LEGISLATIVE COUNCIL

Thursday 4 March 1982

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

QUESTIONS

OMBUDSMAN

The Hon. C. J. SUMNER: Was the Attorney-General aware of the cover-up instituted by the Law Department following investigations instituted by the Ombudsman into certain allegations relating to the pilfering of vegetables at the Adelaide Gaol?

The Hon. K. T. GRIFFIN: There is no cover-up, there never has been and there never will be within the Attorney-General's Department, which was previously the Law Department. The function of the Crown Solicitor is to act as an adviser on legal matters to the Government, various departments and some statutory authorities. That is its proper function and it has always acted responsibly and professionally in providing the Government, its departments and statutory authorities with advice.

The Leader has relied on a summary of facts in respect of a case which, in shorthand, is described as the 'vegetable case' and which was referred to in a report tabled by you yesterday, Mr President, from the Ombudsman. My officers are checking the facts which have been alleged in the Ombudsman's Report to ensure that they are accurate. They are also examining other issues raised by that report. I think, from a quick reading of the Ombudsman's Report, that the vegetable case was relied upon as a basis for changing section 18 (1) of the Ombudsman Act, which is a section requiring notice to be given by the Ombudsman before embarking on an inquiry.

I think that it is important to recognise that in that particular case the Ombudsman's officers did, in fact, give verbal notice by telephone before his investigation commenced. As far as I am aware, he was able to investigate that particular case fully. I am therefore surprised that the Ombudsman should seek to rely on that case as a basis for claiming that section 18 (1) should be broadened to give him more power. It is also interesting to note that that section, as far as I have been able to ascertain in the short time available to me, is identical to the Victorian provision in the Ombudsman's Act, identical to the power of the Parliamentary Commissioner in Queensland, the power in the Ombudsman's Act in New South Wales, the power of the Ombudsman in the Parliamentary Commissioner's Act of Western Australia, the provisions of the Ombudsman's Act of the Commonwealth, and almost identical to the provisions in the Tasmanian Ombudsman's Act.

As far as I am aware, there have been no complaints about the operation of the Act in those other States or the Commonwealth. The Premier has previously asked the Ombudsman whether he has specific details of the allegations that he is making, that is, whether there has been any cover-up, distortion or tampering with documents within the Public Service, because the Government certainly cannot condone that. At the earliest opportunity the Government will consider any specific allegations and facts which the Ombudsman might want to bring forward. The Ombudsman has not replied to the Premier's letter.

It would be helpful if the Ombudsman made that detailed information available to enable the Government to pursue that aspect further. It is also important that the Ombudsman gives the Premier and the Government any detailed instances of where the operation of section 18 (1) has been used to frustrate him in his proper statutory duties under the Ombudsman Act. He said on television last night that he conducts a number of inquiries by telephone; a substantial portion of them, something like 3 600 last year, were resolved in that way. Naturally enough, that does not require anything more than a verbal notice of inquiry.

There were a number of other cases where more detailed investigations had to be made. I believe that the system has worked satisfactorily. There is some flexibility in the operation of section 18 (1). Although we are prepared to give the matter further consideration, that would very much depend upon the detailed examples that the Ombudsman makes available to the Government about cases where he believes that the use of section 18 (1), either verbally or in writing, has created particular difficulties for him. In conclusion, once again, I categorically deny that the Law Department, as it then was, or the Attorney-General's Department or the Crown Solicitor's Office have in any way been party to any allegations of a cover-up.

RIVERLAND CANNERY

The Hon. B. A. CHATTERTON: On Monday the Government announced that it would provide a guarantee for an additional $1 500 000 to the Riverland cannery. Will the Attorney-General explain whether this is a normal guarantee for overdraft requirements for the cannery to cover its normal day-to-day operations during the canning season, or is it, in fact, an additional loan to cover expected losses from canned fruits on certain markets?

The Hon. K. T. GRIFFIN: That increase of $1 500 000 in Government guarantees relates to the receiver's financing the operations of the cannery up until, I think, the end of March this year. It is an increase over and above the $7 500 000 which the Government had previously guaranteed to the receivers in funds available to carry on the normal workings of the cannery. The $1 500 000 additional guarantee is to assist the cannery with its cash flow. Undoubtedly, it will be used to finance the operations of the cannery in the current fruit season. There is to be a reassessment by the receivers of the cash position at the end of March this year.

The Hon. B. A. CHATTERTON: I have a supplementary question. Can the Attorney-General confirm that it is not to cover any anticipated additional losses as far as the marketing of canned fruit is concerned?

The Hon. K. T. GRIFFIN: It may in some respects do that because of the cash available to the receivers. The Minister of Agriculture announced the provision of something like $564 000 on about 16 February. Part of that was to enable the receivers to finance growers and to meet the commitments given by the Government in June last year; part of it was to be used to finance hardship loans through the Department of Agriculture. Undoubtedly, there are continuing operating losses and, although the $1 500 000 is directly related to the cash requirement of the receivers, part of those cash requirements would necessarily involve and cover continuing operating losses.

ROAD SAFETY EDUCATION

The Hon. L. H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Transport, a question about road safety education in schools.

Leave granted.

The Hon. L. H. DAVIS: Evidence given to the Select Committee on Random Breath Testing underlined the dangers of drink driving and highlighted the high level of fatalities and severe accidents among young drivers. Although the introduction of random breath testing has heightened community understanding of the dangers of drink driving, can the Minister, first, indicate whether road safety education, including the dangers of drink driving, is covered in all South Australian State secondary schools and, secondly, outline the scope of the road safety programmes in primary and secondary schools?

The Hon. K. T. GRIFFIN: I will refer the question to my colleague and bring down a reply.

OMBUDSMAN

The Hon. C. J. SUMNER: My question, which is directed to the Attorney-General, is supplementary to the question I asked previously about the Ombudsman. In view of the continuing criticism by the Ombudsman in previous reports and yesterday in the report tabled in this Council about the Government's administration, and in particular the problems that the Ombudsman has had in investigating complaints against Government departments, and in view of the fact that the Ombudsman reports directly to Parliament, will the Attorney-General consent to the establishment of a Parliamentary Select Committee to investigate the Ombudsman's serious allegations in this and previous reports?

The Hon. K. T. GRIFFIN: The simple answer is, 'No'. The Ombudsman has powers which are outlined in the Ombudsman Act, and they are clearly outlined.

The Hon. C. J. Sumner: He is not happy with them, and you're covering up in the departments—that's what he says.

The Hon. K. T. GRIFFIN: I have already indicated that, if the Ombudsman has specific instances to substantiate his allegations, we would certainly want to receive them, as a Government, because we do not condone any doctoring of documents or distortion or in any other way interfering with the proper procedures of the Ombudsman in the administration of his statutory powers. Everyone can recognise the seriousness of such a position, but the Premier has sought details from the Ombudsman. They have not yet been received from him, and I merely repeat that we would certainly want to receive them, as a matter of urgency, to enable the Government to give proper attention to the specific allegations which are the subject of his general comments in the report tabled yesterday.

I do not believe that a Select Committee is an appropriate mechanism for reviewing this matter. It is essentially and initially in the hands of the Ombudsman to identify the cases where he believes that things have gone wrong. So far he has not come to light with any specific instances. We have some general comments and general criticisms—

The Hon. Frank Blevins: He has appealed to Parliament, quite properly.

The Hon. K. T. GRIFFIN: The Hon. Mr Blevins raises his hands and says, 'He has appealed to Parliament.' One can not just appeal to Parliament—one has to have facts to justify the appeal. In the report tabled yesterday reference was made to a vegetables case. As I said earlier, I am having my officers give close attention to assessing whether or not the facts alleged in the Ombudsman's report are accurate. Until that is checked, I am not in a position to make any other comment—

The Hon. C. J. Sumner: Are you alleging that he has misstated the facts?

The Hon. K. T. GRIFFIN: I understand that the Ombudsman's officers gave verbal notice in respect of that particular inquiry, did have full co-operation, and did fully investigate and complete their inquiries in that case, notwithstanding that it had some criminal overtones. I cannot see, on what information is available to me at the moment, that that is an appropriate case upon which to base any allegations by the Ombudsman that there is this cover up or distortion, and all that I and the Government want to do is have the facts so that the matters can be properly assessed and a response given by the Government to the plea that the Ombudsman has made in the report that was tabled yesterday.

Under the Statute he does have a right to bring certain reports to Parliament and he can make that plea in those reports, but it is clear that the Government of the day has the opportunity to examine such a report and to have available to it from the Ombudsman all the facts on specific cases that would substantiate the general claims that are made, and that is what I am seeking in this case.

The Hon. C. J. SUMNER: I seek leave to make an explanation prior to directing a supplementary question to the Attorney-General regarding the Ombudsman.

Leave granted.

The Hon. C. J. SUMNER: The Attorney-General's answers to questions relating to the Ombudsman have been most unsatisfactory. The Ombudsman reports to Parliament and has reported now on two occasions that I can recall with quite severe criticisms of the Government. His earlier report, indeed, included criticisms of some Ministers in the Government, but his reports have included severe criticisms of the actions of public servants in relation to the Ombudsman's inquiries.

It is no answer for the Attorney-General to say that the Ombudsman's powers are outlined in the Act and that, therefore, there is no need for any Parliamentary scrutiny. That is quite incorrect. Part of the dispute that the Ombudsman has, part of the difficulty that he has, is that he believes that the powers in his Act are not broad enough, and I agree that section 18 (1) of the Ombudsman Act should be amended to enable the Ombudsman to investigate administrative actions carried out by the Government or its officers without giving notice. As the Ombudsman says, giving notice is like the police giving notice that they are about to raid an illegal gambling casino.

I believe that those powers should be expanded. I also believe that, as the Ombudsman reports to Parliament, not to the Government, and, indeed, as the Government is treating his report with a considerable amount of indifference, there is a clear case for a thorough Parliamentary inquiry into the Ombudsman Act and the allegations made by him in the report tabled yesterday and in earlier reports. I repeat that they are allegations that touched Ministers as well as public servants.

My questions to the Attorney are: Does he intend to move to amend the Act in accordance with the suggestion by the Ombudsman? Secondly, what steps does the Government intend to take to obviate the problems outlined by the Ombudsman? Thirdly, why would the Attorney not consent to a Parliamentary inquiry into the reports by the Ombudsman, given that the Ombudsman reports directly to Parliament, is an independent statutory authority, and is not under the control of the Government?

The Hon. K. T. GRIFFIN: The Government has previously indicated that it would not move to amend the Ombudsman Act in respect of section 18 (1). I think that that is the only area in which the Ombudsman has sought to have some amendment made.

As the Premier said yesterday, in the light of the report of the Ombudsman tabled yesterday we will give some further consideration to his request. Also, we would give even further consideration to it if the Ombudsman were to

disclose to the Government specific details of cases where he believes that that section has prevented him from properly and responsibly exercising his statutory powers. What I am suggesting is perfectly reasonable. If the Ombudsman makes that information available as specific information and not just general allegations, then we will take those into consideration, along with the report that he tabled yesterday, when determining whether or not section 18 (1) should be amended.

I repeat that, in all other States and in the Commonwealth, there is an almost identical provision requiring notice to be given by an Ombudsman to the permanent head of the administrative act he is investigating. The Ombudsman is not a person who has such power that he can walk everywhere and anywhere investigating anything he likes. He is set up for a specific task and that is to investigate administrative actions which are defined in the Ombudsman Act. That notice does not have to be given in writing. It is desirable in many instances, where perhaps an initial inquiry cannot resolve the difficulty, if only for the reason that it helps to clarify the administrative act which the Ombudsman is investigating, for both his benefit and the benefit of the Public Service, so that at some time in the future no-one can say that there has been any misunderstanding about the administrative act which the Ombudsman was inquiring into or the extent of his powers. It is as simple as that.

It is just good common sense to reduce to writing details of the administrative act which the Ombudsman is inquiring into. He does not have to do that in advance. Nor does he have to give verbal notice in advance. He can roll up on the doorstep and hand over a notice stating, 'I am here to investigate this administrative act,' and he can then walk in and have access to all the files, dockets and other material that might be relevant to that investigation. Or, he can turn up on the doorstep and say, 'I am here to investigate this administrative act.'

The Hon. N. K. Foster: He doesn't get the answer for six months and they cover up, and you direct the cover up. That is the point he makes.

The PRESIDENT: Order!

The Hon. N. K. Foster: You're worse than Nixon in the States.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: The requirement to give notice has two purposes. First, it identifies the administrative act and that, surely, is fair for the public servant, and also it is reasonable from the Ombudsman's point of view. It also enables a Government department, or particular officers, to clearly identify the sorts of material that they should be making available: does it fall within the administrative act of which notice has been given, or does it not? There is no attempt to use that section of the Act to impede the Ombudsman in his investigations under his Statute of administrative acts.

The Ombudsman said last night on a television programme that he had received some 4 700 complaints and was able to deal with 3 600 of them simply by picking up a telephone or talking to a department, statutory authority, or council. Remember, local governing bodies as well as Government departments and statutory authorities are involved in this. There were 3 600 complaints resolved simply and quickly, although 1 100 complaints appear to have required greater attention. There seems to be nothing wrong in requiring him to clarify to the public servant, local government body, or statutory authority the scope of the administrative act that he is seeking to investigate.

The Hon. N. K. Foster: You wanted to put him in a position where he couldn't cause you any trouble. Now he's under your skin. Give him the power he wants.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: The Hon. Mr Foster says 'Give him the power he wants,' yet if the Hon. Mr Foster looks at the Ombudsman Act he will see that it carries very wide-ranging powers.

The Hon. N. K. Foster: They are not wide enough, Trevor; he's being frustrated by departments and denied—

The PRESIDENT: Order! The Hon. Mr Foster can ask a question later, but he will desist while the Minister is attempting to reply.

The Hon. K. T. GRIFFIN: As I said previously, powers of the Ombudsman exist in other States and they are similar to the powers of the Ombudsman in this State. The notice provision is common to all States in the Commonwealth. I do not know of any difficulty that should exist in respect of that.

The Hon. J. E. Dunford: He also said you doctor the books. That was on television—you're talking about what he said on television.

The Hon. K. T. GRIFFIN: Perhaps the Hon. Mr Dunford believes everything he sees and hears on television. In respect of that interjection, I repeat what I said earlier: if there are specific examples which the Ombudsman can disclose to the Government, then it is as much in our interest as in anybody else's to get to the bottom of those allegations. We would want to do that, but we cannot do it if we do not have access to the detail upon which the Ombudsman apparently bases his general complaints made in the report tabled yesterday.

The Leader raised a question as to why I will not consent to a Parliamentary inquiry into the Ombudsman and the operation of that Act. That is really a matter for this Council, but I will not support it as a member of the Council. However, that does not mean that it will not get through; it just means that I do not think that it is an appropriate method to use in looking at this matter. Certainly, the Ombudsman is responsible under his Statute to table certain reports. When he presents them they should be tabled and be made available to the community at large. I do not see any reason to establish a Parliamentary committee and to take the time of the Parliament or a Parliamentary committee investigating matters which, at the present time, are very general—

The Hon. N. K. Foster: You ought to get the Ombudsman here to answer the questions—

The PRESIDENT: Order!

The Hon. N. K. Foster: —properly.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: —and on which the Government has not yet had an opportunity to make its assessment because it has not been supplied with specific information.

SAILING VESSELS

The Hon. BARBARA WIESE: I seek leave to make a brief statement before directing a question to the Minister of Community Welfare, representing the Minister of Tourism, about sailing vessels.

Leave granted.

The Hon. BARBARA WIESE: I am not sure that I am directing this question to the most appropriate Minister. I have been approached by a constituent who is concerned about the fate—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —of two auxiliary sailing vessels, one named the *Nelcebee* and the other named the *Falie*. The *Nelcebee* was apparently built in Glasgow, in Scotland, some 99 years ago. It was brought to South Australia in a knock-down condition and rebuilt here. The *Falie*, which is 63 years old, was originally built in Holland. Both of these fine old ships are owned by R. Fricker & Co. Pty Ltd, of Port Adelaide. For many years these vessels have carried diesel fuel and other goods to Kangaroo Island and gypsum back from the island to the mainland.

Apparently, the gypsum backloading has now finished and these ships can no longer be run competitively against the M.V. *Troubridge* for the general goods trade. As a result, Frickers are offering both vessels for sale. They have been advertised throughout Australasia, New Zealand and Papua-New Guinea. The *Nelcebee* has been offered for $140 000 and the *Falie* for $240 000. The concern of my constituent and other admirers of old sailing vessels is that these particularly fine examples of sailing craft will be sold to buyers outside South Australia or Australia and will be lost to the people of this State.

My constituent also believes that both vessels would make excellent tourist attractions for this State. Perhaps they could be used as river cruisers, although that strikes me as being a nasty occupation for ships of this type. They could also be used as sail training vessels. The Hon. Mr Foster, who knows a lot about these ships and worked on them for many years, suggested that perhaps the Minister of Local Government, in his capacity as Minister responsible for museums, might have some interest in these ships as well.

I have been loaned photographs and information about both these vessels, detailing their construction, capacity, and so on. I am prepared to make that information available to the Ministers if they are interested in looking at it. Will the Minister ask officers of her department to investigate the tourist potential for South Australia of the *Nelcebee* and the *Falie*, perhaps in consultation with the Minister of Local Government in his capacity as Minister responsible for museums, and take whatever action is possible to ensure that these two historical vessels are preserved and retained in this State for the use and enjoyment of South Australians?

The Hon. J. C. BURDETT: Like the honourable member, I am not sure whether the Minister of Tourism is the appropriate recipient of this question. However, I will certainly refer the question to her. During the honourable member's explanation, my blood rose when she referred to the possibility of using these vessels as river cruisers and said that that would be a rather nasty use for them. Certainly, the honourable member has a point in relation to the proper use for these vessels. I will refer the question to my colleague in another place and bring down a reply.

YOUNG UNEMPLOYED PEOPLE

The Hon. N. K. FOSTER: I seek leave to make a brief explanation before asking the Minister of Community Welfare a question about the attitude taken towards the young unemployed in our community.

Leave granted.

The Hon. N. K. FOSTER: Recently, a glaring example of sex discrimination was referred to me. Blatant advantage was taken of a 15-year-old girl, whose name I will not mention, by the proprietors of the Gladiator Lunch Bar in the city. The girl was directed there by the Commonwealth Employment Service. I note that Davis thinks this is a big joke. He sits on $20 000 a week from his investments—

The Hon. L. H. Davis interjecting:

The PRESIDENT: Order!

The Hon. N. K. FOSTER: Yes, Mr President, you should shout at that gentleman.

The PRESIDENT: If the Hon. Mr Foster will tell me what the Hon. Mr Davis has said, I will determine whether it was offensive.

The Hon. N. K. FOSTER: I will deal with him in the appropriate place and in the appropriate manner.

The PRESIDENT: The Hon. Mr Foster can deal with his question at the moment.

The Hon. N. K. FOSTER: The Commonwealth Employment Service is involved because it directed this unfortunate female to this place for employment.

The Hon. L. H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis is apparently trying to create some sort of argument. I ask him to desist.

The Hon. N. K. FOSTER: As I said, the C.E.S. directed this unfortunate girl to this place for employment. Honourable members will be aware of the policy of that department and would know full well that the C.E.S. does not direct people to vacancies on behalf of employers when they know that employers require a training or probationary period. The C.E.S. will not direct people to work for employers honest enough to tell the department that that is their intention. The department leaves that area to others in this particular field.

The girl appeared for work at 7.30 a.m., if I remember her statement correctly, and was told at about 3 o'clock in the afternoon that she should go home and tell her parents that the proprietors of this lunch bar were prepared to employ her for a period of some 14 days on a probationary basis. After that time they would consider whether she should be paid or taken on permanently. In the interests of the girl, her parents naturally said 'No'. I point out that the proprietors told the girl that she need not telephone back if her parents agreed to her returning.

A check with the C.E.S. office confirmed what I have said. A telephone call to the proprietors of the lunch bar the following morning revealed that they obtained a girl a day in this way, which confirms what the girl in question has said. The girl had gone to the C.E.S. at Campbelltown, which has a very good staff. That office is not far from my home and I know of its track record and its endeavours for the young unemployed. That office directed the girl to the city. I have no complaint with the C.E.S. whatsoever. I point out that the girl does not come within the category of those who do not want work or who will only work for one day. I checked the girl's statement and found that this girl, who is only 15, has been working part time on Thursday evenings during late night shopping and on Saturday mornings at Tea Tree Plaza for almost two years without any loss of working time whatsoever.

This was the first full-time job she had been directed to and she met with this appalling situation. I will briefly acquaint the Council with Marjon Investments Pty Ltd, which is the company trading as the Gladiator Lunch Bar. Many journalists frequent this lunch bar; it is opposite the *Advertiser* building in Waymouth Street. However, I hope they cease to do that in the future. The gross takings for this company last year were $183 170.28. It made a net profit, believe it or not, of $41.69. Wages and salaries are listed as $45 768.12.

The Commonwealth authorities have no jurisdiction to adequately investigate this matter. In any case, they do not have sufficient inspectors to do the job. However, I will let that pass. The appropriate body to investigate this matter is the appropriate State Minister. Will the Minister investigate this matter. To ensure that I can adequately inform the interested parties, namely, the young girl and her parents,

I ask that I be notified of the time of the investigation and that I, the girl or her parents be present.

That is the only way that one can stop this bloody nonsense that is going on in this city. I apologise, Mr President, for the use of that great term which applied to the late General Vasey. This practice has gone on for too long and has to stop. If there is to be a secret meeting with the Minister's department—and I say this advisedly—with the girl, without the girl, or only with the proprietor, that is just not good enough and will not expose the nonsense, ridicule and indignities which the young are forced to suffer by this grand false concept of small business and free enterprise.

I want this matter investigated and want to be advised of the outcome, so that the lies told to me by the proprieter can be put to rest. Why was it that this particular company gave the girl a cheque for the amount of one day's salary and then deducted one hour from it because she did not give notice. That company gave her a cheque and from this I was able to find out the owners of the establishment. I will not use that name; I will give them that anonymity. I want this matter investigated or I will take it into my own hands.

The Hon. J. C. BURDETT: I am not sure why the honourable member thinks that it falls within my portfolio.

The Hon. N. K. Foster: You represent the Minister of Industrial Affairs in this Chamber.

The Hon. J. C. BURDETT: I think that that is probably the appropriate place. It certainly does not fit into community welfare.

The Hon. N. K. Foster: I did not say that it did.

The Hon. J. C. BURDETT: All right. As the honourable member asked me to pass this matter on to the Minister of Industrial Affairs, I will certainly do so and will ask him to make an investigation.

The Hon. N. K. Foster: I want to be there, mate.

The Hon. J. C. BURDETT: Whether or not the honourable member will be involved personally must be up to the people conducting the investigation. I will pass the matter on to my colleague, the Minister of Industrial Affairs, and will bring back a reply.

HEARING AIDS

The Hon. C. W. CREEDON: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question about the provision of hearing aids for the deaf.

Leave granted.

The Hon. C. W. CREEDON: The disability of the deaf is not obvious and is often considered trivial, yet many people suffer from this complaint from birth, while others are not afflicted by any hearing loss until later in life. There are no problems about the provision of hearing aids to people under 21 years of age, nor are there problems for people on pensions who have a medical entitlement card. For all other people between 21 years of age and retiring age, there is a real cost barrier to receiving the best and most suitable aid. I am led to believe that in some cases these hearing aids cost up to $1 000.

Medical benefit societies cover all kinds of aids to the public, such as dental aids, optical aids, and heart pacemakers. The societies even cover operations that remove existing bones or organs and replace them with plastic substitutes. Yet, as far as I can see, the deaf between 21 years of age and retiring age receive no monetary benefits from medical benefit schemes. I believe that consideration of their plight is urgent and is a matter that should be taken up by the Government. Will the Government raise this matter in the appropriate circles and argue that the deaf be given some consideration through the medical benefit societies?

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

INFORMATION ON DRIVING LICENCES

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General, representing the appropriate Ministers, a question about information which should be included on driving licences.

Leave granted.

The Hon. FRANK BLEVINS: Members of the Council may be aware of a case interstate recently where a person died and when the next-of-kin of the deceased person either collected or identified the body they found that the eyes of that person were missing. As they knew nothing about this, it gave them a great deal of concern. Another case was recorded in today's press under the heading, 'Son's eyes stolen, says mother.' The article says:

> A Sydney mother told yesterday how she has spent months in anguish trying to discover who removed the eyes of her dead son.
> 'I just screamed and screamed when I found out what they did to him,' she said.
> 'For weeks afterwards I had nightmares every night. It was dreadful.
> 'No-one had the right to do that without my permission.
> 'It was a terrible invasion of my grief.'
> The woman, who has asked that her name not be published, contacted *The Australian* after reading the story of a similar case in Perth.
> It was two weeks ago that the West Australian Government ordered an investigation into the macabre disappearance of a dead man's eyes.
> They had been removed from the body of Mr Alan Barry, 39, shortly after he had suffered a heart attack.
> In the Sydney case, the eyes were removed after the youth was killed in a road accident.

The article goes on to describe other quite distressing details, but I will not quote that. Further on, the article continues:

> Eyes to be used in transplants and tissue grafts have to be removed within six hours of death.
> It is required under New South Wales law that no tissue matter should be taken from a body unless either the deceased has given prior consent, or consent has been obtained from the closest relative.

The article concludes by again quoting the mother, and says:

> 'My whole objection is that I was never asked', she said.
> 'And if I was, I would never have agreed.
> 'People have the right to decide. My family is devastated.'

I raise a couple of points from this article. Certainly, all members would deplore what has apparently happened in New South Wales and Western Australia. I am quite certain that such a case has not happened in South Australia; certainly, we have never heard of any. The problem of tissue transplants is one that applies equally here and interstate. It is constantly being recommended that the law on tissue transplants be updated. There is a shortage, throughout the Commonwealth, of tissue required for transplantation. The final paragraph of the letter disturbed me. It said:

> 'My whole objection is that I was never asked,' she said.
> 'And if I was, I would never have agreed.
> 'People have the right to decide. My family is devastated.'

There is no indication from the quote that the son in this case had any thoughts about the matter before he died: it is the mother who is saying that she would not have agreed. I wonder what the son would have thought and whether he would have been prepared to have his eyes used to assist somebody who desperately needed that corneal tissue? The difficulty is in finding out the wishes of the deceased. Obviously, at that stage, one cannot find out but, with some difficulty for certain people, one can find out before. The

Australian Kidney Foundation puts out cards which people can sign and carry with them at all times. That is not a very good system. I imagine that the overwhelming majority of people in the community would never have seen these cards or even have thought about the matter.

One way around this, which I would ask the Government to consider, is the question of providing on drivers licences a space similar to that provided on cards supplied by the Australian Kidney Foundation to enable drivers to complete, if they wish and if they have no objection to any or all of their organs being used in the event of death, because one of the major sources of tissue is road accident victims.

The Hon. R. C. DeGaris: Are you thinking of the opting out procedures?

The Hon. FRANK BLEVINS: I have already contacted the Government about opting out procedures, and it has refused to implement them. I believe that all tissues should be available unless there is a good reason against it. If a person does not wish to have any tissue from his body used after death, he should be able to opt out of that procedure.

The Government does not agree with me and has refused my request in this matter. Will the Government consider providing a space on drivers licences to enable those people who wish tissue from their bodies to be used by the medical profession to indicate their wishes through that convenient means?

The Hon. K. T. GRIFFIN: I will refer the question to the Minister of Transport and the Minister of Health and bring down a reply.

DAYLIGHT SAVING

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Attorney-General, representing the Premier, a question about daylight saving.

Leave granted.

The Hon. ANNE LEVY: Way back in October 1979 I asked the Premier, through the Attorney-General, whether the referendum which he was then promising on daylight saving could include a question on people's attitudes to extending daylight saving for a further month to the end of March. At that time I was told that the Government would consider this, but in discussions in another place on the topic of daylight saving this suggestion does not seem to have been mentioned by the Premier. I wonder whether the Premier has forgotten his undertaking to consider it.

We know that New South Wales and the Australian Capital Territory are extending daylight saving for another month and are not putting their clocks back this coming Sunday, as the rest of us have to. We are told that this is for the purpose of saving power, and I know that the Premier has said that we do not need to save power here. It may be true that we do not need to save it in terms of not having sufficient power available, but there are thinking individuals in the community who would like to save power and have slightly smaller electricity bills than they would otherwise receive, particularly in view of the steep electricity charge increases that have occurred in the last year (over 20 per cent, I think) and the further rises that are forecast for next year.

If daylight saving is extended for another month, people will consume less electricity and, as a result, will save on their electricity bills. I am sure that many people would welcome this. As extending daylight saving for a further month would save power and save on electricity bills, and also enable people to continue to enjoy the warm evenings which we are having at this time of the year (I am sure that I am not the only person to enjoy them), will the Premier again consider including a question in the referendum on daylight saving about whether or not people would like daylight saving to continue until the end of March and not until the end of February, as at present?

The Hon. K. T. GRIFFIN: I have no doubt that many parents of young children will be delighted when daylight saving ends next weekend. I think that for many of them four months is about as much as they can take. Certainly, I will refer that question to the Premier and bring down a reply.

ADELAIDE FESTIVAL CENTRE TRUST ACT AMENDMENT BILL

Read a third time and passed.

EVIDENCE ACT AMENDMENT BILL (1982)

Read a third time and passed.

STATUTORY AUTHORITIES REVIEW BILL

Second reading.

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

That this Bill be now read a second time.

Its object is to establish an Upper House committee to review South Australia's statutory authorities, thus implementing another undertaking made by the Government before it came to office. The promise to introduce sunset legislation to ensure Government corporations, commissions and trusts are reassessed by a Parliamentary committee requiring them to justify their continued existence will be fulfilled.

Before deciding upon this approach to a statutory authority review process, a detailed investigation of interstate and overseas experience was undertaken. Also it was necessary to clarify what is a statutory authority and what is the extent of their operations in this State. This Government is concerned at the apparent large increase in the number of authorities in South Australia in the past 10 years. Because of the autonomous nature of these authorities there did not seem to be adequate Parliamentary scrutiny over their borrowings, annual budgets or overall programmes. Increasing indebtedness of statutory authorities and the apparent lack of accountability to Parliament, and in some instances, the Government itself, led us to take immediate steps to unravel the bureaucratic and financial web confronting the Government.

First, the Government has been working on improving the accountability of statutory authorities and reviewing the operations of other authorities since coming to office. During the past two years the Government through the combined efforts of the Department of the Premier and Cabinet (Research Branch and Deregulation Unit) and the Public Service Board with the co-operation of other departments and authorities has:

1. Compiled a comprehensive list of statutory authorities categorised into those with separate corporate status and those without separate corporate status. Also categorised the authorities by Act of Parliament and responsible Ministerial portfolio.
2. Surveyed during early 1980, by way of questionnaire, all authorities to provide information on board membership and fees paid, financial matters including borrowings, enabling legislation, objectives and achievements and annual reporting.

3. Undertaken comprehensive reviews of fees payable to board members with particular reference to public servants serving on the boards.
4. Established a semi-governmental borrowings committee to review all requests for borrowings and to consolidate the Government's borrowing programme for presentation to Cabinet for smaller authorities.
5. Undertaken major reviews of some statutory authorities in accordance with stated Government policy to either wind up or restructure the authority.

The success of this continuing work is clearly demonstrated by the action already taken and decisions implemented. Additionally, this background information was not only invaluable but essential to enable a clear assessment of the situation in South Australia before this significant and well thought through legislation was brought down. Action taken to date includes:

1. The abolition or restructuring of the following statutory authorities: Monarto Development Commission, South Australian Land Commission, South Australian Meat Corporation, Apprenticeship Commission, and Red Scale Committees. The Land Settlement Committee is the subject of legislation that has been considered by this Council.
2. Borrowings by statutory authorities under the semi-government borrowing programme have been rationalised and geared to meet the needs as they arise. This action has resulted in vastly improved overall financial management, savings in interest charges against Revenue Budget and less pressures from Government on the capital market in South Australia.
3. Fees paid to board members of authorities have been rationalised and a decision taken to phase out fees being paid to public servants serving these boards during working hours. This has resulted in savings and clarified the policy in relation to fees for board members.
4. These initiatives, combined with the background work undertaken during the past two years mentioned earlier, have undoubtedly contributed to increased awareness amongst the management of statutory authorities for the need for tighter financial control, cutting red tape and improved accountability to Parliament and Ministers.

While this background work was progressing, a detailed investigation was also undertaken into the alternatives available for a review mechanism for statutory authorities. A study was carried out of overseas experience in the United States, Canada, and the United Kingdom together with interstate experience, particularly the Public Bodies Review Committee in Victoria. The alternatives considered were:

1. Sunset clause in Acts creating authorities.
2. Independent review body or commission.
3. Administrative process through Government departments.
4. Auditor-General or special commissioner.
5. Parliamentary committee.

The Government has decided upon the establishment of a Parliamentary committee to review the justification for the continued existence of statutory authorities for the following reasons:

1. A sunset clause for all statutory authorities would overload Parliament with Bills to permit authorities to continue to exist after the sunset date. A five-year review period, for example, would average 50 Bills per year.
2. Additionally, under the sunset clause proposal—
   (i) A formal structure or committee would still be required to make recommendations to Parliament, but would find it impossible to review objectively each authority with so many subject to a sunset date review each year.
   (ii) Also, by declaring a review date in advance, the statutory authority concerned would have several years notice of review and there would be a tendency for authorities to spend considerable time and effort justifying their continued existence.
3. The Government desires greater Parliamentary scrutiny of the affairs of authorities and accountability to Parliament. A Parliamentary committee with Government and Opposition members appears the best alternative to achieve this objective.
4. The powers of a Parliamentary committee and the requirement to publish its findings will ensure public confidence in the recommendation concerning the future operations of authorities reviewed.
5. A Parliamentary committee will be able to utilise the expertise existing in the Public Service from, say, the Auditor-General's Office or Public Service Board, as required, by arrangement with the Minister concerned. Additionally, subject to budgetary constraints, private consultants could also be utilised by a Parliamentary committee.

These are the major reasons why the Government is proposing a Parliamentary committee to review the need for the continued existence of South Australia's statutory authorities. Sunset clauses will still be considered in other legislation, where appropriate.

The committee will not overlap the work of the Public Accounts Committee but rather complement the work the P.A.C. does in the area of Government departments via the Auditor-General's Report. The Statutory Authorities Review Committee will have specific objectives quite distinct from those of the P.A.C., as detailed in the explanation of the Bill.

Considerable attention has been given to defining which authorities come within the jurisdiction of the committee. Single person authorities which include some Ministers and Commissioners are excluded as are the Houses of Parliament, the courts and tribunals. To further clarify the situation, authorities subject to review will need to be listed in regulations provided for by the Bill. I am sure we can look forward to a significant contribution from the Statutory Authorities Review Committee once it is established. 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. Clause 3 provides the necessary definitions. 'Statutory authority' means only those bodies that are established by or under an Act of Parliament and that are specified in regulations made under this Act. The House of Assembly, the Legislative Council, the committee established under this Act, any other Parliamentary committee, and all courts and tribunals are specifically excluded.

Clause 4 establishes the Statutory Authorities Review Committee. The committee will come solely from the Legislative Council, with three members from the Government benches and two from the Opposition benches. All members are appointed to office for a term that expires on the day immediately preceding the beginning of a new Parliament,

thus enabling the work of the committee to continue during the gap between one Parliament and another.

Clause 5 provides that the Legislative Council may remove a member from the committee upon certain grounds. Subclauses (3) and (4) provide for the filling of casual vacancies that occur in the various ways set out in paragraphs *(a), (b), (d), (e)* and *(f)* of subclause (2). A member is eligible for re-appointment to a new committee provided that he is still eligible under the other provisions of the Act. Clause 6 deals with the allowances and expenses to which a member is entitled. Clause 7 preserves the validity of acts of the committee notwithstanding any vacancies on the committee.

Clause 8 provides that the Legislative Council may appoint a Chairman upon the nomination of the Leader of the Government in the Council. Clause 9 sets out various procedural requirements for meetings of the committee. Three members, one of whom must be an Opposition member, form a quorum of the committee.

Clause 10 provides that the Governor, the House of Assembly or the Legislative Council may refer a statutory authority to the committee for review. The committee may of its own motion nominate a statutory authority for review. The statutory authority and its Minister must each be given written notification of an impending review. The committee need not necessarily review statutory authorities in the strict order in which they were referred to the committee, but when the committee is determining the order of priority, it must consult with the Minister (that is, the Minister to whom the administration of this Act is committed).

Clause 11 provides that the primary purpose of a review under this Act is to determine whether or not the statutory authority in question ought to continue in existence. The committee is empowered to look into all relevant matters when carrying out a review, but particular attention is drawn to five main areas of concern. The committee must look at the purposes, cost effectiveness, structure and functions of the statutory authority.

Clause 12 sets out the powers of the committee in carrying out a review. Ministers of the Crown may not be summoned to appear before the committee. The Minister administering this Act may prevent the production of a document to the committee if he thinks it would be against the public interest to do so. Subclause (6) gives the statutory authority being reviewed and its Minister a clear entitlement to appear before the committee, to have access to all evidence taken by the committee, and to make submissions to the committee. The committee may take steps to suppress the identity of a person who gives evidence, or makes submissions, to the committee. All meetings of the committee must be held in private unless the committee decides otherwise in respect of a particular meeting. A decision to admit members of the public to a meeting is valid only if it was concurred in by an Opposition member. Clause 13 provides that an incoming committee must complete any review that the outgoing committee was in the course of carrying out immediately before it lapsed.

Clause 14 provides that the committee must, on completing a review, prepare a report on the review. That report must contain the findings of the committee, its recommendations as to the continuance or abolition of the statutory authority, and the reasons for its recommendations. Whether the committee recommends the continuance or the abolition of the statutory authority, it is given a wide power to make recommendations on all matters relevant or incidental to that continuance or abolition. The committee must table its report in each House of Parliament.

Clause 15 provides that once a statutory authority has been reviewed, any later reviews initiated by the committee or a House of Parliament must be at least four years apart, unless the committee recommended an earlier review in its previous report, or unless both Houses of Parliament resolve that an earlier review should take place. The Governor has an unrestricted right to initiate a review at any time. Clause 16 provides for the staffing of the committee. The committee must seek the approval of the Minister before engaging consultants to assist in any review. Clause 17 provides that the office of member of the committee is not an office of profit. Clause 18 provides for the payment of the moneys required for this Act. Clause 19 provides that offences must be dealt with in a summary manner. Clause 20 provides a regulation-making power.

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

COMMERCIAL TRIBUNAL BILL

The Hon. J. C. BURDETT (Minister of Community Welfare) obtained leave and introduced a Bill for an Act to establish a tribunal to exercise statutory jurisdictions formerly exercised by various boards and tribunals; to confer certain powers on the tribunal; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

There are presently a number of Acts that establish different boards and tribunals for licensing and other regulatory controls over various occupational groups. These include: Land and Business Agents Board, Land Brokers Licensing Board, Land Valuers Licensing Board, Secondhand Vehicle Dealers Licensing Board, Builders Licensing Board, Builders Appellate and Disciplinary Tribunal, Commercial and Private Agents Board, and the Credit Tribunal. The occupational groups licensed or regulated by these bodies are: land and business agents, land brokers, land valuers, secondhand motor vehicle dealers, general builders, building tradesmen in some 46 separate classified trades, commercial agents and sub-agents, inquiry agents, loss assessors, process servers, security guards and agents and store security officers, credit providers (mainly finance companies), and retail stores who provide credit by means of revolving charge accounts,

Each Act establishing the respective board or tribunal provides for a similar system for the licensing of each occupational group. Members of each licensing body are appointed for a specific period (usually three to five years). Each body includes a legal practitioner (in the case of the Credit Tribunal and the Builders Appellate and Disciplinary Tribunal, a judge of the District Court) who is the Chairman, members with knowledge of or experience in the occupation whose practitioners are required to be licensed and, usually, members with knowledge of the interests of members of the public who deal with those required to be licensed.

Applicants for licences are required to apply to the appropriate board or tribunal and satisfy that body of certain criteria. Generally, these relate to the applicant's age, character, qualifications, experience and, often, financial resources. In the case of corporations, those involved in the control and management of the body corporate are generally required to satisfy similar criteria. If the licensing body is satisfied that the applicant satisfies these criteria, the licence is granted upon payment of the prescribed licence fee, and is renewed annually upon application and payment of a prescribed renewal fee.

If it is found after proper inquiry that grounds exist for taking disciplinary action against the licensee, such action may usually take the form of a reprimand, fine, disqualification from holding a licence, or suspension or cancellation of the licence. Grounds for taking such action generally include circumstances in which the licence was obtained

fraudulently or improperly, the licensee has been convicted of an offence involving dishonesty, or the licensee has acted negligently, incompetently or dishonestly.

There are considerable variations between the Acts as to the extent of these powers and the procedures involved. Furthermore, in the case of builders, the power to license and to inquire into the conduct of builders rests with the Builders Licensing Board, while the power to discipline lies with the Builders Appellate and Disciplinary Tribunal. The Builders Licensing Board and the Credit Tribunal also have an adjudiction role in relation to civil disputes between licensees and those with whom they deal in the course of their businesses. None of the other bodies have this role. Each board or tribunal has a secretary or registrar responsible for keeping a register of licensees and providing secretarial and clerical services. In the case of the Commercial Registrar of the Credit Tribunal, there is also power to exercise some functions delegated by the tribunal.

The separate existence of so many licensing bodies causes some confusion and duplication for members of the various occupational groups concerned. For example, if a person wishes to operate as a land agent, land valuer and builder, and wishes to lend money or otherwise provide credit to his clients, he is required to apply for four separate licences, each from a separate board or tribunal, for what he regards as one composite business. This involves much duplication of effort by the applicant, as he is required to satisfy each licensing body separately of substantially the same criteria. There is also a danger that, as those licensing bodies are mutually independent, they might interpret identical statutory criteria in different ways, which could be confusing and unfair to the applicant. If the conduct of the licensee is later found to be such that his licence should be revoked, each of the four bodies would have to hold separate hearings for this purpose. This again results in a potential for inconsistency.

The composition of the existing bodies is not always appropriate in relation to the functions to be carried out. This has usually resulted from additional functions being conferred on an existing body without providing for the appointment of additional persons with expertise in those functions. For example, the Credit Tribunal exercises jurisdiction under the Fair Credit Reports Act and the Credit Unions Act but includes no representatives of reporting agencies or credit unions; the Commercial and Private Agents Board licences various occupational groups within the security industry but that industry is not represented on the board. This diminishes the confidence that some industry groups have in the board or tribunal by which they are regulated.

The system as it now exists is irrational and inconsistent and, because of the bureaucracy and duplication necessarily involved, can constitute a significant cost burden on industry, which burden is ultimately borne by consumers. It is therefore clearly in the interests of both the industry groups involved and consumers generally that costs arising out of the licensing system are minimised. Accordingly, the Government intends to abolish all the existing bodies and to establish one body to hear all licensing and disciplinary matters concerning the occupational groups concerned. A single body under the same chairman, but differently constituted according to the nature of the matter before it, should minimise existing inconsistencies and duplications and reduce administrative and industry costs.

This Bill provides for the establishment of this body, to be known as the Commercial Tribunal. The Bill does not, of itself, confer jurisdiction on the new tribunal—this will be effected by amendments to the other Acts that established the boards and tribunals that are to be replaced. However, all matters that should be uniform regardless of the particular Act under which the tribunal is acting are dealt with in this Bill. Over a period of time each of the relevant Acts will be amended to abolish the separate boards and tribunals and transfer their jurisdictions. Particular matters relating to the jurisdiction under each Act will continue to be dealt with in that Act, as complete uniformity is not practical in all cases. For example, the criteria to be satisfied by applicants for licences, and the grounds upon which disciplinary action may be taken against licensees, will vary according to the type of licence involved.

The Bill provides for panels of tribunal members to be appointed comprising representatives of each commercial and consumer interest and for the Chairman to select persons from appropriate panels to constitute the tribunal for each hearing. In a particular case, the tribunal could include representatives from several occupational groups so that one hearing would be sufficient to deal with applications for licences in several different categories. There is also to be a panel from which an appropriately qualified expert may be selected to assist the tribunal in particular proceedings. This will enable, for example, an accountant to assist the tribunal in proceedings relating to a land agent's trust account or an engineer to assist in a building dispute. Although such persons may assist the tribunal in its deliberations, they will not participate in the making of a final decision or order.

A commercial registrar is appointed to have overall responsibility for the administration of the Commercial Tribunal and this will facilitate the further rationalisation of administrative procedures and reduction of bureaucracy and duplication. Those officers who are presently secretaries to particular boards will continue to perform similar duties for the Commercial Tribunal pursuant to a delegation of authority from the Commercial Registrar. The tribunal will be bound to act according to equity, good conscience and the substantial merits of each case without regard to technicalities and legal forms and, except in relation to disciplinary proceedings, will not be bound by the rules of evidence.

In cases where jurisdiction is conferred on the tribunal to make appropriate orders to resolve civil disputes (such as the jurisdiction conferred on the Credit Tribunal and the Builders Licensing Board) it is intended that rules be made to encourage voluntary conciliation of such disputes by negotiation by the Commissioner for Consumer Affairs. The new system can readily accommodate any trade or industry groups that the Government may decide in the future to regulate. The system is flexible enough to accommodate such groups even if they are not to be required to be licensed but are only to be obliged to comply with a code of conduct or other requirements. Accordingly it will no longer be necessary to establish a new statutory authority every time it becomes necessary to license or otherwise regulate a particular area of commercial activity. The Government regards the establishment of this new tribunal as an extremely significant step forward in the implementation of its policy of rationalisation of legal and administrative requirements. All the relevant occupational licensing Acts are now being reviewed and the necessary amendments will be introduced as soon as possible. I seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 sets out a number of definitions required for the purposes of the new Act. Clause 5 establishes the Commercial Tribunal. Clause 6 provides for the constitution of the tribunal. The presiding

officer at hearings before the tribunal is to be a judge of the District Court. In addition to the judge there will be a member from the appropriate panel constituted in relation to the Act under which the proceedings arise selected to sit at the hearing of the proceedings and a further member selected from a panel of 'consumer' representatives. Under subclause (2) the membership of the tribunal may if the Chairman or a Deputy Chairman so determines be expanded by the inclusion of one or more experts from the panel of experts to be constituted under clause 8 (3).

Subclause (3) provides for the consolidation of proceedings arising under a number of different Acts. It states that where proceedings involve the same or similar questions and the Chairman or the Deputy Chairman determines that it would be expedient to consolidate those proceedings and that the consolidation would not unfairly prejudice any party to the proceedings, he may direct that the proceedings be so consolidated. In that event a member will be selected from each of the panels relating to the various Acts under which the consolidated proceedings arise. Subclause (4) provides that in various matters specified by the rules of court or in relation to the exercise of specified powers or functions, the tribunal may be constituted solely of the Chairman or a Deputy Chairman. Subclause (5) provides that the tribunal may, in effect, sit in various divisions in relation to separate proceedings.

Clause 7 provides that the Chairman of the tribunal is to be a District Court judge nominated by the Senior Judge. A panel of legal practitioners of at least five years professional standing will be established and these will serve as Deputy Chairmen of the tribunal.

Clause 8 provides for the constitution of panels from which members of the tribunal are to be drawn. Subclause (1) provides that the Governor may in relation to each Act conferring jurisdiction on the tribunal establish a panel consisting of members representative of the interests of the class or classes of persons who are licensed or registered under the relevant Act or whose conduct is otherwise regulated under the relevant Act. Subclause (2) provides for the constitution of a single panel of members representative of the public who deal with persons licensed, registered or otherwise regulated under the relevant Acts. Subclause (3) provides for the constitution of panels of experts with special expertise which would in the opinion of the Governor be of advantage to the tribunal. The remaining provisions of the clause deal with the terms and conditions of panel membership.

Clause 9 provides for payment of allowances and expenses to members of the tribunal. Clause 10 provides for the office of the Commercial Registrar and sets out his duties and functions. Clause 11 is a standard validating provision. Clause 12 provides for the manner in which the tribunal is to arrive at its decisions. The presiding officer is to determine questions of admissibility of evidence and other questions of law or procedure, while questions of fact are to be resolved by majority decision. A member of the tribunal drawn from the panel of experts will not be counted for the purpose of determining whether there is a majority for or against a particular proposition. Clause 13 provides that the tribunal must act according to equity, good conscience and the substantial merits of a case without regard to technicalities and legal forms and provides that the tribunal is not to be bound by the rules of evidence except in disciplinary proceedings or other proceedings in relation to which special provision is made by one of the relevant Acts.

Clause 14 deals with general procedures. It requires notice to be given to parties to proceedings and deals with representation before the tribunal. Clause 15 empowers the tribunal to issue summonses to require attendance of witnesses and require production of books, papers and documents and gives the tribunal various other powers that it requires for the purpose of hearing and determining proceedings. Clause 16 empowers the tribunal to make orders for costs. Clause 17 requires the tribunal to give reasons for decisions or orders made by it. Clause 18 empowers the tribunal or the Supreme Court to suspend the operation of an order of the tribunal where an appeal has been instituted. Clause 19 empowers the tribunal to state a case on any question of law for the opinion of the Supreme Court.

Clause 20 provides for an appeal against orders or decisions of the tribunal. The appeal lies as of right on a question of law but on a question of fact leave of the tribunal or the Supreme Court is required. Clause 21 provides for the determination of appeals by a single judge of the Supreme Court. Clause 22 requires the Registrar to keep registers of persons licensed or registered under the relevant Acts. It provides for inspection of the registers and deals also with evidentiary matters. Clause 23 is a provision empowering the tribunal or the Supreme Court to correct formal irregularities with a view to disposing of the substantive issues between parties to proceedings as quickly and expeditiously as possible. Clause 24 is an evidentiary provision providing for proof of judgments and orders of the tribunal. Clause 25 empowers the making of rules of the tribunal for the purposes of regulating proceedings under any of the relevant Acts. A regulation-making power is also included. It should be noticed in particular that provision may be made for settlement or attempted settlement by conciliation of disputes between parties to proceedings before the tribunal.

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

ST JUDE'S CEMETERY (VESTING) BILL

Adjourned debate on second reading.
(Continued from 3 March. Page 3243.)

The Hon. FRANK BLEVINS: The Opposition, in a spirit of co-operation, is happy to expedite the passage of this Bill, certainly as far as the second reading stage. The Bill appears to be the result of agreement between the various parties concerned, and we hope that that is the case. However, quite obviously the Bill will be referred to a Select Committee and Opposition members will serve on that committee. We will ensure that all interested parties have an opportunity to state their position to the committee. In co-operating in this very brisk fashion, I stress that the Opposition is in no way pre-empting anything its members may do while serving on the Select Committee or at the third reading of the Bill. It is a Bill which can only be considered in detail by a Select Committee. The sooner the Select Committee begins taking evidence the better. With those qualifications the Opposition supports the second reading.

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate the speed with which members opposite have been prepared to consider this Bill with a view to establishing a Select Committee. I appreciate the Opposition's general indication of support, although I recognise that it may desire to qualify that support when the Select Committee has completed its task. I believe that the Select Committee could meet over the next two weeks with a view to reporting on the next day of sitting. That would certainly assist the residents of Brighton and the council of St Jude's. Accordingly, I thank honourable members for dealing with this matter expeditiously.

The PRESIDENT: As this is a hybrid Bill it must be referred to a Select Committee pursuant to Standing Order 268.

Bill read a second time and referred to a Select Committee consisting of the Hons. L. H. Davis, M. B. Dawkins, J. E. Dunford, N. K. Foster, K. T. Griffin, and C. J. Sumner; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 23 March 1982.

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 3248.)

The Hon. J. R. CORNWALL: The Bill before us is the first piece of major legislation to be introduced by the Minister of Health, Hon. Jennifer Adamson, in the 2½ years she has held her portfolio. It follows three major reports from the Badger, Wells and Bede Morris inquiries. It is more than 12 months since the last report was available to the Government. Yet the proposed legislation is remarkable for its sins of both commission and omission and for its dissembling approach.

The Bill is a camel which has been cobbled together by competing interests in Government departments with a minimum of consultation with those most affected by it. In some areas it appears to be deliberately misleading. This impression is certainly reinforced if it is read in conjunction with the Minister's second reading explanation. However, the Opposition believes after very lengthy consideration that it would be possible, by extensively amending the proposed Bill, to produce sound and sensible legislation. If the Government repents, sees the error of its ways and adopts a sensible bipartisan approach, we believe Parliament can eventually produce an Act which enshrines the best and most important recommendations of the Badger, Wells and Bede Morris Reports. For these reasons we intend to support the second reading.

In this contribution I will canvass at some length, though necessarily in general terms, some of the major amendments which are essential for an updated and satisfactory Act to meet the needs of the 1980s and beyond. The Institute of Medical and Veterinary Science was established under its own legislation in 1938. It is unique in Australia in providing both medical and veterinary diagnostic and research facilities. It has enjoyed a first class national and international reputation for many years.

Many animal diseases, the so-called zoonoses, are transmissible to man, and neither the veterinary nor medical aspects should stand alone. That is one of the great advantages of an integrated medical and veterinary institute. In addition, the constant contact and cross-fertilisation of ideas between medical and veterinary pathologists is highly desirable. To achieve this in an integrated and amiable climate it is essential that scientific and support officers be employed by a common authority under similar conditions. It is the height of administrative folly to employ people under different awards and conditions responsible to three different Ministers in quite separate administrative areas and with widely disparate responsibilities. I shall return to this area in discussing more specific aspects of the Bill.

Prior to the 1970s, the institute functioned very well, although there were intermittent and occasionally well justified criticisms of the quality and tardiness of its diagnostic services. As a consumer of those services, I can vouch for that. During the 1970s, however, there was an explosion in laboratory diagnostic techniques; automation and the computer arrived in medical and veterinary pathology. This had several dramatic and, in some cases, traumatic effects. The massive expansion in clinical biochemistry was a classical example. The equipment which became available was remarkable for its ability to very accurately perform a wide spectrum of tests in a completely automated way. It could also handle a very large number of individual samples in a very short time. In many cases the tests could be run by technicians with relatively basic skills and training. Furthermore, the capital cost of the equipment was very high. The same circumstances were rapidly created in other areas, particularly haematology. The Badger Report stated:

> During the . . . decade there was an explosive growth in laboratory investigations as more and more doctors came to rely on the laboratory to augment and in some cases replace clinical judgment. Many new tests were introduced and old relatively crude tests abandoned. Many hospital laboratories were upgraded and many new private pathology practices established. The greater availability of facilities encouraged usage and it was common place for these laboratories to record an increase in workload at an annual rate of 15 per cent compound. Much of this increase was attributable to greater supply of results due to technological advances rather than greater demand for tests.

The advent of Medibank in 1975 compounded the situation. In its original desire to placate a very conservative medical profession, which at that time still enjoyed widespread public credibility, the Labor Government was no doubt over-generous in its treatment of doctors. Labor's basic mistake, and one which we will never repeat, was to rely on the altruism of a profession which had previously been distinguished by its high and uniform standards of ethics. Pathologists, in particular, became the new millionaires, the outstanding beneficiaries of the new arrangements incorporating a plethora of item-of-service payments.

This position has not been significantly changed under six years of Fraserism and despite five changes to the health insurance system. Despite amendments to the Health Insurance Act, some fiddling with the medical benefits schedule and the introduction of differential S.P., O.P. and H.P. rates for doctors, the system is still being grossly exploited.

For a variety of reasons, the I.M.V.S. derived little benefit from the financial bonanza enjoyed by the more aggressive marketing of private pathologists. I do not intend to canvass all or any of those reasons at this moment. I do not think that they are directly relevant to the Bill. In fact, during this period the institute was placed in a position of relative disadvantage, despite the delivery of its services at the lower O.P. rates.

In the meantime, facilities, staff and capital equipment, both at Frome Road and at the regional laboratories of the I.M.V.S., grew rapidly. It was to the credit of the then Director and the council (and I give credit where it is due) that they actively sought to expand their services in both suburban and country areas. However, the physical facilities and staff quickly outstripped administrative procedures and skills. The organisation, to put it frankly, was simply growing like Topsy.

Certainly, the Director and the institute council, while I have given them credit for being in there and expanding the institute at the appropriate time, must carry much of the responsibility for failing to respond to the new challenges with either the speed or the administrative skills required during this period. As the pressures became greater, the siege mentality deepened.

Nor can the then State Government be absolved from blame. Prior to 1979 they accepted repeated assurances that all was well at the institute despite evidence to the contrary. Serious initiatives to investigate the conduct of the institute were not set in train until mid-1979. These were halted when the Government changed in September of that year. Even early in 1980, the Badger Committee,

charged by the present Government with the task of inquiring into pathology services generally in South Australia, was reassured to some degree. Referring to the institute, it said:

> The overwhelming majority of submissions expressed satisfaction with the present arrangements; many were made for the sole purpose of commending the present situation. There is little public pressure for change; South Australia is fortunate in the high quality of the pathology services it enjoys.

The present Minister (Hon. Jennifer Adamson) was also reassured by the Director and the Chairman of the council of the I.M.V.S. During 1980 there were persistent questions in the House of Assembly from my colleague, Terry Hemmings, (member for Napier), then Opposition spokesman on health, and the member for Mitcham. They produced increasing and well documented evidence of incompetence and irregularities at the institute. However, for more than six months the Minister maintained that all was well.

Eventually, because of overwhelming pressure from the Parliament, the press and the public, she was reluctantly forced to set up both the Wells Committee of Inquiry and the inquiry by Professor Bede Morris late in 1980. Some administrative changes were made following the reports of Wells and Bede Morris. The appointment of Dr H. D. Sutherland as 'interim' Director was undoubtedly the most significant and constructive of these efforts.

However, in the legislation currently before us, a Bill produced more than 12 months after the three major reports were all available, the Government has either departed from or ignored almost every significant recommendation of Badger, Wells and Bede Morris. It has indulged in a most remarkable interdepartmental cross-breeding exercise to produce a disastrous cross between a mouse and a monster.

One of the Wells Committee's principal recommendations was that 'the Institute of Medical and Veterinary Science continue as a joint medical and veterinary organisation'. This recommendation has been deliberately cast aside. The Minister of Agriculture is to direct the veterinary section of the institute and employees in that section are to become public servants. In other words, the unique character of the institute to which I referred earlier is to be destroyed, and I might say deliberately destroyed. It is also interesting to note what the Badger Committee had to say about this. I will quote directly from Badger at some length at 6.70, on pages 54 to 56, as follows:

> The Committee of Inquiry does not support the transfer of the Division of Veterinary Sciences of the institute to the Department (of Agriculture). There are several reasons:
>
> The great majority of submissions (including that by the United Farmers & Stockowners of South Australia) expressed satisfaction with the existing arrangements; many submissions were made for the sole purpose of praising those arrangements;....there was no support for the proposal to transfer veterinary pathology to the Department of Agriculture; many expressed concern that the quality of the service might be compromised if it were placed under the control of the department.
>
> Country veterinary practitioners expressed a wish to continue to send their specimens to the institute's laboratory attached to their local hospital and to seek advice from its staff.
>
> A high proportion of veterinary pathology work relates to animals other than livestock and in which the Department of Agriculture has no direct interest.

Further points by the committee of inquiry conducted by Badger are as follows:

> Research rarely flourishes in a Public Service environment—

I could not agree more—

> and the present high standard might not long continue if the service were transferred.
>
> Research scientist classifications are desirable and these would be difficult to achieve under a departmental structure.
>
> The separation would undoubtedly lead to increased costs to the Government even if it did not do so immediately.
>
> Many infectious diseases of animals can affect human beings so a close association between veterinary and medical microbiologists is of advantage in the public health field; and
>
> the association of medical and veterinary scientists has significant advantages.

An example of this was cited in a C.S.I.R.O. submission to the Badger Inquiry, which stated:

> Moreover, the expertise available in the Medical Division complemented that in the Veterinary Section and valuable discussions were held which often led to published work having greater breadth and depth.

The committee went on to say:

> We consider that veterinary pathology should remain within the Institute of Medical and Veterinary Science and that the interdepartmental committee established to study the proposed transfer to the Department (of Agriculture) be disbanded.

That was from the Wells Report (6.71 on page 56). However, there is an empire builder within the Department of Agriculture who would simply not let go of this idea. Dr Pat Harvey was responsible for initiating moves to take over veterinary pathology more than three years ago. The initial moves were begun in an almost clandestine way, and certainly without the knowledge or approval of the then Minister, my colleague the Hon. Brian Chatterton. The moves were brought to my attention at that time by colleagues in the veterinary profession. In turn, I was responsible for bringing them to the Hon. Mr Chatterton's attention. Dr Harvey's intention then was to remove the 'V' from the I.M.V.S. and transfer it to a new temple to be built at Gilles Plains. The Hon. Mr Chatterton, to his great credit, resisted and rejected these attempts. There is every indication that this is still Dr Harvey's intention and that this legislation is the first step in a two-stage process. The Opposition opposes this separation with vehemence.

It is clear from the Minister of Agriculture's contribution in the House of Assembly that he knows not what he does. I will not go further and say, 'Father forgive him,' because he should know better. He completely fails to grasp the administrative, academic or industrial significance of the legislative separation. He referred, in a contribution in the House of Assembly, in a simplistic and simple-minded way, to the hiving off of the Veterinary Sciences Division as having no effect on personnel 'because they would still be working at the same bench'. If he read Wells or Badger, which I doubt, he certainly failed to comprehend what they had to say. What is proposed is an absurd and impossible arrangement from administrative, academic or industrial relations viewpoints. Quite clearly, it is an arrangement that should never have been contemplated, and I sincerely hope that this Council will throw it out.

Just as clearly it is the first significant step, through the back door and through the rather empty heads of the Ministers of Health and Agriculture to separate the functions, to remove the 'V' of the veterinary section from the I.M.V.S., to place it in agriculture and eventually to physically separate the medical and veterinary pathologists. Dr Harvey has induced the Government to thumb its collective nose at the Badger and Wells Committees. As Dr Duncan Sheriff said in a letter to the *Advertiser* of 1 March 1982:

> Surely it is misleading to suggest that the I.M.V.S. Bill 1982 has more than a flimsy basis in the Wells or Badger Reports.

It is interesting to examine the position of the South Australian Branch of the Australian Veterinary Association in these matters. The last considered position of the association was recorded in a written submission to the Badger Committee and was recorded in paragraph 3.8 of that report. At that time the A.V.A., an association to which I belonged for 22 years, said this:

> The staff of the Veterinary Pathology Division of the I.M.V.S. has provided an excellent service over the years to the veterinary profession with the only constraints being those of finance and staff numbers. With few exceptions the terms of reference, of advice, consultation, research and efficient laboratory services have been met. This has been due in part to the interchange of techniques which has been possible between medical and veterinary scientists,

consultations between the two disciplines within the organisation and because of (its) standing in scientific circles the I.M.V.S. has been able to attract staff of high calibre.

That was a considered, written submission. That was also the position at the time of the Wells inquiry. Yet the Minister of Health has tried to say otherwise on the strength of a timid and ambivalent statement from the new President of the A.V.A. Let me explain to the Council exactly how that happened. Primarily, it was due to the lamentable lack of consultation with all interested parties which has characterised the preparation, the secret drafting, of this Bill.

On the evening of Saturday 20 February the Minister of Agriculture, Hon. W. E. Chapman, was a guest at the Presidential dinner of the Veterinary Association. During his address, the outgoing President, Dr Rick Humphris, said that in general terms and from what they knew of the second reading explanation—not the Bill, because no-one except the hierarchy in the Department of Agriculture had sighted the Bill at that time—the A.V.A. was pleased that the Bill for the new I.M.V.S. Act had been introduced to Parliament. That was a fairly innocuous statement at dinner; an innocuous statement made, presumably, as a friendly and social gesture to the Minister of Agriculture, who was present. At that stage very few members of the A.V.A., including members of the committee, had even seen the second reading explanation let alone the Bill. None, except a few favoured senior veterinarians with the Department of Agriculture, had seen the proposed Bill.

On Monday 22 February, two days later, Dr Humphris was contacted by an *Advertiser* reporter to seek his views on the Bill. It seems that, for the first time, he became aware of the significance of the proposals to separate the veterinary scientists to the Department of Agriculture. As I understand it, Dr Humphris quite correctly restated the written policy of the A.V.A., the policy which had been submitted formally to the Badger and Wells committees of inquiry.

When the newspaper report appeared in the *Advertiser* on Tuesday 23 February Dr Humphris was reported as being critical of the separation and as I understand it being correctly reported. Government members quickly got to work and rounded up the new President of the A.V.A., the incoming President, Dr Tony Davidson, a senior veterinary officer in the Department of Agriculture. His remarks were ambivalent but gave guarded and qualified support.

Those remarks were produced by the Minister during the debate in another place, but the remarks must be read in that context. Subsequently, there was some concern in the profession—at least among those members of the profession who were even aware that this Bill was before Parliament, because there had been, as I said, virtually no consultation at all. On 3 March 1982 a letter was drafted rapidly to the Hon. Jennifer Adamson, Minister of Health, concerning the I.M.V.S. Bill, 1982. That was from the new President, Dr Tony Davidson. I will quote part of that letter, which states:

Dear Minister,

I refer to my statement of 24 February 1982 concerning the association's position relating to the proposals of the I.M.V.S. Bill, 1982.

That was the statement that the Minister produced in another place. The letter continues:

The statement was made in an attempt to clarify the apparent anomaly between the statement made by Dr Humphris, the retiring President at the Presidential reception on Saturday 20 February 1982 and the statement reported in the *Advertiser* on 23 February 1982. The association is concerned over a number of matters relating to the Bill and considers that you should be aware of these.

At this stage Dr Davidson had taken off his Department of Agriculture hat and had apparently put on his A.V.A. President's cape. The letter continues:

The association made submissions to both the Badger and Wells inquiries. On each occasion the association stated its view that the veterinary division should remain as an integral part of the institute. The association has been assured both by Government policy and by individual Ministers that it would be consulted on matters of concern to its members. The association was not consulted until the Bill was placed on notice on 17 February 1982. The association is now re-assessing its view in the light of the new proposals.

The true position, as far as I can ascertain it, and I must say that it is rather difficult to ascertain, is that there are three camps within the A.V.A. There are those A.V.A. members who are senior employees of the Department of Agriculture and who naturally support the legislation because basically it is their Bill; there are those A.V.A. members who are vital employees of the I.M.V.S. who have not been consulted at any stage of this process and who are strongly and vigorously opposed to this legislation; finally, there is the majority of A.V.A. members who are in private practice and who have little or no notion of what the legislation involves. At page 61 at 12.6.1 (3), the Wells Report states:

Yet up to 60 per cent of all laboratory diagnostic tests at the I.M.V.S. are carried out for private veterinarians.

These figures are not mine but those of the Wells Report. I repeat that there has been a lamentable lack of consultation and a twisted, almost sinister logic, in the drafting instructions. I can do no better to demonstrate this and by quoting again from an excellent letter from Dr Duncan Sheriff, a senior veterinary pathologist at the I.M.V.S. for many years. In the *Advertiser* of 1 March he wrote:

Since the present veterinary services of the I.M.V.S. appear to be satisfactory to nearly all its clients, and there is general opposition to the transfer of those services to the Department of Agriculture, what compelling reasons have persuaded the Government to fly in the face of such widespread public opinion?

It is to be hoped that debate in and out of Parliament will make clear what those reasons are and the motives behind this shabby Bill that has been sprung, with so little regard for its consequences, on those who will be affected by it should it become law.

Under the same disastrous clause, I turn now to the forensic pathology and forensic biology sections of the Division of Tissue Pathology at the institute.

The Opposition supports the view that the division should be physically located at Divett Place with the forensic chemistry section of the Department of Services and Supply as recommended by Wells. However, we completely oppose their transfer to the Minister of Services and Supply, largely for the same administrative, academic and industrial reasons as I have advanced at length for the Division of Veterinary Science.

The Hon. R. C. DeGaris: Do you think that forensic pathology should be eventually removed from Ministerial control?

The Hon. J. R. CORNWALL: I do, and I will explain that, if the member will bear with me. It is essential that the forensic scientists maintain and strengthen the close connections with the University of Adelaide's Department of Pathology. For this reason they should remain attached to the institute's Division of Tissue Pathology for purposes of recruitment, management support, continued experience in non-forensic autopsies, and participation in undergraduate, continuing and post-graduate education. As the Wells Committee stated in paragraph 14.5.4. at page 70:

The division's very close ties with the University of Adelaide's Department of Pathology would be further strengthened if the university could extend its academic recognition to one or more of the Forensic Pathologists employed by the institute.

That was one of the many very good recommendations of the Wells Committee. The Badger Committee had earlier recommended that consideration be given to the possibility of establishing a total forensic science service with the Forensic Science Centre at Divett Place. The Badger Committtee did not canvas the reasons for this recommendation, although it did note that there had been differences between

the Director of the institute and the Director of the institute's Division of Forensic Pathology. I will not give names, but anyone who followed that case would be well aware of the personalities to whom I am referring. The Opposition does not consider that this well known personality clash was a sufficient or cogent reason for the surgery that the Government is undertaking against all the recommendations of the Wells Report.

To deal with the point made by the Hon. Mr DeGaris, I will take the matter of forensic services a little further. This morning the Vice-Chancellor of the University of Adelaide, Professor Stranks, and Professor Vernon-Roberts came to see me and my colleague, the Hon. Miss Levy, to express their concern about this Bill. The university and the I.M.V.S. were left at all stages prior to the introduction of the Bill with the impression that the implementation team set up by the Minister of Health was acting upon the recommendations of the Wells Committee. They first became aware of the major departures (and they are major departures) when the Bill was introduced in the House of Assembly. That is quite extraordinary. We are talking about the University of Adelaide and the I.M.V.S.

Both were under the clear impression that the implementation team set up by the Minister of Health was proceeding on the basis of the very excellent recommendations of the Wells Committee, recommendations that they were happy to accept. I have a memorandum that was prepared and hand-delivered to me this morning. It is from Professor Vernon-Roberts and I think it is worth reading in full so that it will be in *Hansard*. The memorandum refers to forensic pathology and biology and states:

> The proposal put forward to the Minister and supported by the Implementation Committee was that the institute's sections of Forensic Pathology and Forensic Biology (currently part of the Division of Tissue Pathology under Professor Vernon-Roberts) and the section of Forensic Toxicology currently administered by the Department of Services and Supply, be amalgamated to form the nucleus of a South Australian Institute of Forensic Sciences.

I understand that at that time Dr Darcy Sutherland was also strongly in support of that recommendation. He was strongly in support of what Professor Vernon-Roberts was about, with the idea, as the Hon. Mr DeGaris has rightly pointed out, that the South Australian Institute of Forensic Sciences should be separate from any direct Government control, which is highly desirable, as Wells pointed out. It could retain close links with the Pathology Department of the University of Adelaide. At that time the clear impression that those people were under was that that was the sort of direction in which the Government was proceeding. The memorandum continues:

> It was proposed also that a Director-General or equivalent be appointed to have administrative responsibility for the functions of that institute. It was conceived that the institute could be administered through the I.M.V.S. since this would acknowledge the need for continuing close relationships with the Division of Tissue Pathology and the Department of Pathology, University of Adelaide, for medical undergraduate teaching and research.

That was a further bonus. The memorandum continues:

> The proposal contained in the Minister of Health's second reading speech of 15 February 1982 proposed the co-ordination of the relevant sections under the Department of Services and Supply. It does not propose the inauguration of an Institute of Forensic Sciences nor has the Minister agreed to the appointment of an overall Director to co-ordinate the activities of the group. The new arrangements would have a substantial impact on the present organisation of the teaching of forensic medicine for medical students by the Department of Pathology. The I.M.V.S. is recognised by the University of Adelaide as an organisation in which employees may be considered for clinical academic titles on the basis of their contributions to teaching by departments.
>
> The Department of Services and Supply is not recognised and the Department of Pathology would not wish to propose that the Department of Services and Supply be embraced into the clinical titles scheme.

Clearly, from a practical, administrative and academic point of view, what the Government is proposing is quite disastrous. I quote again from the memorandum from Professor Vernon-Roberts, as follows:

> There is a substantial need for an increased component of forensic medicine in the teaching of medical students and this may also apply to the teaching needs in the Faculty of Law. The new arrangements may also cause problems in respect of the training of pathologists and forensic pathologists and in research in forensic sciences.

There is argument after argument as to why this arrangement proposed by the Government in this Bill should not be made. The memorandum continues:

> The institute entered into an agreement with the University of Adelaide that the Professor of Pathology would be responsible for forensic pathology. Changes proposed by the Minister would be in breach of this agreement and the matter would seem to require formal discussions with the University of Adelaide.

What an incredible mess the Minister and the Government are getting themselves into! The memorandum goes on:

> It is considered that if the new arrangements extended to the creation of an Institute of Forensic Sciences under a Director and with satisfactory arrangements for training, teaching, and research in the forensic discipline, the proposal would not be opposed by the Department of Pathology.

The department, the University of Adelaide itself in total, and anyone associated with the forensic sciences at I.M.V.S. obviously has to be bitterly opposed, for the reasons I have outlined, to what the Government is about in this Bill. So much for the time being regarding forensic pathology. I assure the Council that it will hear more about this in the Committee stage. There are other sins of omission which can be more appropriately canvassed in the Committee stage of the Bill. That is a threat and a promise of which the Government will hear more then.

However, I turn now to some quite remarkable omissions in the Bill. The greatest of these is the complete failure to enshrine in the legislation any of the recommendations of Professor Bede Morris. This is a matter very close to my heart because, as you would realise, Sir, I have been a practising veterinarian for something more than 24 years. I was enticed first to enter this profession because of my very great love of animals (I have always found that by and large animals are very much more reliable than human beings). There was a complete failure to enshrine any recommendations of Professor Bede Morris in the legislation. Members will recollect that the appointment of Professor Morris was announced on 21 October 1980 following well-documented proof of irregularities, mismanagement and cruelty involving laboratory and experimental animals at the I.M.V.S. and other institutions administered under the Health portfolio. The member for Mitcham (and credit where it is due, despite my wellknown attitude towards that particular Party) had carefully documented the problems following information supplied by Dr Duncan Sheriff. For years, despite Dr Sheriff's protests, animals had been subjected to unnecessary and often gross cruelty principally because there was no supervision of surgical procedures or post-operative recovery of animals by veterinarians. Nor was there a veterinary surgeon specifically concerned with the management of the animal house. Yet when these problems became public knowledge the Minister of Health, to her shame, tried to sheet the blame to Dr Sheriff, despite, as I said, the fact that Dr Sheriff, one of the outstanding senior members of the veterinary profession for longer than most people can remember in this State, had been protesting for years about the irregularities in this matter at the institute. In what is probably his most quotable quote, at page 32 Professor Morris (and I recommend that all members read the Bede Morris report because he is most eloquent and has a remarkable grasp of the English language) said:

I have never understood why it should be that the elite standing God accorded to the first animal house attendants, Noah and his family, should have lapsed so badly since the flood.

That was the great flood, for the benefit of members opposite who may not be aware of the Old Testament.

The Hon. C. M. Hill interjecting:

The Hon. J. R. CORNWALL: I know very well that the Hon. Mr Hill is conversant with the Old and New Testaments and that he gathered the significance of that statement. On the role of veterinary scientists at the institute and maltreatment of animals, Bede Morris's remarks at paragraph 8.5 on pages 38 and 39 are worth recording in full, and I intend to do that. Professor Bede Morris said the following:

I became aware quite early in the course of my inquiries that there were problems associated with the welfare of animals which would not be resolved unless some fundamental changes were made to the staff structure of the institute. The recommendations I have made for the appointment of a Principal Veterinary Officer is one such change that I consider to be crucial. There are, however, other problems in the institute which affect the interactions between medical and veterinary staff and these require resolution to ensure that animal use and welfare becomes a corporate responsibility and not a matter for argument.

There should be some real advantages for establishing a satisfactory institutional ethic towards animal care by having a group of veterinary scientists on the staff of the institute. After all, veterinary science is the one profession whose members have a declared obligation to care for animals. Even though most of the veterinarians at the institute have no responsibility for carrying out any specific functions in regard to animal care they should be able to play an important role in the establishment of professional standards of looking after animals.

The Wells inquiry expressed concern that the veterinary activities of the institute may not be given adequate recognition by a 'medically oriented council' and a similar sentiment was apparent in the recommendations made by the Badger Inquiry that a Deputy Director with veterinary qualifications should be appointed to the institute. I share these same concerns. For a variety of reasons the status of veterinary scientists in the institute has been seriously devalued over the past few years and this had led in turn to their demoralization. It needs to be clearly recognised that the adequate care of animals, the diagnosis of animal disease, the treatment of sick animals and the practice of surgery on animals require the same level of professional competence as in human medicine. If this is not acknowledged the animals will be given a raw deal.

The Hon. R. J. Ritson: Won't that improve with a separate administration?

The Hon. J. R. CORNWALL: Indeed it will not. If the honourable member has not comprehended my remarks to date he should listen and I will go on. Professor Bede Morris continued as follows:

The public criticisms of the incidents with experimental animals led to press reports which referred to the maltreatment of animals at the 'Vet Institute' and it was suggested subsequently that members of the institute's veterinary staff were to an extent responsible for allowing these misdemeanours to occur. This was quite wrong and these suggestions should have been corrected by the institute's administration. As a consequence the delinquency of medical practitioners resulted in obloquy for the veterinarians which further alienated the institute's veterinary staff.

As I said previously, the Minister, to her eternal shame, tried to get Duncan Sheriff to carry the can for that.

The Hon. J. C. Burdett interjecting:

The Hon. J. R. CORNWALL: It is a fact; it is recorded in *Hansard*. She believed what was told to her by a couple of people in the hierarchy, namely, the Director and the Chairman, and she canned poor old Duncan Sheriff, a man who has been an outstanding member of the veterinary profession for many years. Professor Bede Morris went on to say the following:

I support the recommendation put by both the Wells and Badger Committees for the establishment of veterinary position in the institute at a level of seniority which will ensure that the veterinary viewpoint, in regard to policies on the production, the use and the care of laboratory animals as well as on matters of veterinary diagnosis and disease control, is given primacy. I recommend that the Institute of Medical and Veterinary Science establish a veterinary position at a level of seniority equivalent to other Directors of Divisions in the institute as recommended by the Wells Committee.

Although they are not directly related to the present Bill, Bede Morris's remarks on the two animal holding areas at the Adelaide Children's Hospital are worthy of recollection. I hope that the Hon. Mr Hill is listening, because he professes to be one of the great animal lovers of our time. He was irate that he might have to tattoo his King Charles spaniel at one stage.

The Hon. C. M. Hill: That is what you would like to do.

The Hon. J. R. CORNWALL: Indeed, but I will not go into that now. However, the Minsiter has been party to this dreadful Bill which has been approved by Cabinet, which I find extraordinary and very uncharacteristic. As I said, although they are not directly related to the present Bill, Bede Morris's remarks on the two animal holdings at the Adelaide Children's Hospital are worthy of recollection, as follows:

The area on the ground floor where rats, mice, guinea pigs and rabbits are housed is a squalid, tenebrous, funk-hole; it should be closed down as soon as it is possible to provide adequate alternative accommodation for the animals.

The Hon. J. C. Burdett: Is this matter addressed by the legislation?

The Hon. J. R. CORNWALL: No, it is not addressed by the legislation. The matter of animal cruelty is not taken up in the legislation at all, to the Government's shame. There is nothing in it about animal ethics committees, principal veterinary officers, or protecting experimental animals—that is what I am on about. Listen, and learn. Some makeshift alternative arrangements have been made since that scathing criticism was made. However, the indefinite deferral of stage 3 at the A.C.H. means that no satisfactory accommodation other than funk-holes (squalid and tenebrous or otherwise) will be available in the foreseeable future.

Professor Morris's principal recommendations regarding the I.M.V.S. must be enshrined in legislation so that the mistreatment and cruelty which previously occurred at the institute can never occur again; they must be enshrined in legislation so that the disgraceful treatment of Dr Sheriff and the shameful attempt to make the veterinary profession the scapegoat for the carelessness of other members of the institute cannot be repeated. All animal lovers in South Australia will be outraged to know that the Government has not written one word of the Bede Morris recommendations into this Bill.

Accordingly, in the Committee stage the Opposition on behalf of all animal lovers and concerned people in South Australia will move to insert amendments in the Bill which will make the appointment of an animal ethics committee compulsory; and insist on the appointment of a principal veterinary officer of a senior classification who will be Chairman of that committee. That will be done by Statute, if we can persuade the Government to see the error of its ways. We will also move to implement recommendations of the Badger and Wells Committees with regard to the upgrading as well as the continuity of a division of veterinary science within the institute. As Professor Morris said:

I share these same concerns (of Badger and Wells). For a variety of reasons the status of veterinary scientists within the institute has been seriously devalued over the past few years and this has led in turn to their demoralisation.

Accordingly, we will move in the Committee stage to ensure that there will continue to be a division of veterinary science in the institute; and that the Chief Officer of that division must be an officer of the institute employed on a full-time basis with the same status and salary as the chief officers of the other divisions of the institute.

One of the few things we agree with in the Bill is the appointment of the Director of the institute on a contract basis. However, we believe that the term of this appointment should be specified in the legislation. We will therefore

move to nominate a period of five years without a limitation on reappointment subject to satisfactory performance.

Another matter which is not addressed at all in the legislation is sponsored overseas trips. During the furore which raged about the institute in the past two years the question of overseas trips attracted much criticism. A small number of people associated with the institute were described as professional tourists. Much worse, there were cases where the institute received financial assistance from suppliers of equipment for overseas travel. That is an entirely untenable situation. Again, no direct provision is made in the Bill to specifically preclude this practice. It is another of the Government's glaring sins of omission. Accordingly, the Opposition intends to move an amendment to specifically require approval by the Health Commission for the budget and itinerary of any overseas trips where the institute proposes to wholly or partially finance that trip.

A further question to which the Government has not addressed itself in this legislation is the vital one of personal and academic freedom. This is understandable perhaps when we consider the backgrounds of the Ministers of Health and Agriculture but, nonetheless, unforgiveable that it got past the combined Cabinet. It may well have been desirable to specify this in the legislation. Indeed, if the I.M.V.S. is to retain its continuing role as a research institute and not to be split into two or three parts—

The Hon. R. C. DeGaris interjecting:

The Hon. J. R. CORNWALL: Indeed. There is no question about what will be left if this legislation goes through. The medical pathology services will simply become an appendage of the Royal Adelaide Hospital and the research aspect will disappear. Ultimately, the veterinary pathology division will be physically removed (stage II). If Dr Harvey has his way the temple will be built at Gilles Plains and the empire will go on. Quite clearly, forensic pathology will be removed and taken over by the Minister responsible for the Department of Services and Supply, of all people. It will be removed from its association with the Adelaide University and the Department of Pathology. The research role of the institute will be completely dissipated over a relatively short time if this legislation passes in the form in which it came into this Council. As I was saying, if the I.M.V.S. is to retain its continuing role as a research institute in close association with the University of Adelaide, a degree of academic freedom should be guaranteed. No provision is made for this anywhere in the proposed legislation.

Finally, there are the very important recommendations made by the Badger Committee at points 6.24 and 6.51 which have been completely ignored. It would not be possible to incorporate these in the I.M.V.S. Bill before the Council. However, there is no doubt that they should have been presented as separate Bills to be considered in conjunction with this legislation. Point 6.24 referred specifically to an accreditation and licensing board for pathology laboratories. That is a matter of great importance.

The Hon. R. C. DeGaris: Shouldn't that be a national question?

The Hon. J. R. CORNWALL: Listen and learn. The Hon. Mr DeGaris has been here long enough to know that he should not pre-empt my better thoughts.

The Hon. R. C. DeGaris: Like the Borgias!

The Hon. J. R. CORNWALL: Like the Borgias; forgetting nothing and learning nothing. The Badger Committee stated:

> An accreditation and licensing board (with representatives from the non-medical community) should be incorporated under the South Australian Health Commission Act and its constitution should be such that the interests of patients are paramount.

The need to develop procedures for the accreditation of pathology laboratories and to ensure such accreditation was agreed to in principle by the Health Ministers Conference as long ago as July 1976. However, no State has yet passed the legislation. This would have been an ideal occasion for South Australia to take the step and to take the initiative. Must we go on waiting for ever? July 1976 is almost six years ago.

In addition, we regret that there is no indication that a Pathology Services Advisory Committee will be established either administratively or by Statute to advise the South Australian Health Commission on all aspects of pathology services as recommended by the Badger Committee at point 6.51. I would be interested to hear why this was not done or why it was not canvassed by the Minister of Health during the second reading.

In summary, there are only two major proposals in the Bill to which the Opposition can give unqualified support. These provide that the I.M.V.S. should be a body corporate subject to the control and direction of the Minister of Health. The remainder of the proposed legislation by-passes the major recommendations of all the Badger, Wells and Bede Morris Reports. It ensures the disintegration rather than the effective integration of one of South Australia's most venerable institutions.

The alternative Government of South Australia, the Opposition, seriously canvassed the possibility of moving for a Select Committee of the Legislative Council on this Bill. Discussions have been held within our own ranks and with other members of the Parliament. After due consideration, however, we do not deem this to be necessary. If the Government takes heed of the numerous amendments which I have foreshadowed—amendments which are all based on the recommendations of three previous inquiries—this Bill can still emerge as a very good piece of legislation. If the Government does not pay heed to our suggestions it is unlikely to pay more than scant attention to a Select Committee of the Upper House which, on all grounds of logic and reason, must reach conclusions virtually identical to the three previous committees of inquiry.

Finally, I give this firm undertaking to the staff of the I.M.V.S. and to the people of South Australia on behalf of the alternative Government of this State. If the present Government does succeed in this ill-informed and disastrous attempt to dismember the I.M.V.S.; if it does pursue this reckless and ridiculous destruction of the institute, we give this promise: when re-elected, a Labor Government will move to reconstitute, reintegrate and to strengthen this unique South Australian scientific organisation, the I.M.V.S.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

CONSTITUTION ACT AMENDMENT BILL (No. 2), of 1982

Adjourned debate on second reading.

(Continued from 2 March. Page 3170.)

The Hon. R. C. DeGARIS: This Bill follows changes made Federally in relation to those who may vote at an election. I do not think that there will be any opposition to these changes being made to the State's Constitution Act. The Bill deletes certain transitional provisions in the process of the Council's membership increasing from 20 to 21 members and then to 22 members. I draw attention to one small point in the Bill. This is the first time that I have seen this happen in a Bill, although other members may recollect its happening before: clause 4 of the Bill amends section 14 of the Act, while clause 5 of the Bill amends section 12 of the Act.

There is nothing wrong with that, but usually in a Bill before the Council, sections of the principal Act are amended

in numerical order. However, clause 4, which I believe should be clause 5, deals with a question that I raised on a previous Bill before the Council concerning the unusual circumstance where a candidate dies between nomination and election. A serious problem could occur where, if a candidate died, less than the number of candidates elected by the voters would be able to take their place in the Parliament. That could create quite a difficult situation as far as the democratic process was concerned.

That problem does not occur in single-member seats, but it is a serious problem where proportional representation is used with the list system. The Electoral Act provides that, where this occurs, an election for the Legislative Council is void and a new election is then called. As the Constitution Act has no provision for by-elections for the Legislative Council, it is necessary to take up the point in the amendment to the electoral legislation in the Constitution Act. This is done in clause 4, which should be clause 5. New section 14 (2) provides:

> Where an election held in pursuance of subsection (1) is avoided or fails, a fresh election to supply vacancies in the membership of the Legislative Council shall take place as soon as practicable after the date of that election.

Does this provision create, as it is drawn, another difficulty? Is it possible that, where an election for the Legislative Council fails for some legitimate reason, a new election is called? If the elections of the House of Assembly and the Legislative Council are not held concurrently, the provision that the Legislative Council should serve for not less than six years, calculated from 1 March in any year, could create the position that the election of the Legislative Council members could be for a considerably longer period than six years.

I do not think that that is a possibility that we could count on; the possibility of that occurring is at very long odds. I would consider it reasonable to include a further subsection in new section 14, stating that, for the purposes of the Constitution Act, in the event of an election for the Legislative Council failing, the subsequent election (which is really a by-election for the Legislative Council) should be deemed to have been held on the same date as the House of Assembly election.

This is a minor point and I ask the Government to examine it because it is a valid point where there is a possibility of the Legislative Council, for the first time, having an election separately from the House of Assembly. This may complicate the question of the six-year period which is included in the Constitution Act for service in the Legislative Council. Apart from those comments, I support the second reading.

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

EVIDENCE ACT AMENDMENT BILL (No. 2)

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

BRANDS ACT AMENDMENT BILL

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 amends the Brands Act on a number of different subjects. Presently the principal Act provides that livestock are not to be branded except with a brand approved by the registrar. The primary purpose of such branding is to facilitate the ready identification of an animal's owner. However, the Bill proposes an amendment to the Act which will enable the State's horse racing authorities and approved breed societies to require their respective members' stock to be branded in accordance with the appropriate registration rules of the authority or society.

Such a brand will be for the express purpose of identifying the animal rather than its owner. The amendment originates from a longstanding request by the Australian Trotting Council and, more recently, the South Australian Trotting Control Board to allow the trotting industry in this State to introduce the 'alpha angle' system of branding for animal identification purposes. The amendment will also permit approved breed societies to brand stud stock according to society specifications. Such branding will accord societies a higher degree of protection in maintaining stock blood lines.

Due to the progress of the national eradication of bovine tuberculosis and brucellosis, it is intended that all cattle moving from tuberculosis and disease infected properties be permanently identified. The Bill provides for the use of appropriate distinctive brands. The Bill will also enable departmental officers or an authorised officer of a breed society to brand cattle indicating that such cattle have undergone a herd test as, for example, is required by the Angus Breeds Society in relation to mannosidosis.

The Australian Wool Corporation and all organisations of coloured sheep breeders have unanimously agreed that a standard ear mark to identify heterozygous sheep should be adopted. This will enable responsible breeders to identify sheep for sale which are heterozygous so that a buyer may be warned of the risks in their use. The Bill also contains a number of minor amendments removing references to the defunct livestock division of the department and updating the definition of 'disease' so that it accords with the present definition of the Stock Diseases Act. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal. Clause 4 provides that where an animal is registered with an approved authority the owner may brand the animal with a brand which has been approved by the authority and in a position and manner approved by the authority. Where an authority is approved for the purposes of the new provision it is required to keep records of approved brands and is required to allow the registrar to examine and make copies of or take extracts from those records. Clause 5 provides that a sheep that carries the colour pattern gene may be earmarked with the distinctive earmark identifying it as such a sheep.

Clause 6 amends section 62 of the principal Act. This section relates to the branding of diseased stock. The amendment expands the form of the brand that may be used in relation to such stock and provides that the brand may be either a fire brand, a freeze brand or an acid brand. Clause 7 amends section 63 of the principal Act by removing the reference to the body known as the Advisory Committee for the Improvement of Dairying. Clause 8 is a consequential amendment.

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

CORRECTIONAL SERVICES BILL

In Committee.

(Continued from 2 March. Page 3180.)

Clause 21—'Day on which sentences of imprisonment shall commence.'

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

Page 9—

Line 19—After 'court' insert, 'judicial officer or justice'.

After line 21—Insert new subclause as follows:

(2a) Notwithstanding any other provision of this Act or any other Act, imprisonment in default of the payment of any fine or sum adjudged or ordered to be paid in criminal proceedings is, subject to any order or direction to the contrary made by a court, judicial officer or justice pursuant to any other Act or to rules of court, cumulative upon any other imprisonment that the person in default is serving or is liable to serve when the warrant of commitment for the default imprisonment is delivered to the superintendent of the correctional institution for execution.

These amendments are in my name, although the conduct of the passage of this Bill is generally with the Minister of Local Government, because the amendment in respect of clause 21 which is on file is related to the Statutes Amendment (Justices and Prisons) Bill, which we have now adjourned until the next day of sitting. Clause 21 of the Correctional Services Bill provides the starting point for sentences of imprisonment. Subclause (2) deals with the commencement of periods of imprisonment as a result of the execution of warrants of commitment. The Leader of the Opposition drew attention to the potential discrepancy between the provision in the Bill as it stands and the Statutes Amendment (Justices and Prisons) Bill. In that Bill the Government is seeking to amend the law so that, where warrants of commitment are issued in respect of periods of imprisonment imposed in default of payment of a fine, they shall be served consecutively or cumulatively upon the completion of the period of imprisonment being served by the prisoner on whom the warrant is served.

The law as it stands now, as has been indicated earlier in the debate on the Statutes Amendment (Justices and Prisons) Bill, is somewhat obscure, and although we have not yet resolved the principle of that Bill in this Council, the Government's amendment is designed to put into practice the principle that we are seeking to deal with in the Statutes Amendment (Justices and Prisons) Bill. In the judgment of the Full Court there was favourable comment by the Chief Justice in respect of that practice. I would like to take the opportunity of reading several extracts from his reasons for judgment in relation to section 93 of the Justices Act. In relation to the long-standing practice of executing warrants for imprisonment on prisoners consecutively, he stated:

The purpose to be achieved by the administrative instruction is laudable. It is to ensure that the prisoner suffers a real penalty in place of the unpaid fine or other monetary impost and that it is not merely absorbed into a sentence of imprisonment for another offence. It is also to ensure that the penalty is not exacted in such a way as to disrupt the rehabilitation of the offender by the execution of the warrant after his release from prison and when he is endeavouring to re-establish his life.

The Chief Justice did reach a conclusion that the matter could be dealt with administratively under section 93 of the Justices Act, but in respect of that he stated—

The Hon. C. J. Sumner: Is that not really a judicial decision?

The Hon. K. T. GRIFFIN: The Chief Justice regarded it as an administrative one.

The Hon. C. J. Sumner: Justice Sangster did not.

The Hon. K. T. GRIFFIN: The Chief Justice did, and had this to say:

I make two final comments for the assistance of administrative authorities and legislators who may have to give their attention to the problem. The first is that the administrative practice which was followed in this case is reasonable and would have been lawful if the issuing justice had ordered that the term of imprisonment commence at the expiration of that already being served.

My other comment is that it is desirable that Parliament should lay down rules as to the commencement of terms of imprisonment which result from default in payment of monetary penalties or costs so that as far as possible, the commencing date does not depend upon administrative action.

The Chief Justice concluded that it ought to be resolved in legislation, that that is the principle as well as the authority in administrative instructions, and that the practice that was the subject of an administrative instruction over the past 28 years was reasonable. The amendment seeks to embody that princple in the Correctional Services Bill. It does not seek to make it retrospective. It seeks to deal with it in the future and to make it consistent with the Bill that we will consider on the next day of sitting.

Whilst my amendment makes it, as a matter of course, a cumulative effect of executed warrants of commitment of prisoners, there is the opportunity for a court, judicial officer, or justice to vary that principle and to vary it in such a way as will enable it not to be just perhaps concurrent but also for it to come into effect at a later date than it might ordinarily come into effect, either under clause 21 or, if an administrative instruction were given, under section 93 of the Justices Act. For these reasons, the Government would like this series of amendments carried to embody the principle in the Bill and put the whole question beyond doubt.

The Hon. C. J. SUMNER: Rather than put the whole question beyond doubt, I believe that, if the Committee entertains this amendment, we will be in complete confusion. I asked that clause 21 be recommitted because I was concerned about a potential conflict between clause 21 of the Correctional Services Bill and the principles in the Statutes Amendment (Justices and Prisons) Bill that we were considering at the same time, which arose out of the Government's taking action following the decision in *Reid v. Hughes,* to which the Attorney has referred.

It seems to me that the Attorney is trying to enshrine in the Correctional Services Bill the same principle as he wanted to enshrine in the Statutes Amendment (Justices and Prisons) Bill, namely, that imprisonment for non-payment of fines should be served automatically at the end of any previous sentence. That is a principle which we have been arguing about in regard to the Statutes Amendment (Justices and Prisons) Bill and which I oppose.

I would have thought that, if the Government was concerned to get the Correctional Services Bill through at this time (and I understand that and have no desire to delay it), the proper procedure would be to withdraw this amendment until the issue of principle had been decided in the Statutes Amendment (Justices and Prisons) Bill. We could end up with a bad situation if we dealt with this amendment now. I suggest that that is the action that the Attorney should take.

The Hon. K. L. MILNE: This matter did not come up in the Royal Commission, unfortunately, and therefore it has come up rather piecemeal in two or three pieces of legislation, and it has come up as a result of a Supreme Court case. On looking at various letters and documents, we find that it has arisen before. I realise that that principle is not retrospective in the Correctional Services Bill, but it still leaves there the principle that we have been arguing against and it has the same effect as the justices and prisons legislation, although without retrospectivity. I am as much against the princple in this as I was in my speech on the Statutes Amendment (Justices and Prisons) Bill, when I stated my view. It is the view of the Australian Democrats now: I have spoken to my colleague in another place.

Members interjecting:

The CHAIRMAN: Order!

The Hon. K. L. MILNE: At that time, I said:

In my view a Supreme Court sentence should be complete and the term for the gaol sentence should be total. A decision as serious as putting a person in prison should be based on the whole evidence, including all outstanding misdeeds or crimes. If it is not possible to have all that information before the sentencing judge, and I am told that it is usually not, owing to administrative difficulties, then obviously some much better system of treatment for prisoners, as other information becomes available while they are serving their sentence, should be devised by the courts or the police, or both.

I understand that, if a person has committed a number of offences, such as one at Mount Gambier, one at Whyalla, and one for which he has now been charged, when the discussion on the major offence is before the court, it is likely that the court does not know of the other offences, either because recording is behind, or for some other reason. The judge seldom knows of the misdeeds of a person like that when he is sentencing him to gaol. I think that is the fault of the system and, if the system cannot be corrected, the person should be gaoled for that offence and the offences outstanding. I do not like the principle of adding to it at all.

If it is bad enough to bring it up again and add something on, he ought to be given another trial, so there ought to be some procedure whereby it is legalised if he has had another gaol sentence. I apologise for not putting this in strict legal language, but I am sure members know what I mean. In the debate on the Statutes Amendment (Justices and Prisons) Bill, I also said:

As for the future, the Bill is not really necessary—section 93 of the Justices Act already provides that a justice, when issuing a warrant, may direct in writing on the warrant, that 'The imprisonment for such subsequent offences shall commence at the expiration of the imprisonment to which such defendant has been previously adjudged, or sentenced. There is a similar provision in the Prisons Act—section 24 (3), for higher courts.'

I am going to vote against this amendment. However, I have informed the Minister, the Hon. Murray Hill, that we would support a different amendment or an addition to the Correctional Services Bill bringing it into line with the principle that already exists in the Statutes Amendment (Justices and Prisons) Bill. We maintain that this is unnecessary, because power already exists to do this, and if similar wording were brought into this legislation we would certainly support it, to be consistent. However, as it is, it would be confusing, as the Leader pointed out in his courteous way, so I will be voting against this amendment.

The Hon. K. T. GRIFFIN: If the Opposition and the Hon. Mr Milne intended not to support the amendment, then the Government will look to see this Bill passed as soon as possible. It is a significant Bill and if, when we come to debate the Statutes Amendment (Justices and Prisons) Bill at the next day of sitting, there is some other resolution to this difficulty, it may be that, if this amendment is not carried now, the Council and the Parliament will have to consider an early amendment to the Correctional Services Bill to ensure that there is consistency. I am disappointed that the amendment does not appear to be receiving the support I think it should, but I can accept that there will be at least another opportunity to sort out this principle on the next day of sitting.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. J. A. Carnie. No—The Hon. J. E. Dunford.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K. T. GRIFFIN: I regard this amendment as a test and, accordingly, I do not think it appropriate to proceed with my other amendments to this clause.

Bill reported without further amendment. Committee's report adopted.

Bill read a third time and passed.

ADJOURNMENT

At 5.19 p.m. the Council adjourned until Tuesday 23 March at 2.15 p.m.