial aspect of the reform of the unsworn statement recommended by the Select Committee. It improves the situation in relation to, and more importantly takes away the worst features of, the unsworn statement.

New clause inserted.

New clause 4—'Evidence in sexual cases.'

The Hon. C. J. SUMNER: I move to insert the following new clause:

4. Section 34i of the principal Act is amended

(a) by striking out from subsection (2) the passage 'shall not be adduced (whether by examination in chief, cross examination or re-examination)' and substituting the passage 'is inadmissible';

(b) by striking out from subsection (3) the passage 'to adduce evidence under this section' and substituting the passage 'to introduce evidence to which subsection (2) applies'; and

(c) by inserting after subsection (3) the following subsection:

(4) For the purposes of subsection (2) and (3)—
'evidence' includes an assertion by way of unsworn statement.

New clause 4 attempts to overcome a problem drawn to the attention of the Select Committee in relation to section 34i of the Evidence Act. Section 34i was placed in the Act in 1976 and dealt with the circumstances in which evidence of prior sexual history could be brought before the court. It contained a prohibition on the history of prior sexual experiences being brought before the court except with the leave of the judge. There was considerable criticism of that section by people appearing before the Select Committee, and it may well be that more work needs to be done in this area. As an interim measure, the recommendations which are now embodied in clause 4 have been decided on by the Select Committee. It does two things: first, it tightens up the rule which says that such evidence of prior sexual history is inadmissible except by leave of the judge; secondly, it makes clear that section 34i applies to the unsworn statement. There is some suggestion that what was said in an unsworn statement was not caught by section 34i and therefore the defendant could, in an unsworn statement, make all sorts of allegations about a prosecutrix's prior sexual history without there being any protection from section 34i.

The amendment makes it clear that section 34i, which restricts this evidence to some extent, also applies to unsworn statements. However, it would be true to say that this whole area is a matter which is difficult and which possibly needs even further examination by the Government at some time. The Select Committee at this time believes that these two reforms are desirable.

New clause inserted.

New clause 5—'Interpretation.'

The Hon. C. J. SUMNER: I move to insert the following new clause:

5. Section 68 of the principal Act is repealed and the following section is substituted:
68. In this Part—
'court' includes—
(a) a justice conducting a preliminary examination;
(b) a coroner;
(c) any person acting judicially:
'evidence' includes any statement made before a court whether or not the statement constitutes evidence for the purposes of the proceedings before the court.

This clause deals with section 68 of the Evidence Act and relates to the publication of evidence and orders for the suppression of certain evidence from publication. It was drawn to the Select Committee's attention that 'evidence', if interpreted strictly, did not mean any statement that was before the court, and the query was raised whether matters contained in an unsworn statement were evidence that could be suppressed. This new clause expands the definition of 'court' and, more importantly, provides that 'evidence' includes any statement made before a court whether or not the statement constitutes evidence for the purpose of the proceedings before the court.

In other words, an unsworn statement would be brought within the provisions relating to suppression of evidence, just as any other statement would be, such as a statement by counsel or, for instance, anything that the judge said: any of that, by order of the court, could be suppressed from publication.

New clause inserted.

Title passed.

Bill reported with amendments. Committee's report adopted.

The Hon. K. T. GRIFFIN (Attorney-General): I move:
That this Bill be now read a third time.

I do so somewhat reluctantly, because the whole concept of the Bill is now radically altered from the Bill that I introduced on behalf of the Government but, to ensure that the matter is further explored in another place, I believe it is appropriate to ensure that it is read a third time and then appropriately passed.

The Hon. C. J. SUMNER (Leader of the Opposition): Like the Hon. Mr Milne, I cannot understand the Government's lack of enthusiasm for the Bill as it is, now that the amendments recommended by the Select Committee have all been incorporated in it. I think that they are highly desirable reforms in regard to the use of the unsworn statement; not just the unsworn statement but also important reforms relating to section 34i concerning the prior sexual history and the clarification of some doubts about what constituted evidence from the point of view of a suppression order. The Bill is now in the same form as the private member's Bill that I introduced late last year and, in this form, it has the wholehearted support of the Opposition.

The Hon. R. C. DeGARIS: I would like to congratulate the Attorney-General on moving the third reading of this Bill. It could be easy for the Government to take the view that the Bill should not proceed further.

The Hon. C. J. Sumner: I would proceed with it.

The Hon. R. C. DeGARIS: Perhaps the honourable member would. The Government still has power in regard to its proclamation. It is clear that both the Liberal Party and the Labor Party at the last election (or at a time around the last election) made statements to the public of South Australia relating to unsworn statements. It is correct to say that both Parties were at that stage on the same tack in regard to the abolition of the unsworn statement. My personal view, which I expressed in the second reading debate when this Bill came in previously, was that I favour the total abolition of the unsworn statement.

One must also admit that there is a variety of opinions on this matter. There have been queries in many places in the Western world in relation to it. Some official law reform inquiries have recommended its retention with safeguards. I refer particularly to the inquiry of the Hon. Sir John Minogue in Victoria. I do not accept that. There is a variety of opinions in relation to the abolition of the unsworn statement. I believe that the Government should be praised for its attitude . . .

The Hon. C. J. Sumner: What about the Opposition?

The Hon. R. C. DeGARIS: I am pointing out that the Government could take the view of not accepting the Bill as amended. The Bill contains important reforms that I believe should not be lost. As I said, I do not believe it goes far enough. My view is that the unsworn statement should be abolished. Nevertheless, I believe that it must be said that the Bill as it stands does improve the position from the present situation. I have much pleasure in supporting the third reading.

The Hon. K. T. GRIFFIN (Attorney-General): In closing the debate, I would like to indicate that I moved the third reading, not because I support the Opposition's amendments but to enable the Bill with its amendments to be further considered. It is on that basis that I have taken this course of action.

Bill read a third time and passed.

STAMP DUTIES ACT AMENDMENT BILL (1982)

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

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

That this Bill be now read a second time.

It is to amend the Stamp Duties Act to prevent stamp duty on certain transactions from being passed on to the consumer. Honourable members will recall that sections designed to prevent the duty payable on credit or rental business or instalment purchase agreements from being passed on to the consumer were removed from the principal Act by Parliament last year. The decision to introduce the necessary legislation followed several years of representations from financial institutions to successive Governments. At first sight, the former sections 31*l* and 31p offered a decided benefit to consumers entering into consumer credit transactions in South Australia. However, closer examination of actual practice showed that this benefit was more often than not illusory.

The great majority of transactions offered ways in which the effect of sections 31*l* and 31p could be avoided without actually breaking the law. Higher selling prices, interest charges, and loan establishment fees were among the adjustments which were made. Complaints had also been received by the Department of Public and Consumer Affairs resulting from the provision that a credit provider could recoup part and, in some cases, the whole of the stamp duty paid, when a purchaser decided to terminate a contract before the due date. This was not in the best interests of the purchaser.

In the light of these considerations it appeared that, despite the provisions, the overall cost of credit to the consumer was frequently as high as or higher than if the credit duty had been passed on directly to the consumer. At the time when the legislation was introduced, South Australia was the only State with such provisions remaining on the Statute Books, and it was considered this had some adverse effect on the availability of funds to South Australians. The principal advantages of repeal were seen to be:

(1) Proper disclosure to borrowers and purchasers of the real costs of credit transactions;

(2) Less confusion on the part of borrowers and purchasers when rebates of credit charges were calculated in the event of an early termination of a credit contract; and

(3) A possible reduction in interest rates charged where the rate had been increased to cover the stamp duty incurred, or a reduction in other charges.

In 1977, when this matter was raised with them by a previous Government, members of the Australian Finance Conference agreed to make some reduction in their rates of interest to allow for the stamp duty component if the sections were repealed. No action was taken at that time, but, when considered again in 1980-81, further contact was made with the Australian Finance Conference and other affected institutions asking if they would be prepared to give assurances that their charges or rates affected by the duty payable would be reduced if the legislation were amended.

The Finance Conference replied with assurances in relation to the majority of transactions where interest rates had been adjusted to compensate for stamp duty. It also referred to a significant minority of transactions where companies had asborbed the stamp duty, and where no change downwards was expected. A number of other responses, both written and verbal, were received from banks and other institutions, indicating that rates would be appropriately adjusted if the sections were repealed, or assuring that a borrower's 'all up' cost of borrowing would be less if credit business duty which would otherwise be payable on a particular transaction were to become no longer payable by the provider.

The trading bank body, the Associated Banks in South Australia, advised that its interest rate charges did not carry a component to compensate for the stamp duty cost, and that therefore the question of adjusting charges downwards was not appropriate. The responses were considered to be largely in keeping with the spirit of the concept. It was not until last week that bankcard's decision became known. It is now apparent there was a misunderstanding as to the roles of the Associated Banks in South Australia, representing the trading banks, and the bankcard organisation, with the assumption by the Government that any proposed changes in bankcard charges, controlled nationally, would have been included in the response of the Associated Banks in South Australia.

It was not the intention or expectation of the Government that bankcard charges would increase. Subsequent discussions with banking officials have been made difficult by the need to comply with the provisions of the Trade Practices Act, but the banks have been made aware of the Government's concern and of its decision to introduce this legislation. While the simple solution is to reintroduce the sections previously repealed without any qualification, it must be recognised that this will have the effect of negating the general benefits to the consumer which are conferred by the repeal, and which have been previously outlined. Some finance providers already have reduced their charges to consumers, for example, in housing finance. It may be possible to devise a procedure under which certain credit transactions that comply with the spirit of the Government's intention may be exempted from the provisions of the two new sections so that the benefits already conferred can be preserved. This situation will be examined by the Government as a matter of urgency. I seek leave to have the detailed explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 provides for the insertion of a new section 31 which is in the same form as the previous section 31 repealed by section 3 of the Stamp Duties Act Amendment Act, 1981. The section provides that it is an offence if the person liable to pay duty in respect of credit business or rental business adds the duty or a part of the duty to any amount payable by any other person with whom he has entered into or is conducting any credit business or rental business and provides for the recovery of any amount received in breach of the provision. The proposed subsection (4) of the new section provides that the section is not to apply except in relation to duty payable by virtue of a transaction entered into after the commencement of this measure.

Clause 4 provides for the insertion of a new section 31p which is in the same form as the previous section 31p repealed by section 4 of the Stamp Duties Act Amendment Act, 1981. The section provides that it is an offence if the vendor liable to pay duty in respect of any instalment purchase agreement adds the duty or a part of the duty to any amount payable by the purchaser and provides for the recovery of any amount received in breach of the provision. The proposed subsection (4) of the new section provides that the section is not to apply except in relation to duty payable by virtue of a transaction entered into after the commencement of this measure.

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

LONG SERVICE LEAVE (BUILDING INDUSTRY) ACT AMENDMENT BILL

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

ADJOURNMENT

At 5.8 p.m. the Council adjourned until Wednesday 24 February at 2.15 p.m.