## LEGISLATIVE COUNCIL

Tuesday 27 March 1984

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

### PAPERS TABLED

The following papers were laid on the table:

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

*Pursuant to Statute—*

Bills of Sale Act, 1886—Regulations—Paper for Instruments.

Boilers and Pressure Vessels Act, 1968—Regulations—Multiple Testing Fee.

By the Minister of Health (Hon. J.R. Cornwall):

*Pursuant to Statute—*

North Haven Trust—Report, 1982-83.

Racing Act, 1976—Rules of Trotting—Scratching Time.

Coober Pedy Progress and Miners Association Incorporated—By-law No. 1—Motor Vehicles for Hire (Amendment).

District Council of Kadina—By-law No. 32—One way Streets.

District Council of Kimba—By-law No. 21—Flammable Undergrowth.

## QUESTIONS

### RELEASE OF PRISONERS

**The Hon. M.B. CAMERON:** I seek leave to make a short explanation before asking the Minister of Correctional Services a question regarding what could be called the Government's pre-trial release scheme.

Leave granted.

**The Hon. M.B. CAMERON:** In the *News* today an article appears which describes some of the evidence given in court concerning a prisoner who was mistakenly released. The article states:

> A prisoner had been released from gaol after he and his solicitor had told Correctional Services officers he was not legally entitled to be, a magistrate has been told.
>
> In Glenelg Magistrates Court, Mr P.M. Liddy, SM, said, in sentencing the man on other matters, he took into account that the man had fulfilled his obligations by demanding he remain in gaol.
>
> Counsel for Henneker, Ms G. Brown, told the magistrate Henneker had been ordered to be released from custody last Friday, after he had appeared in Central District Criminal Court.
>
> Ms Brown said Henneker and his solicitor had 'fought to have him detained' but 'they insisted on releasing him'.
>
> She said: They said they had no power to hold him and they refused to.
>
> 'He attended at Adelaide Gaol and surrendered on Saturday.'
>
> Ms Brown told the court a similar incident had occurred in November when gaol authorities had told Henneker 'to pack his bags'.
>
> Mr Liddy told Henneker he had behaved in 'a particularly responsible manner' in relation to his court obligations.

I think that is putting it mildly. The report then continues, in relation to another prisoner named Gebert, as follows:

> Gebert had been serving a six-month sentence imposed by Mr Liddy for housebreaking and larceny, concurrent with a four-month sentence for illegal interference.
>
> 'He was due for release on 26 July . . .'
>
> 'It appears they never took into account the six-month sentence when they released him.'
>
> Mr Liddy asked: 'The six-month sentence was completely overlooked?'
>
> The prosecutor replied: 'And they forgot about the two trials pending. 'He was supposed to have been remanded in custody.'
>
> Gebert told Mr Liddy he also had been due to appear in Adelaide Magistrates Court on 15 March 'for a grievous bodily harm' matter.
>
> It would have been his first time before a court for that offence.

It appears that there is quite a considerable problem in this area. A prisoner was trying to do the right thing and was almost thrown out of gaol when he himself knew that he should remain in there. I do not know quite what is happening in the system. Is the Minister satisfied that all possible steps have been taken to ensure that prisoners are not mistakenly released from prison when in fact they have other terms to serve and, if not, what rectifying action has the Minister taken or will he take? Does the Minister agree that the recent errors and mistakes are a further example of public confidence in our prison system being undermined?

**The Hon. FRANK BLEVINS:** The Hon. Mr Cameron has an advantage over me, because I have not read today's *News.* If the report is correct, I think it demonstrates that we have a particularly high class of prisoner here in South Australia. The integrity of some of them surprises me and delights me. However, to be a bit more serious, the issue is a very serious problem and one that I cannot be absolutely confident is not going to remain for some time.

*Members interjecting:*

**The Hon. FRANK BLEVINS:** Before the Hon. Mr Griffin and other members opposite become too carried away, I say that because at the moment we have several thousand movements in and out of Adelaide Gaol every year.

**The Hon. K.T. Griffin:** You need the Justice Information System.

**The Hon. FRANK BLEVINS:** I will come to that in a moment. Since the burning down of A Block at Yatala, we have had a problem in taking prisoners to Adelaide Gaol with the resultant overcrowding in that institution, the additional workload on staff, and the totally inadequate facilities for staff to work from. I invite any honourable member to come with me to Adelaide Gaol and look at the circumstances in which these people are attempting to cope with the thousands of prisoner movements each year. Until we build a new remand centre and a new medium security facility at Murray Bridge, I am afraid that incidents of this type cannot be conclusively ruled out in the future.

*The Hon. M.B. Cameron interjecting:*

**The Hon. FRANK BLEVINS:** Just a moment. I cannot say with absolute certainty that human error will not occur when people work in the appalling conditions that exist at Adelaide Gaol.

**The Hon. Diana Laidlaw:** Why don't you put up temporary offices?

**The Hon. FRANK BLEVINS:** I have issued an invitation to any honourable member to come with me to Adelaide Gaol to view the conditions that these people are working under. The problem has not arisen over the past three or four weeks: the problem in our prison system as a whole arises from at least 30 years of utter and total neglect. That applies under all Governments. What we are wearing now is the result of 30 or 40 years of neglect. Until we can achieve more order in our prison system over the next few years I am not at all confident that the system will not show some very severe strains, as it is showing at the moment.

I want to compliment the officers of the Correctional Services Department working in the gaols who, under the most appalling conditions, do a very fine job. The fact that they are correct with their administration 99.9 recurring per cent of the time is a credit to them. Until anybody here goes down and sees what they are doing, I strongly object—

**The Hon. R.I. Lucas:** What are you doing about it?

**The Hon. FRANK BLEVINS:** I will tell the honourable member in a moment. I object strongly to anybody criticising either the clerical officers or the prison officers.

**The Hon. Diana Laidlaw:** We are being critical of you, not them.

**The Hon. FRANK BLEVINS:** The Hon. Miss Laidlaw says that she is being critical of me. I can guarantee Miss Laidlaw that, if I handled all those records personally, even with my talents—

**The Hon. L.H. Davis:** You have been sitting next to John Cornwall for too long.

**The Hon. FRANK BLEVINS:** We are operating in 1984 with a 1934 system. Everything is being handwritten on bits of paper and stored in different areas. It is difficult for people to retrieve that material. Until we have a 1984 system, we are going to get these problems. I have asked a further officer of my department to go into the Adelaide Gaol to see whether it is possible to patch up the system to make it even tighter. We do several thousand movements a year and do them perfectly. If the present system can be patched up, it will be. Until we get something better, then this system is crumbling in several significant areas.

I remember sitting on the Opposition benches for three years. If there was one testament to the previous Government over those three years, it was problems it had in the prisons. What did it do? It bought some cameras to observe—

*The Hon. K.T. Griffin interjecting:*

**The Hon. FRANK BLEVINS:** Just a moment. What did the previous Government do? It bought some cameras so that it could watch the prisoners closely because of some rather spectacular escapes. We are not talking about petty criminals.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. FRANK BLEVINS:** I am not talking about petty criminals. The previous Government let some tough operators out of prisons. So, it bought some cameras, but that is not the problem. Until everybody in South Australia realises what the problem is, we will get nowhere in the prisons. If people want to kick it around as some kind of political football—

**The Hon. R.I. Lucas:** Ask Gavin Keneally about it.

**The Hon. FRANK BLEVINS:** I am Frank Blevins, and I did not kick it around. Never mind about Gavin Keneally. The honourable member can get his colleagues in another place to talk about Gavin Keneally. Until the South Australian public realises what is occurring after all these years of neglect, I am afraid that by any measure prisons reform will not go too far.

I want to again issue an invitation to the Hon. Mr Cameron and the Hon. Mr Griffin or anybody else in the Council to come along to the Adelaide Gaol and see the conditions under which people are working through no fault of their own. Those members can then consider whether they should criticise the system. We have allocated, I think, about $40 million—more than has been spent on the prisons in the past 30 or 40 years—in an attempt to at least get the physical facilities up to a reasonable standard. The remand centre will be ready towards the end of 1986.

The new facility at Murray Bridge will also be ready in about 1986. This will provide not only a better environment for prisoners but a much better and more secure environment for all the Correctional Services staff. I hope also that by that time we will have a system of records in the State that equates more with the 1980s than the 1930s. That is not a thing which comes specifically within my portfolio, but the previous Attorney-General—and I am sure other members of the previous Government—will be aware that the Government as a whole is attempting to get some kind of standard recording and information system so that incidents such as this (where records are kept in different places, thus creating the occasional problems) will not arise. The Hon. Mr Griffin wrestled, I assume, with that new system for the years that he was the Attorney-General, and I am quite sure that the system will eventually be implemented. It will mean that Correctional Services, as well as some of the other departments, will have a system that more equates with the mid-1980s; but, until that occurs, correctional officers' difficulties in coping with what was a very run-down and broken-down system will unfortunately continue. We will do the very best we can to patch it up. I again invite any of the critics to come along—

**The Hon. L.H. Davis:** You have said that four times.

**The Hon. FRANK BLEVINS:** I want to impress it on you; you asked the question. The critics should see the difficulties under which those officers work. They should be congratulated on doing what they can rather than questions of this nature being taken up at this stage that cast aspersions on them.

## PAROLE

**The Hon. K.T. GRIFFIN:** I seek leave to make a brief explanation before asking the Minister of Correctional Services a question about parole.

Leave granted.

**The Hon. K.T. GRIFFIN:** By letter to the Attorney-General of 13 January 1984, I raised questions about the numbers of prisoners released just prior to Christmas under the Government's new parole legislation, rushed through Parliament just before Christmas. I also asked for details of the dates of imprisonment, non-parole periods and the offences for each prisoner. On 14 March the Attorney-General supplied answers to those questions. Some of the information must cause considerable concern, bearing in mind that the non-parole periods for those prisoners were fixed on the basis that the prisoners were not entitled to automatic release at the expiration of the non-parole periods but only to make application to the Parole Board to be considered for release.

There are a number of areas for concern, but I will give several examples:

1. A prisoner was sentenced on 1 March 1982 for 3½ years imprisonment for rape with a non-parole period of 1½ years and was released after serving only half his sentence.

2. A prisoner sentenced on 27 January 1983 to two years for indecent assault was released after serving 11 months—less than half his sentence.

3. A prisoner sentenced on 1 October 1981 to 4½ years for robbery with violence released after serving 2¼ years, with only half his sentence served.

4. A prisoner sentenced on 22 March 1983 for one year eight months for restaurant breaking and entering and larceny released after serving nine months, less than half his sentence.

5. A prisoner sentenced on 4 March 1982 to five years for trading in Indian hemp released after only one year and nine months—one-third of his sentence was served.

6. A prisoner sentenced on 15 September 1983 to 14 months for factory breaking and larceny served only just over two months before release.

The Attorney-General also supplied me with information that the Parole Board:

1. At its meeting on 24 January 1984 approved the release of 48 prisoners;

2. At its meeting on 14 February 1984 approved the release of 55 prisoners; and

3. At its meeting on 5 March 1984 approved the release of 55 prisoners.

I ask a number of questions, but I recognise that the Minister may need notice to obtain some of the information. I would accept his request to put the questions on notice to that extent.

1. Does the Minister have any concerns about the release of prisoners well before the end of their sentence as in the case of the 93 prisoners released just before Christmas?

2. How many of the prisoners approved for release in January, February, and March 1984 have accepted the conditions of release set by the Parole Board?

3. For what offences was each prisoner, referred to in question 2, committed to prison; when was the sentence imposed; what non-parole period was imposed; and when did each sentence commence?

4. How many of the prisoners released in December 1983, January, February, and March 1984 have committed offences since the dates of their release?

**The Hon. FRANK BLEVINS:** As the Hon. Mr Griffin said, apart from the first question, the other questions require a great deal of research, and I will have to take them on notice and bring back a detailed reply. In answer to the first question, the legislation under which these prisoners were released went through this Parliament: it expressed the will of Parliament and I have to assume (and if I remember correctly this is the case) that Parliament knew precisely what it was doing. The arguments for and against the new parole measures were canvassed extensively. I am quite happy to go through all those arguments and the various pros and cons of that legislation, but I am not sure that Question Time is the place to do that. It surprises me that the Hon. Mr Griffin refuses to accept, apparently—

**The Hon. K.T. Griffin:** I do—

**The Hon. FRANK BLEVINS:** The honourable member does accept it?

**The Hon. K.T. Griffin:** I don't accept that.

**The Hon. FRANK BLEVINS:** That seems to open up a whole area of debate, which again I will not go into at this time. I accept the will of Parliament, and I believe that, at the very least, if members of Parliament do not do that, we are getting into a very peculiar and dangerous area. The arguments were canvassed extensively: Parliament made a decision, and the Department of Correctional Services and the courts are carrying out the will of Parliament, as expressed when that legislation was before the House. The Hon. Mr Griffin knows that Parliamentary machinery is available to him if he wishes to change any particular law on our Statute Book, and I believe that, rather than seeking an expression of views from me, if the honourable member feels that Parliament has somehow erred, he is in a particularly good position to do something about it.

## SEXISM IN SCHOOLS

**The Hon. ANNE LEVY:** Has the Minister of Agriculture, representing the Minister of Education, a reply to my question of 15 November 1983 about sexism in schools?

**The Hon. FRANK BLEVINS:** A small steering committee has been established to work with a research officer. It began meeting early in December to clarify the dimensions of the study. The initial study is to be a pilot one in a small sample of schools. The steering committee has been asked to present a report and recommendations to the Minister by 30 April 1984. One major recommendation will be to indicate whether the pilot study should be extended to encompass a wider sample of schools. As a considerable amount of interest has been shown in the public references to this inquiry, the results will be made publicly available.

## EDUCATION DEPARTMENT REORGANISATION

**The Hon. ANNE LEVY:** Has the Minister of Agriculture, representing the Minister of Education, a reply to my question of 29 November 1983 about reorganisation in the Education Department?

**The Hon. FRANK BLEVINS:** In the reorganised Department the Equal Opportunities Officer will be a member of the Evaluation and Review Unit, which is the only unit reporting direct to the Director-General. This compares with the current situation in which the Equal Opportunities Officer is part of the Curriculum Directorate. The senior committee structure of the Department has yet to be finalised but there is no doubt that the Equal Opportunities Officer will be included in any group involved with major policy and planning issues.

## CORPORAL PUNISHMENT

**The Hon. ANNE LEVY:** Has the Minister of Agriculture, representing the Minister of Education, a reply to my question of 16 August 1983 about corporal punishment?

**The Hon. FRANK BLEVINS:** The Government's intention is to review the current situation. A policy paper is currently being developed and will be circulated for discussion with interested parties. I would draw the honourable member's attention to the *Education Gazette* of 30 September (page 659), and the notice entitled 'Corporal Punishment', which states:

> If a parent or guardian makes a request in writing that his/her child is not to be subject to corporal punishment, the principal, head teacher, or teacher delegated to inflict corporal punishment, as the case may be, must be given to understand that the child is not thereby exempt from the discipline of the school, but is subject to appropriate action, other than corporal punishment, in the event of serious misdemeanour.

## CAMPBELLTOWN FLOOD MITIGATION

**The Hon. C.M. HILL:** I desire to ask the Minister of Health, representing the Minister of Local Government, a question about the Campbelltown council and flood mitigation, and seek leave to explain it.

Leave granted.

**The Hon. C.M. HILL:** I refer to the metropolitan flood mitigation legislation passed earlier during the term of this Government and the situation that existed in the Campbelltown council area where serious flooding caused havoc and damage about three years ago along Third Creek. As a result of that legislation, I have been informed that the Campbelltown council is proceeding with major plans to improve Third Creek. Part of that process involves the acquisition of residential properties along part of the banks of Third Creek, particularly in the lower reaches. Some residents are perturbed that the council either has been or may be in the process of exercising compulsory acquisition powers, the machinery for which includes the consent of the Minister before the council can proceed. Such constituents, who include representatives from migrant communities, fear that the council may be seeking to secure more land than is reasonably required for flood mitigation.

Mention has been made to me of a possible linear park being established along the creek line embankment. In view of this concern, will the Minister inform me whether or not he has given any approval for compulsory acquisition of land for this project? Secondly, will the Minister say whether or not he will treat, with great caution, any proposals put to him for this purpose in future? Thirdly, is the Minister satisfied that the council's present plans involve only essential flood mitigation work?

**The Hon. J.R. CORNWALL:** I will refer that question to my colleague and bring back a reply.

## GALAXY REFINERY

**The Hon. I. GILFILLAN:** I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question regarding the Galaxy refinery.

Leave granted.

**The Hon. I. GILFILLAN:** The South Australian company, Southern Cross Petroleum, has been active in trying to establish a small refinery at Point Bonython through its subsidiary Galaxy Refiners. During the course of its endeavours over the past two years it has sought to receive tangible Government support that would assist it, as a South Australian company, to fulfil that goal.

In November 1982 Galaxy Refiners appeared before the Industries Development Assistance Committee with submissions on its economic and technical viability showing background, capital requirements, cash flow figures, market projections, and current project expenditure accompanied with feasibility studies from Kinhill-Stearns Roger and with hazard contour reports from Det. Norske Veritas. Answers to questions from the Industries Development Assistance Committee were given in February 1983 and answers to project criticisms from Santos and South Australian Oil and Gas Corporation in August and September 1983.

With a history of responsible dealings with this Government since it took office and with the appropriate departments, Galaxy Refiners has informed me that it is no further advanced in gaining open and tangible support from the Government. I am advised that Galaxy Refiners has still not received answers to issues raised at a meeting with the Premier on 16 November 1983 that were promised prior to the end of 1983. It has been reported to me, and I have no reason to doubt the credibility of those reporting it to me, that, in discussions with officers of Galaxy Refiners who were present at the time (and they are my informants), the Premier said, 'One must consider the disadvantages that could occur if sanctions were applied to South Australia by the oil industry.' I believe that that has horrendous implications as to who is actually determining considerations made by the Government in this State. If it is true, the people of South Australia should be aware of it and we should not submit to intimidation and threats of this kind.

I ask the Premier, through the Attorney-General, whether or not that statement is true. Secondly, has there been a threat, direct or implied, from 'big oil' that sanctions could be applied if this project proceeds? Thirdly, has the Government anticipated that such sanctions could be applied?

**The Hon. C.J. SUMNER:** I do not know whether or not that specific statement is correct. I was not at the meeting that these people apparently had with the Premier. In considering a project of this kind obviously the viability of the industry as a whole has to be taken into account. The fact is that at present the oil industry is in an unprofitable situation. Oil companies generally are not making profits: this is a fact of life in Australia now. In the first six months of last year I think that Caltex lost about $80 million.

I believe that a project for extra refining capacity in South Australia has to be looked at very carefully. Already there is an argument that throughout Australia there is excess refinery capacity. In a situation where there are low levels of profitability, companies are considering whether or not there should be a rationalisation of refinery capacity in Australia and in South Australia. I am not suggesting that the big oil companies have taken any decisions in relation to that in South Australia; I do not believe that they have. All I am saying is that, if one expects the Government (taxpayers) to support the establishment of another refinery in South Australia, that support has to be very carefully assessed in the context of the oil industry as a whole in Australia and of whether or not there is an excess of refining capacity in Australia.

At present and over the past few years, the oil industry in this country, for whatever reason (pricing policies adopted by Governments or the oil companies, or the discounting that occurs), has not enjoyed high levels of profits. In some situations the companies have been in a loss situation, which has led to some rationalisation in the oil industry: namely, Golden Fleece merging with Caltex, and Amoco proposing to merge with Ampol. This rationalisation in the oil industry is occurring as a result of low levels of profitability.

**The Hon. I. Gilfillan:** That is not the question. The question is 'sanctions'. Does the Government accept that sanctions are acceptable?

**The Hon. C.J. SUMNER:** I do not believe that the word 'sanctions' would have been used. I cannot answer that specifically as I was not at the meeting. I am merely trying to give the honourable member a realistic assessment of the situation. What I have said is that if Government (taxpayers') support is to go into the establishment of another refinery in South Australia, when the counter-argument is that there is already excess refinery capacity in Australia and the industry is rationalising that capacity, then the Government has to look at the situation very carefully.

It is not a question of sanctions: it is a question of what the oil industry sees as its future in this country. One cannot deny that in recent times the level of profitability has not been high and a number of companies have been in a loss situation over the past 12 months or so. I do not know whether or not the statement quoted is true. I doubt whether the word 'sanctions' was used. Clearly, the oil industry has to look at its level of profitability. Also, the Government has to look at the situation carefully if it is to provide support for the establishment of another refinery when already there is a question mark throughout Australia over refining capacity.

**The Hon. I. GILFILLAN:** I have a supplementary question. The question was not directed to the viability or otherwise of the Galaxy refinery: it was specifically directed to the information I have that the Government is influenced by the threat of sanctions. Would the Government tolerate the threat, implied or direct, of sanctions being applied by 'big oil', and would it take those sanctions into account in making any decision on the Galaxy refinery?

**The Hon. C.J. SUMNER:** I have already answered that question. I do not know whether the word 'sanctions' was used. Obviously, the Government would not accept a proposition where sanctions were imposed by oil companies. I think that I indicated that in my answer. For the honourable member's benefit, if he has difficulty in understanding my answer, I repeat that, if Government (taxpayers') support is to be provided for the establishment of another refinery in this State then, clearly, one has to take into account the situation of the oil industry in Australia and whether or not there is excess refining capacity in South Australia or in Australia already. That is a very clear statement. There is no argument about it. That is what the Government is doing. The Government is not going to be bullied into any particular position by a supposed threat of sanctions, but I do not believe that there has been a threat of sanctions. However, the profitability and viability of the oil industry must be considered when Government support for the establishment of another refinery is being considered.

## INVESTIGATION OF DOCTORS

**The Hon. L.H. DAVIS:** I seek leave to make a brief explanation before asking the Minister of Health a question about the investigation of doctors.

Leave granted.

**The Hon. L.H. DAVIS:** I have received a letter from a Mr P. Deacon of 32 Arcowie Road, Dernancourt, which states:

Sir, I protest! Both at an enforced Medicare system and at the seeming 'super sleuth' patrolling the same! I am a 45-year-old chronic pain sufferer, having suffered a broken neck in 1972, subsequent spinal fusion, Flinders pain clinic treatment for four years and have been, for the last three years, on consistent pethidine monitored by the Board of Health and my GP. This consistent pethidine medication comprises of pethidine tablets and six injections per month, administered by the locum service under instruction from my GP.

Until March of this year I was on top family tables of the Mutual Health Association, which covered my family's medical needs. When forced to adhere to the Medicare system, I partially retained our previously most satisfactory Mutual Health coverage and embraced Medicare—supposedly to cover doctors' visits. (If Medicare was not prepared to handle frequent users of medical-services, why were we forced into the system?)

In the first month of Medicare and six locum visits later, I find that our GP, a professional of the highest credibility, has been approached by some Medicare 'sleuth' as to why so many monthly visits are necessary, a strong question raised as to my credibility as a pethidine user. (Correct me if I'm wrong, but the definition of an addict, as I perceive it, is one who requires increasing amounts of drugs. My steady record over the years is not consistent with this definition!) The possibility was raised that my house may be watched to check that six locum visits are actually made.

What price my GP's credibility as a professional? What price my credibility? Who pays for this sleuthing service? Me. Sir, I protest this iniquitous situation. Surely the Board of Health and my GP are qualified and capable of monitoring my medication. I trust fellow citizens are not bedevilled by such procedures and that further bureaucratic enthusiasm will cease.

The letter is signed 'Yours faithfully, P. Deacon'. Mr Deacon's letter is a direct reference to the fact that a counsellor from the Commonwealth Department of Health in Adelaide has been actively trying to interfere with doctors' treatment of their patients.

Mr Deacon's doctor has been in general practice for three years. His net income before tax would be less than half the Minister of Health's effective income. In January 1984, this doctor received a visit from a 'counsellor' from the Commonwealth Department of Health. He was advised by the counsellor that the average practitioner saw a patient for a standard consultation on average 1.6 times in three months—but that his figure was 1.8 times in three months. The counsellor advised him that, if he continued to overcharge, he would end up in front of a medical tribunal—that what he was doing was bordering on fraud. The counsellor then brought out a computer print-out for one of the doctor's patients. Although he refused to name him, the doctor could readily identify him from the large number of after-hours visits. That patient was Mr Deacon. The counsellor suggested the doctor should discontinue the extensive number of visits. He told the doctor to make it more difficult for the patient to get medication.

**The Hon. R.J. Ritson:** Pain in the night! Pethidine injections in the night from a locum service?

**The Hon. L.H. DAVIS:** That is right. The doctor tried to explain the background of the case, but the counsellor was not interested. The fact is that Mr Deacon since his accident 12 years ago has had a major operation and many minor operations, is partially paralysed down the left side, is unable to work, and has been advised by both the Pain Clinic at Flinders Medical Centre and a Professor at the Centre that regular pain medication was essential if life was to be remotely tolerable. Therefore, he had been receiving five injections of pethidine per month, generally through a locum service, with visits from time to time by his doctor. The doctor in fact had to advise the authorities of the narcotics he had prescribed every two months.

The counsellor then aggressively claimed that a woman patient visiting the same doctor had been given excessive blood tests. This woman was in fact found to be suffering from a severe form of leukemia. This is, sadly, not an isolated case. Two years ago this same counsellor visited a father and son general practice. The father, highly regarded and doing much voluntary work in the community, had been in general practice for 35 years. He accused the father of having a 'practice style' which did not suit the area—that he had too many house calls compared with the number of consultations at his rooms. The simple answer was that over the 35 years a large number of his patients had entered nursing homes or required more medical attention in their homes. Nevertheless, he was told to change his 'practice style' if he wished to stay out of trouble.

These are not isolated examples, and I understand that since the inception of the Medicare legislation late last year these visits to doctors have been stepped up. There is a particular concern that this counsellor is picking on young doctors. The attitude of the counsellor is invariably threatening, aggressive, accusing doctors of over-servicing and even fraud, without having previously checked to see whether the so-called over-servicing was clinically justified. He refuses to provide written evidence of his accusations. Many doctors to whom I have spoken are alarmed to think that through these visits from the so-called 'counsellor' that Medicare will result in the 'rationing' of health care—that Government is telling doctors how to run their practices—and that the loser under this arrangement will be the patient.

I share Mr Deacon's concern—these aggressive standover tactics are un-Australian. No other profession is subjected to such bully-boy tactics, and no union would tolerate such a disgraceful and unwarranted intrusion into their members affairs. My questions are as follows:

1. Is the Minister aware of the activities of this sadly misnamed 'counsellor' from the Commonwealth Department of Health?

2. Does he condone the behaviour of the counsellor as outlined to the Council?

3. As a matter of urgency will he contact his colleague the Federal Minister for Health, Dr Blewett, and demand the immediate suspension of the counsellor pending a full inquiry into these allegations?

**The Hon. J.R. CORNWALL:** I have heard of trial by Parliament, but it is a long time since we have had an example. Unlike the Hon. Mr Davis, I do not consider myself to be expert in the field that he has been discussing. I am aware that for many years the Commonwealth Department of Health has employed medical counsellors. They are doctors who look at the profiles of practices in comparable suburban and country areas. They were originally put in place because of the fairly widespread medifraud that occurred in the mid 1970s. It is quite possible to look at like practices and to compare the patterns, and, if there is a significant departure in one practice from the profiles of a number of practices in an area, a medical counsellor, as the word implies, calls upon the doctor or the practice concerned to counsel them.

**The Hon. R.J. Ritson:** That is supposed to happen in theory, but you have heard what is actually happening.

**The Hon. J.R. CORNWALL:** I heard a long tirade from the Hon. Mr Davis. At this moment there is no way that I can check the veracity or otherwise of the information. Bits and pieces were thrown in about the top table of Mutual Health, frequent user, and so on. Frankly, that had absolutely nothing to do with the honourable member's ultimate question. There was a long story about a gentleman who apparently has a long-standing chronic spinal problem and a need for regular medication with pethidine which, of course, is a narcotic. For the life of me, I cannot see that those anecdotes or asides were directly relevant to the point of the eventual question. I might say that, if the Hon. Mr

Davis has the name of the particular medical counsellor against whom he wishes to lay complaints and about whom he wants me to take up further investigations with my colleague the Federal Minister for Health (Dr Blewett), he should supply the information to me in confidence, and I will be very pleased to do so.

**The Hon. L.H. Davis:** You know who it would be.

**The Hon. J.R. CORNWALL:** I have not the slightest idea who it would be. I do not personally know the name of any medical counsellor in South Australia. So, I most certainly do not know about whom the honourable member is talking. If he provides me with a name, I will take whatever action appears to be appropriate to see that my federal colleague is apprised of the allegations (and they are no more than allegations—possibly wild allegations). I would be happy to pursue them to the extent necessary, consistent with what is a reasonable approach.

With regard to the use of medical counsellors generally, I have no objection to that system. It is wise and absolutely necessary. Somehow we have to put a cap on medical, hospital and health costs generally. There are a number of areas in which that is possible, one of course being in medical practices themselves. While we persist with a fee-for-service system in this country—and there is every indication that that will persist long after I have been interred, both politically and physically—we will need a system of medical counselling.

## SOUND RECORDING EQUIPMENT

**The PRESIDENT:** I reply to the Hon. Mr Bruce's question concerning the taping of Parliamentary proceedings, in particular to his first question, 'How many people have access to the second tape on which private conversations with members of that Chamber are recorded?'. The Speaker of the House of Assembly is the custodian of the sound recording equipment and, more specifically, of the master tape containing a complete record of proceedings of the daily sittings of that House.

**The Hon. M.B. Cameron:** Who is?

**The PRESIDENT:** The Speaker in the House of Assembly is the custodian of the sound recording equipment. We have not had this system long enough in this place for anyone to need to vet the master tape. If a doubt or dispute arises concerning remarks made during the proceedings of the Assembly, and members wish to hear the relevant passage as it has been recorded, they may do so with the approval and in the presence of the Speaker.

It is the request of the Leader of *Hansard* that the same arrangement applies in respect of the Legislative Council and that, if a contentious issue arises and a request is made to hear the master tape, this may be done only with my approval and in my presence. At present the record of proceedings remains on the master tape possibly for no longer than two days due to the number of master tapes provided. However, I personally believe that there should be sufficient tapes to allow the material to be retained on the master tapes for a period of one week. I say that because two days may very well find a member in a position of not being able to check his *Hansard* proofs in time to question the tape.

I inform the Council that last week, on the first day on which the amplification and sound-recording equipment was operating in this Chamber, a private conversation was amplified soon after the Council adjourned. I am informed that this occurred because a microphone had remained 'active' and the volume control switch on the console was not turned off immediately the adjournment occurred. When the Council is sitting and a member is speaking, that member's microphone will have to be activated by the console monitor and, as a result, a private conversation between members will not be heard through the speakers and will, in most cases, be heard on the tape only as background noise, unless it is conducted at a level equal to that of an interjection. In fact, during a sitting, background noise in the Chamber would even render many interjections inaudible on the master tape.

On this occasion, a microphone had apparently remained activated after the Council adjourned: the Chamber was relatively quiet and the conversation that took place was audible through speakers located elsewhere, whereas it might have been heard merely as background noise had it occurred during a sitting, when a member who had the call would have been speaking through an activated microphone. As console monitors have now been instructed to turn off the volume control switch immediately the Council adjourns, this problem will not recur.

While interjections may be recorded on the master tape, the voice of the member interjecting would have to be sufficiently audible for that to occur, otherwise an interjection would merely comprise part of the general noise level in the Chamber. In any event, I am reminded that *Hansard's* policy on interjections is consistent with that of *Hansard* policy elsewhere, namely, that only those interjections replied to or invoking a call to order are recorded by the reporter and included in *Hansard.*

The honourable member's further question was, 'Can consideration be given to attaching a separate switch to members' microphones so that they can be activated by the member when he is speaking publicly in the Chamber?' In reply I state that a representative of the firm responsible for the installation has indicated that the provision of a light on each member's microphone, indicating whether or not it had been activated, would require additional cabling and power supply to each microphone and would be an expensive modification. However, if members are strongly of the opinion that they should have a switch, such could be provided without a light for minimal cost.

If members do not co-operate and activate their microphone when addressing the Chair, the real value of the system is lost. As indicated previously, members who turn off their microphones will cause problems for *Hansard* in producing an accurate report of proceedings. It is understood that in all other Australian Parliaments operating with amplification and sound recording a monitor is responsible for activating a member's microphone and that, without a monitor, the system could be rendered ineffective. I seek the co-operation of all honourable members in ensuring that the installation is cost justified and operates successfully for all concerned.

**The Hon. K.L. MILNE:** In regard to your reply, Mr President, does it mean that when someone is speaking these microphones are dead and need not be turned off when members are talking privately?

**The PRESIDENT:** No, it does not mean that. Unless the honourable member holds his finger on the button, the microphone is activated. I said that, unless the conversation that an honourable member was holding was at such a level as to compete with the person who had the call, it would appear on the tape as background noise only.

## ACCOUCHEMENT LEAVE

**The Hon. K.L. MILNE:** I seek leave to make a brief statement before asking the Attorney-General, representing the Premier, a question on accouchement leave in the South Australian Public Service.

Leave granted.

**The Hon. K.L. MILNE:** I gained the impression that there is still some resentment and perhaps misunderstanding about the introduction of accouchement leave in both the South Australian and Commonwealth Public Services. One of the problems is that some people gained the impression that it is either being misused or used to the absolute maximum, beyond what is justified. To whom is accouchement leave available in the South Australian Public Service, and under what circumstances, to what extent and how much has it cost the State each year since it was introduced, including this year to date? Also, is accouchement leave available to members of the Public Service in all States of Australia, or in any other country?

**The Hon. C.J. SUMNER:** I will obtain an answer for the honourable member and bring back a reply.

## CONSOLIDATED STATUTES

**The Hon. K.T. GRIFFIN** (on notice) asked the Attorney-General:

1. What Statutes have been consolidated and printed in pamphlet form since 30 June 1983?
2. What Statutes are expected to be consolidated and printed in pamphlet form during the remainder of 1984 and when is each consolidated Statute likely to be available?

**The Hon. C.J. SUMNER:** I have details for the honourable member, in tabular form. I seek leave to have the answer inserted in *Hansard* without my reading it.

Leave granted.

LIST OF STATUTES

| Statute | Availability |
|---|---|
| 1. Workers Compensation Act | available November 1983 |
| Classification of Publications Act<br>Film Classification Act | available April 1984 |
| Mental Health Act<br>Mental Health (Supplementary Provisions) Act | available April 1984 |
| 2. Police Offences Act<br>Criminal Law Consolidation Act | manuscripts prepared—awaiting Statute Law Revision Bill being passed this sitting—reprints available shortly thereafter. |
| Stamp Duties Act | manuscript prepared—available June 1984 |
| Motor Vehicles Act | manuscript prepared—awaiting Statute Law Revision Bill being passed this sitting—will be available on 2 September 1984 when tow truck amendments come into operation. |
| Road Traffic Act | manuscript prepared—will be available at same time as Motor Vehicle Act |
| Childrens Protection and Young Offenders Act<br>Community Welfare Act<br>Evidence Act<br>Justices Act<br>Real Property Act<br>Juries Act<br>Local and District Criminal Courts Act<br>Supreme Court Act<br>Industrial Conciliation and Arbitration Act | available September to December 1984 |

## CONTROLLED SUBSTANCES BILL

Adjourned debate on second reading.

(Continued from 22 March. Page 2738.)

**The Hon. R.I. LUCAS:** I rise to support the second reading. I intend covering only one aspect of this Bill and will not range over the variety of subjects that the shadow Minister (the Hon. John Burdett) covered some weeks ago. I want to raise matters in the second reading speech because of representations made to me late last week by some physiotherapists who evidently caught up with this Bill rather late in the piece. In the early stages they were not aware that they were covered. I have had the representations very late in the piece, basically on how the Bill affects their activities. I mention them now in the second reading stage to give the Minister some notice of the matters that they have raised with me, and then in Committtee I will pursue under the relevant clauses the matters that have been raised and seek some response.

The physiotherapists indicate to me that in part at least the matters that they have raised could also relate to the activities of a number of other professional groups such as occupational therapists, podiatrists and speech therapists, and I will indicate in what areas the physiotherapists have indicated that those other professional groups may be covered as well. In particular, I will refer to therapeutic devices and, briefly, therapeutic substances. I believe in most cases that the answer from the Minister will be that it will depend on what the general intent is as to the very wide regulatory power that exists under this Bill.

Under clause 4, 'Therapeutic device' is not really defined. The clause says:

> 'therapeutic device' means a device declared by the regulations to be a therapeutic device for the purposes of this Act:

Equally:

> 'therapeutic substance' means a substance declared by the regulations to be a therapeutic substance for the purposes of this Act:

So, when the physiotherapists looked at this Bill late in the piece they really did not know whether many of the devices that they use, which they believe would probably be therapeutic devices, would in effect be declared by regulation under the Act to be therapeutic devices.

The relevant clauses of the Bill are under Part IV, General Offences, and basically are clauses 13 to 27. Very briefly, I will mention what those clauses do. Under clause 13 a person shall not manufacture, produce or pack a therapeutic substance or device unless certain things happen. Clause 14 says that a person shall not sell by wholesale a therapeutic substance or device unless certain things happen. Clause 15 provides that a person shall not sell by retail a therapeutic substance or device unless certain things happen. Various penalties are set out. Then under clauses 23, 24 and 25 a person shall not store, transport, or advertise therapeutic substances or devices unless in accord with unspecified regulations. So, certainly those clauses—particularly clauses 13 to 15 and clauses 23 to 25—cover a very wide ambit. They talk about manufacturing, production, packaging, selling by wholesale or retail, storing, transporting and advertising.

Obviously, a whole range of functions is covered by this 'General Offences' section of the Controlled Substances Bill. Therein lie the questions of the physiotherapists and, as I said, the questions that physiotherapists have raised on behalf of some other professional groups with respect to particular therapeutic devices. Some of the therapeutic devices that the physiotherapists believe might come within the ambit of a therapeutic device under the terms of this Bill are, first, splints. I am advised that physiotherapists as part of their training are taught how to make splints; they actually manufacture or produce them themselves. Therefore, clause 13 covers them. Some of them sell the splints, whether it be by wholesale or retail; so, certainly, clauses 14 and 15 cover this instance. The splints are either plastic, fibreglass

or plaster of Paris. They are generally tailormade for the particular problem of the client, and may be for the hand, finger, knee or for various other parts of the human anatomy.

The second therapeutic device that the physiotherapists thought might be covered was an activity evidently undertaken by the Australian Physiotherapists Association. I understand that the device is a therapeutic couch and that the national body of that Association has actually designed, patented and contracted out the manufacture of a therapeutic couch which it sells to physiotherapists, and that it is therefore covered under clauses 14 and 15, and possibly even under clause 13. That body sells this therapeutic couch to physiotherapists in competition with an overseas manufacturer, at a considerable discount on the price of the overseas product.

The third possible therapeutic device is what the physiotherapists call burns support garments. I am advised that these are made generally of a heavyweight lycra compound and that certain physiotherapists make these burns support garments themselves. In particular, a salaried officer at the Childrens Hospital patents her own designs of these burns support garments. The question that I leave with the Minister on that aspect is whether the salaried physiotherapist or the institution itself (that is, the Childrens Hospital) would be covered by the Act.

The fourth general area— and it ties in with this question of whether the institutions are covered—is that I am advised that the Flinders Medical Centre, for example, and the sports science clinics either manufacture or (the advice is not clear) in effect buy in various devices and then possibly sell at a retail level.

Once again, splints or things like knee braces may be bought and then resold by institutions such as the Sports Science Clinic. The fifth general area takes in electro-medical equipment, which is used fairly generally by physiotherapists. I have been told of six examples of this kind of equipment—short-wave diathermy machines; interferential machines; ultrasound machines; transcutaneous nerve stimulator machines; microwave machines; and ultraviolet sun lamps. Under clauses 14 and 15, it would appear that electro-medical equipment suppliers would have to be licensed. I am advised that physiotherapists and domiciliary care groups transport or store these machines in their day-to-day practice, especially in regard to home visits. Clearly, the range of activities is probably covered by the import of these clauses.

I have been told that there have been some quality control problems in relation to some of the products sold by some of the more common electro-medical equipment suppliers and that no controls are imposed on who can buy this equipment from those suppliers. Some of the equipment can be quite dangerous if used incorrectly. Physiotherapists have put to me that the controls should be at that level rather than at the manufacturing, producing and packaging level, but I will reserve my position in that regard, because I not yet had sufficient time to consider the matter deeply other than to place it before the Minister in this debate.

In relation to therapeutic devices, an organisation called the Technical Aids for the Disabled, a voluntary organisation comprising engineers and medical technicians, has been brought to my attention. A particularly disabled person requiring a certain therapeutic device can contact this organisation, which can construct from scratch a technical aid for that person. Such an aid might enable a person to lift a wheelchair from a car, for example. A range of examples was given to me, and I am sure that the Minister is aware of the activities of this organisation. It was put to me that that volunteer organisation manufactures possibly therapeutic devices (depending on what the regulations provide), and therefore I wonder whether we are talking about licensing these volunteers or this organisation, or perhaps they might be exempted from the provisions of the legislation.

I give only one example of therapeutic substances. I am told that some institutions and some physiotherapists in private practice supply clients with deep heat creams as part of their treatment. I guess the moot point is whether, as part of the overall charge, a therapeutic substance is given to a client, but whether that constitutes either a wholesale or retail sale under clauses 14 or 15. My more learned colleagues may be able to advise, and I guess that the Minister will have such advice available to him, on that particular problem. I will pursue that matter in Committee. I am also told that occupational therapists make splints and support garments and possibly they will be covered by these provisions. Podiatrists make foot splints, and they too would possibly come under clause 13. Some speech therapists sell artificial voice boxes to people who require them, and if that is the case clause 15 may apply to those activies.

In Committee, there are some unanswered questions that will be pursued about the activities of podiatrists, speech therapists, occupational therapists and physiotherapists. Basically, clauses 13, 14 and 15 provide that physiotherapists will not be able to manufacture, produce, pack or sell, unless they are licensed to do so by the Health Commission. The Minister may say that physiotherapists, occupational therapists, podiatrists and speech therapists will have to be licensed through the Health Commission. The penalty for their not being licensed is $2 000, so obviously these people will have some interest in what the Minister intends in respect to their professional activities. The other option relates to subclause (2) of clauses 13, 14 or 15, which provides that the section will apply to such therapeutic substances or devices as may be prescribed, individually or by class, by the regulations. In my view, that would be a particularly long way around it. I suppose that the Minister might not proclaim by regulation devices such as splints, therapeutic couches, electro-medical equipment and so on, but it would appear that the Minister has two options: either these professional groups would have to be licensed or the therapeutic devices or substances would not be prescribed by regulation. That is all I want to say at this stage, but I look forward to the Minister's response and I will pursue these matters in Committee.

**The Hon. R.C. DeGARIS:** I would have liked a little more time to consider this Bill, because it is important, and I would have liked to cite a number of figures, but I do not have them available at this stage. I support the second reading. This is important legislation, which appears to take up the recommendations (or some of them) of a number of reports that have been made available to us on this matter.

The Hon. John Burdett said that the previous Government had intended to introduce a Controlled Substances Bill. As he reported to the Council, the Bill proposed by the previous Government differed in material particulars from the Bill now before the Council. Two reports in particular seemed to be referred to by the Minister and other speakers more so than any others. They are the South Australian Royal Commission Report into the Non-Medical Use of Drugs in 1979 (the Sackville Report) and the national inquiry, which is known as the Williams Commission, to which the Hon. Trevor Griffin devoted close attention in regard to law enforcement concerning the drug problem.

There was some variation between the approach of the Williams Commission and the Sackville Report. In his second reading explanation of the Bill the Minister pointed out that the use of drugs is not new: drugs have been taken for centuries but the new dimension is their promotion for

profit and the involvement of organised crime and the diversion of huge sums of money into criminal enterprises.

**The Hon. R.J. Ritson:** Do you remember the opium wars between Britain and China?

**The Hon. R.C. DeGARIS:** Certainly, I was there! I would like to quote quickly from the report entitled 'Monitoring Drug Use in New South Wales, 1971-73' by Bell, Champion and Rowe of the Health Commission of New South Wales. The first two paragraphs of the synopsis to this paper are important, and state:

> Drug use has been subject to cyclical variations throughout recorded history. Our community is involved in an upsurge at present, part of a worldwide trend, involving long established drugs such as alcohol as well as recently evolved illicit substances. A new feature in this latest epidemic has been the concurrent use of more than one drug, that is multiple drug use, particularly for those who use illicit substances.
>
> The monitoring of trends in drug use is necessary for the understanding and effective management of this rapidly changing problem. Monitoring provides a rational perspective in a field notorious for emotional and ill-formed opinion, which have in the past influenced policy. Monitoring is best achieved by surveys designed with specific objectives in view. Ideally, serial surveys should be conducted at regular intervals of time in order to establish trends. It may also be used to assess undesirable or even unforseen effects of control and treatment measures; the history of drug use over the past few decades is replete with examples of successful management of one drug problem being succeeded by the appearance of another.

That, taken from the synopsis of the paper, is important in this debate. It is not a new dimension applying only in Australia—it is a new dimension applying worldwide. The Minister claims in his second reading explanation that the Government has devised a comprehensive strategy, that that comprehensive strategy amongst other things attempts to prevent dealers, pushers and traffickers from making huge profits from human fallibility and vulnerability.

While the Bill brings together the scattered legislative controls existing at the present time into one piece of legislation (and that process will be unanimously supported), it is doubtful whether the legislative approaches will be as effective as the Minister claims. The Minister may well agree with me about that, that no-one has been able yet to design anything to really make any effect upon the cyclical variations that have occurred in regard to drug addiction.

The Bill distinguishes between possessors for personal use and persons who trade in drugs for profit. The Sackville Report recommended the decriminalisation of *cannabis*, but under the Bill it remains a prohibited drug. However, the Bill takes a step towards the Sackville recommendation by a substantial reduction in the penalties for simple possession of *cannabis*. The gaol sentence is reduced and the penalty reduced from $2 000 to $500. As I have said, this is a small step really towards decriminalisation of *cannabis*. With other drugs of dependence the penalties remain the same. Those who trade in both *cannabis* and other drugs of dependence and prohibited drugs will be more severely dealt with; there will be penalties of up to $250 000 and 25 years imprisonment.

The second reading explanation by the Minister stresses that criminal sanctions alone are inappropriate as a means of dealing with the drug problem. That is a true statement. In approaching this view the Government in the Bill proposes drug assessment and aid panels as recommended by the Sackville Report. Where a person has committed a simple possession offence, the matter will be referred to an assessment panel to determine whether the person should be directed to a treatment centre or whether prosecution should proceed. This proposal has been opposed so far in the debate by the two previous speakers—the Hon. John Burdett and the Hon. Trevor Grifffin. The Bill's proposal fulfils a concern of many people, who believe that the legal system is in need of major changes to ensure that it is able to meet the new social demands, particularly those relating to alcoholism and drug dependence.

As I said before, we know that there is no single solution to these problems. However, there is pervasive faith in the capacity of the legal system to solve any manner of problems. This is true in Australia, and particularly true in the United States. In one paper that I read on this topic, this belief in the legal system was described as the use of technological rationality, which implied that, as long as the courts had at their disposal additional resources, plenty of probation officers, knowledge of technologies such as methadone treatment and so on, the legal system will be able to solve these kinds of problem. This has led, particularly in America, to the movement to court referral programmes for alcholics and drug dependent persons.

The tendencies in this matter are apparent, and I would like to illustrate the two tendencies in this way: first, on the one hand, the failure of the criminal justice system to solve the problems of alcoholism and drug dependence.

On the other hand, the second tendency is the search for alternative means of approach to this problem. In these two tendencies there are a number of alternatives. One, of course, is the decriminalisation of marihuana offences; this has had some success in the States of America, some of which have adopted that view. Another is a United States development of court referrals to programmes for treatment. Such court referrals also apply in the Australian system, particularly to the drink driving problem. In looking at a court referral system one needs to be aware of the distinction between crimes without victims and crimes with victims.

Many forms of drug and alcohol addiction only offend some members of society and, as such, they may be described as 'victims'. There are many examples of alcohol related road accidents where, clearly, there are victims. Perhaps the panel system, which is incorporated in this Bill (and not approved of by previous speakers), should be replaced by a referral system as a first step towards releasing the legal system from an area of law in which it is not succeeding. Each step that we take is gradually moving towards decriminalisation, whether the court referral system or the panel system is adopted; let us have no doubt about that. I am not arguing against decriminalisation. I have a very firm belief that, regarding the problem of drug addiction in this community, eventually we will have to come to the question of decriminalisation.

If one looks at the New South Wales figures (and this is from memory, as I do not have them with me) of cases before the courts relating to the use of drugs and drug trafficking, one finds that in 1959 there were nine cases, six years later in 1965 there were 700 cases, but 10 years after that in 1975 there were 6 500 cases. So, one can clearly see the growth of this particular problem in our society. I do not believe that the court systems regarding drug usage will have any real impact on that problem.

In February 1969 a meeting of Ministers of the Commonwealth and the State Governments was convened to discuss the whole question of drug abuse. I assure the Minister that a very fine committee was formed at that stage. The meeting directed that a National Standing Control Committee be formed. One of the tasks of the committee was to consider immediately the means by which the States and Commonwealth could handle the growing problem of drug use in Australia. That National Standing Control Committee, I believe, has so far done extremely well in what it has achieved in this country. In Australia the States and Commonwealth all have an important role to play in approaching this problem. While I appreciate what the Minister has done in this Bill, I believe that this Parliament should be very careful if it moves away from the position adopted by other States in Australia. I agree entirely—and

I have argued this case before—that eventually we will get to the stage where all drugs will be decriminalised because the system cannot hold up to it. I have already indicated the growth in drug cases in New South Wales. In Victoria the same situation applies. I do not believe that our court system can stand this pressure, and changes will have to be made.

The important thing is that at this stage one State should not make a move on its own without other States following that particular approach. Since 1959 there has been a growth in the use of *cannabis*. Even more important at this stage is the growth in the use of heroin in this country. I have some figures on this but cannot find them at this stage. The increase in the number of cases before the courts in the past 10 years regarding heroin use has been quite enormous and worrying. We will face this problem more as time goes on. Every researcher over the past few years has indicated that the use of these particular drugs will increase in Australia.

Therefore, I believe that it is important that we become aware of what is happening in Australia and that, as States in this Federation and with the Commonwealth, we assist in producing a situation that places a tremendous penalty on those who profit from this particular trafficking. We should also be quite certain that we look at the question of those who are addicted and are not really criminals; they should be treated quite differently. I hope that that is the eventual point we reach in this very serious problem in Australia. I support the second reading.

**The Hon. J.R. CORNWALL (Minister of Health):** I thank honourable members for the attention they have given to this Bill. I appreciate the manner in which they have kept their comments relatively brief, to the point and, by and large, very rational in what can become, unfortunately, an irrational area if it is not treated with the sensitivity it demands. I have taken it, and I think accurately, that this indicates a recognition by members opposite of the importance of this legislation: it is a clear indication that, since the Bill has been on the table now for four months and there has been adequate time for a tremendous number of individuals and organisations to make representations about it, the Opposition has no wish to delay the passage of the Bill through the Council.

As I indicated when I introduced the Bill, I believe that it is one of the most significant pieces of legislation in the health area to come before this Parliament for many years. As I said previously, the Bill was introduced in December last year specifically to afford the opportunity for interested persons to comment on its provisions. I made it clearly known that I was prepared to move amendments following consideration of submissions, and, as soon as I can get those amendments from the Parliamentary Counsel, there will be a number which will stand in my name.

Comment has been wide ranging covering the whole spectrum of the Bill from law enforcement and police power aspects through to the possible implications for health foods and herbal medicines. I do not propose to canvass the detail of my amendments at this stage. I shall leave that to the Committee stage of the Bill. I submit that this is very much a Committee-style Bill in relation to which, I believe, the Council will be able to do some very good work. However, I wish to address briefly some of the points made by honourable members opposite, particularly those in respect of which amendments have been foreshadowed. I think that the Hon. Mr DeGaris almost reached the point with his form of words, when he alluded to the fact that in this complex and difficult area of substance abuse generally (and I am thinking here of drug abuse and illicit drug use in particular), that quite clearly the community generally is seeking a simple legal solution to a very complex set of problems.

The reality is that that simple legal solution does not exist. Although I regard this Bill as a major piece of legislative reform—I believe the most wide-ranging legislation in the area of substance control perhaps ever to be introduced in this country—I do not pretend for one minute that it contains all of the answers. In the course of the next two years or thereabouts (in the next two Budgets, subject to the finance available), there will be introduced a whole range of other supporting mechanisms and programmes for alcohol and drug abuse.

I now foreshadow in general terms the sorts of things that I will be proposing. First, we propose to reform the Alcohol and Drug Addicts Treatment Board. Soon, I will introduce a Bill into Parliament to abolish the ADATB and replace it with the Alcohol and Drug Services Council, which will be an incorporated body under the South Australian Health Commission Act. The alcohol and drug services in this State—a wine State, I remind honourable members—will be substantially upgraded, and the whole philosophy and approach will be made more relevant to the mid-1980s rather than the early 1960s, which was when the original legislation was introduced. At the same time, we will be looking to very much expand education programmes across the board, as we are anxious to get the problem back into areas where early intervention can be effective.

At present in South Australia we have a good net under alcohol and drug abusers but, like just about every other country in the world, we are light-on when it comes to early intervention. In other words, we tend to pick up the pieces, especially in the case of alcoholics, more at the derelict stage than in detecting the problem in the early stages in the acute hospitals where we can deal with the problem effectively. In the past 12 months I have challenged the medical profession and allied health professions to turn their thinking in that direction. Indeed, I am sponsoring a national seminar for the medical profession and allied health professions in February next year that will specifically direct the attention of those professions to early intervention in drug and alcohol abuse.

We are also looking at improving and expanding drug and alcohol education programmes in schools as part of the existing health education programme. Another proposal being investigated and which will be put in place in the near future is to conduct both lateral and vertical surveys of school populations. For example, we propose to survey year 8 children and follow them through the succeeding three or four years, as well as following successive years as they reach year 8 so that we will have a far more accurate picture of substance abuse and experimentation with drugs, alcohol, and cigarette consumption patterns in our schools.

Another proposal is to establish a drug resource centre, a shop front operation that will include a 24-hour hotline and counselling. We will be looking to an outreach band that will be present with counsellors wherever young people gather together and wherever drug problems may be evident. We are also looking, with the support of organisations like the Victims of Crime Service, to forming parent support groups. This is an enormously important area. The overwhelming initial response by those parents who are unfortunate enough to find themselves in a situation where a child or teenager may be involved in substance abuse of one form or another is the guilt feeling—where did we go wrong and why did we go wrong? The simple truth, of course, is that in the overwhelming majority of cases they did not go wrong at all. It is terribly important that we gather these people together and through mutual help enable them to survive what for them can be a very difficult period

in their lives. We have also begun to upgrade prescription surveillance.

These are the sorts of things that we have already developed, and I have referred to programmes that we are developing and looking to finance in successive Budgets. The legislation as such, significant though it is, should not be seen in isolation as the Government's initiative. We are not proposing merely to tackle the drug and alcohol problem with a major piece of legislation that would sit in splendid isolation. The Hon. Mr Burdett, the Hon. Mr Griffin, and the Hon. Dr Ritson in their contributions indicated their opposition to the proposal to reduce penalties for simple possession of *cannabis* and *cannabis* resin.

I submit to the Council that the Government's proposal is indeed a modest reform, and no more than that. It reflects the current practice of the courts. The Hon. Mr Burdett argued that by maintaining present penalties there was flexibility for the courts to impose severe penalties where there are aggravated circumstances, as he put it. If one looks at the figures from the Office of Crime Statistics, we can only assume that there have been no aggravated circumstances since 1979. The figures to which I refer show that penalties imposed for possession and use of marihuana have been moving down gradually from an average fine of $135 in 1979-80 and $119 in 1980-81, to $117 in 1981-82. Over that whole period only 13 people out of 2 625 persons convicted of these offences were sentenced to gaol terms.

I make clear that the Government will oppose the amendments. At the same time, I make clear, as I have done on many occasions, that this is a modest amendment only. We do not propose to take it any further at this time. I personally do not propose to take it any further at this time. There is clear evidence from surveys in the community that at this time in South Australia the community is not prepared to accept the decriminalisation of the offence of possession of marihuana for personal use. It is not my intention to pursue it. I also make perfectly clear, so that no-one can misrepresent my position publicly either as an individual or as the Minister of Health, that I believe that marihuana has several harmful effects. I have never said otherwise. I have never used marihuana, never intend to use it, and I advise anyone who asks me not to use it. I do not believe that there are many circumstances, if any at all, in which it can be of any great use to people.

It has documented harmful effects. With regard to those harmful effects, it is not in the same league, as both a debilitator and a killer, as alcohol and tobacco. Honourable members opposite have levelled criticism at matters to be dealt with by regulation, specifically the quantities of drugs subject to the heavy penalties. There is nothing new in this approach. Under the existing Narcotic and Psychotropic Drugs Act, which the Opposition, when in Government, did nothing to change, quantities of drugs for trading offence purposes are set out in the regulations. Regulations, as every honourable member of this Council knows, come under Parliamentary scrutiny—even section 17 of the Commonwealth Health Insurance Act is going to come under scrutiny through regulations. Indeed, the Government has never made any secret of its position.

I specifically included a reference in my second reading explanation to the Government's thinking at this time in relation to quantities of drugs involved in the various offences. I can assure honourable members, and anyone else who cares to listen, that the Government has no intention of quietly slipping through a regulation one Thursday morning when nobody is looking or listening. Of course there will be publicity in relation to such regulations. Of course draft regulations generally under the Act will be made available to interested parties before promulgation. This is an established practice in the health area, and I have no intention of varying it. The same comments apply just as much to the matter of therapeutic aids referred to at some length by the Hon. Mr Lucas.

I turn now to the matter of drug assessment and aid panels. The establishment of such panels is one of the central features of the Government's strategy on drug abuse. It is at the very heart of this legislation. As Prof. Ronald Sackville put it in 1979—and I quote from the Sackville Report:

> The community has a responsibility to assist such people, even though they are often regarded as the victims of self-inflicted harm. It is more consistent with the values of a humane society to regard dependence not as a self-inflicted wound but more as an inevitable consequence of society's inability to forgo or control absolutely the availability of drugs, chemicals and pharmacological knowledge.

Yet, the Opposition persists with its intention to have these people dragged before the courts in all circumstances. It persists exactly with its victim-blaming attitude. However, the Government is seeking to have persons assessed by an expert panel to see whether that person should be directed to a treatment programme or whether a prosecution should proceed. The panel will have the power to refer the matter to the court if it considers such a course of action appropriate. Importantly, however, the panel system provides the opportunity to direct persons to treatment and rehabilitation programmes if the panels' expert view is that it is in the person's best interest that that should occur.

An amendment drafted in my name will add a legal practitioner to the panels. This was sought by the Alcohol and Drug Addicts Treatment Board, pointing out that it would be providing many of the services directed by the panels and would also be likely to assist in the creation of the panels. It regarded the addition of a lawyer as important in ensuring the objectivity of the panels. The establishment of the assessment and aid panels is a new innovation. It is my intention, following passage of the Bill, to establish an inter-departmental committee to ensure that there is close co-operation and liaison in the implementation of the system. The Government will also be carefully monitoring the operation of the panels and learning from that experience.

At this stage it is appropriate that I should make some response to part of the contribution of the Hon. Mr DeGaris. I also refer to a rather extraordinary and misleading statement made recently, and quoted in the *Advertiser* last week, by Mr Bob Bottom. The headline read, from memory, 'Thousands of heroin addicts in Adelaide'. Mr DeGaris stated that heroin abuse is a major problem and continues to grow. There is no doubt that heroin abuse in particular and narcotic abuse in general is a major problem. Heroin addiction is quite a devastating and dreadful thing. It is important, however, to put the whole matter in perspective.

The greatest problem that is faced in Adelaide now and in South Australia generally is polydrug abuse. More than 50 per cent, and possibly as high as 80 per cent, of all people who present themselves to the Drug Dependence Unit at Norwood and the Family Living Centre at Joslin, to name but two organisations, are there I am told because of prescription drug abuse. I have had many things to say about this in the past and doubtless will have much to say in the future. It is the range of drugs from Dilaudid to Serapax to Valium, to name but three, that are very much a major problem in this city and this State.

With regard to heroin, the Sackville Royal Commission made an estimate based on statistics and information provided to it that there were probably somewhere between 500 and 1 500 narcotics addicts in South Australia. That figure has been recently reassessed by Dr René Pols, the Director of the Alcohol and Drug Addicts Treatment Board. The more accurate figure with which he has provided me is that there are probably between 300 and 900. So, the

upper limit on the estimate that Dr René Pols has provided to me is approaching 1 000, the lower limit being of the order of 300.

I would admit, on the other hand, that we need more accurate survey work done to ascertain the accurate figure, to the extent that that would ever be available. I am not making that point to in any way try to pretend that we do not have a narcotics problem in Adelaide or in South Australia, or to suggest in any way that I do not regard narcotic addiction as one of the most dreadful things that can happen to any human being. However, I do believe that it is important to keep the matter in perspective, and to realise that the problem of poly or prescription drug abuse is the problem of 1984.

Only recently, and very sadly, we had occasion to retrieve the body of a young person with known drug problems in the city area and, at the time of retrieval, that young person had in his pocket five unfilled prescriptions for barbiturates and other drugs. Clearly, there is a small number of unscrupulous doctors known around this city as script doctors. There are a much larger number of—

**The Hon. R.C. DeGaris:** The Amphetamine matter was handled very well. Amphetamine addiction was very high years ago—now it is almost non-existent.

**The Hon. J.R. CORNWALL:** It is certainly now an extraordinarily restricted drug.

**The Hon. R.C. DeGaris:** Only because of the ability to control medical usage.

**The Hon. J.R. CORNWALL:** There was a very small number of legitimate circumstances in which Amphetamine should ever have been prescribed. It is restricted to the extent now that it is virtually unavailable. The same thing should apply to barbiturates, for example. There is no reason in this world in 1984 for anybody to be writing prescriptions for phenobarb or lots of other drugs.

**The Hon. R.C. DeGaris:** If there is an approach to amphetamines it could apply to barbiturates: it would make a big difference.

**The Hon. J.R. CORNWALL:** That is precisely why at this point we are putting in computer facilities in the pharmacy unit of the Public Health Division. It is terribly important that we keep a very close eye on prescribing habits. One of the major sources of prescription drugs is the good, honest, diligent, suburban or even country GP who is conned. I will tell an anecdote that Barry Hailstone wrote in the *Advertiser* some months ago. He told the story of a young woman with a physical disability who was doing the rounds of doctors' surgeries and asking for dilaudid. I think from memory that Mr Hailstone claimed that she was getting around to up to a dozen surgeries a day—no names of course supplied. Clearly, she was able to deceive a large number of good, honest, diligent doctors. That person rang my office and spoke to one of my officers, outraged with the story, and said that she had never done more than five surgeries a day in her life. She could literally go to up to five surgeries, tell the same story over and over and be prescribed for a synthetic narcotic. So, it is important, as I said, that whilst we acknowledge the real and grave problem of heroin and narcotic addiction we also realise that we have in our midst the problem of 1984, which is prescription drug abuse.

**The Hon. J.C. Burdett:** That is dealt with in the Bill.

**The Hon. J.R. CORNWALL:** Yes, it is dealt with in the Bill and we are taking steps at the moment to very much upgrade surveillance so that we will know what is going on, who is writing prescriptions for what, whether that is being done in good faith, whether people are being deceived and whether there are particular patterns and practices where a lot of prescriptions are emerging. That to the extent possible will be under control in a matter of months.

I close with some assurance to the health food industry. I am very much aware, as are honourable members opposite, that the Bill was initially subject to a good deal of misinterpretation as to its intentions in this area. I have been approached by the National Nutritional Foods Association, by homeopaths, by naturopaths, and by a variety of people who operate in the health food/mega-vitamin type areas, who initially believed that somehow they were being specifically set up for stringent controls under this legislation. I have given public assurance that there is no intention of this kind (as the Hon. Mr Burdett said in his second reading contribution) of introducing anything Draconian to impose controls one-out as a State. However, the reputable people in the health food industry are among the first to admit that the industry itself is imposing controls and will be prepared to accept controls, particularly if they are imposed responsibly at the national level. The recent incident with arsenic in kelp imported from Norway shows that we will need nationally (and ultimately by complementary State legislation) better controls on what is a large, flourishing industry. It is not intended that we will expand existing controls over therapeutic substances following the passage of this Bill.

As to any future regulation of, for example, herbal medicines, in relation to standards of purity, efficacy, advertising, and so forth, this would not occur without due consultation with the industry. I am in the process of establishing a working party to be chaired by a Health Commission officer, consisting of chiropractors, representatives from the National Nutritional Foods Association, the Natural Therapists Association and manufacturing experts to look at the whole area of standards, classification, etc., of herbal medicines and nutritional supplements. That working party will be given the status of a subcommittee of the Controlled Substances Advisory Council following the passage of the Bill.

I do not wish to take up any more of the Council's time at this stage. As I said at the outset, this is the sort of legislation that will lend itself very much to constructive work in Committee, when any further details should properly be dealt with.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

## POWERS OF ATTORNEY AND AGENCY BILL

In Committee.

(Continued from 20 March. Page 2591.)

Clauses 2 and 3 passed.

Clause 4—'Application of this Act.'

**The Hon. C.J. SUMNER:** During the second reading debate, the Hon. Mr Griffin sought confirmation that the Act would apply to all current powers of attorney as well as those created after the passage of the Bill.

The Bill provides for the creation of a general power of attorney using a short statutory form or in another form but incorporating a reference to clause 5 of the Bill. This clearly can have no retrospective effect, as the statutory form and the relevant section will not exist until after the commencement of the Act. In addition, the creation of enduring powers of attorney is made possible; clause 6 (2) provides that a deed is not effective to create an enduring power of attorney unless it has annexed to it or endorsed on it a statement of acceptance in the prescribed form or form to like effect. Once the Bill is passed, it will be possible to execute an enduring power of attorney that complies with the provisions of the Act.

Specific provision is made in clauses 12 (4) and 13(2) relating to agency matters that those sections have application to acts done or deeds executed after the commencement of the Act, whether the agent's authority was conferred before or after the commencement of the Act. I trust that that answers the honourable member's query.

**The Hon. K.T. GRIFFIN:** I was aware that, principally, this Bill deals with enduring powers of attorney that are not currently recognised by the law and that the bulk of the Bill would in fact apply only to powers of attorney endorsed by the grantor of the power of attorney after the commencement of the Act. Clauses 12 and 13, in my view, go further than that and would apply to all existing powers of attorney, whether they were enduring powers created pursuant to this Bill or ordinary powers of attorney without the endorsement required to make them enduring powers. I do not want the Attorney to do anything more in respect of this clause. He has given information that I think is important, but in my view clauses 12 and 13 have wider implications than enduring powers of attorney. I have no objection to that: I was seeking clarification.

Clause passed.

Clause 5—'General power of attorney.'

**The Hon. C.J. SUMNER:** The Hon. Mr Griffin asked why is it that the general power of attorney is expressed not to operate to confer authority to perform the functions that the donor has as trustee or personal representative. I advise that the Law Reform Committee recommended the adoption of a provision akin to section 10 of the English powers of attorney legislation. This section limits the authority of the donee in like manner to clause 5 (4). The English Law Reform Commission had recommended the adoption of a general power of attorney enabling the donee to do anything on behalf of the donor that he could lawfully do by an attorney, the one exception being authority to perform functions that the donor has as trustee or personal representative. The English Law Reform Commission considered the better practice to refer specifically to the trust concerned. A provision similar to the English provision is included in the Victorian Instruments Act, section 107 (2).

However, the provision in clause 5 (4) does not prevent a person from creating a power of attorney for any specific purpose as can be done at present. Clause 5 only sets out the ambit of a general power of attorney. The Trustee Act Amendment Bill deals specifically with the question of a trustee's power of delegation, and the manner in which delegation can be made would not fit in with a general power of attorney which enabled the effective delegation of trustee powers.

**The Hon. K.T. GRIFFIN:** Again, I do not propose to persist with the question. It will be interesting to watch the operation of this clause, because the first schedule allows what purports to be a general power of attorney to be limited or for specific powers to be excluded, so the interesting question will be: when does a general power cease to be a general power and become a specific power. As I said, I do not propose to debate this matter at length but merely to have on the record that there may be some difficulty with the way in which this clause operates. However, it would be appropriate to deal with those difficulties when they arise.

Clause passed.

Clause 6—'Creation and effect of enduring powers of attorney.'

**The Hon. C.J SUMNER:** The Hon. Mr Griffin asked what type of person is appointed by the Governor as commissioner for taking affidavits. The answer is that the Governor usually exercises his power to appoint commissioners for taking affidavits in favour of clerks of local courts and police officers who are empowered to act only whilst stationed at a particular town.

Secondly, the Hon. Mr Griffin asked what persons are covered by the term 'authorised by law to take affidavits'. The Evidence (Affidavits) Act provides that justices of the peace, proclaimed bank managers, proclaimed postmasters and proclaimed members of the Police Force may take affidavits. In addition, the Oaths Act provides that members of the Judiciary, legal practitioners and those appointed by the Governor may take affidavits.

**The Hon. K.T. GRIFFIN:** I thank the Attorney for that explanation. I have previously stated that the second reading explanation in respect of clause 6 is not complete in that it refers only to persons authorised by law to take affidavits as being members of the Judiciary, legal practitioners or persons specially appointed by the Governor. I did not think that that was a complete list of those who were authorised to take affidavits by law, and that was the reason for my question. As the Attorney has now indicated, the range of persons who can witness enduring powers of attorney, being those authorised by law to take affidavits, is a much more extensive list, which includes, in addition to judges and lawyers, justices of the peace, proclaimed bank managers, proclaimed postmasters and proclaimed members of the Police Force.

Again, this should be monitored. If difficulties arise in regard to the extent of the list of persons who can witness enduring powers, the matter may have to be reviewed. However, there is protection in that, where bank managers, postmasters and members of the Police Force are to take affidavits, there must be a proclamation authorising them to act for that purpose. So, to some extent, there is a safeguard against abuse of the provision.

Clause passed.

Clauses 7 and 8 passed.

Clause 9—'Donee may not renounce power during incapacity of donor except with leave of Supreme Court.'

**The Hon. C.J. SUMNER:** The Hon. Mr Griffin asked why it is necessary that the donee of an enduring power of attorney not renounce the power during any period of incapacity of the donor except with leave of the Supreme Court. This provision was seen as desirable by the Law Society in February 1981, when the concept of enduring powers of attorney was first suggested to the Government of the day. It has been adopted in the Bill as a means of ensuring that the estate of a person who is incapable of managing his own affairs will not fall into neglect. If an attorney must, for some reason, be relieved of his duties, the court would be able to ensure that proper and adequate arrangements had been made for the continuing welfare of the donor's affairs before relieving the donee of his responsibilities for the donor's interests.

**The Hon. K.T. GRIFFIN:** I thank the Attorney-General for that explanation. I do not intend to move any amendment with respect to the clause. I just have the impression that this may in practice be somewhat harsh on those who, in good faith, accept the responsibility to act as attorney for a person who subsequently becomes incapable of exercising any responsibilities and, while the Aged and Infirm Persons Property Act and the Mental Health Act provide mechanisms for the appointment of a manager or some other person to look after the affairs of the person who has become incapable of looking after his or her own affairs, I should have thought that that would be sufficient and that an attorney ought not to be bound to the obligation of being attorney if the task becomes too great or if for one reason or another the attorney does not wish to continue with what might be onerous responsibilities.

Of course, there is the mechanism that the person appointed as attorney in these circumstances may apply to

the Supreme Court to be relieved of the obligation to act as attorney. That is likely to be an expensive process, and I am not sure why the attorney ought to be put in that position, although perhaps the court may award the costs against the property of the grantor of the power.

The other point that has to be remembered is that the person granting the power need not consult with the person to be appointed with the power of attorney, and the person appointed as attorney may not have very much say in the appointment. That does happen occasionally—perhaps not on many occasions but it certainly happens—and in those circumstances it seems to be somewhat unreasonable for the person appointed as attorney to be obliged to exercise the responsibilities of attorney in the event of incapacity of the grantor of the power.

While I express that view, I state that the amendment has been requested by the Law Society. There will undoubtedly be in some cases merit in the proposal and for the time being I am satisfied to allow the matter to operate and to monitor the way in which it does operate. If there are any injustices or undue expenses, the legislation can be amended.

Clause passed.

Remaining clauses (10 to 13) and title passed.

**The Hon. C.J. SUMNER (Attorney-General):** I move:
*That this Bill be now read a third time.*

**The Hon. K.T. GRIFFIN:** I rise to correct one matter to which I referred in clause 9. I suggested that the person who was appointed as attorney might not have any knowlege of the appointment. I was wrong in that respect, because it has been drawn to my attention that the second schedule provides a form of acceptance of an enduring power of attorney. That was my oversight and I thought that, rather than letting my misunderstanding prevail as expressed in regard to clause 9, this would be the appropriate opportunity to indicate that I withdraw those remarks which relate to the knowledge of the attorney as to the appointment.

Bill read a third time and passed.

## LAW OF PROPERTY ACT AMENDMENT BILL

In Committee.

(Continued from 20 March. Page 2592.)

Clause 2—'Execution and attestation of deeds.'

**The Hon. C.J. SUMNER:** The Hon. Mr Griffin asked a question about this clause similar to the question asked on the Powers of Attorney and Agency Bill. He asked which persons are authorised by law to take affidavits. The answer which I gave previously and which I now repeat is that this term includes those persons defined in the Oaths Act (Judiciary, legal practitioners and those appointed by the Governor) and those persons defined in the Evidence (Affidavits) Act, which includes justices of the peace, proclaimed bank managers, postmasters and members of the Police Force.

Clause passed.

Title passed.

Bill read a third time and passed.

## EVIDENCE ACT AMENDMENT BILL (No. 3)

In Committee.

(Continued from 20 March. Page 2592.)

Clause 2—'Proof of original document.'

**The Hon. C.J. SUMNER:** The Hon. Mr Griffin raised some questions concerning this clause. First, he asked about persons authorised by law to take affidavits. That question has been answered in debate on previous Bills. Secondly, the Hon. Mr Griffin raised the question of what offence is committed when a person purports to be a person authorised by law to take affidavits and is not, in fact, so authorised. The answer is that the Criminal Law Consolidation Act provides for the offence of unlawfully administering an oath, affidavit or affirmation without statutory authority (section 242) while section 30 of the Oaths Act also provides an offence of improperly taking affidavits, affirmations or declarations. However, these offences are not apposite in the situation referred to by the Hon. Mr Griffin. The problem raised by the honourable member will be given further consideration. It may be that a general offence of impersonating an authorised functionary or acting without statutory authority is called for.

Thirdly, concerning the meaning of 'special reason', in proposed section 45c (3), consideration has been given to the problems raised by the Hon. Mr Griffin in relation to the use of the term 'special reason', and it is considered that the term is broad enough to allow the court to seek the proof that it requires in a particular case. The proposed section 45c (5) is designed to ensure that the court can require the production of the original document if it considers it necessary or desirable to do so.

**The Hon. K.T. GRIFFIN:** I thank the Attorney-General for that information. Regarding possible offences of impersonating an authorised functionary or acting without statutory authority, do I take it from what the Attorney-General said that it is likely that legislation will be introduced to create the offence, or is it only possible? I think that this will assume much greater significance because of the range of persons authorised to witness documents in this package of four Bills. In the context of making facsimile copies of original documents, in some instances the temptation may well be quite considerable to either execute or witness documents fraudulently. Of course, it may be that from that action the fraudulent behaviour will be subject to prosecution under the Criminal Law Consolidation Act. But the context in which I raise this matter is that of improperly witnessing documents in this package of Bills.

The other point is in relation to proof of identity of a person by whom a certificate appearing on a facsimile document was made. Under proposed subsection (3) the court must accept the identity of the person making the certificate unless there is special reason why such proof should be required. I think probably that if there is a case where the courts want to make inquiry about the identity of the person and, thus, the validity of a certificate, they will probably find that there are special reasons to do it. Again, I am prepared not to move an amendment to delete 'special' but to watch how the measure operates in practice and, if there is a problem with it, and I am sure it will be drawn to our attention, I am satisfied to leave the matter as it is for the time being.

**The Hon. C.J. SUMNER:** I cannot answer the question whether a general offence of impersonating an authorised functionary or acting without statutory authority will be provided for. The matter is being further considered. I suggest that I advise the honourable member of the results of that consideration either by the introduction of a Bill or by letter, if it is decided that it is not necessary.

Clause passed.

Title passed.

Bill read a third time and passed.

## LAW OF PROPERTY ACT AMENDMENT BILL (No. 2)

In Committee.
(Continued from 20 March. Page 2591.)

Clause 2—'Body corporate may hold property as joint tenant.'

**The Hon. C.J. SUMNER:** The Hon. Mr Griffin raised the question during the second reading debate as to whether the proposal in this Bill to enable corporate bodies to hold property as joint tenants could cause problems in relation to tax evasion and, in particular, stamp duty evasion. I appreciate the fact that the honourable member has drawn that matter to the Council's attention. Having inquired into it, I am advised that it is not anticipated that the enactment of this legislation will cause any untoward problems.

I emphasise again that the rule which prevented corporate bodies holding property as joint tenants was abrogated in England in 1899 and has been followed in Australia in New South Wales, Victoria, Queensland and Tasmania. However, I appreciate the fact that the honourable member raised the problem and, while it is not anticipated that there will be any difficulties, Treasury officers have been alerted to the matters raised by the honourable member and will monitor the situation following the passage of the legislation.

**The Hon. K.T. GRIFFIN:** I appreciate the Attorney-General's response. While the common law rule has been abrogated in the United Kingdom since 1899, it is likely that any taxing or stamp duty legislation in that country is drafted on the basis of that law having been abrogated. So, it is not reasonable to compare the two systems by virtue only of the fact that the rule has been abrogated. I have satisfied my duty to raise the question in respect of stamp duty, and tax evasion and the potential for that activity and also in the context of avoidance of liabilities through the companies and securities legislation. If the Attorney-General has investigated it and, at the present time, is not perturbed about it, I do not propose to pursue it any further at this stage.

Clause passed.
Title passed.
Bill read a third time and passed.

## PARLIAMENTARY SALARIES AND ALLOWANCES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 22 March. Page 2740.)

**The Hon. R.J. RITSON:** I support the second reading of the Bill, and in so doing I will be very brief. In essence, the Bill introduces the 'phasing in' proposal that was first publicly suggested by Mr Olsen, the Leader of the Opposition in another place. It effectively and substantially reduces the amount of money that Parliamentarians will be paid this year. In fact, it substantially reduces the figure from that which was awarded by the independent tribunal. I suppose when people start to discuss the timing of the determinations of Parliamentary salaries they will always criticise it. There is probably no good time for any group in the public eye, as we are, to receive an increase.

It was interesting to note that, during the controversy surrounding the question of Parliamentary salaries, in those States that do not have independent tribunals there were cries for the setting up of independent tribunals, and in the case of South Australia, which does have an independent tribunal, the findings of the independent tribunal were criticised. I think that that proves that not only is there no satisfactory timing for the review of Parliamentary salaries but also there is no mechanism that will be seen by the public as satisfactory, fair or independent.

The general work force receives a number of salary increases during each year, although they were fewer during the past calendar year because of the wages pause. Nevertheless, there were wage increases last year, and during the previous year there were several increases. Any system that reviews a salary either annually or every two years will, in political terms, always be compared—wrongly, I believe—with the latest quarterly or half-yearly adjustment for other sections of the work force. I do not believe that whatever we do today will be satisfactory to all people, although the effect depends perhaps very much on the editorial policies of the media. Nevertheless, the independent tribunal brought down a finding which it claimed was less than it could have brought down had it still remained within the wage fixing guidelines and within the general practices and principles of arbitration and conciliation.

I understand that the Australian Democrats propose to attempt to amend the Bill to further reduce the determination so that, in effect, it will amount to a salary increase of 4 or 4.5 per cent in the past two years. I must confess that I and a number of other members on this side are probably in a position where we do not mind that very much because many of us have other professions or other means of inherited wealth. That applies particularly to the Hon. Mr Milne who has very large resources and very many sources of income. However, there are members such as the Hon. Mr Lucas, who is a vigorous academic and bright young man with an increasing number of children and who is entirely dependent upon his Parliamentary income. I think it is more pertinent to the principles of democracy that this Parliament is meant to be accessible to the working man.

The sort of salary level that is proposed is readily attainable by tradesmen working overtime, and it is certainly a good deal less than that of tradesmen who work overtime and have site allowances. It must give people pause in considering whether to stand for Parliament and offer their services, if they have to give up a substantial and secure job to enter this place and withstand the slings and arrows of public criticism, having no other financial resources than the Parliamentary salary. I do not think that Dr Brian Billard will mind my referring to his situation in which he as a defence scientist forfeited a career, served three years in this place for what was probably an equivalent or reduced income, and then returned to his profession to find that many of his promotional positions were blocked to him.

**The Hon. L.H. Davis:** He received superannuation contributions back with no interest.

**The Hon. R.J. RITSON:** Yes, there is no golden handshake for those people. For some, not all of us, it is a sacrificial act to enter Parliament. If people such as the Hon. Mr Milne are going to attempt to seize the middle ground of popularism by relatively reducing salaries for members of Parliament, for the sheer political expediency of gaining that vote, I do not mind and perhaps the Hon. Mr Milne and a few others will not mind in terms of our ability to pay our bills each week but, ultimately, Parliament will be a place that virtually excludes the working man. It may become a place similar to what it used to be in England, a place where only those people sit who have other means or other professions.

I would not like to see that happen. I accept that the 'phasing in' proposition, which greatly reduces the effect of the Tribunal's award, is politically necessary in spite of the fact that the Tribunal determined the award to be a fair one. However, if the Hon. Mr Milne's amendment is passed, it simply moves the Parliament further towards being one for people of independent means and for them alone. Having

stated those few principles. I support the second reading of the Bill.

**The Hon. L.H. DAVIS** secured the adjournment of the debate.

## COMPANIES (ADMINISTRATION) ACT AMENDMENT BILL

**The Hon. C.J. SUMNER (Attorney-General)** obtained leave and introduced a Bill for an Act to amend the Companies (Administration) Act, 1982. Read a first time.

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

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

It makes two separate amendments to the Companies (Administration) Act, 1982. The proposed amendment of subsection 6 (3) of the principal Act flows from a comprehensive review of the structure of the Department of the Corporate Affairs Commission by the Public Service Board late in 1983.

The creation of a new senior position of Assistant Commissioner for Corporate Affairs is one of a number of structural changes intended to strengthen the Commission's corporate law enforcement role. The Assistant Commissioner will be responsible for conducting the more significant litigation and will direct and co-ordinate the work of the Commission's legal officers, investigators and seconded police officers. The review concluded that the effectiveness of the Department's enforcement activity would be enhanced if the Commission, as a corporation sole, were comprised of the Commissioner, Deputy Commissioner or the Assistant Commissioner. The amendment therefore provides that the Corporate Affairs Commission may be constituted by the Assistant Commissioner.

The new section 8a requires the Corporate Affairs Commission to prepare an annual report. Such a provision was contained in section 401 of the Companies Act, 1962, and although a corresponding provision was not included in the principal Act when originally enacted the Commission has continued to report on its activities. The Government believes it proper that the Commission should be required by the Companies (Administration) Act, 1982, to make annual reports and that these should be placed before Parliament. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Clauses

Clause 1 is formal. Clause 2 replaces subsection (3) of section 6 of the principal Act. The substantive change is the addition of the Assistant Commissioner for Corporate Affairs as a person who may constitute the Commission. Clause 3 inserts new section 8a into the principal Act. The new section requires the Commission to deliver an annual report to the Minister on or before the thirty-first day of December in each year. The Minister must cause a copy of the report to be laid before each House of Parliament.

**The Hon. J.C. BURDETT** secured the adjournment of the debate.

## ADJOURNMENT

At 5.11 p.m. the Council adjourned until Wednesday 28 March at 2.15 p.m.