LEGISLATIVE COUNCIL

Tuesday 8 October 1985

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

ASSENT TO BILLS

The PRESIDENT: His Excellency the Governor, by message, intimated his assent to the following Bills:

Native Vegetation Management,
Planning Act Amendment (No. 4),
Road Traffic Act Amendment (No. 4),
South Australian Heritage Act Amendment,
South Australian Heritage Act Amendment (No. 2),
Valuation of Land Act Amendment.

MEMBERS' INTERESTS

The PRESIDENT: Pursuant to section 5 (4) of the Members of Parliament (Register of Interests) Act, 1983, I lay on the table the Registrar's statement of June 1985 prepared from ordinary returns of members of the Legislative Council.

Ordered that statement be printed.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Police Pensions Fund—Report, 1984-85.
Adelaide Festival Centre Trust Act—Report on state of affairs, 1984-85.
State Opera of South Australia—Report on state of affairs, 1984-85.
South Australian Housing Trust Act—Report, 1984-85.
Commissioner for Equal Opportunity—Report, 1983-85.
Australian Formula One Grand Prix Act, 1984.
Small Business Corporation of South Australia—Report, 1984-85.
State Theatre Company of South Australia—Report, 1984-85.
Parliamentary Superannuation Fund Trustees—Report 1984-85.
Classification of Publications Act, 1974—Regulations—Film Classification Fees.
Payroll Tax Act, 1971—Regulations—Travelling and Accommodation Allowances.

By the Minister of Consumer Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

Builders Licensing Act, 1967—Regulations—Building Indemnity Insurance Scheme.

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

Pursuant to Statute—

Medical Practitioners Act, 1983—Regulations—Registration Fees.
Planning Act, 1982—Regulations—Shopping Developments.
Crown Lands Act, 1929—Return of Cancellation of Closer Settlement Lands, 1984-85.
South Australian Urban Land Trust—Report, 1985.

By the Minister of Labour (Hon. Frank Blevins):

Pursuant to Statute—

State Supply Act, 1985—General Regulations.
Highways Act, 1926—Regulations—Highways Fund.
Metropolitan Taxi Cab Board—Financial Statements, 1984-85.
Electricity Trust of S.A.—Report, 1985.
Public Supply and Tender Act, 1914—Regulations—Revocation.

By the Minister of Agriculture (Hon. Frank Blevins):

By Command—

The South Australian Egg Board—Report, 1984-85.

Pursuant to Statute—

Metropolitan Milk Board—Report, 1985.
The Egg Industry Stabilization Act, 1973—Report on the Operations and Activities of the Poultry Farming Licensing Committee.

By the Minister of Fisheries (Hon. Frank Blevins):

Pursuant to Statute—

Fisheries Act, 1982—Regulations—Whyalla—Cowled's Landing Aquatic Reserve.

By the Minister of Correctional Services (Hon. Frank Blevins):

Pursuant to Statute—

Correctional Services Advisory Council—Report, 1984-85.
Parole Board of South Australia—Report, 1984-85.

By the Minister of Tourism (Hon. Barbara Wiese):

Pursuant to Statute—

Racecourse Development Board—Report, 1984-85.
Engineering and Water Supply Department—Report, 1983-84.

By Command—

South Australian Council on Technological Change—Report, 1984.

By the Minister of Local Government (Hon. Barbara Wiese):

Pursuant to Statute—

Local Government Finance Authority Act, 1983—Regulations—Associated Organisations.
City of Noarlunga—By-law No. 17—Traffic.
Department of Local Government—Report, 1984-85.
The Parks Community Centre—Report, 1984-85.

MENTAL HEALTH ACT AMENDMENT BILL

The Hon. J.R. CORNWALL (Minister of Health) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received. Ordered that report be printed.

QUESTIONS

The PRESIDENT: Before calling honourable members who desire to ask questions, I have compiled a small report in answer to questions asked of me about Question Time. I should like to remind the Council that the object of Question Time is to elicit information and, when leave is sought and obtained to make a short explanation prior to asking a question, such explanation should be as brief as possible. The granting of such leave does not in any way permit members to make any inferences or imputations, give opinions or debate the matter.

With respect to answers to questions, May's *Parliamentary Practice,* 20th Edition, at page 345, states:

> An answer should be confined to the points contained in the question, with such explanation only as renders the answer intelligible, though a certain latitude is permitted to Ministers of the Crown; and supplementary questions, without debate or comment, may, within due limits, be addressed to them, which are necessary for the elucidation of the answers that they have given.

I would add that, in giving a reply, Ministers should not debate the matter and they should avoid expressions which call forth observations from other members and excite debate.

If honourable members will observe these few rules which govern the asking of questions and the replies thereto, then I am sure that Question Time in this Council will be more beneficial to all concerned and there should be no need to resort to a drastic review of the Standing Orders.

PRISON ESCAPES

The Hon. M.B. CAMERON: I seek leave to make a short explanation before asking the Minister of Correctional Services a question about escapes.

Leave granted.

The Hon. M.B. CAMERON: Once again, the prison system has been in the news to some considerable degree lately.

The Hon. Frank Blevins: And the *Advertiser.*

The Hon. M.B. CAMERON: And the *Advertiser,* too. A number of subjects have been raised. However, the question of prison security is now coming to the fore, particularly when it became known last week that a young woman had entered a prison and, I gather, stayed the night undetected and while climbing the fence in an attempt to get out the next morning had been caught. Today we know from the *News* and other parts of the media that two dangerous prisoners have escaped from Adelaide Gaol after tunnelling through a cell wall.

An honourable member interjecting:

The Hon. M.B. CAMERON: Yes, they did not have the same difficulty. I understand from what I have read that they have both escaped from custody before. One of the escapees threatened a woman with a knife following a previous escape. Today's escape was detected at 5 am—25 minutes after a cell to cell security check of the prison. I understand that the men used a weight-lifting bar (or dumbbell) to bash their way out of prison. I am surprised that prisoners are allowed to have that sort of equipment within their cells. We may as well give them a pick, if we are going to allow equipment like that. They then used a pole made of several joined timber garden stakes to hoist a grappling hook to the top of the six metre perimeter wall; and then used a security camera as a base to secure a rope they had made out of sheets in order to climb out.

The only reason the escape was detected was because one of the prisoners accidentally turned around the security camera slightly, and that I guess meant that it was not giving its normal picture. However, the camera did not picture them escaping. Why were the prisoners allowed to have a weight-lifting bar in their cells while they were unsupervised? Where did they obtain the garden stakes and the grappling hook which they used to effect their escape? What steps has the Minister taken to ensure that such objects are not allowed in prisoners' cells, particularly weight-lifting bars, which can always be used as a means of digging?

The Hon. FRANK BLEVINS: Briefly, Mr President, in the spirit of your remarks prior to Question Time I point out that, with regard to the incident at the cottages in the Northfield prison complex late last week, that matter is in the hands of the police and I believe the person in question has been charged.

The Hon. M.B. Cameron: Has been.

The Hon. FRANK BLEVINS: Has been, I believe. All we are dealing with at the moment are allegations and if somebody has been charged (I am sure the Hon. Mr Burdett would agree) we should not make that case a topic of conversation or debate here. I would point out that the cottages are a minimum security institution.

The Hon. M.B. Cameron: Very minimum.

The Hon. FRANK BLEVINS: We have even more minimum ones. Again, the Hon. Mr Burdett would know of Cadell, which has no fence at all, and is a very successful institution in this State. We gradually grade prisoners down to low and minimum security over the period of their imprisonment on the basis that they are going to be released one day and hopefully we will have achieved something with some prisoners by having them go out capable of looking after themselves to some degree and not offending in the community again; because, if they do, somebody inevitably gets hurt physically, financially, emotionally, or in some other way.

Over the 18 months or so since the cottages have been opened we have had a couple of incidents, but I would say that our success rate there, considering it is a very minimum security institution, is in the order of 99 per cent—that may even be a higher success rate than the rate applying to politicians. Whilst I deplore any incidents that happen, I think we should keep them in perspective.

With regard to the break-out from the Adelaide Gaol this morning, I am still having that occurrence assessed. It appears there was some weight-lifting equipment in that cell which had no right to be there. Orders are issued as to where weight-lifting equipment has to be stored at night. I will certainly find out why it was not stored there, and our investigation officers are doing that at the moment. It would be very easy for me to point the finger now and say that people are falling down on the job that they are supposed to be doing, but I do not intend to do that until the investigations are complete.

What are we doing? There are several options. Whenever you have an escape, obviously, the degree of alertness of prison officers increases, but the problem is the gaol itself. It will be a race between our getting out of the gaol in 18 months or two years time and the gaol falling down. The gaol is over 140 years old; it was one of the original buildings built when South Australia was colonised. You only have to look at the place to see that you would not have to be Houdini to have a go at Adelaide Gaol. The gaol is a very primitive and almost useless building at the moment for keeping prisoners there.

The Hon. M.B. Cameron: That would be a good reason for not leaving equipment in their cells.

The Hon. FRANK BLEVINS: I agree completely; that is why we have an order that pieces of weight-lifting equipment are not left in the cells at night; there is a proper store designated for them and that is where they ought to be. As I said, I am in the process of finding out why they are not there. Certainly, the order has been issued. One option that we have is to line the cells with steel, because the stones that make up the walls of the cell are very old, with very soft mortar, and certainly, as was demonstrated this morning, not escape proof.

Whether or not it is a practical proposition to line those walls, particularly the outside walls, that lead to the main wall with steel I am not quite sure. I am sure that the Department of Housing and Construction can look at that proposition for me. That is the kind of thing that will have to be done—we will have to start lining these walls with steel because the place is over 140 years old and, quite frankly, in a deplorable state. However, if there are any procedures that ought to have been followed that were not followed and we can pinpoint where the system broke down—whether it was human error, slackness or a fault in procedures themselves—we will certainly have that analysed over the next couple of days and take whatever remedial action that we practically can.

WINE GRAPE PRICES

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Agriculture a question about minimum wine grape prices and associated matters.

Leave granted.

The Hon. J.C. BURDETT: I understand that the Minister has recently stated that the current system of fixing minimum prices for wine grapes will be maintained. The growers will be pleased to hear that and are very anxious to know

what the price will be and when it will be announced because they require information at about this time in order to make their own plans. An associated matter is the announced Commonwealth Government scheme of vine pull for which the Commonwealth Government will provide about $5 million across Australia in conjunction with the States. The Commonwealth is providing $1 for every $2 provided by the States. My questions are:

1. When will the minimum price of wine grapes be announced?

2. What is the Minister's attitude with regard to the Commonwealth vine pull scheme?

The Hon. FRANK BLEVINS: The first matter is under the control of the Minister of Consumer Affairs and is not within my power to determine. Minimum wine grape prices are fixed by the Prices Commissioner.

The Hon. C.J. Sumner: One would think he would know that.

The Hon. FRANK BLEVINS: Do not be aggro: I got the little message from the President this morning. On behalf of my colleague, the Minister of Consumer Affairs, I can say that there is a procedure that is gone through and I see no reason why this year will be any different from previous years. I understand that it has never been a problem when it has been announced. Both parties put their case and then the Prices Commissioner makes a decision and announces it.

Certainly if I can infer from the honourable member's question that there is a problem, I will take it up with him later and see whether the system is being delayed. I will raise the matter with the Minister of Consumer Affairs. From my understanding, I do not believe there is a problem as to timing. As to the vine pull scheme, the State Government is cooperating with the Federal Government.

WORKERS COMPENSATION

The Hon. K.T. GRIFFIN: I seek leave to make a short statement before asking the Minister of Labour a question about workers compensation.

Leave granted.

The Hon. K.T. GRIFFIN: The Minister is quoted today as stating:

> The 22 changes required by the United Trades and Labour Council to the Government's policy on workers compensation are fairly minor.

Those 22 changes include substantial increases in benefits and the complete retention of common law. This will increase substantially the cost of workers compensation. The Chamber of Commerce regards those 22 changes as being so significant that it has indicated that it is not willing to negotiate further. Several days ago the UTLC indicated that it was seeking a written assurance from the Government that no legislation to change the workers compensation system would be introduced without UTLC support. Also, the Minister is quoted today as saying that he would still expect legislation to be introduced within two or three weeks. I find that to be somewhat extraordinary in the light of the 22 changes that the UTLC has requested. Therefore, my questions to the Minister are:

1. Has the Minister or the Government given, or will it give, an assurance to the UTLC that workers compensation legislation will not be introduced unless it has UTLC approval?

2. In the light of the UTLC requirement for increased benefits and retention of common law, will these changes not significantly increase the cost of the Government's scheme and will they not be significant rather than fairly minor?

3. With which of the UTLC's requirements will the Minister agree?

The Hon. FRANK BLEVINS: The answer to the first question is 'No'. The answer to the second question is also, 'No'. I want to enlarge on that in a little while but still within the spirit of your announcement, Mr President. They are not significant in terms of cost. I would like the Hon. Mr Lucas to stay, as I have a message for him in a moment.

The preliminary costings that have been done on the points of difference between the Trades and Labour Council and the employers—the so-called 20, 21 or 22 points—are that it is a reasonably small percentage increase in premiums, I think from memory (I do not have the figures in front of me) of about 3 or 4 per cent; I am not sure but certainly it is not significant in the cost of premiums.

The Hon. K.T. Griffin: Press reports refer to 6 or 7 per cent.

The Hon. FRANK BLEVINS: It may be 6 or 7 per cent. When one is talking of a 44 per cent reduction, of which the increase in benefits to employees is about 6 per cent, with the remainder being a straight reduction in premiums to employers, then the UTLC has acted, I believe, responsibly and with some justification. It has said that the overall savings of the package are considerable and, as its share is in the order of 6 per cent and the employers' share about 44 per cent, perhaps some of these other matters could be fixed up without reducing the benefits to the employer significantly, while giving the injured worker a better deal. That is a perfectly reasonable position for the UTLC to take. Had it asked for increases in benefits for workers to the order of 25 per cent, I could not have said the same thing. We are really talking about a large number of individual items but collectively the cost of those items is not huge. The answer to number three was 'All'.

The Hon. K.T. Griffin: Which of the requirements will the Minister agree with?

The Hon. FRANK BLEVINS: I will have a look at them all and I will also have a look at the reservations that the employers have about the original package. In due course, as I have stated publicly right from the start, as has the Premier, when we have everybody's responses to the White Paper, the Government will make a decision and introduce legislation accordingly.

BLOOD ALCOHOL CONCENTRATIONS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to blood alcohol concentrations in drink driving offences.

Leave granted.

The Hon. I. GILFILLAN: It was with some alarm that I heard the Premier and the Leader of the Opposition's response to the Road Trauma Committee's call for a reduction of the permissible blood alcohol concentration from .08 to .05. I will read three brief extracts from the survey compiled by the Road Trauma Committee of the Royal Australasian College of Surgeons. At page 9.9 it states:

> Studies have shown that approximately 33% of drivers killed in 1983 were driving with a blood alcohol concentration exceeding .05 at the time of the accident.

Further, in Victoria where there has been the reduction to .05, the road deaths which had peaked at 1061 in 1970 had dropped by 24 per cent to 806 by 1974 and, despite some disturbing fluctuations in the years that followed, Victorian road deaths in 1983, the 15th year of review, numbered 664, an astounding 397 or 37.4 per cent fewer than the peak. For New South Wales, it states:

However, following the adoption of .05 as the legal limit in lieu of .08 (1980), and of random breath testing (1982), there was an incredible drop of 418 or 30.2% from the peak to a low of 966 deaths in 1983.

Further, referring to South Australia, it states on page 17:

South Australia was the first State to introduce the compulsory blood testing of all road accident casualties of and over the age of fifteen years who attended hospital for treatment. Whilst it adopted random breath testing, it has not yet adopted .05 as the maximum permissible blood alcohol concentration. There is a wealth of evidence, backed by the successful experience in Victoria, N.S.W., Queensland and Tasmania to suggest that the adoption of .05 in lieu of .08 would further reduce the number of South Australian fatalities which are caused by drinking drivers.

Finally, on page 33 it states:

In Australia, there has always been a bitter controversy as to what the prescribed blood alcohol concentration should be. Victoria opted for .05 whilst other States and Territories opted for .08 even though there was abundant evidence which pointed to the fact that the estimated crash probability for a driver with a .08 B.A.C. was twice that of a driver with a .05 B.A.C. At a .1 B.A.C., the crash probability was 6-8 times high that that at .05, whilst at .15 B.A.C., the probability had risen to an alarming 25-30 times higher. The fact that N.S.W., Queensland and Tasmania have now adopted .05 as the legal limit, thus following Victoria's lead, means that such limit applies to 80% of Australian drivers. This development has had an enormous impact on the national road toll in the past four years.

The report goes on to make very strong claims that the whole of Australia should adopt .05. I ask the Attorney-General, representing the Government:

1. Will the Government undertake to review the previous decision to retain .08 as the prescribed BAC?

2. Does the Attorney-General, representing the Government, agree or disagree with the conclusions reached by the Royal Australasian College of Surgeons that a reduction of the prescribed BAC from .08 per cent to .05 per cent will substantially reduce the numbers of those killed or maimed on the roads?

3. Is the Government prepared to accept responsibility for the extra hundreds of people who will be killed or maimed because it will not reduce the prescribed blood alcohol concentration from .08 per cent to .05 per cent?

The Hon. C.J. SUMNER: It is obvious that the honourable member is somewhat concerned about his future and the future of his Party because of, in particular, the last statement that he made, which is really quite unnecessary and certainly not a statement that is necessarily backed up by any facts at all. That really is quite an outrageous statement for the honourable member to make in this Chamber. I can only assume that he and the other member of his Party in this Chamber are concerned about an event that is likely to come about between November and March. Really, that sort of statement adds absolutely nothing to a sensible discussion of this important issue. What he seems to have forgotten is that there have been two select committees of the Legislative Council in the last six years that have addressed the question of random breath testing as well as the question of the appropriate level of blood alcohol to constitute an offence. He has obviously not read the evidence and he has not read the reports of those select committees, despite the fact that they were prepared by committees of this Parliament, despite the fact that one of them was produced in this Parliament, if my memory serves me correctly, as recently as May of this year. The Government assessed that report and decided at this stage not to take any action to reduce the level from .08 to .05 and there has not been any further consideration given to that issue. The select committee established to investigate random breath testing and also to look at the question of the appropriate level of prescribed concentration of alcohol in the blood to constitute an offence recommended that the .08 figure remain. As I understand it, that was based on the evidence that that committee received, so the issue is not a black and white issue as the honourable member has chosen to paint it in his question.

The Hon. Frank Blevins interjecting:

The Hon. C.J. SUMNER: As the Hon. Mr Blevins points out, I was on the first select committee and when we went to Victoria to investigate this matter, there was an administrative police practice which meant that they did not prosecute if a person was over .05 but under .08. In effect, although it was .05 in the law, for all intents and purposes in terms of the enforcement of the law, it was .08. We also received evidence from a number of people, and there were some who supported .05, but I think it was Dr.

McLean of the Road Accident Research Unit of the University of Adelaide who did not recommend an increase from .05 to .08.

The Hon. Barbara Wiese: He said it could be up to .1 and be quite safe.

The Hon. C.J. SUMNER: The Hon. Ms Wiese has more up to date information than I have. His evidence was that it could be up to .1 and be quite safe. As I understand what he is saying—

The Hon. G.L. Bruce interjecting:

The Hon. C.J. SUMNER: That is right. The level of observance and the chance of detection are the important issues in determining whether or not people will drink and drive on South Australian roads.

The Hon. L.H. Davis: There is a difference between .05 and .08.

The Hon. C.J. SUMNER: The honourable member has given a lot of useful information, and I am very pleased about that. A report was tabled a few months ago and it did not recommend a decrease to .05. The committee heard evidence, including evidence from Dr McLean (to whom I referred) and he did not support a decrease to .05. It is on that basis that decisions have been taken so far, not only by the Government but also by the Parliament as a whole. The issue is not clear cut: it is not black and white, one about which everyone agrees. Certainly, on the basis of the recommendations of the committee that was established by this Parliament, there was a decision not to reduce the level from .08 to .05. I really think that the honourable member's emotional comments about this matter are quite out of place.

The Hon. I. GILFILLAN: Does the Attorney disagree with the recommendations of the report of the Road Trauma Committee of the Royal Australasian College of Surgeons?

The Hon. C.J. SUMNER: I have not read the report of the Road Trauma Committee of the Royal Australasian College of Surgeons. The Hon. Mr Gilfillan has brought the report into this Council, cited two or three extracts, and asked me whether or not I agree with it. What I say is that not everyone agrees with it. The evidence taken by the Select Committee on random breath testing, which reported in May, clearly did not agree that a reduction from .08 to .05 was necessary. I assume that, if members of the Select Committee who are present here today had thought that that was a valid proposition, they would have recommended such action, but they did not do that. That is the latest information that this Council has: members of this Council actually considered the matter and decided to make certain recommendations.

All I can say is that at this stage further inquiry into the issue is not precluded. This is a continuing issue. Obviously, as more information comes forward I expect that where appropriate the Parliament will continue to examine the matter and make recommendations on this and other topics. As far as this Council is concerned, the latest situation is that the Select Committee recommended that a reduction from .08 to .05 was not justified.

ELECTRICITY TARIFFS

The Hon. ANNE LEVY: Has the Minister of Labour a reply to a question I asked on 28 August about electricity tariffs?

The Hon. FRANK BLEVINS: The question of the appropriate electricity tariff which should apply to women's shelters is one of the matters under consideration by the working party to review energy pricing and tariff structures. I am advised by the Minister of Mines and Energy that the working party is currently examining the feasibility and equity of a change from S tariff to M tariff for a range of non-profit charitable institutions providing residential care, and that women's shelters are included in this examination.

NOARLUNGA POLYCLINIC

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Health a question about the Noarlunga Polyclinic.

Leave granted.

The Hon. R.J. RITSON: I commend the Government for what it is attempting to do to increase medical facilities in the south. My question concerns some doubts raised in my mind by a reply by the Minister on 19 September in this Council to a question asked by the Hon. Mr Griffin. The substance of the Hon. Mr Griffin's question involved the motivation behind the opening of the centre without its medical services being fully developed. I do not wish to expand in that regard on this occasion but I remind the Minister that in his reply he emphasised that the centre could not be staffed with suitably qualified medical officers before the beginning of next year because staffing arrangements depended on the yearly changeover of house surgeons in the public hospital system.

Therefore, I assume that the Minister was referring to the fact that each year at about that time a number of newly qualified doctors come on to the job market. That matter concerned me, because the immediately qualified houseman, one who has just completed his compulsory pre-registration year, cannot be said to be a suitable person to staff after hours medical services as a doctor of first contact. The days are gone when a medical degree with the ink still wet on it qualifies one to stand alone in the small hours of the morning diagnosing and misdiagnosing.

That brings to mind the terrible trouble that occurred 10 years ago at the Lyell McEwin Hospital when the Government of the day attempted to staff emergency after hours services with the most junior and inexperienced doctors and not only did it use the most junior and inexperienced class of doctor at that stage of their training—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.J. RITSON: I am only 65 seconds into my explanation. This is a very important matter and I do not want the Minister to try to avoid coming to grips with it. Ten years ago the Lyell McEwin Hospital attempted to staff its after hours services with junior housemen from the public hospitals system immediately after post registration. There was an insufficient number of applicants for the positions and thus the service was frequently closed during silent hours. What they got were those at the bottom part of the scale—the less successful medical graduates who had failed to obtain the training appointments in specialties of their choosing, those who were drifting around trying to find somewhere to work pending a successful job application in a more prestigious hospital.

The Minister, both in Opposition and more latterly as a Minister, has agreed that it is necessary to staff such services with doctors of registrar status. When I asked in this place whether the Minister would fulfil that undertaking with respect to the Lyell McEwin Hospital, he did that. He did not quite achieve staffing with registrars at that stage but he found more experienced general practitioners who were involved in the family medicine program to flesh out, as it were, the quality of care at the Lyell McEwin Hospital, albeit very late in the development of that hospital's casualty services.

My fear is that, if the Minister intends to staff those services, including out of hours services, with doctors of first contact who are one year out of their training, it will be a dangerous place and there will be second rate treatment. I ask the Minister to assure us that doctors manning that service, particularly during the silent hours, will not be the junior housemen who come onto the job market in February of each year but will be people with substantial general practice experience or hospital registrar status. I point out further to the Minister that it is not as easily done as said to provide staff with registrar status in an institution that is not recognised by the learned colleges as a post graduate training institution for the purposes of accounting the time served by registrars in such an institution. Will the Minister assure us of the seniority levels of medical staffing that will pertain when the unit is staffed next year?

The Hon. J.R. CORNWALL: Yes.

THE SECOND STORY

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

Leave granted.

The Hon. L.H. DAVIS: In June 1984 the Minister of Health after returning from a visit to the United States reported on the virtues of a New York centre—styled The Door—which provides health, legal and financial counselling and recreation facilities for young people in the age range 12 to 20 years. The Minister indicated that a similar program would be established in South Australia. Three representatives from The Door subsequently visited Adelaide and discussed the concept with youth organisations and their staffs.

Earlier this year concern was expressed about The Door proposal by a range of people in the youth field, including the Youth Workers Network Health Task Group, which strongly criticised the lack of methodology and consultation, and Mr Mike Presdee, a sociologist and Co-ordinator of the South Australian Centre for Youth Studies at the South Australian College of Advanced Education. I asked questions of the Minister of Health in this Council on 12 and 19 March and focused on several criticisms of The Door proposal. Existing youth organisations are already badly under-funded and in many cases struggling for survival. It would be more appropriate and better value to build on existing services in the north, south and western suburbs. Proper consultation with youth groups did not occur—they were presented with a *fait accompli.*

Finally, The Door in New York owes its success to the fact that it is a voluntary organisation and not an arm of government. The Minister was proposing that the South Australian Adolescent Health Service equivalent of The Door should be an arm of government. On 9 September The Second Story in Rundle Mall opened in the old G. J. Coles building on the second storey immediately above a restaurant. Extensive publicity was given to this event, including a full page newspaper advertising supplement and a fanfare of trumpets with which the Minister was associated.

I have visited The Second Story and the Director, Mrs Judy Peppard, is enthusiastic and undoubtedly well qualified. It has cost an enormous amount of money to establish the centre—$700 000—and it will cost $350 000 a year to run with a staff of six people (although, apart from the Director, none have yet been appointed). The inappropriateness of this up-market location became apparent in the very first week of its operation: young people visiting the centre threw water bombs and a fire cracker in the entrance of the restaurant immediately below The Second Story and created a general nuisance, and the lift was rendered inoperable. The board is largely made up of people in the youth field appointed by the Minister. The centre opened before the board had even met. The Minister would be aware that there is widespread cynicism and criticism of the Minister's contribution to International Youth Year. In fact, one youth worker has already dubbed the centre 'Cornwall's White Elephant'. For example, the Child Adolescent and Family Health Service (CAFHS) put in a proposal for funding in International Youth Year. CAFHS has a mandate to work with adolescents—

The PRESIDENT: Order! Would the honourable member like me to read the relevant section from the comments I made at the beginning of Question Time?

The Hon. L.H. DAVIS: I have nearly finished, Mr President. CAFHS has a mandate to work with adolescents in the school system throughout South Australia, and it places particular emphasis on preventive health measures. Quite clearly, it plays a critical role in adolescent health. However, CAFHS received not a cracker from the Minister of Health for its proposal. In fact, I am not at all sure whether it even received a reply to its submission.

The PRESIDENT: Order! Clearly, the honourable member has gone well beyond the point of explaining his question.

The Hon. L.H. DAVIS: I am simply drawing attention to the fact that $700 000 has been lavished on The Second Story and CAFHS has not received a cent. In fact, there is a real fear among key people in this area that the Minister is quite keen to disembowel CAFHS.

The Hon. J.R. Cornwall: I can hardly wait until next year—

The Hon. L.H. DAVIS: There you are—an admission across the Chamber that the Minister is quite keen to disembowel CAFHS. That is a very useful comment from the Minister. First, given that $700 000 has been spent on The Second Story, does the Minister agree that this money could have been more appropriately directed to existing youth services in the city and metropolitan area? Secondly, why did The Second Story open before the board had even met to discuss strategy and before any trained staff—with the exception of the Director—had been appointed? Thirdly, will the Minister immediately investigate security measures for tenants in the same building as The Second Story?

The Hon. J.R. CORNWALL: There is no question about it, the honourable (or not so honourable) Mr Davis cannot leave The Second Story alone—he does everything possible to knock it; and he does everything possible to destroy it before it has really got off the ground. The fact is that he does not like it because it is an enormously popular initiative. In the first instance, it is open two afternoons and two evenings a week only—Wednesdays and Fridays, from memory. We are already getting 70 to 80 young people appearing regularly on a Friday night. Furthermore, despite the knocking from the Hon. Mr Griffin, and the Hon. Mr Davis in particular—the persistent knocking that is the stock in trade of the Opposition—I put it on the record that many parents of young people are already coming in to thank the Director of The Second Story, and through her to thank the people who have been responsible for getting it up and running.

Most of the members of the board—except the one who regularly feeds the Hon. Mr Davis his information (or distorts the information and then passes it on)—are very enthusiastic. We both know whom I am talking about. In relation to the allegation that I can hardly wait to disembowel CAFHS (the Hon. Mr Davis's expression, not mine), I make it clear that only last week I announced a very major initiative in child and adolescent mental health services—$1.3 million over the next three years. There will be a complete reorganisation of the child and adolescent mental health services in this State. For the very first time this Government is grappling with this area in such a way that we will become leaders in the country. It has been a very badly neglected area.

Under the previous Liberal Government this area was falling apart. I inherited a disembowelled Willis House, among other things, with a threat hanging over it that it would be closed down. That is where it went under three years of Liberal Government. In relation to CAFHS, everyone knows that it needs a very significant reorganisation, that it was an unhappy marriage between the old Mothers and Babies Health Association on the one hand and a Government organisation on the other.

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: It was all created during the Tonkin interregnum. It was done very strangely. It was never organisationally sound. There are some excellent people in CAFHS—some very good professionals. However, the management has not really got its act together. For that reason, based on the very extensive review that has been done on CAFHS (one of 22 reviews in the past three years to put the health service back on the track), there will certainly be organisational changes during my second term as Minister of Health. They will be very much changes for the better, both in the field of mental health and in the field of general health for children, adolescents and families.

In relation to The Second Story, as I have said, it is open twice a week. The Director is already in post and the board has been appointed. A number of people are being seconded at this very moment. That was always intended. We have formed a link with the Children's Hospital through people like Dr Richard Cockington, an expert in adolescent health. People are also being seconded from community welfare. Yesterday morning there were discussions with the Attorney-General about legal services.

It is all happening at The Second Story, which is a very happy story. I am very proud of it and I am quite happy for Mr Davis to get up and knock it every day, if he wishes, because I can tell him that politically it will do him nothing but great damage personally and it will do very little for these carping critics and professional knockers in the Opposition.

QUESTIONS ON NOTICE

INDUSTRIAL RELATIONS ADVISORY COMMITTEE

The Hon. K.L. MILNE (on notice) asked the Attorney-General:

1. As the State Conciliation and Arbitration Commission has demonstrated over the years that it either did not know, or misunderstood, what its real function was, in South Australia's interests will the Premier consider the advisability of appointing the Chairman of the Commission as Chairperson of the Industrial Relations Advisory Commit-

tee so that he or she can obtain 'grass roots' advice on a regular basis?

2. Will the Premier agree to include representatives of the rural sector (possibly chosen in consultation with the United Farmers and Stockowners) on the Industrial Relations Advisory Committee?

3. Will the Premier increase the status of the Industrial Relations Advisory Committee by directing that it meets on a regular basis, at least once a month?

4. Will the Premier direct that the Industrial Relations Advisory Committee has a subcommittee on wages and a subcommittee on prices in order that those most concerned can have an influence on decisions affecting them?

5. Will the Premier require the Industrial Relations Advisory Committee, as one of its duties, to publish a report at least once every three months on the South Australian economy and industrial relations, as advice to the Government and as information to the business community, the trade unions, the rural community and the public service?

The Hon. C.J. SUMNER: I have a lengthy answer, and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

1. The basic premise of the honourable member's question is unfounded. The South Australian Industrial Commission has a very clear charter set out in the Industrial Conciliation and Arbitration Act and, in particular, in Part III, Division II of the Act, to which the honourable member is referred. The functions of the commission were further clarified in the 1984 amendments which inserted a new provision outlining the chief objectives of the Act. In this regard, the honourable member is referred to section 3 of the legislation. The proposal contained in the honourable member's question is not considered advisable, as it is important that the independence of the Industrial Commission be preserved. It is not considered proper that the President of the Industrial Commission be involved in both the formulation of legislation and in its application.

2. The constitution of the council provides that it shall be constituted of 10 members of whom eight shall be persons appointed by the Governor to membership of the council. Of these, four are persons nominated by the Minister, after consultation with associations of employers, to represent the interests of employers. The appointments are made on a personal basis as representatives of employer interests but not as representatives of particular organisations as such. It is possible that in the future, where a vacancy occurs, that a person will be appointed who has the requisite expertise and is a member of a rural sector employer organisation.

3. No. The current provisions are considered adequate. The Act provides that the council must meet at least once a quarter, but as a matter of practice it meets more regularly. Should the council wish to meet more often, then four or more members can request the Minister to do so and the Minister is required under the Act to comply.

4. It is not necessary to make such a direction. If the council wishes to set up any such subcommittees there are provisions under the Act which allow it, with the consent of the Minister. This mechanism has been used in the past and extra persons have been co-opted to take part in such discussions.

5. No. The present provision for reporting by the council is regarded as adequate. A written report on the council's work during the preceding year is presented to the Speaker of the House of Assembly and the President of the Legislative Council annually. Members of the council also have the right to report on the proceedings of the council to organisations of employers or employees, as the case may require. In addition, council has the right to make announcements that it considers to be in the public interest. The public is regularly informed of current industrial relations developments in the Department of Labour's bimonthly newsletter *Workplace* and in the department's annual report. These measures are regarded as adequate.

DEATH INQUIRIES

The Hon. R.J. RITSON (on notice) asked the Attorney-General:

1. In the case of a death occurring, apparently due to natural causes, but where the cause of death cannot be precisely certified, who is the proper authority to be notified and to inquire into the death?

2. If the proper authority is the Coroner, under what circumstances would it be proper for the normal procedure of an inquest to be by-passed in favour of investigation by the major crime squad?

3. In the case of the death of the person whose name and place of death have been given confidentially to the Minister, what were the circumstances which justified police intervention?

4. What evidence has been obtained by police which might even reasonably justify any suspicion that a crime was committed in relation to this death?

5. Did any Minister of the Crown refer this matter to the police and, if so, what were the Minister's reasons?

6. Did any public officer or employee refer this matter to the police?

7. Who did refer the matter to the police?

8. Was the referral of the matter to the police made on the instruction of any Minister or ministerial staff?

9. Will the Attorney-General ascertain whether the calling in of the police in this case was a political gambit to 'cash in' on other matters of medical dispute that were occurring in that part of the State at that time?

10. If there has been no substantial evidence of a crime having been committed, will the Government consider compensation to the medical practitioner concerned for the damage to his reputation and his practice caused by a political stunt?

The Hon. C.J. SUMNER: The answer is quite lengthy so I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

1. Section 31 of the Coroners Act places an obligation on a person knowing of or becoming acquainted with the finding of a body of a dead person, or the death of a person apparently by violent or unusual cause, to notify a coroner or police officer of the finding or death. This section in fact imposes a penalty on such a person if this duty is not carried out.

2. Pursuant to the Coroners Act an inquest may be held in order to ascertain the cause of deaths within South Australia by violent, unusual or unknown cause of any person. This includes traumatic deaths, such as murder, accident etc. along with deaths which occur in unusual circumstances for which there are no obvious causes from the available information. In cases where a criminal act, such as homicide, is suspected then the matter although initially reported to a Coroner is brought to the notice of the police. However, I would point out that it is customary for police personnel to carry out Coroners investigations. The criteria as to what police personnel are assigned to the investigation depends primarily upon the seriousness and complexity of the inquiry. In this matter because of the complexity of the inquiry, the task was assigned to the major crime squad who are conducting investigations in conjunction with the local police.

3. Police commenced inquiries at the request of a coroner and as required by the Coroners Act.

4. Any findings by the police will ultimately be submitted to the State Coroner.

5. Police did not receive any communications from any Minister.

6. and 7. The death was first reported to the police by a pathologist at the hospital concerned and the police in turn advised their local coroner. This is in accordance with well established and normal procedures. Preliminary investigations were conducted by the police on behalf of the local coroner and further police investigations were conducted at the request of the State Coroner who has jurisdiction geographically throughout South Australia.

8. The Acting Commissioner of Police has advised that the referral of the matter to the police was not made on the instruction of any Minister or ministerial staff. Ministers have advised me that they gave no such instruction.

9. The investigation being conducted by police is being treated as a normal coronial investigation being carried out on behalf of the State Coroner. I am not aware of any political reason that may have caused the matter to be brought to the notice of the police.

10. Police are not treating the matter as a 'political stunt' and the investigation is being treated no differently to any other normal police investigation. The investigations are being conducted by police in a discreet and confidential manner, and in fact the police have purposely refrained from discussing any aspect of the investigations or the circumstances surrounding the death with the media, despite constant demands from media sources to do so. In accordance with general practice, if as a result of the investigations a criminal offence is disclosed, appropriate police action will be taken, that is, the laying of criminal charges. If there is insufficient evidence to support criminal proceedings a report will be submitted to the State Coroner for his information and to take whatever action he deems appropriate. I do however point out that police have not accused any person of committing a crime, but are carrying out coronial investigations as required by law. These procedures are well and long established. There has been no variance by police from these normal procedures. Inquiries are incomplete and are still being conducted.

LEGAL SERVICES COMMISSION

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

1. At 30 June 1982, 1983, 1984 and 1985, what were the numbers of legal practitioners and other staff employed by the commission?

2. In the years ended 30 June 1982, 1983, 1984 and 1985, what amounts of fees were paid to legal practitioners not employed by the commission and for what sorts and what numbers of cases and, if in court, for pleas of guilty and not guilty respectively, or contested or not contested?

3. In the years referred to in question 2, how many cases were dealt with by legal practitioners employed by the commission, and for what sorts and numbers of cases and, if in court, for pleas of guilty and not guilty respectively, or contested or not contested?

The Hon. C.J. SUMNER: The information is largely statistical and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

1. LEGAL SERVICES COMMISSION

	Legal Practitioners	Other Staff
1982	21	47
1983	22	46
1984	31	53
1985	34	53

2. Fees Paid to Private Legal Practitioners ($)

1982	2 747 053
1983	2 884 396
1984	3 387 883
1985	3 586 589

3. Cases Dealt with by Private Legal Practitioners

	Family Law	Civil Law	Criminal Law	Total
1982	2 133	881	4 367	7 381
1983	2 148	1 036	5 081	8 265
1984	1 562	1 015	5 045	7 622
1985	1 700	1 082	5 339	8 121

Cases Dealt with by Employed Practitioners

	Family Law	Civil Law	Criminal Law	Total
1982	626	141	1 160	1 927
1983	678	212	1 879	2 769
1984	679	327	2 250	3 256
1985	754	438	2 905	4 097

Details of pleas of guilty and not guilty, or not contested and contested cases are not available. These are not recorded by the commission.

HEALTH PROMOTION UNIT

The Hon. R.I. LUCAS (on notice) asked the Minister of Health whether a copy of the letter dated 19 November 1984, from Mr J. Asvall, Director, Program Management of W.H.O. to the Minister of Health was made available to the review team into the Health Promotion Unit during its review of that unit?

The Hon. J.R. CORNWALL: No.

STATUTORY AUTHORITIES' ANNUAL REPORTS

The Hon. L.H. DAVIS (on notice) asked the Attorney-General: Will the Minister advise which statutory authorities required to report annually to a Minister or the Parliament have not yet presented annual reports for—

1. the 1982 calendar year or 1982-83 financial year, and
2. the 1983 calendar year or 1983-84 financial year?

The Hon. C.J. SUMNER: The answer is as follows:

1. Pest Plants Commission.
2. Meat Hygiene Authority

*Alcohol and Drug Addicts Treatment Board
History Trust of South Australia
Regional Cultural Trusts—
Eyre Peninsula
Northern
Riverland
South East

* This became the Drug and Alcohol Services Council, an incorporated unit under the South Australian Health Commission Act, on 30 August 84).

SUPERANNUATION ACT AMENDMENT BILL

Second reading.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

This Bill was foreshadowed in the budget speech. It enables the completion of revised accounting arrangements in respect of superannuation. As referred to in the budget speech, from 1 July this year departments are paying to Treasury each month contributions to cover the accruing superannuation liability in respect of their current staff. This system will

result in departmental accounts showing a better estimate of current total employment costs and will enable departments to more accurately assess the cost of existing and proposed programs.

Section 130 of the Superannuation Act has required that departmental accounts show the employer-share of pensions paid to its ex-employees. These figures were never helpful in measuring employment costs, for they related to people previously employed (in some cases many years ago). Now that departmental accounts are to show superannuation costs in respect of current employees, there is no need for each department to also show superannuation costs in respect of previous employees. (Government accounts will continue to show the total cost in respect of all ex-employees). The Bill removes this requirement by revoking section 130. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 repeals section 130 of the principal Act. The amendment removes the requirement that departmental accounts show the Government share of pensions and benefits paid in respect of ex-employees.

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

SELECT COMMITTEE ON DISPOSAL OF HUMAN REMAINS IN SOUTH AUSTRALIA

The Hon. ANNE LEVY: I move:

That the time for bringing up the committee's report be extended until Thursday 21 October 1985.

Motion carried.

AUSTRALIA ACTS (REQUEST) BILL

Adjourned debate on second reading.

(Continued from 12 September. Page 870.)

The Hon. K.T. GRIFFIN: This Bill results from discussions over a number of years between the Commonwealth Government and the respective State Governments and culminated in 1982 at a Premiers conference where, for the first time, there was general agreement between the Prime Minister and the State Premiers about the way in which the move towards the severance of residual constitutional links would be effected, although there were still some matters outstanding, such as whether it would be by Australian Act of Parliament alone or in conjunction with the United Kingdom Act of Parliament; also, particularly in relation to State Governors and Imperial honours. However, it now appears that the Federal Government and all State Governments of all political persuasions have agreed with the package, which is now before us and is reflected in the schedules to the Bill.

It is not clear from the second reading explanation how many States have, in fact, introduced their legislation. From what I have been able to ascertain, not all States have introduced that legislation—and I am not clear on the timetable that has been established within those States as well as at the Commonwealth level. During the course of the Attorney-General's response to my contribution to this debate I would like him to indicate in what States the Bill has been introduced, what is the current position with the Bills in those States, and what is the actual timetable that the Commonwealth and States propose for dealing with the implementation of the agreed package.

The Bill deals essentially with abolition of appeals to the Privy Council. I will make comment about this later. It deals with the removal of legislative fetters on the State Parliaments to legislate repugnantly to United Kingdom legislation. It deals with the appointment of State Governors. The second reading explanation addresses the question of Imperial honours. There is no reference to that in the Bill for the reason that it is seen to be essentially an Imperial matter and not a matter for State or Federal legislation. I also want to address some remarks to that particular issue during the course of this debate. The scheme of the package will be that the States will pass their respective pieces of request legislation requesting both the Commonwealth Parliament to enact legislation and consent to it and requesting the United Kingdom Parliament also to pass certain legislation defined in the schedules to the Bill.

The interesting aspect of the Bill is that the requests and consents from the States are to be by not only the Parliament but also by the Government. There may be some subtle reason for the Governments to be referred to and I would like the Attorney-General to indicate the reasons why the Parliaments and the Governments of the States are to request and consent to the enactment of certain legislation.

There is, however, a threshold question which is not referred to in the second reading explanation, that is, the status of the State Constitution Act. The Bill, as I say, deals with requests to pass Commonwealth legislation and United Kingdom legislation. That legislation will ultimately have an impact on the State Constitution Act in the sense that it will no longer require Bills to be reserved for the signification of the Queen's assent rather than being assented to by State Governors. The only assent that will thereafter be required by Vice Regal or Regal officers will be that of the State Governor unless the Queen is in the State and by agreement with the State Premiers and the Prime Minister has consented to act in defined areas whilst in South Australia.

I draw the Attorney-General's attention to several provisions of the State Constitution Act. Section 8 provides:

> The Parliament may, from time to time, by any Act, repeal, alter, or vary all or any of the provisions of this Act, and substitute others in lieu thereof: Provided that—
>
> *(a)* it shall not be lawful to present to the Governor, for Her Majesty's assent, any Bill by which an alteration in the constitution of the Legislative Council or House of Assembly is made, unless the second and third readings of that Bill have been passed with the concurrence of an absolute majority of the whole number of the members of the Legislative Council and of the House of Assembly respective:
>
> *(b)* every such Bill which has been so passed shall be reserved for the signification of Her Majesty's pleasure thereon.

There is no suggestion that the Bill before us will alter the constitution of the Legislative Council or the House of Assembly. The fact is that, if there is subsequently any Bill that purports to do that, that is a Bill to amend the Constitution Act. Our Act requires that Bill to be reserved for the signification for Her Majesty's pleasure. Section 10a provides:

> (1) Except as provided in this section—
>
> *(a)* the House of Assembly shall not be abolished;
>
> *(b)* the Legislative Council shall not be abolished;
>
> *(c)* the powers of the Legislative Council shall not be altered;
>
> *(d)* sections 8 and 41 of this Act shall not be repealed or amended;
>
> and
>
> *(e)* any provision of this section shall not be repealed or amended.

It goes on in subsection (2) to provide a mechanism for dealing with amendment or alteration to those matters. It provides for a referendum and also for a Bill to be reserved for the signification of Her Majesty's pleasure and specifically provides that it shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors by referendum.

The problem which I see and which I would like the Attorney-General to address as a threshold question is that the Bill that we are passing is requesting a Bill by the Federal Parliament and by the United Kingdom Parliament, which purports to remove the requirement for the reservation of a Bill for the signification of Her Majesty's assent. However, our Constitution Act is not specifically referred to in the Bill before us, yet the Constitution Act of the State requires certain Bills to be reserved for the signification of Her Majesty's assent and also provides that that provision, amongst others, cannot be amended unless it is both reserved for the Queen's assent and is passed at a referendum of the people.

It does not seem possible for us to pass this request Bill with a request for federal and United Kingdom legislation, which will seek to override the State's Constitution Act unless the provisions of that Act are complied with. These include, because of the entrenched provisions of the Constitution Act, a referendum, and a reservation of the Bill for the signification of Her Majesty's assent. That seems to me to be a basic flaw in the mechanism advanced so far for the way in which that provision is to be removed. It seems to me that unless there is to be an amendment to the State's Constitution Act according to the mechanisms provided in the Act then the legislation that we are requesting the Commonwealth Parliament and the United Kingdom Parliament to pass is not effective to amend the State Constitution.

It may be that the Attorney-General has some way around that, but it is certainly not addressed in the Bill, nor is it addressed in the schedules to the Bill. Unless it is, it seems to me that this is only a partial package and not a total one to deal with residual constitutional links. What happens if the Federal Parliament and the United Kingdom Parliament pass the Bills referred to in the schedules?

Does that mean that in some way or another the State Constitution Act is amended? I would have thought not, because the provisions of that Act are entrenched; because they are entrenched, they cannot be overridden by an Act of the federal or United Kingdom Parliament. It seems to me that that is a basic problem with the package and, unless that is answered, I do not think we can pass this Bill in the State Parliament, because there is something left to be done that is inconsistent with the United Kingdom and federal Parliament's legislation. I hope that we will at least consider that complex question as to how amendments to the State Constitution Act are to be passed.

The other point I make is that, unless a referendum is held specifically to amend the State Constitution Act, we are in a position where it is ineffective to deal with the severing of residual constitutional links. This is an important threshhold question that we ought to address before this Bill gets out of the second reading stage. I hope that the Attorney will be able to consider this point because I do not want us to pass something that is ineffective to achieve what it purports to achieve.

Also, I want to indicate that I raise this argument and this important legal point only because we want to see the severence of residual constitutional links achieved on a completely legal basis. We support the concept of the Bill. I want to achieve it, but I do not think that it achieves it effectively, as it is proposed at the present time. We ought not to rush into this and pass it if it is not going to be effective and if it is not going to achieve what we want to achieve.

The Hon. R.C. DeGaris: Is that what's happening in New South Wales?

The Hon. K.T. GRIFFIN: I have asked the Attorney to give us information about the state of play in each of the States, both as to whether legislation has been introduced in all the other States and what is the current status within the Parliaments of those States in which it has been introduced. Apart from that I do not know what is either the current state of play in those States or what the constitutional requirements might be or how they are dealt with in those States.

The Hon. R.C. DeGaris: On the point you have raised, New South Wales would be the only State applying.

The Hon. K.T. GRIFFIN: I am not sure. It is certainly a point worth looking at because in New South Wales, as a result of amendments to its Constitution Act to deal with the Legislative Council system, there are specific provisions for referendum and for reservation of Bills, and obviously those questions will have to be dealt with in New South Wales as well. It may be that the position is different from what it is here.

Having passed that point, I would like to make some observations on other aspects of the Bill. The first relates to appeals to the Privy Council. My Party supports the abolition of appeals to the Privy Council. We believe it is not reasonable to maintain in Australia two final courts of appeal so that there is a choice of jurisdictions that could result in a parallel system of precedents being developed which might be at odds with each other.

Australia as a nation ought to have a single and consistent body of law that is not compromised by external decision making. The Liberal Party does not believe that Australia as a nation should have parallel systems of decision in the legal arena or that there ought to be opportunities for choosing jurisdictions in the context of either the Privy Council or the High Court where there is a potential for difficult decisions to be made on the same point of law, so that conflict may arise in the judicial system as to exactly what the law is within a particular State with respect to State law or federally with respect to federal law.

We have been remarkably fortunate that that has not occurred to a significant extent so far with appeals to the Privy Council. One could envisage it occurring in the future. We support the High Court being the final court of appeal. Just as an aside, I indicate that we would be happier if there was a South Australian on the High Court and that the less populous States had persons from those States on the High Court bench. We recognise it is a Federal Government decision. We would want to see a higher level of consultation about appointments to ensure that the widest possible acceptance of particular appointments is achieved within the Australian community.

In the light of the recent charges against a particular member of the High Court, I would hope that all Federal Governments, of whatever political persuasion, now recognise that the appointment of former members of Parliament or those closely aligned with a particular political Party will not in the long term serve the best interests of the High Court in Australia and that any attempt to make political appointments in the future, however eminent the appointment may be, will not in fact enhance the status of the High Court and achieve the sort of recognition and acceptance that I believe is critical if the High Court is to be the only court of appeal in Australia.

I disagree with some of the decisions of the High Court, particularly as they relate to the decisions affecting the powers of the States and the growth of centralised Government through the acquisition of powers by or expansion of

powers of the Commonwealth. I suppose we cannot do much about that, except to ensure that there is a higher level of consultation between the States and the Commonwealth in the appointment of judges of the High Court.

One area of concern has not been addressed. I have raised it publicly and the Attorney-General did not think that there was much in it at the time, but I think there is a lot in it. It will not affect the Liberal Party's attitude to the Bill but the Government in South Australia, of whatever political pursuasion, will have to address this matter soon. I refer to the rights of appeal to the High Court or from decisions of courts of first instance. Last year, the Federal Government, notwithstanding objections from the Liberal Party from some of the States across Australia, went ahead with amendments to the High Court Act which would restrict access to the High Court. No longer were there to be appeals to the High Court as of right, but all appeals would be made to the High Court by way of leave. That means that the appeals to the High Court from decisions of State Supreme Courts will be very limited, as will appeals from the Federal Court. I am not sure of the workload of the High Court, but I understand that the amendments to the High Court Act were made because of the pressures on the High Court in terms of cases which were in the waiting lists.

Notwithstanding that, it has made a significant difference to the attitude of litigants and has resulted in the past 15 to 18 months in a number of appeals going to the Privy Council where there was not the opportunity to appeal, because of the special leave provisions, to the High Court. I am told that the number of appeals to the Privy Council has quadrupled. There is, undoubtedly, a need for an appellate structure which would ensure at least one right of appeal from a court of first instance. It is particularly relevant in relation to the Supreme Court where it considers amongst other matters cases stated, which are considered by the Full Supreme Court only. In the light of the special leave requirements for appeals to the High Court, it will be very rare indeed that appeals will be taken from the State Full Supreme Courts on cases stated to the High Court.

It is also relevant in relation to applications to the State Supreme Court for prerogative writs, where the applications are made to the Full Court of the Supreme Court and that will mean that, except in the most exceptional cases, the Full Court of the State Supreme Court will be the court of first instance in determining prerogative writ applications, and there will be no right of appeal. It may be that, in that instance, those prerogative writ applications should be heard only by a single judge with a right of appeal to the Full Supreme Court but, whatever the solution to it may be, I think it is wrong for any system to provide for no right of appeal from a decision of a court of first instance, whether it be a tribunal, a District Court or Supreme Court. I think it is important, for the purpose of maintaining accountability and for correcting errors, for litigants at least to have that opportunity. I would hope that whichever Party is in office it would share that particular concern about rights of appeal from decisions of the Full Court of the Supreme Court where it is the court of first instance.

Several other matters come to mind in relation to rights of appeal to the Privy Council. It is interesting to note that section 74 of the federal Constitution provides for certain appeals to the Privy Council. It provides, in part:

> No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits *inte se* of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

It further states:

> The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.
>
> Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

Legislation has been passed which, of course, effectively removes most appeals from the High Court to the Privy Council, but the clauses in the schedule to this Bill do not address the problem of section 74. The High Court has said that it is very largely obsolete. What it means is that, if the request legislation is passed, the provisions in section 74 relating to Her Majesty in Council will in fact remain enshrined in our Australian Constitution.

I also want to refer to the Merchant Shipping Act. The schedules to this Bill in fact provide for sections 735 and 736 of the Merchant Shipping Act to be repealed insofar as they are part of the law of a State. I have no difficulties with that because my recollection is that those sections were particularly difficult in respect of litigation over the sinking of the *Joseph Verco*, but more particularly the case of the *Wuzhou*, the Chinese ship that crashed into a grain loading elevator at a port in South Australia. As a result of some compromises between Governments, the Merchant Shipping Act did not provide a source of ultimate concern, but I know that it was relevant at the time and I recollect that it was those particular sections which created the difficulty.

I draw attention to section 478 (6) of the Merchant Shipping Act which requires appeals from State Courts of Marine Inquiry to go to the divisional court in England if the ship concerned is a British ship. The argument is that it in fact applies under the Merchant Shipping Act to South Australian Courts of Marine Inquiry because of the United Kingdom Interpretation Act which by definition makes South Australia a British possession. I do not see that that is referred to in the schedules. I will not move any amendments to that but, nevertheless, it is an important matter, if we are clearing up the question of appeals, for at least that issue to be addressed, particularly in the context of amendments to the United Kingdom law.

I now refer briefly to State Governors. That was one of the major areas of concern when I was Attorney-General and, quite obviously, it continued to be a matter of concern for some Governments in the negotiations leading to the introduction of this Bill. That matter became a problem because the States feared that there would be the potential at least for the Commonwealth to interfere in the appointment of State Governors. That occurred during the Whitlam era in relation to the extension of the term of office of a Queensland Governor—the Whitlam Government sought to intervene. It was also threatened during the Lang disputes in New South Wales some decades ago.

A number of alternatives were contemplated. At one stage the Federal Government insisted that the Queen would not agree with a representation by State Ministers to her on the subject of appointment of State Governors and that the matter must go through the Commonwealth Government. Of course, that would mean that the Commonwealth Government could add its own recommendation to that of the States or it could refuse to pass on the recommendation—there were all sorts of variations. Certainly, I did not want the Commonwealth Government to be involved in any way in that process. As it turns out, the Queen has now agreed to accept a recommendation from the State Premier, representing the Executive Government, and his Ministers on the appointment of a State Governor. The Commonwealth Government does not become involved. Similarly, the

United Kingdom Ministers would not become involved, as they do at present.

Therefore, I believe that the package represents a significant achievement with respect to the appointment and removal of State Governors. The other aspect that concerned the States was imperial honours. There is still a very strong view in the community that, notwithstanding the development of the Australian honours system, there ought to remain the opportunity for advice from State Governments to the Queen regarding the recognition of South Australians by the conferring of imperial honours. The second reading explanation indicates that there has been an agreement that that matter should not be included in the request legislation but that the United Kingdom Government is drafting legislation to deal with the question of the conferring of imperial honours on the advice of State Governments. I am prepared to accept that, but I would like the Attorney to identify the terms and conditions that have been agreed, the form of the agreement and the extent to which the States will have access on the question of imperial honours. We certainly want to retain the right to make recommendations in relation to those honours if we as a Government of this State so decide.

The other important matter, probably one of the most important if not the most important matter raised in the Bill, is the removal of fetters on the power of a State Parliament to legislate repugnantly to legislation of the United Kingdom and to legislate extraterritorially. We have been bedevilled by this problem and, in fact, it is something with which Governments of all political persuasions have wrestled from time to time. However, the removal of those fetters will not prejudice the provisions of our Constitution Act that are presently entrenched, particularly in relation to changing the powers of Houses of Parliament or the abolition of the Legislative Council. There may well be other constitutional provisions that ought to be entrenched in our Constitution, but that is something that we can consider after the residual constitutional links package has been brought into operation.

Notwithstanding that, I am satisfied that there are proper protections for those matters which are included within our Constitution Act and which protect our basic democratic institutions. That is important for the long term in South Australia. At this point I pick up the Attorney's comments in the second reading explanation that the Bill does not deal with the potential for the removal of the position of Governor and does not affect the power of the Governor. I would certainly accept that that is the position, and I am pleased to note that the office of Governor of this State is protected in the way in which it has been dealt with in the Bill.

In that context, I am prepared to accept that the Queen, when she is in South Australia, is able to exercise certain powers and that the convention agreed by the Prime Minister and State Premiers is that she will not be asked to receive advice whilst she is within a State unless the matter has previously been the subject of consultation with the Queen and her advisers. That means that the Queen is not involved in parochial political controversy but nevertheless remains the ultimate monarch and constitutional symbol of the monarchy and the Crown in South Australia.

There are two other matters to which I will refer, the first being clause 15 of each of the schedules, that is, the amendment to the Australia Act and the Statute of Westminster 1931 as they are enforced from time to time as part of the law of the Commonwealth, State or Territory. The clause requires that any repeal or amendment by any Act of the Parliament of the Commonwealth should be passed only at the request of or with the concurrence of the Parliaments of all the States. Of course, that is subject to section 128 of the federal Constitution. However, clause 15 (2) contains a provision that at first view would appear to compromise that. I believe that the appropriate interpretation of that subclause is that it merely seeks to define the sorts of legislation referred to in clause 15 (1) which may in fact be regarded as repugnant and which therefore require the concurrence of all the States as well as the Commonwealth and it is not by virtue of its own operation sufficient to allow the Commonwealth to repeal without that concurrence.

It would be helpful if the Attorney-General could at least clarify clause 15 (2) of the schedules. The remaining matter relates to judges of the Supreme Court. The point has been made to me by a judge that presently there is a right for judges who are unjustly removed from office by the Parliament to appeal to the Privy Council. That is a rare occurrence, although it did happen in the days of Mr Justice Boothby, who was removed from office but petitioned Her Majesty in Council and was reinstated.

The concern that has been expressed is that that right of appeal by a judge of the Supreme Court in those rare circumstances will no longer be to the Privy Council; in fact, Parliament will be the final decision maker as to whether or not a judge should be removed from office. There are some safeguards while there are fairly finely balanced Houses and a Legislative Council where there must be agreement across Party lines, and I suppose there is the question of public opinion. However, where a Party has a majority in both Houses sufficient to move the requisite motions, and if politics became more tumultuous, I could envisage a situation (however remote at the present time) where particular judges may be under threat. I say that only in a long-term context rather than anything in the short or medium term.

State Parliament is not a court, so judges cannot appeal to the High Court. That means, if there is an unjust amoval from the bench by act of State Parliament, there is no right of appeal to any body. At the moment, it is to the Queen in Council. It may be that some amendments to State legislation would ultimately give rights of appeal to the High Court, but I can only envisage circumstances where that might be rather messy. I would like the Attorney-General to consider this issue and identify any solution in the context of the legislation which is now before us.

The Liberal Party is prepared to support the second reading of the Bill, and its principles. I hope that the Attorney-General will give answers to all of the matters that I have raised. The only question of major concern, which I think must be resolved even before the second reading is put, is the way in which the legislation impacts on the State Constitution Act, if at all, and how the Attorney-General envisages that the inconsistencies in the State Constitution Act will be resolved, other than by the entrenched provisions of the Constitution Act—by referendum prior to reservation of a Bill to remove the requirements which are to be abolished by the request legislation. I think it is a major problem, and I think it needs to be addressed. A mechanism needs to be identified to overcome this before we push through this legislation rather than dealing with it in what may in fact be a piecemeal way. At this stage, I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): I thank the honourable member for his contribution. He has raised a number of questions, which I will address tomorrow. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

EVIDENCE ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 19 September. Page 1049.)

The Hon. K.T. GRIFFIN: This Bill seeks to abolish the right of an accused person to make an unsworn statement, except with the leave of the trial judge. The exception to that is where the judge is satisfied that a defendant would by reason of intellectual or physical handicap, or cultural background be unlikely to be a satisfactory witness in defence of a charge. The Bill deals with partial abolition of the right of an accused person to make an unsworn statement. The Government's Bill is something of an about-turn, because until two or three months ago the Government was firmly opposed to abolition.

In the lead up to the 1979 State election I indicated that it was Liberal Party policy to abolish the right of an accused person to make an unsworn statement. When we came to office, I introduced a Bill to achieve that objective. That Bill was defeated with the support of the Hon. Mr Milne, and it was subsequently introduced again. A select committee was then established by the Australian Democrat and Australian Labor Party members of the Council. The select committee came up with some proposals to make several peripheral changes in relation to the unsworn statement but not to affect the right of an accused person to make it.

As a result, the unsworn statement was not abolished during the time of the Liberal Government because of the frustrating behaviour by both the Labor Party and the Australian Democrat. After the 1982 election (during which time the Liberal Party continued with its policy of total abolition of the unsworn statement) the new Attorney-General introduced a Bill to make some peripheral changes to the unsworn statement while retaining the right of an accused person to make it.

I endeavoured to move amendments for total abolition but they were not supported by the Government or the Australian Democrats. I introduced a private member's Bill in the last session in relation to the abolition of the unsworn statement and, surprisingly, it passed. I say 'surprisingly' because the Democrats split on it: Mr Milne supported the Government and Mr Gilfillan, to his credit, supported my private member's Bill. That Bill was for total abolition.

The Bill went to the House of Assembly but it was not dealt with because the session was prorogued; it has now been restored to the Notice Paper in the House of Assembly. It is the Liberal Party's intention to proceed with that Bill as soon as private members' time can be available for that. We have argued consistently for the abolition of the unsworn statement and, regardless of the outcome of this Bill, at the next election we will maintain our policy position and, in office, we will introduce legislation to abolish the right absolutely, if this Bill passes in its present form and amendments, which I will indicate shortly, are not supported by a majority in each House.

The debate about the unsworn statement has been a long one and all of the arguments against it have been made on numerous occasions. Suffice to say that there remains concern about the unsworn statement because it is used unreasonably to the advantage of an accused person who is afraid to go into the witness box and be cross-examined. All of the prosecution witnesses go into the witness box and are cross-examined by defence counsel. If it is good enough for those witnesses—and particularly the alleged victim—I believe there ought to be balance, and if the accused wishes to make a statement, then he should go into the witness box and be subject to cross-examination where his evidence can be probed and tested.

The unsworn statement has been abolished in Western Australia and Queensland with no harm to any of the accused persons who come for trial in those States; I understand it has also been abolished in the Northern Territory. Therefore, there is a concerted move against the unsworn statement and I believe it is now time for the Government here to take a bold stand and abolish it absolutely. Quite obviously the Government saw that its continued resistance to abolition of the unsworn statement was prejudicing perception of it, as a Party, among women's groups and ordinary citizens who were concerned about the unsworn statement, and took the politically expedient course to move to abolition rather than lose votes as a result of its opposition to abolition.

Petitions have been lodged favouring abolition; thousands of signatures on those petitions have been presented in the Parliament, indicating widespread support for total abolition. The Liberal Party has constantly campaigned for abolition, as have many groups interested in the support of victims of crime. Obviously that campaign has been effective because the Government has done a back-flip and is now prepared to move for partial abolition of the unsworn statement. I think that that is long overdue.

I will now address some remarks to the exceptions. The trial judge has a right to grant leave for an accused person to make an unsworn statement, if the judge is satisfied that the defendant would, by reason of intellectual or physical handicap or cultural background, be unlikely to be a satisfactory witness in defence of the charge.

All the advice I have received (and it is a conclusion that I reach myself) is that that will be unworkable. There will be many occasions where an accused person, by the leave of the judge, may seek to make an unsworn statement. Therefore, there will be a trial within a trial. There will be arguments by defence counsel as to why the accused should be granted leave to make an unsworn statement; there must also be an opportunity for the Crown to make its submissions on that application; it is likely that there will need to be evidence given to establish that an accused person comes within the exceptions to the clause which provides that no unsworn statement should be made.

A ludicrous situation may even arise where a person who is accused of a crime applies, on the basis of physical handicap or cultural background, to make an unsworn statement and is required to get into the witness box and, on oath, be subject to questioning in order to establish that the person is unlikely to be a satisfactory witness in defence of the charge. It may be that that cross-examination will be directed towards determining whether or not the accused is a good liar, or where, in fact, the accused has no adequate defence, and that is what makes the accused an unsatisfactory witness in defence of the charge.

Including that sort of exception is extraordinary. Apart from the way in which that exception will be established and the possibility of evidence being required to be given on oath—much as there is the *Voir dire* examination at present—we will end up with a trial within a trial; it will lengthen criminal trials for no good purpose and will undoubtedly provide opportunities for further grounds of appeal to a court of criminal appeal, particularly if an accused person has not been granted leave. One can immediately envisage a ground of appeal, that the accused had to give evidence on oath and was denied the right to make an unsworn statement, the grounds being that the judge was wrong in making that decision.

Ultimately that will add to the taxpayers' costs, through legal aid being made available to the majority of accused persons who adopt that course of action. I recognise that there has to be some legal aid available, but I do not believe

it ought to be available in these circumstances, where it is totally unnecessary to have another trial within a trial.

The Hon. C.J. Sumner: You know legal aid is only granted depending on the merits of the case.

The Hon. K.T. GRIFFIN: The merits of the case. Once the matter reaches the court, the Legal Services Commission does not control whether the lawyer advises the person to plead guilty or to plead not guilty. The Legal Services Commission does not get involved in a *voire dire* examination. The Legal Services Commission will not get involved in deciding whether or not a lawyer ought to advise an unsworn statement and, if an unsworn statement, whether or not the application should be made. That is not what the Legal Services Commission does.

The Hon. C.J. Sumner: It makes decisions now with legal aid, whether or not they think there is merit to a case, including whether or not they are going to have an argument about this.

The Hon. K.T. GRIFFIN: That is not so. They do not. They determine whether legal aid will be available in circumstances where they think that the person's liberty is at risk and there is a reasonable ground for taking that course. They do not get involved in the conduct of the trial. That is one of the criticisms that I make. It has other implications, too, in terms of time required to be made available in the legal system for extended trials and for courts of criminal appeal. For that reason, the Government's proposition is fraught with difficulty.

I draw attention to one other area of concern, that is, that the judge has to determine whether or not the defendant would be likely to be a satisfactory witness in defence of the charge. All of the people who practise in the criminal jurisdiction to whom I have sent this Bill have asked, 'What does it mean?' As I have indicated, do we look at the accused and say, 'Well, the accused is unlikely to be able to lie well'? Do we put the accused into the witness box to give evidence on oath to determine whether or not an unsworn statement should be allowed in the presence of the jury?

It may be that, if this is to stay in the clause, it ought to be redrafted, for example, along the lines as to whether the accused is likely to be capable of presenting his or her case adequately. That is a much different question from whether or not the accused will be a satisfactory witness.

The Hon. Diana Laidlaw: A lawyer's paradise.

The Hon. K.T. GRIFFIN: The Hon. Diana Laidlaw interjects that it will be a lawyer's paradise. Whilst I am all for supporting the legal profession, I think that one has to be responsible about this matter and take the view that this is not in the public interest. I pick up the words of the Premier when he spoke to the International Criminal Law Conference this last weekend: it has all got to be taken in the context of community needs and community perceptions. I do not believe that the exceptions provided to the abolition of the unsworn statement are, in fact, appropriate, so during the course of the Committee stage of the Bill I will be moving for the deletion of that provision and supporting total abolition of the unsworn statement. To enable that to be done, I support the second reading of the Bill.

The Hon. DIANA LAIDLAW: On four occasions in the past five years the Liberal Party has sought to abolish the right of an accused person to make an unsworn statement in a criminal trial. On each occasion our endeavours have been unsuccessful in this Parliament due to opposition from the ALP and the Australian Democrats. Our last effort in the form of a private member's Bill introduced by the shadow Attorney-General, the Hon. Trevor Griffin, passed this Council in late March this year following a division in which the Hon. Lance Milne and Government members recorded their opposition. The initiative then lapsed in the House of Assembly.

In view of this background, I am intrigued to note the introduction of this Bill and the Government's apparent new found enthusiasm for the abolition of the unsworn statement, albeit with certain provisos. In the past, ALP members have argued consistently that abolition of the statement would disadvantage and therefore deny justice to certain accused persons such as tribal Aborigines and those who are illiterate, have a poor understanding of the English language, or suffer other social disadvantages. More recently, both the Hon. Anne Levy and the Hon. Barbara Wiese have also argued that the passage of the Hon. Trevor Griffin's private member's Bill in March this year would have been premature in view of the Government's amendments to the law of evidence passed a year earlier. With respect to both these arguments I have been, and remain, unconvinced and unmoved.

The right of an accused person to make an unsworn statement is an outdated hangover from our colonial days when our common law system did not allow an accused person to either be defended by counsel or give evidence on oath. The times, the law and our expectations and perceptions of the justice system have changed considerably since the middle of the last century. As is the way with the common law, the granting of new rights has not meant the withdrawal of old ones. Today an accused retains the choice between making an unsworn statement from the dock, giving evidence on oath or saying nothing at all in the hope that the Crown's case will fall because of its own weaknesses.

Today, however, I believe that the option to make an unsworn statement no longer serves a useful purpose in the administration of justice in this State and I do not support its retention, even in the amended form now embraced by the Government. Essentially, I oppose the unsworn statement because I believe that it does not serve to ensure that our legal system realises truth, equity and fairness. These goals are fundamental to our justice system and are vital if our society is to retain a healthy respect for the law.

Unlike sworn evidence, the unsworn statement is not subject to cross-examination. As such, an alleged victim, if present to give evidence, can be put through trauma over many days of cross-examination by counsel for the accused, while the accused can pass over the alleged events with an unsworn statement and no cross-examination. I ask, as I have asked in the past: where in such instances is justice; where is equity; and where is fairness? In fact, where is any indication that we are actually seeking the truth? At no time have Government members ever sought to respond to such questions. I appreciate that the witness box puts a premium on articulateness, literacy, intelligence, attractive appearance and a winning demeanor, and that it tends, likewise, to disadvantage the imprecise, the inarticulate, the uncouth, the stupid, the sullen, the foreign language speaker and the Aboriginal.

These factors have been used single mindedly by Government members and until recently by both Australian Democrats to justify retention of the unsworn statement. Their arguments, however, conveniently fail to acknowledge that appearance, behaviour and performance in the dock are factors that apply not only to the advantage or disadvantage of the accused but equally to an assessment of the evidence by the alleged victim or other witnesses for the Crown. Nobody is suggesting that an alleged victim who is imprecise, inarticulate, uncouth, stupid, sullen, a foreign language speaker or Aboriginal should be given special privileges; their evidence must be given and has to be cross examined if the criminal law is to function at all.

However, if the criminal law is to function properly, and is to be seen to be doing so, I believe that it is equally

important that the accused be expected to give sworn evidence and be cross-examined on that evidence. The consequences of their evidence and their reasons for anxiety in the witness box are no less significant or traumatic than is the case for the victim. The Victims of Crime Association will confirm that assessment. Jurors and former judges in this State have highlighted from time to time the confusion that can confront jurors following use of the unsworn statement.

As an aside, I find it interesting to note that at no time when the subject of the unsworn statement has been debated in this Parliament over the past five years have members opposite ever provided information showing that use of the statement has been confined to persons whom they have singled out as being in need of the protection which the statement is designed to provide. Indeed, my advice has been that the prime factor in determining the use of the unsworn statement in the past has not tended to be an accused person's social disadvantage but rather the defence counsel's assessment of whether or not their client had a good case to put before the judge and jury.

I have argued in the past, and for my efforts I have been described as callous, that the community spends millions of dollars a year on legal aid to ensure that an accused person has legal representation. We also spend tens of thousands of dollars a year through the South Australian Ethnic Affairs Commission to provide additional help to accused persons who have difficulty in speaking and understanding English.

If the unsworn statement is to be deemed to be required in addition to these services, I believe we have reason to question the quality of the representation that the community is providing the accused by way of these services. Meanwhile, specifically in relation to the question of tribal Aborigines and criminal law, I remind the Council that this subject is being addressed now as a separate exercise by the Australian Law Reform Commission under a reference on Aboriginal customary law.

Their difficulties with the legal system in this country are not confined to areas that can be redressed simply by retention of the use of the unsworn statement. Their difficulties—if any members have had an opportunity to read preliminary reports on Aboriginal customary law—are far more profound and certainly require different responses. As has been said in debates on this subject in the past, the right to use the unsworn statement does not exist in Western Australia or Queensland, nor does it exist in New Zealand, the United States, Canada or Scotland, and I understand that there is a recommendation that it be abolished in the United Kingdom. All these countries have multi-racial societies and significant minority communities.

I question very much indeed whether any of these countries would have endorsed the abolition of the unsworn statement if such a move would have disadvantaged or denied justice to important sections of their population. Equally, I question whether the Mitchell committee in 1975 would have recommended such action if it considered the move would have denied justice to certain persons in the South Australian community. In the past, debates on the unsworn statement in Parliament have tended to centre on the use and impact of the unsworn statement in rape cases. This emphasis has been appropriate, for evidence in rape trials focuses on consent and the basis of determining consent can serve to make rape trials unique.

Rape victims are among an increasing number of individuals and groups in the community who are adamant as to the need to abolish the statement. In a paper prepared last year outlining the proceedings of a public meeting on Dr Ngaire Naffin's report to the State Government on Rape Law in South Australia, the member for Mawson noted:

> A rape victim said that without the abolition of the unsworn statement in rape trials the victim would be the person who remained on trial. She was strongly supported later by another rape victim. Neither was prepared to support a reform which did not include the abolition of the unsworn statement.

The Liberal Party accepts the conclusion reached by these two rape victims, among others in the community, and we maintain that abolition of the use of the unsworn statement will do more than anything else to address the current imbalance in rape trials that leaves the victims often believing that they are on trial rather than the accused.

While we have supported a variety of Government measures over the past three years to reform procedures in rape trials, the Government over this period has consistently skirted around the principal focus of concern—abolition of the unsworn statement.

In reference to the effectiveness of Government changes over the past three years it is appropriate to recall a remark by the Hon. Ms Wiese in the second reading debate in March when she opposed the private member's Bill introduced then by the Hon. Trevor Griffin. At that time the Hon. Ms Wiese stated:

> I believe it is reasonable that we should give these changes a fair go, and I am reasonably confident that we will find that they will solve most of the problems that have been identified in regard to sexual offence cases. We have not allowed sufficient time for these changes to be judged fairly.

As I said earlier, that comment was made in March—just seven months ago. In view of these remarks, I would like the Attorney to comment, because I question whether it is fair to conclude that the introduction of this Bill to amend the Evidence Act is an admission by the Government that its earlier rape law reforms have failed to solve the problems identified in regard to sexual offence cases. Certainly, that is the only conclusion I can reach considering the Government's past refusal to abolish the use of the statement.

In a belated move the Government now proposes to partly abolish the right of an accused person to make an unsworn statement. The Hon. Trevor Griffin has highlighted a number of most undesirable consequences that the Opposition believes will arise from this compromise, consequences that we believe will aggravate rather than help achieve a proper balance in the criminal justice system between accused persons and alleged victims. In brief, we believe these consequences will mean longer criminal trials, more opportunities for defendants to appeal and more work for lawyers, resulting in higher costs and legal aid for the taxpayer to bear.

In addition to these undesirable consequences I wish briefly to raise two further objections. First, it is offensive to allow a judge alone, as the Government proposes, in the absence of a jury to hear the reasons why the judge should admit an application for the use of the unsworn statement. Surely, if the accused is intellectually deficient or has a background that might make him or her an unsatisfactory witness this will become apparent and be allowed for by the jury during the trial itself.

At the very least, the condition of the accused person should be proved in the jury's presence before the use of the unsworn statement is allowed. Secondly, the Council will recall that when changes were made to rape laws in the late 1970s, thereby requiring applications to a judge to introduce evidence in cross-examination on a victim's alleged morality or prior sexual experience, the actual practice did not reflect Parliament's intentions. In relation to the effectiveness of such applications, the Office of Crime Statistics, in a research paper 'Sexual Assault in South Australia' in July 1983 noted:

> Applications to introduce such evidence still were being made in about 70 per cent of trials and almost nine out of 10 defence applications had succeeded. Although reasons for granting leave were not always documented, it seemed that very often the judge

considered the information relevant to the issue of consent. Thus, although it may be providing some barrier to the use of tactics designed namely to blacken the victim's character, section 34 (1) (ii) of the Evidence Act has not fully realised the legislators' intention.

I believe that this experience with section 34 (1) (ii) is most important in considering the Bill before us, for the Government maintains that, under a provision requiring application for use, there will be very few cases only when an accused person is permitted to use an unsworn statement. Such optimism, however, is ill-based when one considers the actual experience of earlier sexual offence reforms that involved applications for use.

In conclusion, I believe very strongly that, unless there is a perception in the community that victims will receive a fair and equitable trial, there is no doubt that victims will remain loathe to come forward to report crimes, let alone present themselves in court. The abolition of the use of the unsworn statement by an accused person is central to the pursuit of law and order and justice in this State. Accordingly, it is with considerable feeling that I will be supporting the amendments which the Hon. Trevor Griffin has foreshadowed that he will move during the Committee stages of this Bill.

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contribution. As I pointed out in my second reading explanation, this Bill abolishes the unsworn statement but allows an exception in a very limited number of cases. It was pointed out by the Mitchell committee that some people of certain cultural backgrounds when questioned—for instance, in a cross-examination situation or a police interview situation—have a tendency to accede to propositions irrespective of whether they consider them to be correct or not. As I said, that arises out of cultural differences between people, and I understand is characteristic of the tribal Aboriginal's approach in interview situations. That was pointed to by the Mitchell committee. That committee felt that that could be overcome in the trial situation by the judge. Nevertheless, the Government felt that there should be some limited exception to the abolition of the unsworn statement to cater for the potential injustices that could occur if the unsworn statement were abolished without the capacity for these limited exceptions.

Another example that has been given to me—and this is the reason for physical handicap being included—is the case of someone who is deaf. I am not sure how one cross-examines or insists on a deaf person being cross-examined. I suppose it could be done by writing to the individual—

The Hon. Diana Laidlaw: The way they always communicate—through interpreters.

The Hon. C.J. SUMNER: But they may not have the capacity to do that, either. They may not understand the deaf and dumb language. It is a fact of the matter. They may be mentally disabled and deaf.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They may be able to make an unsworn statement.

The Hon. K.T. Griffin: They can't communicate.

The Hon. C.J. SUMNER: There may be circumstances in which they can communicate but cannot be cross-examined in the traditional sense. That is all right. Members see no problem and we know that that is their view. There may be—and this is all the Government is saying—situations where injustices can occur because of cultural differences, or because of physical or indeed intellectual disability, and I would have thought that these are the sorts of people for whom members opposite usually purport to express some sympathy. Clearly in this case, if they are accused of commiting a crime, irrespective of whether they are found guilty or not guilty, they are not to be given any consideration in the criminal justice process, but that is their—

The Hon. Diana Laidlaw: The same consideration as for a victim.

The Hon. C.J. SUMNER: It is very interesting to hear the honourable member comment about victims. The fact is that through the 1970s, this Government since it was re-elected has done more for victims of crime than any other Government in Australia. We are recognised throughout the world as being world leaders in services to victims of crime. In 1979, I set up the committee that eventually reported in 1981. The Hon. Mr Griffin puts out press releases—misleading and dishonest press releases—saying it was commissioned by the Liberal Party. That is a lie. The fact—

The PRESIDENT: Order! The honourable Attorney knows that is unparliamentary.

The Hon. C.J. SUMNER: I can say it is a lie—that is not unparliamentary. The Hon. Miss Laidlaw wants to interject about these matters. That is the fact of the matter. That committee was established before the 1979 election. It was only after the now Speaker in the House of Assembly moved a motion to establish a Select Committee to investigate the circumstances and problems of victims of crime after I asked questions in this place, some eight or 12 months after the election, that the Hon. Mr Griffin decided to establish a committee with narrower terms of reference than the one that had been established.

The question of victim impact statements was removed from his terms of reference. They were originally in the terms of reference that I established in 1979. The Hon. Miss Laidlaw might have a look at the facts and ask Mr Griffin why he behaved in that way. She might also like to ask him why, during the last Parliament, when he was Attorney-General, he introduced legislation to deprive the relatives of murder victims of any right to claim criminal injuries compensation. He did that, supported by his Cabinet, and only stopped because of opposition from the Labor Party in this Chamber. Do not let the Liberal Party, the Hon. Miss Laidlaw or the Hon. Mr Griffin come into this place and claim that they have done everything for victims of crime in South Australia. In fact, they have done nothing—absolutely nothing!

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The only thing they have done they have been forced into doing by actions of the Labor Party. I do not want any nonsensical interjections from the Hon. Miss Laidlaw. I suggest that she checks the facts before she starts parading herself as some kind of exclusive supporter of victims or claims some monopoly of virtue in this area, knowing of course—

The Hon. R.C. DeGaris: She parades herself very well.

The Hon. C.J. SUMNER: She may well do, I am not sure that that remark is permissible under the Equal Opportunities Act. That is something else the Hon. Miss Laidlaw can take up in the Party room (I am sorry, Mr DeGaris does not attend the Party room). The rationale for the exception was the one I have explained. It would be a very exceptional situation, but is designed to deal with the situation where there may be an injustice for those sorts of reasons. That is why it is in the Bill. I do not believe that it would be used except in the most exceptional circumstances, the sorts of circumstances that I have outlined. I also wish to reiterate—and this is the evidence that has been collated with respect to the unsworn statement—that there is no greater rate of conviction with people giving sworn evidence compared to unsworn evidence.

If there is anything (and this is the evidence of our Select Committee) it is that the rate of acquittal for those who gave sworn evidence was higher than the rate of acquittal

for those who gave unsworn evidence. If the object of the exercise is to obtain more convictions for rape, I am not sure that the proposition for abolition of the unsworn statement will necessarily achieve that. Although I understand the honourable member's comments (and the Government supports the abolition of the unsworn statement) I do not think that people should get carried away with what the effect will be in criminal trials. I do not believe that abolition will necessarily lead to a greater number of convictions and, if that is the case, one queries why there is such concern about the use of the unsworn statement. It certainly has the appearance of unfairness but whether it is unfair to the victim in practice is something that is much more problematical.

The Government has taken the view that the unsworn statement should be abolished at this point in time. I do not think that a great deal has changed since the Select Committee took evidence and produced its report. Certainly, as the Premier said on Sunday night, community attitudes in this area have changed quite significantly in the past 10 years in response to the increasing crime rate, and that is something that this Government has addressed in the past three years in a fashion that has been unprecedented in the past 20 years. The Government has certainly attempted to address the problem in a much more aggressive fashion than the previous Liberal Government adopted.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Right to make unsworn statement.'

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

Page 1, lines 16 to 31—Leave out 'is amended by inserting after sub-' and all words in the subsequent lines and insert 'is repealed and the following section is substituted:

18a. (1) A person charged with an offence is not entitled to make at the trial for the offence any unsworn statement of fact in defence of the charge.

(2) This section applies in relation to any trial commencing after the commencement of the Evidence Act Amendment Act (No. 2) 1985 whether the charge was laid before or after the commencement of that Act.

(3) This section, as in force immediately before the commencement of the Evidence Act Amendment Act (No. 2) 1985, applies in relation to any trial commenced before the commencement of that Act.

The amendment does two things. First, it removes the exception to the abolition of the unsworn statement and, secondly, it deals with a technical matter that is not addressed in the Government's Bill relating to the time when the abolition of the unsworn statement will come into operation. If the legislation came into effect on a particular date (as it would, given the present drafting) the question of which trials it applies to is still not addressed. I propose that the measure should apply in relation to any trial that commences after the commencement of the Act (whether the charge was laid before or after that commencement) and that, for those trials that have already commenced, the present provisions as in force immediately before the commencement of the Act apply. That is a technical matter which was not addressed in the Government's Bill but which I believe would be non-contentious. The essential ingredient is to abolish the right of an accused person to make an unsworn statement absolutely and not partially abolish that right, as the Government proposes. I have enunciated my reasons for that.

The Hon. I. GILFILLAN: The Hon. Lance Milne and I support the amendment. We believe it is a move in the right direction. It is an appropriate amendment.

The Hon. C.J. SUMNER: I will not repeat the arguments that have been addressed on this issue. The matter has been before the Parliament for many years in one form or another. The final result almost seems to be a little bit of an anti-climax. Clearly, the Democrats and the Opposition will use their numbers to remove the exception to the abolition of the statement that the Government believed should, in justice, remain.

The Government has taken that view because of its concern that there may be situations (and they would be very isolated situations) where injustice could occur to people who are disabled in terms of their capacity to give evidence before courts for cultural, intellectual or physical reasons. That is why the Government wished to maintain the exception. It would be a great pity if, as a result of the removal of this limited exception (if the Bill passes in this form), injustice occurs in the future to an accused person because that person has cultural difficulties (in particular, if that person is a tribal Aborigine) or some physical or intellectual handicap that means that cross-examination was unfair. It was felt that to enable the judge to have that limited discretion to allow an unsworn statement in those very few cases was justifiable.

In response to the honourable member's comments in the second reading stage, I emphasise that the Government's proposition would be very much an exceptional situation. There has been criticism that our proposition would not abolish the unsworn statement because it would allow these few exceptions, but I have no doubt, given what I understand to be the attitude of most judges to the unsworn statement, that the exception based on cultural, intellectual and physical disability would be used on very rare occasions. The Government's Bill provides abolition of the unsworn statement—make no mistake about that—with a very narrow area of exceptions. However, apparently that is not to be accepted by the Committee. I merely put the arguments that prompted its introduction.

The Hon. K.L. MILNE: I have come through this discussion on the unsworn statement from the time of the select committee (of which I was a member). I think the Labor Party's attitude at that time was to approach this matter a step at a time. Not being a lawyer, I have never quite understood why one statement should be made from the witness box and another statement from the dock. If an accused person is going to make a statement, they should be given the privilege of speaking from the witness box. During the debate I think some people have said that really there is not a great deal of difference between the truth told in a sworn statement and that in an unsworn statement, and that the mere fact of taking an oath these days (or perhaps ever) does not necessarily have the effect of gaining more truth.

I appreciate what the Government is now saying, that it wishes to protect the very small minority of cases where, if the court is not handled properly, it might prove to be unfair. Surely the legal profession itself and the judges would be able to handle that situation by calling for additional courtesy and understanding in relation to those people who are in trouble. I think it is better for a judge who sees a person in trouble to ask the court to adopt a lenient attitude towards them, rather than for the judge to make a decision which may or may not be correct. On balance, I understand completely what the Government is aiming at, but I think it is cleaner to get rid of the unsworn statement. If difficulties arise, the matter can come back before Parliament for further review.

The Committee divided on the amendment:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, R.C. DeGaris, Peter Dunn, I. Gilfillan, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (8)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. L.H. Davis. No—The Hon. C.W. Creedon.

Majority of 3 for the Ayes.

Amendment thus carried; clause as amended passed.

Title passed.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 19 September. Page 1050.)

The Hon. K.T. GRIFFIN: The Liberal Party supports the Bill, which seeks to amend the law relating to rape. I suggest that it is being done in a somewhat piecemeal way rather than as a result of a comprehensive review of the legislation in so far as it relates to rape and sexual assaults. One gets the impression that the Government is anxious to have a couple of runs on the board as we move into an election campaign, and that the previous Bill relating to the abolition of the unsworn statement and this Bill to amend the law of rape are a last desperate attempt to convince the public that the Government has taken a number of steps to deal with issues which have been controversial during its term of office. The difficulty with the Bill is that it really does not address all of the issues that have been raised over the past two or three years in relation to the law of rape.

As we know, there was a report by the Office of the Women's Adviser into the substantive law of rape which made a number of recommendations to which the Government sought public responses and which it said that it would consider and then announce its decision. One presumes that this Bill is all that the Government will do as a result of that report, particularly in so far as the grading of offences is concerned. The second reading explanation states that the Government is waiting for some information from a consideration of the New South Wales graded sexual assault offences before taking any decision on whether or not offences should be graded in this State.

The Liberal Party said well over a year ago that it supported the grading of offences in the area of sexual assault; that in fact the principal offence ought to remain described as rape because it has a connotation of seriousness within the community that ought not to be pushed aside by a redefinition of the crime; and that the description of rape as a sexual assault without the connotation of the seriousness to which rape refers would not be in the interests of the community, and particularly those who may be victims or potential victims of this crime.

However, we believed that there was a need to assess all of the offences in the area of sexual assault (indecent assault) and to bring them together in a coherent whole to grade them. Such an assessment would more clearly indicate the degrees of seriousness of this sort of criminal activity to both the community and to victims and potential victims and would also give a clearer guide to juries and courts as to the degrees of seriousness. In fact, it may result in more convictions as a result of an accused person's willingness to accede to and concede a particular set of facts to which, because of the present penalty for rape and the seriousness with which the community views it, they were not prepared to plead guilty in the past.

Numerous advantages are set out in the Women's Advisers Office report on the law relating to rape. However, they did express some concern about the removal of the emphasis on the sexual component of sexual assault cases in the New South Wales grading system, but that can be overcome in the way in which any grading of offences is drafted. Whilst the Liberal Party supports the concept of grading, it is such a complex matter that, without the resources available to Government, we have not prepared detailed amendments to this Bill which would develop that concept. I think that that is a reasonable position to put. What we do say is that in office we would marshall the resources of Government to prepare an appropriate system of graded offences, with rape at the top, and that that would be introduced into the Parliament at the earliest opportunity to ensure that that scheme came into effect in South Australia.

One area we have enunciated publicly (again, over a year ago) is in relation to the penalty for rape. The maximum penalty in the Criminal Law Consolidation Act is life imprisonment, but we have been concerned that in the area of rape that has almost always been pushed to one side and the penalties which have been imposed, even for very serious offences of rape, have not really taken into consideration the traditional view of life imprisonment—that it is for at least a substantial part of a person's life. Penalties for rape have been imposed at the lower end of the scale rather than at the higher end.

In the 1 January to 30 June 1983 volume of *Crime and Justice in South Australia*, issued by the Office of Crime Statistics, there is a reference to the penalties which have been imposed by the Supreme and District Criminal Courts during that period. It is interesting to note that for rape, where a female is a victim, there were five cases and the average head sentence was five years, with the average non-parole period being just under two years; where the victim was male (there was only one prosecution), the head sentence was two years with a non-parole period of eight months.

Looking at each of the sentences individually, of the five cases where a female was the victim, two resulted in a head sentence of three to four years, two resulted in a head sentence of four to five years, and one resulted in a head sentence of 10 to 15 years. I am not sure of the precise period of imprisonment for that case, but it was certainly the toughest penalty for that period in relation to rape.

Generally speaking, that information backs up what I perceive to be the community view that the life imprisonment maximum penalty for rape is really not treated seriously by the courts. There is a view—and it is a view which I hold and which the Liberal Party holds—and that is that in the area of rape we ought to seriously consider giving a stronger definition to the maximum penalty so that the courts have a defined maximum to which they work rather than the nebulous concept of a life sentence.

Therefore, I propose moving an amendment to this Bill that the life sentence be, in fact, specified as 30 years. Apart from manslaughter and murder, that will be the toughest specific sentence imposed by the Criminal Law Consolidation Act. I know there can be some debate about whether that is imposing a lesser sentence than life, but it is my view, and that of my Party, that the provision for a specific period such as 30 years will be a clear indication to the courts of the seriousness with which this crime ought to be regarded.

I want to refer to two other matters in the context of the consideration of the rape law. The first is that there needs to be an upgrading of the level and quality of education of the community as to the nature of the crime of rape in order to promote a better comprehension of the trauma of the victim and to provide a higher level of competent support after the crime has occurred; that sort of attitude ought to be promoted. There is still a lot of misunderstanding about rape and a lot of reluctance to report it. About three or four years ago the assessment was that 50 per cent of rapes were not reported to the police and that at least 50 per cent of the victims were known to the offender. It seems to me that a higher level of education of the community as

to the nature of the crime, the sort of support that is needed by victims and the sorts of thing that can be done to assist in the prevention and reporting of the crime, where it occurs, can only be in the best interest of the community at large and those who are potentially under threat as victims.

The other area is in relation to the criminal himself. I believe that there ought to be a comprehensive study and survey of the convicted criminal to obtain a higher level of understanding of the causes of the crime, and that can only lead to more effective ways of preventing it. There has not, so far as I am aware, been a comprehensive survey of convicted criminals to the extent where there has been a higher level of understanding of the criminal, the causes of his crime and the way in which it could have been prevented.

The Hon. Anne Levy: It is under duress; there have been extensive surveys about that.

The Hon. K.T. GRIFFIN: There have been surveys, but not to the point where they identify in the sort of context that I am talking about the causes of the crime and the ways of preventing it in respect of the victim.

The Hon. Anne Levy: They tried and could not find any common thread; that is what they were looking for, but they could not find one.

The Hon. K.T. GRIFFIN: Certainly I acknowledge that there have been those sorts of investigations. There is nothing in Australia. We can draw on the information available in the United States and in other countries. However, I propose that in this State we undertake that sort of survey from a South Australian and an Australian perspective because I think that we ought to take as many steps as we possibly can to understand what causes the crime and what can be done to prevent it.

Prevention is much better than having to deal with the victims. We want to ensure that as few people as possible become victims. It will never be eliminated, regrettably, but we would hope that a better community understanding and a better individual understanding will lead to a reduction in the incidence of the crime but when it occurs a much higher level of support from the community for the victim. That, of course, is also focused upon support in the reporting phase and in the criminal justice system.

One of the most intimidating things for any victim is to be put through the criminal justice system. I think that we have to give attention to ways by which that intimidation can be relieved and the victim supported. One of the ways, of course, is the Victims of Crime Service Court Companion Scheme, which is to be highly commended. They then are the sorts of initiative that I believe ought to be taken.

In relation to the particular Bill, there is only one amendment, which I will move because it can be done with relative simplicity to change the indeterminant life sentence to a specific maximum period. The other aspects of the Bill will be supported by the Opposition. The removal of the three-year period for prosecution is strongly supported; there is no reason at all for that to be maintained, in my view. Highlighting the fact that whether or not physical resistance is offered is irrelevant to the criminal act is supported. I understand that the judges presiding over jury trials always make that point now, so that really including it in the statute will not achieve anything other than a reinforcement and public acknowledgement of that present situation. With respect to the widening of the definition of 'sexual intercourse', again the Opposition raises no objection to that.

We would, as I indicated earlier, have preferred to see a grading of offences which would have then taken the use of objects into the grading system, but as that is not to be done we would go so far as to support the widening of the definition in the context of this Bill. Our position is one of support for the Bill, subject to an amendment that I will move during the Committee stages.

The Hon. ANNE LEVY: I support this Bill. It is with great pleasure that I commend the Government for bringing this matter forward as part of law reform relating to the crime of rape. Despite what the Hon. Mr Griffin says, it is not the first and only piece of legislation relating to this matter that this Government has brought in. Throughout the period of government, there has been constant investigation and improvement of the law regarding rape. I need only quote the abolition last year of the requirement for corroboration of evidence which until then had always been part of court procedures where rape was concerned, and also the considerable amendments made to section 34 (i) last year or the year before.

Section 34 (i), in case members are not fully conversant with it, relates to the adducing of evidence on previous sexual experience of the victim in a rape trial. This Government considerably tightened that section to make life much easier for the victim and to emphasise the belief of most people in this day and age that the fact that a woman may say 'Yes' in one particular situation is in no way indicative of whether she would say 'Yes' in a completely different situation. Women can show discretion in sexual partners and any questioning regarding previous sexual history with other than the accused is totally irrelevant to whether or not consent for sexual relations has occurred in a particular case.

That was a very important reform of the law as regards rape and was done quite some time ago, so for the Hon. Mr Griffin to say that this is a last desperate throw by the Government to show that it has done something about rape is totally wrong, because there have been a series of measures introduced right throughout the time of this Government.

The Hon. M.B. Cameron interjecting:

The Hon. ANNE LEVY: I have just quoted the considerable improvements that have been made to the law in this area throughout the period of this Government. I was interested to hear the Hon. Mr Griffin say that he still feels that a grading system of offences should be introduced regardless, it seems, of what the review in New South Wales might show.

I am sure all members know that New South Wales introduced a graded system of offences several years ago and that it is currently undertaking a review of how this graded sytem has worked. There have been suggestions that it has not achieved the results that it was expected to achieve. In other words, it has been either a useless or even harmful change to the law of rape. I certainly do not want to prejudge that issue, and it would be a wise move for all members of this Council to wait for the results of the review in New South Wales and the conclusions that can be drawn from it before taking firmer stands on whether or not we should have a graded system in this State.

The Hon. Diana Laidlaw: The Minister's second reading explanation seems to favour the system—

The Hon. ANNE LEVY: The Minister's second reading explanation clearly indicates that before further consideration is given to that we should wait for the results of the review in New South Wales. I would have thought that that was a logical thing to do. If the New South Wales review concluded that a graded system was counterproductive, it would be rather foolish on the part of anyone in this Council to suggest that we should have a graded system.

There are obvious attractions to the idea of a graded system but it is wise, when New South Wales has tried it and is reviewing the matter, to see what the effects of the graded system are. We should wait for the results of the review before making firm decisions about the implementation of such a system in South Australia. I hope that the Liberal members, along with Labor members of this Coun-

cil, will not take firm positions on this matter until the review has been completed and we have the results.

The Hon. Mr Griffin believed that there should be more support for victims of rape in this State. I agree that there should be more understanding of what the crime of rape does involve and reassurance that there are extensive support services for victims of rape in this State.

Of course, no support services can obliterate the trauma of being a rape victim, but support services certainly can make the fate of a victim of a rape attack more bearable. South Australia has extensive support services. We have the Sexual Assault Unit at Queen Elizabeth Hospital, which is about to have its funding doubled so that it can continue the good work it does and extend it. We also have the Rape Crisis Centre, which has proved an invaluable source of support for many victims of rape and *inter alia* has done valuable work on matters such as incest and sexual abuse of children, drawing these matters to the attention of the community where for far too long they have remained ignored and a general head-in-the-sand attitude has been taken that these crimes do not exist.

This Government is certainly devoting far more resources per capita to supporting victims of rape than is any other Government in Australia. The Rape Crisis Centre and the Sexual Assault Unit at Queen Elizabeth Hospital are the envy of people all over Australia who work in the area of trying to provide support for rape victims. I have met a number of people involved in this work from other States and I can categorically state that they are envious of the situation in South Australia and the resources available for this work.

Finally, I want to comment on the law of rape in general. The Hon. Mr Griffin said that we need to think about what rape is. It is basically violence against women. I know there is the occasional rape attack on male victims, but in general rape is an act of violence against women. The violence is what predominates and sexual means are used to vent the violence because it is often felt that a sexual attack is more degrading and humiliating than an attack involving, say, a hit on the head; that it arises or appears to arise from feelings of hatred, particularly towards women; and that the violent sexual display of this hatred is a way of venting feelings and humiliating and degrading the victim, and that presumably makes the perpetrator feel better.

The psychology of rape and its implications has certainly been looked at in detail in recent years and, since the rise of the feminist movement, the feminist insights into the significance of rape have been of considerable value to people trying to understand the crime and its causes. As defined in law, there are two distinct elements to the crime of rape. First, there is the question of consent and, secondly, there is the *mens rea* aspect of rape.

As is clearly discussed in the Naffin and Mitchell reports, the question of consent is often crucial in a rape trial because rape would be one of the very few crimes, if not the only crime, where the question of consent is an essential element of the crime. After all, whether or not consent to intercourse occurs is what differentiates a rape from what is a normal human activity, which occurs in countless homes throughout the State every night.

In any rape trial the question of consent will be of crucial importance and no-one writing on this topic denies the importance of establishing whether or not consent occurred and, as in any criminal trial, the onus of proof must be on the Crown to show that consent did not occur. This must be proved beyond all reasonable doubt.

However, it is the second part of the crime of rape which concerns many people. This is the question of the defendant's knowledge of whether or not the victim was consenting. It is not enough in a rape trial to merely establish beyond all reasonable doubt that the victim was not consenting. One has to go further and prove beyond all reasonable doubt that the defendant knew that the victim was not consenting. It is this double burden of proof which makes it so difficult to achieve high conviction rates for rape. I do not think that that statement is negated by the fact that the conviction rates for rape are much the same as for other crimes.

This merely illustrates that a very large number of alleged rapes are never brought to trial because it is felt it would be too hard to achieve conviction. It is this double element of proof (of having to prove not only that consent did not occur but also that the defendant knew the victim was not consenting or was recklessly indifferent as to whether she consented or not), that makes it so hard to achieve conviction of many rapists, and will account for such a small proportion of reported rapes ever reaching the courts for trial. As indicated by the Hon. Mr Griffin, there are many rapes which are never even reported because the victim feels that the chance of establishing all the necessary proofs and the difficulties of going through a rape trial make it not worth reporting the rape to the police in the first place.

It has been suggested on several occasions that the *mens rea* section of the crime of rape should be altered, that perhaps the standard of proof should be lowered—that the knowledge of the victim's lack of consent should not have to be proved beyond all reasonable doubt but perhaps only proved on the balance of probabilities. Other people have suggested that, if lack of consent has been established beyond all reasonable doubt, the onus of proof should be on the defendant to show that he did not know that the victim was not consenting. While the reverse onus of proof is not generally welcomed in criminal matters, I point out that this is not a reverse onus of proof for the whole of the crime of rape. It would still have to be proved by the Crown beyond all reasonable doubt that there was lack of consent but, if it had been established beyond all reasonable doubt that there was lack of consent, the onus would then be on the defendant to show that he did not know that there was this lack of consent. It would only be a reverse onus of proof on that section of the crime, not on the total crime.

However, I do not want to go into this to any great depth at this stage. There has been a lot written on the matter and I am sure that the Government will keep these various discussions under continuous review. It is a problem, though, where there are two things which must be proved before there can be a conviction for rape: not only that there was lack of consent, but that the defendant knew there was lack of consent. It can cynically be stated that, if the defendant was so drunk that he was incapable of knowing anything, he could not be then convicted of rape because he would never be competent of knowing that the victim was not consenting. In this way, if a man wishes to commit rape, he had better be drunk because he then cannot be convicted. If he is sober and capable of knowing that his victim is not consenting, then he is more liable to be convicted than if he is so blotto that he does not know or is incapable of knowing whether the victim is consenting or not. This is an interpretation of the current law which is sometimes put. I hope that our courts would never interpret it in such a way, but I think it can be validly put as an argument and we should surely not have a law on our books where a defendant has more chance of being acquitted if he is drunk and incapable than if he is sober. This aspect of the law of rape certainly needs more attention and more consideration and I hope that this will occur in the years to come.

In the meantime, the Bill before us certainly makes three very valuable contributions to the law of rape—contributions which reflect the changing community attitudes with regard to rape, attitudes to what rape actually is and the

abhorrence of the crime which exists throughout the community. It certainly exists amongst the female part of the community which is very concerned by threats or possible threats of rape as they go about their daily business.

The old cry that one could avoid rape by staying home, keeping the door shut and never having contact with the outside world is a totally inadequate response to the crime of rape. In the first place, so many rapes are committed by people who are known to the victims, so avoiding strangers is not the answer. Secondly, the streets of our community should be available and safe for all members of the community. To suggest that women should not go out in the streets because they might be raped seems to me to be blaming the victim. If there is danger of women being raped in the streets, rather than tell women to keep off the streets, I suggest that we should tell men to keep off the streets. They are the ones who commit the crime so, if we are to avoid contact between the sexes on the street, I suggest that men should stay home. In that way, they will not commit the crime of rape. That seems to me far more logical on many counts than suggestions that women should stay home to avoid being raped.

I will not say more at this time except to congratulate the Government on this further step it is taking in reforming the law of rape and to hope that reform of the laws of rape will be an ongoing process with more reforms to come at later times in the light of further consideration of the various matters of which I have spoken. I support the second reading.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

PEST PLANTS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 18 September. Page 999.)

The Hon. PETER DUNN: The Government introduced this Bill to facilitate the position that occurred after an Adelaide court determined that it was illegal for a pest plants board to undertake a contract to control weeds or pest plants where an owner could not undertake such control because he did not have the equipment. The Opposition supports this short Bill, which provides that it is the responsibility of the owner of the land to control pest plants. I agree with that. The responsibility now lies with those who own the land. Because people own land and are responsible for it, they must control pests where appropriate.

However, some people, particularly hobby farmers in the Adelaide Hills, are unable or may not wish to buy the equipment used for spraying and controlling pest plants. Those who have travelled through the Adelaide Hills will know that there are many noxious weeds in the Hills and also throughout the State. Some people object to spraying, and over the years there has been controversy because some people have used 245T. That chemical is less widely used now because other chemicals that are not so dangerous are used.

The Bill corrects an anomaly whereby a private owner wishes the board to undertake work on his behalf. The second reading explanation states that clause 3 empowers a control board to enter into contracts with landowners or other control boards for the destruction or control of pest plants. Such contracts may relate to land outside the control area of the board. It would be in the interests of private individuals (and there are private spraying organisations that undertake work for boards and local government bodies) that this occurs. I hope that this legislation does not encourage local government to contact the boards and say, 'Will you do this?' rather than approaching private individuals who make a living by doing that work. In some cases private individuals work for boards and I hope that they are given an equal opportunity to enter into contracts with private owners. The control of weeds is a very important matter.

I was interested to note that the Pest Plants Commission has not reported to the Minister responsible for some time. I do not know why, but I believe that the commission should report, because an enormous amount of effort, time and money is put into the control of pest plants and it is important that we ensure that the job is carried out correctly. We will become aware of the operations of boards only when they report to Parliament.

Because special equipment is required at times and because small farm owners and private individuals who own blocks of land do not want to go to the expense of purchasing equipment, the Bill allows these people to enter into a contract with a pest plants board. The board undertakes the work and recovers the cost from the individual. This is now legal. I support the Bill.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank the honourable member for his contribution and his assistance in getting this Bill through the Council promptly. I make one brief point. I was approached by landholder members of pest plant control boards and other boards who sought this amendment, so it is clear that this measure has widespread support in rural areas. The UF&S has also endorsed the amendments. For many years what we are legislating for now has occurred without any query whatever until Judge Brebner brought down a ruling that threw the matter into confusion—and I do not criticise Judge Brebner. To my knowledge and that of the Pest Plants Commission there has not been one complaint about the way in which things have operated, so this Bill merely formalises what occurred even though there were no queries or problems whatsoever. I do not see why there should be any queries or problems after the Bill has passed.

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

DAM SAFETY BILL

Adjourned debate on second reading.
(Continued from 18 September. Page 1001.)

The Hon. PETER DUNN: I oppose the Bill in its present form. I do not think that it is necessary. The effect of the Bill is to set up an authority of people who will have to be paid by the taxpayer. If history is any judge, we have not had any problems with dams in the past but, of course, I am not saying that that will not be the case in the future. The fact is that this Bill deals with only relatively small dams in this State. I suppose we have only a small number of dams in this State, anyway, because of its relatively flat area. We do not have many hills as is the case in America, Italy, or other parts of Europe. The Government is the owner and builder of the larger dams in this State and it will not be bound by the legislation. Therefore, the Bill relates to only a relatively small number of dams.

The Hon. B.A. Chatterton interjecting:

The Hon. PETER DUNN: It is the large dams that give all the trouble, not the relatively small ones. I have been trying to determine how many dams in South Australia will come under this legislation, and it appears that it will be fewer than 100. I believe that figure is generous, because many of those dams are located in the Far North, and it

would not matter whether they flooded for two years, because I do not think that they would do a great deal of harm. I admit that there are some dams in the Adelaide hills which could cause problems, if one breaks upstream, flooding into the next catchment area. There could be a problem in that area given that we are building further into the Adelaide hills. It is not the dams that are at fault; I presume the problem is caused by people building their houses closer to the dams. Planners should look carefully at where dwellings are being built.

Dams are built for the protection of life and property, according to the second reading explanation. I do not disagree with that. The crux of the Bill is the fact that the Crown will not be bound by it. However, I read the second reading explanation, which was tabled in the Council the other day, with interest, because it indicates that there will be a clause partly binding the Crown. I think it is necessary to go into the argument of whether or not the Crown is bound, because in the other place the Government was very strong in saying that that did not have to occur. The arguments were long and strong in that area, but they need reiterating in this Council.

The size of the dams is critical. As I have said before, the dams that create the greatest amount of havoc in this State are owned and built by the E&WS Department; and the Kangaroo Creek Dam in particular would create considerable concern if it collapsed. However, nothing in the Bill provides that the Crown must abide by any regulations in this legislation. Furthermore, the Bill allows the Minister to direct the authority, and therefore the Minister could direct it not to take notice of the regulations.

Two or three large dams have collapsed recently, the most recent being in the Stava Valley in Italy. That tailings dam was owned by a large company. There was confusion as to who really controlled the dam, who controlled the regulations and who was responsible for safety. Articles in the *Bulletin* and the *Economist* show photographs of the collapse of that dam. There was great confusion between local authorities (in our case they would be Federal authorities) as to who controlled the dam. This Bill will not really solve problems such as that. It was not a huge dam, although 200 people were killed when it collapsed. The Teton dam in America, which also collapsed, was a huge dam. The authority that built the Teton dam was warned that it was likely to collapse due to the geological formations around it. The authority had built many dams and thought that it knew all about it. However, the authority was not bound by legislation to have its decision reviewed by other experts in the field, and eventually the dam collapsed.

The Teton dam was enormous, containing 80 billion gallons of water. When it collapsed it inundated some 400 000 acres, devastated several communities and caused about $1 billion worth of damage. I believe that 11 people were killed. That demonstrates that, if there is no authority and large dams are not controlled, what use is there in introducing legislation such as this which only controls smaller dams. The prescribed dams under this legislation have a capacity exceeding 20 megalitres with a wall that exceeds 10 metres in height, or those with a capacity of 50 megalitres with a wall exceeding five metres in height.

At the end of that we have a catch all situation; or a dam that by reason of its location may constitute, in the opinion of the authority, a substantial risk to life or property, and it has been declared by regulation to be a prescribed dam for the purpose of this definition. Even dams smaller than those that are prescribed may come under that last clause and therefore lies the rub, because somebody may have a relatively small dam for irrigating a vineyard or vegetable patch and it can be deemed to be a prescribed dam and come under the regulations of the legislation.

The regulations will no doubt be instituted to control the building of dams and their safety, and it will be necessary to have the regulations carefully put together. I have no doubt that the E&WS Department has the necessary expertise to draw up suitable regulations for this country. However, what is required in South Australia may be different to the requirements in relation to a similar dam in either New South Wales or Queensland. It seems to me that, if this Act goes through as it is, the E&WS Department will have to call on experience from other States (and from its own experience within this State) to draw up regulations suitable for this State specifically.

It is interesting to note in the second reading explanation that there has been a change of mind and now the Crown will be bound—although it does not say that in so many words. I would like to see the Minister's amendments. I have amendments to bind the Crown and introduce an appeal mechanism. In a Bill such as this, where individual people will be affected, I believe there should be an appeal mechanism. At the moment the legislation does not have that, but my amendment will introduce that appeal mechanism. If my amendment is successful, it will ensure that people can appeal against what they consider might be roughshod treatment by the Dam Safety Authority.

The Dam Safety Authority is a body corporate with perpetual succession and a common seal, and it is capable of suing and being sued. The authority will be comprised of four people: three nominated by the Minister and one nominated from local government. The Bill then sets out the qualification requirements for members of the authority. When questioned in another place, the Minister indicated that the cost of running the authority would be in the order of $180 000. If you say it quickly, it does not sound very much, but if you multiply that by as many years as we have ahead of us, it makes you stop and wonder why we need this authority.

Past experience indicates that we do not need this authority, because there have not been any problems that I can determine or that any local government authority can determine. I strongly believe that to spend $180 000 this year (and in a couple of years time that will be $250 000, annually) to run an authority which has very little use and which cannot control any of the big dams that are going to cause the major disasters is a waste of taxpayers' money. For that reason, I strongly oppose this Bill. I would like to see the Minister's amendments before I continue; therefore, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

STATUTES AMENDMENT (ENERGY PLANNING) BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

When this Government took office it inherited a situation in which South Australia faced considerable uncertainty in relation to its energy supplies. It was apparent that these uncertainties had continued because of deficiences in the planning structure. The supplying authorities pursued their separate organisational objectives and responsibilities but there was no formal process of coordination between them

in those areas in which such coordination would be advantageous.

There were two central planning bodies—the South Australian Energy Council and the Energy Division of the Department of Mines and Energy—but neither of them were properly able to address the major issues which faced the State. The South Australian Energy Council is a relatively large organisation, comprised of a mixture of senior executives of energy supply and energy use related organisations, and a number of individuals with a variety of expertise and experience brought together to discuss energy issues. Because of the council's size and its part-time mode of operation, it is not able to deal adequately with the detail and complexity of the energy supply situation facing the State.

The Energy Division of the Department of Mines and Energy is properly placed and contains the type of personnel who could come to grips with the problems at hand, as is appropriate for a section of a government department devoted to energy planning, energy development, and other energy related issues, but it has no defined coordination or planning role in relation to the other energy supply authorities.

Management consultants W.D. Scott were engaged to assess the existing energy planning structure and to recommend new arrangements. However, it was obvious that the very significant planning issues facing the State could not wait for the existing planning processes to be reviewed and the form of the new structure to be resolved and implemented. The Government established the Advisory Committee on Future Electricity Generation Options to deal with the specific issues. The committee brought together appropriate individuals from the Department of Mines and Energy, the Electricity Trust, the Pipelines Authority, Treasury, and a representative of the United Trades and Labor Council under an independent chairman. The committee was ably serviced by ETSA, and Department of Mines and Energy personnel.

W.D. Scott finalised its review of energy planning processes in January 1984. The report recommended establishment of a Council for Energy Planning under its own separate legislation, reporting to the Minister of Mines and Energy, with an independent chairman, and consisting of the General Managers of ETSA, PASA and SAGASCO, the Director-General of Mines and Energy, and three independent members with relevant expertise and experience. The Council for Energy Planning was to deal with mainstream energy issues including exploration and development, production, processing and power generation, distribution, pricing and utilisation.

The Council for Energy Planning was to be supported by a full-time executive staff headed by a Director of Energy Planning who would attend council meetings in an advisory capacity. Scott's recommended removal of the Energy Division's functions from the Department of Mines and Energy. Most of its personnel would be transferred to the Director of Energy Planning's support staff. The Department of Mines and Energy would be renamed the Department of Mines and Resources.

Scott's also proposed the establishment of an Energy Developments Forum consisting of a chairman who would be one of the independent members of the Council for Energy Planning, the Director of Energy Planning as an executive member, six members from the public and semi-government operating bodies but not chief executives, and six independent members. It would provide access to the State's energy planning processes for those who would otherwise not have it, and enable non-mainstream issues to be discussed and developed to the point at which they may be significant enough to make a mainstream energy contribution.

Scott recommended that under these arrangements the South Australian Energy Council be abolished and the State Energy Research Advisory Committee be retained. While the proposals provided the broad outline of a structure which seemed appropriate, the specific arrangements required further consideration.

A few months later the Advisory Committee on Future Electricity Generation Options reported. It presented recommendations which the Government accepted as providing the broad outline of a strategy for power generation development. The recommendations included establishment of the electricity interconnection with Victoria and New South Wales, measures to resolve uncertainties in relation to the supply and pricing of gas, development of a local coalfield for baseload generation, evaluation of the economics of further expansion at Leigh Creek, preparation for a possible partial conversion of Torrens Island to black coal, and placing in abeyance further work on a new black coal fired station pending a decision on a local coalfield. The proposals were sound and the committee has been demonstrated to be an effective model for energy planning. It had completed an enormous amount of work utilising resources mostly from within the Government and ETSA at a cost of only a few tens of thousands of dollars. It was obviously cost effective.

It was decided to see whether a similar model could be effective in an implementation rather than a planning role, and the Future Energy Action Committee was set up. This also provided an opportunity to test some of the ideas proposed by W.D. Scott on an interim basis. The Future Energy Action Committee has had an independent chairman and includes the Director-General of Mines and Energy, the Chairman of PASA, the General Manager of ETSA, the General Manager of the South Australian Gas Company, a representative of the Minister's office and an Executive Officer seconded from the Energy Division.

The Future Energy Action Committee maintained an overview of work undertaken through a number of subcommittees. Each with an appropriate chairman and membership to pursue one of the main objectives, resolution of the gas supply and price question, coalfield selection, interconnection, and long-term utilisation of South Australia's coals. These subcommittees brought together a larger group of people from the various energy supply organisations, the Department of Mines and Energy and other areas of Government, to carry out evaluations, coordinate, plan and negotiate commercial arrangements. The subcommittees also obtained advice externally, in particular from a number of financial and technical consultants in relation to coalfield selection.

The FEAC model has proved effective. Agreement has been achieved with Victoria and New South Wales on the interconnection of the three State's electricity grids, coalfield selection has been progressed to the point where Sedan and Lochiel have been defined as the preferred options and negotiations have commenced between CSR, ETSA and the Government to set up joint venture arrangements, assessment of the option of a third unit at the Northern Power Station is nearing completion, and negotiations with the Cooper Basin Producers on future arrangements for the supply and pricing of South Australia's gas supplies are well advanced.

The degree of coordination and consensus which has been achieved demonstrated how long overdue is such a comprehensive and cooperative approach to energy planning in this State. More recently the Government has extended use of this model with the establishment of a working party to review energy prices and tariff structures. It is being chaired by the Director of the Energy Division, and involves ETSA, SAGASCO, the Department of State Development, the

Department of Community Welfare, a representative of the Minister's office, and other officers of the Department of Mines and Energy.

As the work of the Future Energy Action Committee is nearing completion, it is time to establish long-term arrangements which build on the models presented not only by W.D. Scott but also the practical experience drawn from the planning and implementation phases of the Advisory and Action committees. Therefore, it is now that the Government brings before Parliament the Statutes Amendment (Energy Planning) Bill 1985 and can advise the Council of its long-term arrangements for energy planning in South Australia.

The Bill defines the relationships between the Government and the major energy supply organisations with respect to energy planning. Both PASA and ETSA are Government instrumentalities. Whilst they operate autonomously their major planning and development decisions must be taken in the context of the Government's energy policies. Since this Government came to office, these two organisations have consulted with it on major issues and have shown a degree of responsiveness to its policies which is appropriate. It should therefore be recognised that the Government is not taking this action out of frustration.

There are, however, increasingly instances where the management and boards of these organisations must reconcile a variety of competing objectives, for example, in respect of tariff policies and the implications of competing energy supply options for the economy of the State. These require consideration of broader issues than are the province of the energy supply organisations alone. Resource utilisation, particularly in respect of natural gas, requires a degree of co-ordination which can only be effected by Government.

Making PASA and ETSA subject to ministerial direction provides the appropriate mechanism by which these organisations will contribute to a co-ordinated and comprehensive energy planning process, incorporating broader objectives, such as welfare, environmental protection and economic development in its implementation. It is the Government's intention that the exercise of ministerial control and direction will concern matters of major policy and not the general administration of the undertakings on a day-to-day basis.

As a private company the South Australian Gas Company is in a slightly different situation. It is already regulated in respect of its shareholding and dividends, as well as being subject to price control. These types of controls are not inconsistent with growing practice worldwide in relation to the regulation of privately owned public utilities. However, it would not be appropriate to make a private company subject to ministerial direction as is proposed for ETSA and PASA, particularly in relation to the decision to invest.

SAGASCO is a very efficient and well run company providing a high standard of service to the South Australian community. As a major and cost effective distributor of sent out energy SAGASCO must have as significant a role in the planning structure as ETSA and PASA. The mechanism by which this will be achieved will be for the Minister of Mines and Energy to be able to officially request relevant information in relation to SAGASCO's acquisition, supply and delivery of gas for incorporation in the planning process. The boards of ETSA, PASA and SAGASCO have been consulted on these aspects of the legislation and have raised no objections to these amendments.

To maintain the cooperative approach to energy planning and implementation which has been developed through the advisory and action committees, the Government will establish a small Energy Planning Executive. It will have an independent chairman and consist of the chief executives of the energy supply organisations (ETSA, PASA and SAGASCO) and other individuals who can make a particular contribution to the energy planning process.

The Energy Planning Executive will be established by administrative means and not under its own legislation. It is not intended to create another statutory authority which after a period would inevitably develop a life and objectives of its own, rather than providing a mechanism for coordination of planning, policy advice and implementation between the energy supply organisations and the Government. It will be the responsibility of the Minister and the organisations involved to make sure it remains flexible, addressing relevant issues.

The Energy Planning Executive will be serviced by the Department of Mines and Energy and utilise the services of appropriate individuals in the energy supply organisations as well as other areas of Government. In this way personnel will not be unnecessarily duplicated and the planning function will not consume an inordinate amount of resources. These arrangements have the advantage of improving communication and cooperation between organisations, as well as giving staff broad experience which they could perhaps not obtain working within one organisation.

Experience with the advisory and action committees has demonstrated the importance of the resource evaluation and management functions to the energy planning process and therefore the inappropriateness of separating the energy function from the Department of Mines and Energy, as was suggested by W.D. Scott.

It is evident that public interest in energy related issues is considerable. The Government believes that the community, whether from a welfare, consumer, environmental, energy conservation, industrial, rural, transport or some other perspective should have an effective means of contributing to energy policy. It will therefore establish an Energy Forum consisting of about 20 individuals drawn from a broad range of backgrounds. It will include representatives of the major energy supply organisations, at a lower level than chief executive, who can provide the forum with insight in relation to the operations of those organisations and contribute to the forum's discussions on other issues.

The Energy Forum will be serviced by the Department of Mines and Energy. It may pursue particular issues, monitor developments in appropriate areas, comment on mainstream energy policy, or respond to requests from the Minister for views on certain matters which he refers to them. Under these arrangements the South Australian Energy Council will be disbanded and the State Energy Research Advisory Committee will be maintained in its present form.

The Bill includes a provision to amend the Pipelines Authority Act to permit a member of its board to hold office either under the Public Service Act or as Chief Executive Officer of the authority. This amendment removes any unnecessary inhibitions in relation to board appointments and executive positions. The latter is a normal commercial practice which in a private company would be accommodated in its articles. The matter is being dealt with at this time to facilitate personnel arrangements which will expand and strengthen the role of the Pipelines Authority in the commercial aspects of its operations, and in implementing the Government's initiatives in the area of research and development into coal gasification, as well as in the energy planning process.

Clause 1 is formal.

Clause 2 amends the Pipelines Authority Act 1967 by providing that the authority is subject to control and direction by the Minister. Provision is also made to enable a member of the authority to hold the office of Chief Executive Officer of the authority.

Clause 3 amends the Electricity Trust of South Australia Act 1946 by providing that the trust is subject to control and direction by the Minister.

Clause 4 amends the South Australian Gas Company's Act 1861 by providing that the company must, at the request of the Minister, provide him with such information in relation to the acquisition, supply and delivery of gas by the company as he may request.

The Hon. M.B. CAMERON secured the adjournment of the debate.

POLICE PENSIONS ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill was foreshadowed in the budget speech. It brings accounting for police superannuation into line with that of other Government superannuation schemes. The other Government schemes (State scheme, parliamentary scheme, judges' scheme and Governors' scheme) provide within their own Acts for the appropriation of general revenue to pay the Government's share of benefits paid. However, the Police Pensions Act requires that the Government's share of benefits be paid out of moneys provided by Parliament.

In the past, the cost of police benefits has been included in the Police Department appropriation, but as a result of introducing the revised accounting arrangements for superannuation, it is included in a Treasurer—Miscellaneous appropriation for 1985-86. The purpose of this Bill is to complete this revision of accounting arrangements by having the future appropriations for police benefits provided within the Police Pensions Act. This will bring the accounting arrangements for all Government superannuation schemes into line and make the superannuation components in Government accounts easier to follow.

Clause 1 is formal.

Clause 2 provides that the measure is to come into operation on 1 July 1986.

Clause 3 amends section 9 of the principal Act which makes provision for contributions by the Government to the Police Pensions Fund. The amendment replaces the requirement that the Government's share of police pension benefits be paid out of moneys provided by Parliament with a requirement that it be appropriated out of general revenue.

The Hon. M.B. CAMERON secured the adjournment of the debate.

ADJOURNMENT

At 6.25 p.m. the Council adjourned until Wednesday 9 October at 2.15 p.m.