LEGISLATIVE COUNCIL

Tuesday 8 September 1987

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

QUESTION ON NOTICE

MARIJUANA

The Hon. K.T. GRIFFIN on notice asked the Minister of Health: In respect of on-the-spot fine notices for some marijuana offences and in respect of each of the months of May, June and July, 1987:

1. How many of the on-the-spot fine notices handed out have been given to the same person or persons? That is, how many recipients of notices are, in fact, multiple offenders?

2. How many notices were handed out for an offence committed in conjunction with other offences?

3. How many offences relate to each particular category that is, smoking marijuana in a place other than a public place, possession in a public or other place, possession of implements for use of marijuana, cultivation of marijuana plants?

4. Where were the offences detected, that is, in a public place or in a place other than a public place?

5. Where possession of marijuana was detected, in how many cases was the quantity of marijuana less than 25 grams and how many between 25 grams and 100 grams?

6. Where possession of cannabis resin was detected, in how many cases was the quantity of cannabis resin less than 5 grams and how many between 5 grams and 20 grams?

7. In how many cases were the quantities of marijuana alleged to be involved in fact subject to dispute?

The Hon. J.R. CORNWALL: The replies are as follows:

1. The numbers of people receiving multiple cannabis expiation notices in the months of May, June and July 1987, were: May (2); June (3); July (3). In each case, the people involved received 2 notices each.

In the same 3 month period, a total of 884 people received notices. Of these, 2 people received 3 notices each, 15 people received 2 notices each, and 867 people received one notice each.

2. No data is available on the number of notices handed out for an offence committed in conjunction with other offences.

3. The following table gives the monthly breakdown of the various categories of simple cannabis offences.

NUMBER OF OFFENCES OF EACH TYPE

Offence	April	May	June	July	Total
Possess <25g cannabis	2	213	189	174	578
Possess 25-100g cannabis	2	23	19	11	55
Possess <5g resin	0	4	1	7	12
Possess 5-20g resin	0	0	0	1	1
Smoke/consume cannabis	0	0	0	0	0
Smoke/consume resin	0	0	0	1	1
Possess implements	3	208	194	179	584
Cultivation	0	45	38	19	102
Total	7	493	441	392	1 333

4. The following table gives the monthly provisional figures to date, showing the places in which offences were detected.

NUMBERS OF OFFENCES IN EACH TYPE OF LOCATION

Type of Location	April	May	June	July	Total
Own Home	7	206	189	171	573
Other Private Building	0	33	20	15	68
Other Private Property	0	13	6	9	28
Total in Private Places	7	252	215	195	669
Police Stn/Wch House/Gaol	0	40	43	41	124
School (Kind/Prim/Secdry)	0	0	0	0	0
Tertiary Educn Instn	0	0	1	0	1
Entertainment/Sporting Venue	0	3	0	0	3
Hotel	0	7	5	5	17
Shopping Centre	0	0	2	0	2
Other Public Building	0	2	1	9	12
Car Park—Hotel	0	1	10	6	17
Car Park—Shopping Centre	0	5	1	4	10
Car Park—Other	0	5	7	3	15
Other Vehicle	0	136	110	84	330
Road/Street/Footpath	0	30	43	39	112
Other Open Public Place	0	12	3	5	20
Not adequately described	0	0	0	1	1
Total in Public Places	0	241	232	197	664
Grand Totals	7	493	441	392	1 333

Office of Crime Statistics: Provisional figures 26 August 1987.

5. Refer to the answer to question 3.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Disciplinary Appeals Tribunal—Report, 1986-87.

Promotion and Grievance Appeals Tribunal—Report, 1986-87.

Rules of Court—Supreme Court—Supreme Court Act 1935—Admission Rules.

Pay-roll Tax Act, 1971—Regulations—

Appeal Tribunal Decisions.

Employer Deductions.

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

Pursuant to Statute—

Liquor Licensing Act 1985—Regulations—Liquor Consumption at Port Pirie.

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

Pursuant to Statute—

Trustee Act 1936—Regulations—Australian Mortgage Insurance Corporation Ltd.

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

Pursuant to Statute—

Environmental Protection Council—Report, 1985-86.

Native Vegetation Authority—Report on the Administration of the Native Vegetation Management Act 1985-1986.

Parliamentary Standing Committee on Public Works—Sixtieth General Report.

Regulations under the following Acts—

Health Act 1935—Examination of Plans and Septic Tanks.

Motor Vehicles Act 1959—Registration and Insurance.

National Parks and Wildlife Act 1972—Guided Tour.

Road Traffic Act 1961—Inspection Fees.

Stock Diseases Act 1934—Cattle Tail Tags.

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

Pursuant to Statute—

The Electricity Trust of South Australia—Report, 1986-87.

Pipelines Authority of South Australia—Report and Statement, 1986-87.

Regulations under the following Acts—

Harbors Act 1936—
Tonnage and Fees.
North Arm Fishing Haven—Mooring Fees.
Robe Boat Haven—Mooring Fees.
Port MacDonnell Boat Haven—Mooring Fees.
Port Pirie Boat Haven—Mooring Fees.
Marine Act 1936—Survey Fees.
Harbors Act 1936 and Marine Act 1936—Survey Fees.
Forestry Act 1950—Proclamation—Hundred of Howe, County of Victoria.

QUESTIONS

CONVENTION CENTRE

The Hon. M.B. CAMERON: I seek leave to make an explanation before asking the Minister of Tourism a question about the convention centre.

Leave granted.

The Hon. M.B. CAMERON: The Department of Tourism budget now provides for the operations of the Adelaide Convention Centre. The ASER agreement between the Premier, Kumagai and the South Australian Superannuation Fund Investment Trust, signed in Tokyo on 1 October 1983, provided that the Government would pay an initial net rental equal to 6.25 per cent of the capitalised cost of the Convention Centre. The rental will increase each year in accordance with the CPI. The term is is 40 years. The Premier has previously estimated the Government's financial obligation in this respect as follows:

> The maximum financial obligation of the South Australian Government under the terms of the guarantee on the other facilities, including the Convention Centre and car park, is estimated to be $1.25 million in the first year.

In 1984, the Premier stated in Parliament:

> The Government believes that it is appropriate that this project be regarded as a Government development.

The Premier has recently conceded that there has been an enormous blow-out in the cost of the Convention Centre. I understand that the original estimated cost of the centre was $27 million. However, recent estimates suggest a blow-out in cost of more than 50 per cent, and this means that the Government will be paying at least $1 million additional rent each year, because of this blow-out. My questions to the Minister are:

1. Will she advise the Council of the final cost of the Convention Centre?

2. Will the additional rental payable be borne by the taxpayers of South Australia or will it be recouped in additional charges to users of the Convention Centre?

3. Does the Minister agree with the Premier's statement that the ASER development project should be regaraded as a Government development?

The Hon. BARBARA WIESE: I think the Premier has made very clear to the people who are responsible for its construction what the anticipated cost of the Convention Centre is and also what the estimated cost to the Government is, as far as we are able to predict it at this stage, by way of the leasing arrangements. I understand that the Premier has indicated that it is expected that the cost will be $66.6 million as at 30 June.

The Hon. L.H. Davis: That is the cost of the Convention Centre—$66 million?

The Hon. BARBARA WIESE: This is the Convention Centre. That is the cost as I understand it. When all the work is completed, including the work on the car park, etc., I understand that the infrastructure work will be valued at around $77 million. That is certainly more than the initially anticipated cost of the Convention Centre, estimated to be about $46 million. It is important for members to note that the Convention Centre we now have is a very different facility from the one that was initially planned, because as the construction proceeded all sorts of design changes were implemented to make the centre a more appropriate facility for the purposes for which we were trying to make it suitable. Indeed, the car park was extended to provide for an additional 400 cars, increasing the capacity from 800 to 1 200 vehicles.

In addition, a decision was also taken to undertake major works along the River Torrens, so, in fact, the sort of cost that we now anticipate derives from a number of factors, including the things that I have just outlined. They in fact significantly increase the value and change the facility considerably. It is estimated that the subsidy that the Government will be paying during the course of this financial year will be about $3.7 million, and one must consider the State's obligation to lease the centre and the car park and the common area land. I think that this subsidy cost must be compared with the value of the Convention Centre to the South Australian economy, and we have already estimated that the Convention Centre is likely to improve the South Australian economy by about $9 million during the course of this financial year.

About 235 000 delegates will attend conferences and other functions at the Convention Centre as a result of that facility being brought on line. The $9 million that will be injected into the South Australian economy by way of accommodation and other expenses that delegates will have while they are in Adelaide attending those conferences and conventions at the centre is a very significant amount. I think that all hotel operators around the city of Adelaide will say that they welcome very much the injection into their businesses that the Convention Centre is able to bring.

Any additional costs that have been brought about by the changes that have occurred must be offset against the very distinct advantages and the increase to the State's economy that the operation of this Convention Centre will bring. Therefore, I think that all members, as I am sure most people in South Australia, will agree that it has been a very worth while venture and something that is very much in the interests of the people of this State.

The Hon. L.H. DAVIS: I seek leave to make a short explanation prior to asking the Minister of Tourism a question about the Adelaide Convention Centre.

Leave granted.

The Hon. L.H. DAVIS: The Convention Centre has now been operating for three months. Understandably, there will be teething problems with any new complex. However, my attention has been drawn to a severe and continuing problem at the Convention Centre concerning the hiring of audiovisual equipment. The Convention Centre called tenders and appointed a firm as sole contractor for the supply of audiovisual equipment and labour. In other words, people hiring the Convention Centre and requiring audiovisual equipment have to use the centre's slide projectors, lighting and sound equipment and labour. This is in contrast to the Hilton International Hotel and Adelaide Festival Centre which both operate on a preferred contractor basis—that is, hirers of those venues have the option of using their own audiovisual equipment and labour or that of their chosen audiovisual firm.

I have spoken to seven well established and well regarded audiovisual firms in Adelaide who each make the point that the sole contractor arrangement is most unusual in Australia. It has been pointed out to me that if, for example, a firm wishes to put on a fashion parade at the Convention

Centre the rehearsals, audio, and lighting preparation will be undertaken away from the centre using that firm's chosen audiovisual company, but that they are now forced to use the Convention Centre's equipment and labour. Understandably, both the audiovisual firms and clients are not happy: the audiovisual firms that produce the show should have the right to stage it.

I understand that the Adelaide firm who handles the audiovisual contract for the centre did not have any great experience in providing audiovisual backup for conventions and conferences. It is certainly not regarded as a leader in this particular field in Adelaide. The cost of using its equipment and labour is high. In one case the audio and lights setup cost nearly $3 000 when an ouside firm could have done the job for $1 000 and the client could have been guaranteed the sound that he wanted and the operators who knew how to deliver it. This high cost reflects the fact that the Convention Centre appears to cost everything on a one-off basis. However, system hire, that is, the hire of several pieces of audiovisual equipment, should be much cheaper than one-off hire.

In another case, Madam President, equipment was plugged in incorrectly and not labelled and the person who had done the job had gone home, so creating a crisis and confusion. One audiovisual firm indicated that four major clients had decided not to use the Convention Centre because of this restrictive sole contractor rule. Another firm indicated that there were apparent inconsistencies in the sole contractor rule and that at least one client had made such a noise with Convention Centre management that he had been allowed to use his own audiovisual firm. My questions to the Minister are twofold:

1. Is the Minister aware of the shambles in audiovisual arrangements at the Adelaide Convention centre?

2. Will she immediately inquire into the sole contracting arrangements at the Adelaide Convention Centre and ensure that in future firms wishing to hire the Convention Centre are not disadvantaged by the sole contractor rule which presently operates?

The Hon. BARBARA WIESE: I do not believe that a shambles exists with the use of audiovisual equipment at the Adelaide Convention Centre. I am aware that a number of contractors were disappointed, understandably, that they were not successful in being granted the contract for audiovisual work in the Adelaide Convention Centre. That may be part of the basis of some of the criticism that has come to the honourable member's attention.

The Hon. L.H. Davis: What are the firm's credentials—do you know?

The PRESIDENT: Order! The Hon. Mr Davis has asked his question.

The Hon. BARBARA WIESE: The decision that was taken by the Adelaide Convention Centre management about the audiovisual contract was based on commercial principles. It was a very proper arrangement, as I understand it, and I will be happy to bring details of the circumstances of that appointment to this Council for honourable members' information.

The Hon. K.T. GRIFFIN: I ask the Minister of Tourism, as the Minister responsible for the administration of the Adelaide Convention Centre, the following questions:

1. Are there any formal or informal arrangements between the Government or any agency of Government and any union or the Trades and Labor Council relating to the operation of the Convention Centre? If so, what are the arrangements?

2. Has the Government or any agency of Government entered into any arrangement with any union or the Trades and Labor Council with respect to compulsorily requiring any person working at the Convention Centre to belong to a specific union or any union? If so, what are the arrangements?

The Hon. BARBARA WIESE: As I understand it, the arrangements for the employment of staff at the Adelaide Convention Centre are the same sort of arrangements that apply in any other establishment. Some members of the Adelaide Convention Centre staff are members of an appropriate union, depending on the area in which they work. As far as I am aware, no requirement exists for those people to compulsorily become members of an appropriate union but, if the honourable member has information about this matter that he would like me to investigate, I will be happy to do so.

The Hon. K.T. GRIFFIN: Will the Minister consider in more detail the questions that I have raised and, in due course, bring back a response?

The Hon. BARBARA WIESE: I will be happy to look at this matter in greater depth and, if anything should be reported to the Council, I shall certainly do so.

STRATHMONT CENTRE

The Hon. M.J. ELLIOTT: Has the Minister of Health a reply to a question in relation to Strathmont Centre that I asked on 27 August?

The Hon. J.R. CORNWALL: Yes. The honourable member raised a number of issues in relation to a very small group of residents at Strathmont who are extremely difficult to manage. For example, they assault other people, residents and staff, as well as mutilating themselves. It is also important to note that some parents of such residents find it extemely difficult to accept either the extent of their sons' or daughters' disabilities or the treatment they have received over a number of years. In one recent case a resident was assaulted by a staff member who was subsequently convicted of the offence and dismissed. This matter was reported by other staff at the centre, not by parents. It is Intellectually Disabled Services Council policy that any allegation of assault will be automatically referred to the police.

The parents of the resident who was assaulted have apparently not accepted that conviction and the dismissal of the staff member concerned as sufficient. They have waged an ongoing campaign through the SA Health Commission Patient Advisory Service, the Ombudsman and the media. Every allegation they have made has subsequently been investigated by the Chief Executive Officer (IDSC) and the Director (Strathmont Centre). The parents have also been involved recently in a meeting with staff to plan for their son's future management and expressed appreciation for this opportunity. In the case of another resident the father has been waging a campaign for several years through various authorities, including the Guardianship Board, to have his son's medication discontinued and that he be given marijuana instead. The father also regularly makes allegations against staff at Strathmont Centre and is in frequent contact with either the Director or the Chief Executive Officer of the IDSC.

I am providing this background information to put in context Mr Elliott's statement and questions on 27 August and to highlight the fact that he is referring to two or three of the most difficult-to-manage residents in Strathmont (the present population there is 500), whose parents have made allegations about both the treatment programs and the con-

duct of staff in a number of forums. Where allegations have been substantiated, as in the case of the assault, appropriate action has been taken. The cases of these residents are also regularly reviewed by the Guardianship Board.

Let me turn now to the specific issues that Mr Elliott has raised. He quoted figures in a journal which is seven years old about drug treatment at Strathmont Centre at that time. These matters have been addressed by the IDSC. A report was prepared for the board of IDSC in 1984 about drug administration and, as a result of this, several courses of action have been taken. I will outline four. They are:

1. There are now regular reviews of medication by medical officers and consultant psychiatrists, not just in Strathmont Centre but in community settings as well.

2. A pilot drug reduction program was commenced in one villa at Strathmont to replicate an overseas study. The results of this are about to be reported in the appropriate literature.

3. A case management program, known as General Service Planning, has been implemented at Strathmont in the past 12 months. This process involves all the relevant service providers, the resident, his/her family and advocates. The Guardianship Board is also involved where necessary. During a meeting all the relevant life domains (accommodation, day activities, health, relationships, etc.) are considered and a plan prepared for the next 12 months at the end of which time it is reviewed.

4. An ethics committee has been established at Strathmont to recommend, among other things, guidelines for physical and chemical restraint.

As a result of these activities there have been significant and permanent reductions in drug usage, both at Strathmont and community settings and, more importantly, a focus on the development of new programs in a range of major life areas. I am not prepared to comment on the individual instances referred to by Mr Elliott except to say that drug administration in those cases is regularly reviewed by a consultant psychiatrist from Hillcrest Hospital and overviewed by the Guardianship Board.

In relation to day activities, Mr Elliott has not presented the full facts. The figures he has quoted relate only to the Piddington School and Invicta Workshop. He has failed to take account of those residents who leave the campus each day to attend school in the community or Charles Blaskett Workshop. He has also failed to mention the very large number of recreation and leisure projects which have been developed both on and off the campus, the Naru Workshop and the gardening projects.

There is certainly room for expansion and improvement in the area of day activities for people with intellectual disabilities, not just in Strathmont Centre but across the whole South Australian community. This is a high priority for both the State and Commonwealth Governments. However, it will not happen overnight and services can only be developed as funds and resources allow.

I am advised by the Chief Executive Officer, IDSC, that Mr Elliott was given a comprehensive background briefing by the Director, Client Services, on 16 June 1987, about the issues which he has raised. He was also invited to contact and meet with the Director, Strathmont Centre, to discuss any individuai allegations and complaints which might have been made to him and to meet with the residents concerned. To date he has not done so and this, along with the way in which he has now raised these matters, suggests that he is endeavouring to make political capital out of a situation which is sensitive, difficult and complex.

I am also concerned by the fact that in focussing on the negative, and utilising misleading and out-of-date information, Mr Elliott is overlooking the extensive developments in the field of intellectual disability which have occurred during the past five years. For the information of the Council I seek leave to table an extract from IDSC's Corporate Directions which summarises some of the achievements of these past five years.

Leave granted.

The Hon. J.R. CORNWALL: This highlights the work that has been done by IDSC and the commitment of the South Australian Government to the development of better services for people with an intellectual disability. In 1987-88, in a time of considerable economic restraint I have been able to allocate $160 000 additional funding to commence the devolution of Ru Rua Nursing Home residents into community-based acccommodation.

To summarise, Mr Elliott has raised a number of issues in what appears to be an attempt to bring discredit to Strathmont Centre and the IDSC. He has quoted out-of-date figures and utilised two or three complaints which have already been extensively investigated to suggest that there are widespread practices of over-medication and denial of rights. He has been invited by IDSC to go and see the situation for himself and discuss the allegations but has not done so. I leave members to decide for themselves his motivation in raising these issues in this manner.

The Hon. M.J. ELLIOTT: I ask a supplementary question. Is the Minister prepared at this time to table the level of drug usage at Strathmont?

The Hon. J.R. CORNWALL: I am not prepared to table individual medical records in this Chamber. That is an outrageous request and I treat it with the contempt it deserves.

CHILD SEXUAL ABUSE

The Hon. CAROLYN PICKLES: I seek leave to make a brief statement before asking the Minister of Health a question about child sexual abuse.

Leave granted.

The Hon. CAROLYN PICKLES: In the Legislative Council on 18 August 1987 the Minister of Community Welfare and Health was asked a question about child sexual abuse by the Hon. Mr Elliott. During the course of his question Mr Elliott suggested that an extract from what he described as a 'transcript of evidence' could indicate that a Department for Community Welfare officer was involved in the emotional coercion or bribery of a six year old child. Although the Minister undertook to prepare a confidential report on this case I note that it received publicity the following day in the media and that the Hon. Mr Elliott was extensively quoted. In view of the adverse publicity which the Department for Community Welfare and its workers receive when cases such as these are brought up in Parliament, will the Minister place on the record the facts relating to this accusation?

The Hon. J.R. CORNWALL: I regret to say that in this case Mr Elliott appears to have indulged in headline seeking at the expense of the department and the officer concerned. When he asked his question and quoted from a transcript of evidence I immediately challenged the basis of that sort of approach. I objected then—and I do so now—to members deceiving the Council and the public by raising horror stories which deliberately distort child sexual abuse cases. By selectively quoting from the transcript under the guise of concern for the community, this self-styled health teacher for five years smeared the department and the officers concerned. We are becoming used to the detestable behav-

iour of members opposite, like Dr Ritson, who changed his tune once his phony version was exposed, but we are not accustomed to such behaviour from the Australian Democrats.

Mr Elliott, who was full of protestations when I outlined the damage his behaviour could cause, said during his personal explanation that he was worried by a case determined by the courts in which 'some innocent people who have been found not guilty have been denied access to the children'. This is patently false.

The case which was cited by the honourable member concerned an application to the Children's Court by the Minister of Community Welfare for a declaration that the child was in need of care. Mr Elliott knows perfectly well that it is highly improper to divulge details of evidence before the Children's Court, yet he chose, by his own account, to read an extract from the transcript of evidence. I want members to know that the selective quotation of this passage and the interpretation which Mr Elliott elected to place upon the words is a gross distortion of the proceedings before the court. Unfortunately, I cannot counter his remarks by reading from the record myself: the Crown Solicitor has advised the Chief Executive Officer of the Department for Community Welfare that we ought not to compound Mr Elliott's error. The Children's Protection and Young Offenders Act prohibits the publication of reports of proceedings relating to the protection of children who are in need of care. However, the magistrate, as has been disclosed already, made a declaration that the child was in need of care.

I am prevented by the legal constraints I have mentioned from explaining to members and the public why the magistrate reached this conclusion, but I can say that no criminal proceedings could be taken against the father because of the present restrictions on giving of evidence by children under the age of 10. I am in no doubt, as Minister of Community Welfare, that if those restrictions did not exist a prosecution would have been launched.

With regard to the specific allegation that a Department for Community Welfare officer may have emotionally coerced or bribed the child through the purchase of shoes or the gift of money, that is utterly denied. I am advised that the officer involved was the case worker reponsible for the care of the child. A pair of shoes was supplied for the simple reason that the child's shoes did not fit. As the child was under the interim guardianship of the department it was perfectly proper that shoes should be bought for her. I am further advised that the DCW officer did indeed provide the child with about 20 cents for an iceblock.

It is unfair of Mr Elliott to suggest these actions reflect upon the department or upon the ethics or professionalism of its officers. In fact, this child—who has suffered in the manner described in the magistrate's judgment—had come to associate love with gifts. It is entirely understandable that such a child could associate the gift of money for an ice block with her affection towards a case worker. In any event, it is not possible to convert the simple humanity of a DCW case worker buying a child an ice block near Christmas time with coercion or bribery to concoct evidence and it is totally disgraceful of the Hon. Mr Elliott to have embarked on such a course. In fact, the shoes were provided, and the ice block was bought, after the taking of certain evidence to which Mr Elliott referred.

There are distressing similarities between the misuse of information by Dr Ritson and Mr Elliott. As part of my rebuttal of the attack made by Dr Ritson I was able to quote from the impartial findings of the Ombudsman. In this case, too, complaints about the Department for Community Welfare and two of its officers were taken to the Ombudsman. Allegations were made concerning 'oppressive conduct and treatment by' two DCW officers. Once again, the officers were exonerated. On this occasion the Ombudsman found there was 'no error, wrong or unreasonableness or other form of maladministration on the part of those officers or of the department in their dealings in this matter'.

As a direct result of Mr Elliott's manoeuvering to get himself media coverage, the Adelaide *News* published a four column headline on 20 August which read: 'Child "paid" for sex abuse statement'. The story quoted by Mr Elliott as saying that what he described as 'the incident' highlighted the need for extreme care in the handling of child sexual abuse cases. He was also quoted as saying that he would support child sexual abuse legislation before the Parliament this session which, he hoped, would 'rid the system of incidents like the one he raised'.

Mr Elliott finds himself exposed. He certainly achieved the media coverage he was seeking by piggy-backing on Dr Ritson's performance and purporting to raise this so-called 'incident' as a matter of public concern. In his personal explanation he sought to portray himself as a sensitive, concerned member of Parliament—'Something has been brought to my attention which is worrying me and I therefore raised it with the Minister', is what he said. Unfortunately for him, that is exactly what he did not do. He did not come to me on a confidential basis—as he could have done—to raise his concern. Instead he indulged in a headline-seeking exercise in the Parliament.

I understand he now claims to have been misquoted by the *News*. He has certainly not been misquoted in *Hansard*. If he is genuine in his professed concern for innocent people he will withdraw the charges he made against the department and the case worker concerned. I invite him to demonstrate his good faith by apologising forthwith. If he does so at least he will divorce himself from members opposite who refuse to retract and apologise even when the officers they have named and defamed are exonerated by independent, impartial authorities. I do not see how he can, in good conscience, do less.

PERSONAL EXPLANATION

The Hon. M.J. ELLIOTT: I seek leave to make a personal explanation.

Leave granted.

The Hon. M.J. ELLIOTT: When I raised this matter I was attempting to raise the issue of the need for protocols which determine behaviour. I said at the time that it was not clear whether or not there had been misconduct, but the child's words could have been construed one way or the other. I do not know what was going through people's minds when that occurred. I have spoken with officers involved with the legislation to come before us soon and they agree that current protocols are inadequate. That was the issue I was trying to raise, yet the Minister has entirely misrepresented what I was trying to do, probably because he assumes that every time a matter is raised in this Council he is being attacked. I was not trying to do that at all—I was merely trying to raise a question and act in a constructive manner.

CHILD SEXUAL ABUSE

The Hon. DIANA LAIDLAW: I seek leave to make a statement before asking the Minister of Community Welfare a question about child sexual abuse.

Leave granted.

The Hon. DIANA LAIDLAW: I have received a copy of a letter dated 15 July 1987, signed by the Crown Solicitor, C.M. Branson, to a company of barristers and solicitors representing the parents of a child alleged to be the victim of mistreatment, neglect and sexual abuse. At the time the child, a girl, was in the care of the Minister by reason of an interim order made under section 12 of the Children's Protection and Young Offenders Act. Earlier she had been assessed by a psychologist and had attended the Adelaide Children's Hospital Department of Psychiatry on three occasions where she had received therapy, notwithstanding the fact that sexual abuse was alleged and had not yet been proven.

Counsel for the accused parents had sought from the Crown Solicitor direction in the matter of the parents obtaining a second psychiatric assessment of their daughter. The Crown Solicitor replied:

> I am instructed that the department does not, in principle, object to your having the child examined by a psychiatrist but the department insists that the person chosen must be a paediatric psychiatrist who is female.

I ask the Minister:

1. How long has it been the policy of the Department for Community Welfare to insist that a psychiatrist assessing a female child alleged to be a victim of sexual abuse be a paediatric psychiatrist who is female?

2. Is the Minister aware that in South Australia there are at best five or six female paediatric psychiatrists?

3. If so, does the Minister accept that the DCW's policy in this respect will impose unacceptable delays in assessing potential sexual abuse of children who are female and that that would be a disadvantage to the children, considering the increase in the number of notifications of suspected sexual abuse, the time required for each assessment to be undertaken in a manner acceptable for presentation before the courts and the length of time persons conducting assessments must sit before the court while evidence is taken at committal hearings and trials? Further, I understand that two senior female paediatric psychiatrists have recently stated before the court that they are not prepared to conduct investigative assessments as required by the courts, so that reduces the number available even further.

4. Does the deparment insist that male victims of child sexual abuse be examined only by a paediatric psychiatrist who is male?

5. Has the Department for Community Welfare obtained an exemption under the Equal Opportunity Act in respect of its policy of insisting that only female paediatric psychiatrists examine a victim of child sexual abuse?

The Hon. J.R. CORNWALL: I can only repeat what I have said in this place on numerous occasions whenever members opposite have tried to make political capital out of the very serious and vexed problem of child sexual abuse. I think it is disgraceful. Again, clearly, this is a matter that Ms Laidlaw could have taken up with me or indeed with any of the senior officers in my department.

The Hon. R.I. Lucas: What is the Parliament for?

The Hon. J.R. CORNWALL: The Parliament is not to drag in cases and allegations; it is not here to drum up allegations—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. J.R. CORNWALL: I never raised an issue of child sexual abuse in the entire time that I was in Opposition—never.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I did not act like a contemptible voyeur—contemptible voyeurs, that is what they are, trying to make cheap, dirty political capital out of cases of child sexual abuse and allegations of child sexual abuse. I have not seen the letter which the Crown Solicitor, Ms Branson, wrote. Let me say at once, however, that I have the highest regard, professionally and personally, for Ms Branson. I believe that she is one of the outstanding appointments of this Government. But let me refer—

The Hon. R.I. Lucas: It had nothing to do with you.

The Hon. J.R. CORNWALL: You can always tell when they are injured by the way in which they scream.

Members interjecting:

The Hon. J.R. CORNWALL: I have an answer all right.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order, Mr Lucas!

The Hon. J.R. CORNWALL: Since the Hon. Mr Lucas chooses almost daily to carry on in this despicable fashion, let me give the Council just some examples of the sorts of things—

An honourable member interjecting:

The Hon. J.R. CORNWALL: Why don't you shut up—with which my field staff in the Department for Community Welfare have to deal daily: three, four and five-year old girls with gonorrhoea, and three, four and five year-old girls who have been sexually interfered with with spoon handles, knife handles, and various other objects, to mention just two. I am distressed to have to raise that, but that is the reality; that is the sort of thing with which officers in the Department for Community Welfare and officers in some of my health agencies are confronted on a daily and weekly basis—and people like Ritson, Elliott, and now Laidlaw, come into this place and try to make political capital out of it. It is both despicable and disgraceful.

Members interjecting:

The Hon. J.R. CORNWALL: Now the Hon. Ms Laidlaw asks whether it is policy for a senior officer or officers of the department to insist that a young girl, if indeed she is to be assessed, should be assessed first by a paediatric psychiatrist—and the overall answer to that is 'Yes'. I find it quite unexceptional to believe that, if that assessment is to be carried out, it ought to be done by someone who is a specialist in child psychiatry. Fortunately, because of the manner in which we have been able to upgrade the child and adolescent mental health services in this State, increasing numbers of specialist child psychiatrists are available.

The Hon. Diana Laidlaw: Female?

The Hon. J.R. CORNWALL: Secondly, the honourable member asks whether, in relation to a little girl who is a suspected victim of child sexual abuse, it is reasonable for the department to insist that the assessment ought to be done by a female. I will speak in generalities; I certainly will not speak about the particular case referred to. It is not my custom, and it never will be, to bring individual cases into this place, as some members opposite have done. But let us speak in generalities.

If it is suspected that a little girl of four, five or seven has been sexually interfered with, who has been raped, who may have been the victim of incest and all sorts of depredations, is it reasonable, the honourable member asks, for the department to insist that the child be assessed by a female child psychiatrist, and my answer to that is 'Yes', and the answer of every decent South Australian would be 'Yes'. I repeat what I have said on so many other occasions in this place, and I make this appeal to members yet again: that, if they have any vestige of decency left in them in relation to these matters of child sexual abuse, for heaven's

sake, will they come to me, or go to my Chief Executive Officer.

The Hon. Diana Laidlaw: We have been to you, and you have never acknowledged us.

The Hon. J.R. CORNWALL: You have never been to me; you have never approached me personally on a matter of child protection, on a matter of child abuse, never mind a matter of child sexual abuse—and you know very well that you have not. If, in fact, you have matters that are causing you concern, then for heaven's sake come to me or go to my Chief Executive Officer, Sue Vardon, or come to both of us.

The Hon. Diana Laidlaw: I have come to you and all you have done is abuse me.

The Hon. J.R. CORNWALL: You have never come to me on a matter of child proection—never. Don't tell lies here or anywhere else. You have never been to me on a matter of child protection, and I challenge you: have you ever been to me on a matter of child protection? The answer is 'No', so stop acting despicably. Stop trying to dredge up some sort of dirty political capital out of child sexual abuse. In future—

The Hon. R.I. Lucas: Your blood pressure is going up, John!

The Hon. J.R. CORNWALL: My blood pressure is perfectly under control. If in future the Hon. Mr Lucas—he of the supple loins, who has been in the gutter a time or two with the things that he has dredged up in here, too, and who presumably will be the next to come off the rank—has matters concerning child sexual abuse to raise, for heaven's sake I urge him to come to me or to go to my Chief Executive Officer and not to act in such a despicable and dirty way as to come in here and try to make cheap political capital of it.

The Hon. DIANA LAIDLAW: By way of a supplementary question, Ms President: has the department obtained an exemption under the Equal Opportunity Act in respect of its policy of insisting that only female paediatric psychiatrists examine a victim of child sexual abuse?

The Hon. J.R. CORNWALL: I would be very surprised if they required an exemption, Ms President.

The Hon. Diana Laidlaw: The DCW doesn't need to abide by any rules?

The Hon. J.R. CORNWALL: Well, Ms Laidlaw says that the DCW does not need to abide by any laws.

Members interjecting:

The Hon. J.R. CORNWALL: They don't abide by any laws, she says.

The Hon. R.I. Lucas: Don't distort it.

The Hon. J.R. CORNWALL: She says that they don't abide by any laws.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Of course the department abides by all the rules, and I am very proud of all my officers in the Department for Community Welfare. I am very proud of my officers in the Department for Community Welfare who handle some extraordinarily—

The Hon. R.I. Lucas: If that's the case then it must be the Minister's fault.

The Hon. J.R. CORNWALL: No, I am just thinking of what a silly sort of budgerigar you are. You have done nothing but chirp this whole session. You have not made one worthwhile contribution in the whole time. The Opposition says that it wants to get him into the other House—may God help us!

The Hon. R.I. Lucas: I said I wouldn't go unless I could take my punching bag Cornwall.

Members interjecting:

The PRESIDENT: Order! A supplementary question has been asked and the answer is being given. Interjections must cease.

The Hon. J.R. CORNWALL: I am not a lawyer. Again, obviously, I do not think that Ms Laidlaw is fair dinkum, nor does she have any understanding about the portfolio. Of course, she is a joke around the traps. I do not think that, with her background, she is considered to be sensitively in touch. She does not have the sort of background that one would expect from a person who could be sensitively in touch with the sort of matters with which the Department for Community Welfare deals on a daily basis.

I would think that it is most unlikely that under the Equal Opportunity Act an exemption is necessary, but obviously, if Ms Laidlaw wants legal opinion, she should not ask the Minister of Community Welfare but, rather, she should ask the Attorney-General.

POLICE HARASSMENT

The Hon. I. GILFILLAN: I seek leave to make a short explanation prior to asking the Attorney-General a question about police harassment of Mr Grey.

Leave granted.

The Hon. I. GILFILLAN: The Council will recall that on 7 April I asked the Attorney-General a series of questions relating to police harassment of Mr Gerry Grey and I received a written response dated 21 May from Mr Bitter, the Secretary to the Attorney-General, as follows:

> The Minister of Emergency Services has informed the Attorney-General that the Commissioner of Police has received a separate complaint through the Police Complaints Authority concerning the allegation of police harassment of Mr Grey. The Internal Investigation Branch of the South Australian Police Department is currently conducting an investigation within the terms of the Police (Complaints and Disciplinary Proceedings) Act 1985, and will furnish a report to the Police Complaints Authority. Mr Grey will be advised of the outcome of the inquiry in due course.

I have received some signed affidavits from people who have known Mr Grey. The first affidavit I have is dated July 1985 and I have four or five others which indicate various incidents concerning police harassment. Further, I indicate that Mr Grey had a change of location. In 1985 and through a portion of 1986 he lived at Duthie Street, Ferryden Park, and he then moved to Leah Street, Forestville.

Since my last question there have been multiple sightings of police vehicles outside Mr Grey's home in Leah Street. In fact, from 20 March to 10 May—a period of only seven weeks—there were 31 visits by nine vehicles. The first affidavit I have is dated July 1985, and it states:

> At approximately 9.30 a.m. on 26 July 1985 I learned that Mr Grey had been dragged from the front driveway of his home by two uniformed police officers who placed him under arrest and detained him at Port Adelaide Police Station.
>
> At approximately 12 noon upon Mr Grey's return home I observed Mr Grey in a state of confusion and dishevelled appearance. I also observed a bruise on his forehead which he claimed was the result of assault by police.
>
> Upon questioning Mr Grey as to the reason for his arrest Mr Grey replied that he had no knowledge whatsoever of the reason why nor was he in possession of any documentation relating to his arrest, appearance in court and subsequent release.

A further affidavit dated September 1985 states that, after having observed various activities around Mr Grey's home and going to court with him:

> I feel compelled to state that I consider a grave miscarriage of justice has and is occurring and that due to the incidents I have personally been involved in with Mr Grey and the fact that I am aware of Mr Grey's recent past experiences strongly indicates

there is a conspiracy against Mr Grey. This opinion is based mainly on the following:

(a) On 1 December 1983 Mr Grey was charged with assault, possession of an offensive weapon and damage to property.

(b) On or about 29 September 1984 all charges were dismissed and costs awarded against police when police prosecutor stated 'no witnesses were available, police officers concerned had lost their note-books' and 'it appeared' he had 'misplaced his brief'.

(c) This, after much discussion of withdrawal of charges and order of restraint, providing Mr Grey agreed not to seek costs against police.

(d) The charges currently faced by Mr Grey involve the same informants.

(e) I note the police declined to appeal against the decision of the court made on or about 29 September 1984.

Another affidavit dated December 1986 stated:

On or about 24 December 1986 at approximately 6 p.m. I was threatened by a police officer who stated I would be placed in custody if I continued to be involved with Mr Grey. This incident took place at the rear of Mr Grey's home.

That affidavit indicates the number of the police officer who the deponent believes was involved. Another affidavit dated March 1987 states:

In 1987 I attended the Adelaide Magistrates' Court to give evidence on behalf of Mr Grey when I was informed by Mr Andrew Gudek solicitor acting for Mr Grey that he considered the outrages and allegations against Mr Grey and the court to be a conspiracy against Mr Grey.

I have been advised that the case concerning the restraining order, which is the current charge against Mr Grey, since 7 July, at the request of the police—who claim that the complainant requires important hospital surgery—has been adjourned on at least six occasions. Further, the police claim that another witness has been unable to attend. This is an indication of the long and drawn out series of adjourned, postponed and delayed actions.

The PRESIDENT: I point out that there are only 60 seconds left of Question Time.

The Hon. I. GILFILLAN: The reason that I raise this question now is that on Saturday Mr Grey was arrested and charged with having reversed his car over a pedestrian. On that occasion three cars and eight plainclothes detectives armed with guns and iron bars were there to arrest him and the police threatened to shoot his dog. He went to court on Monday, but his case was not listed: he was told to go home and forget it. He refused to do that, because similar things have happened before. I will make all the material that I have available to the Attorney-General, but will he investigate this situation of alleged police harassment of Mr Grey as a matter of urgency? Will he ascertain at what stages are the two inquiries into this matter: namely, the Police Complaints Authority and the Internal Investigation Branch of the South Australian Police Department? When are those two inquiries expected to be finalised?

The Hon. C.J. SUMNER: I suggest that the honourable member provide me with whatever information he feels is relevant to the question he has asked. As the honourable member would know, the Parliament has established a procedure whereby complaints against police are to be pursued, that is, through the Police Complaints Authority. Apparently a complaint has been lodged in this matter and is subject to investigation by that authority.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: The honourable member interjects and says that he will not know until next year. It is not a matter for me to investigate in those circumstances because an independent body has been established to examine complaints against police officers. However, I will certainly refer the honourable member's question to the appropriate Minister and attempt to get answers to questions raised by him as to where investigations in relation to this matter currently lie.

AUDITOR-GENERAL'S REPORT

The PRESIDENT laid on the table the Auditor-General's Report for the financial year ended 30 June 1987.

JUSTICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 315.)

The Hon. K.T. GRIFFIN: This Bill is one only of what is expected to be a series of three or four amending Bills dealing with child sexual abuse. In March of this year, a second draft of a Bill from the Attorney-General's office was circulating. That Bill covered amendments to the Justices Act, the Evidence Act, the Community Welfare Act and the Children's Protection and Young Offenders Act. Both the first and second drafts of that composite Bill were subject to considerable criticism—some saying they went too far, others saying they did not go far enough. The proposal for one Bill was appropriate because all of the Acts proposed to be amended were inter-related. Now, we have before us only amendments to the Justices Act dealing with one small segment of the law relating to child sexual abuse. We are told that amendments to the Evidence Act, presumably relating to the competence of children to give evidence, and amendments to the Community Welfare Act, presumably relating to children in need of care, may follow later during this session. But we do not know what is proposed. That is a disappointment and also makes it difficult to assess the whole scheme. One ought to be able to see what plan the Government has for dealing with the whole area of child sexual abuse and not focus on one small part of a much wider issue. All of the legislation being on the table would give a coherent view of what is proposed, rather than the piecemeal approach which is now envisaged with this Bill being the first in a series.

It is important to remember that the Task Force on Child Sexual Abuse was established in October 1984, published a discussion paper and presented its report in October 1986. The Bill before us was introduced only on 19 August 1987—less than three weeks ago. The Opposition has endeavoured to consult a wide range of interests on the Bill with a view to debating it this week. Earlier this year, the Attorney-General offered me a copy of the composite Bill to amend the Justices Act, Evidence Act, Children's Protection and Young Offenders Act and Community Welfare Act on a confidential basis, but I declined that offer.

If I had accepted the draft Bill on those terms, it would have precluded any public discussion by me on that issue if discussion had become necessary or been requested. Having regard to the criticism levelled by the Attorney-General at Mr K.V. Borick, the Chairman of the Criminal Law Association, in relation to his public comments on an earlier draft Bill, one can see that my comment on any Bill which the Attorney-General had made available to me on a 'confidential' basis would have been met with the same caustic criticism. However, it is interesting to note that the Law Society President, at about the time the Attorney-General was criticising Mr Borick, also made observations publicly on the draft Bill which the Law Society had received. On

an issue so serious and sensitive as this, it is ridiculous to try to stifle public discussion on any draft Bill which may be prepared and circulated to selected groups.

I would have thought that, in the interests of justice and of children alleged to be victims of sexual abuse, it would be important to have public discussion on legislation and that any such draft should not be regarded as confidential but should be used as part of the process of developing a coherent and reasonable legislative approach to dealing with child sexual abuse. The area is a highly emotive one and it is obvious from the large amount of public debate on the issue here, interstate and overseas that it is one fraught with difficulties—on the one hand to ensure that a child who is a victim of child sexual abuse is protected from the situation of abuse at the earliest possible time while, on the other hand, ensuring that an alleged offender is treated justly. There are a variety of views of what is happening at the present time. There are some who say that allegations of child sexual abuse are being used vindictively in the context of arguments between separated mother and father about custody and access. There are some who say that children are being manipulated in the interests of one party against the other, or that the Department for Community Welfare is too interventionist and presumptuous.

There are those who say that the children are being snatched out of their home environment, put into foster homes and brought under the guardianship of the Minister without an adequate assessment of the consequences for that child or the child's family or as to whether the allegations of child abuse are reasonably reliable and factual. Different considerations apply in the Family Court, in the Children's Court and in the criminal justice system. Conflicts arise between the Family Court and the Children's Court, conflicts which are not likely to be resolved in the short term. A major issue is the adequacy of interviewing techniques and the recording of interviews.

There is debate as to whether the criminal justice system should be the principal vehicle for dealing with allegations of child sexual abuse or whether alleged offenders should be 'diverted' from the criminal justice system, implying that if the latter course is followed the same standard of proof, 'beyond reasonable doubt', will not be required to establish guilt, that the protections of the criminal justice system to an accused person will not be maintained, and that the sexual 'offence' will no longer be regarded as a crime. It is my strong view that allegations of child sexual abuse must continue to be dealt with in the criminal justice system and greater attention must focus on the collection of evidence and the taking of statements from children.

In this context it is of interest to note the statements the Chief Justice of South Australia, Justice King, when he spoke to a Crime Prevention Seminar on Criminal Justice, several weeks ago. Among other things he said:

> An important aspect of the role of the courts in the years ahead will be to maintain a rational and dispassionate attitude to the administration of justice in the face of the emotions aroused by public concern at the incidence of crime. The past decade has witnessed mounting pressure by special interest groups on Govenments and Parliaments to dismantle many of the safegards which the law has erected against injustice. There have been significant legislative changes to criminal law and procedure in response to such pressures in recent years, whose purpose is to reduce the prospects of acquittal. Perhaps the changes that have been made are justified. But the process has to be carefully watched. It would be a grave reproach to our system of criminal justice if it degenerated to a point at which our desire to ensure that the guilty are convicted and punished allowed us to tolerate substantial risks of the conviction and punishment of the innocent. Fear produces hardening of attitudes and fear of crime may produce insensitivity to injustice. It is the responsibility of the judiciary to defend the integrity of the process of justice against encroachments born of fear and prejudice which might have the effect of imperilling the innocent.

So the challenge for those involved in the detection of child sexual abuse cases, the taking of statements, the assessment of allegations and the prosecution of cases is to ensure that skills for investigating are highly developed, that the investigations are properly coordinated and that all of the investigations are fully and accurately documented. While one could make observations about particular individuals involved in the assessment of cases, this is not the appropriate time to do that. Suffice to say that a major difficulty in the criminal justice system in dealing with allegations of child sexual abuse is the inability of medical practitioners, social workers and others to appreciate that courts deal—and must do so—in facts, not supposition or hearsay, and that if a person's liberty is to be under threat it is basic that the rules of evidence be complied with and that proof be established by the prosecution beyond reasonable doubt. That may be distressing to some people, but it is an essential safeguard against improper removal of a person's liberty.

It is obvious that in some cases medical practitioners making examinations or social workers dealing with children in respect of whom allegations of sexual abuse are made are not attuned to the need to keep accurate records (questions, answers, responses and observations). Unless there is a much more disciplined approach to evidence recording, there will not be many successful prosecutions. A great deal of the problem can be overcome at the very first point of an allegation of child sexual abuse being made, and proper records being kept of all stages of the investigation of the case.

Video recordings may well play an important part in the interview of alleged victims and of suspects. The video camera does record accurately not only the questions and answers but the inflection in the voice and the visual reactions. However, there are some difficulties with it, particularly with young people because of their movements around an interviewing room. Even audio recordings would be an advance on some of the efforts so far. When the statements are taken it is important for the hearing to be completed at the committal stage as quickly as possible. Similarly, if a case to answer is found by the magistrate, the trial ought to be dealt with quickly. The 1986 report by the South Australian Government Task Force on Child Sexual Abuse focuses on the need for early resolution of allegations of child sexual abuse. That early resolution is important in all criminal cases but, where young children are alleged to be victims, it is doubly important that their cases be resolved at the earliest opportunity. As time passes, recollections dim and facts become overlaid with interpretations and other persons' observations. The task force points to delays of two years from charge to trial and that is intolerable. The task force recommends that the ideal is three months from the charge to the committal proceedings and three months from the committal to the trial. I share the desire of the task force to have an early resolution of these matters.

One might also say, in the context of delays, that it is quite unacceptable that an application in the Children's Court for an order that a child is in need of care should drag on for long periods as they have done. Sometimes they are adjourned at the request of the Department for Community Welfare. Sometimes they are adjourned because the court cannot fit in the full hearing. Those cases drag on for well over a year and in that time children are separated from one or both parents and, while the emphasis ought to be on healing the broken relationships and protecting the child, one has to question whether the long delays satisfactorily deal with the consequences of an application for an order that a child is in need of care. Delays are traumatic

for both parents and the child and ought not to be tolerated except in the most exceptional circumstances.

I now turn to the Bill. Under the present section 106 of the Justices Act, where a person is alleged to be a victim of a sexual offence, it is possible for that person's statement given to police to be handed up to the magistrate at a committal proceeding, provided a declaration is made by the person making the statement that it is true. It is proposed that the same procedure now be adopted for a child under 10 years. At the moment there is doubt whether or not a statement by a child under 10 can be handed up. Under the present law, the child must be called at the committal proceeding if the matter is to proceed and be subject to cross-examination. Some persons with whom I have discussed the Bill have criticised the procedure of handing up statements where the witness is only to be available for cross-examination in 'special circumstances'. I do not propose to express a view on the procedure. It is now an established procedure and has been so for some years. It is appropriate that, in order to relieve stress on a child alleged to be a victim of child sexual abuse, some procedures be adopted that minimise appearances in court and the times when cross-examination occurs. It has also been put to me that 'special reasons' are interpreted as 'top of the range' reasons and that in consequence few alleged victims are called at the committal stage. The proposal has been made that the criteria should be reduced to 'sufficient reasons'. Whatever the merits or otherwise of that proposal I do not believe it to be appropriate for that broader issue to be canvassed in the narrow context of this Bill. However, one lawyer, writing on this subject, has said about this procedure:

> Ironically, some defence counsel feel that these provisions are of great advantage to their clients as the alleged victim gives evidence for the first time in the jury trial and the elements of surprise, lack of familiarity with the proceedings and the procedure and other similar considerations can operate heavily against the prosecution.

The Bill provides that where the witness is a child the statement to be handed up may be in either of two forms. It can be a written statement taken down by a member of the Police Force at an interview with the child and verified by affidavit of the member of the Police Force as to the accuracy of the record. Alternatively, it can be in the form of a videotape record of an interview with the child which is accompanied by a written transcript verified by an affidavit by a member of the Police Force as an accurate record of the interview. Where the statement is handed up, the alleged victim is not to be called or summoned to appear at the committal unless the magistrate is satisfied that there are 'special reasons' for the oral examination of the alleged victim. This latter provision, as I have already indicated, is an extension of the position with adult alleged victims of a sexual offence to children under 10.

It is important that any statement (whether written or videotaped) not be edited. In the task force report at page 217, the task force makes some comments about videorecorded statements:

> The task force acknowledges that there are a number of possible disadvantages associated with the videorecorded statements. The child may volunteer information that is detrimental to the case and which cannot be edited or the videorecording may give a wrong impression of the child. The expertise of the interviewer can be crucial as the videorecording may lose its impact if it is made up of a series of leading questions to the child. The interviewer's role in developing techniques which would minimise stress for the child and ensure that the child is not intimidated by the videorecording process is also seen as very important.

It is extraordinary that there is any suggestion that anything detrimental to a prosecution case might be edited out or that the emphasis of any investigation should be directed towards getting convictions at any cost rather than determining the truth of the matter.

The Hon. R.J Ritson interjecting:

The Hon. K.T. GRIFFIN: Leading questions are also a relevant consideration and relate to the technique of questioning children with respect to their allegations. There is no difficulty with the written statement taken down by a member of the Police Force except that it is not clear whether or not that is to be a verbatim statement; that is, questions and answers. My preference is for it to be clearly stated that it is a verbatim record of the interview. That ensures accuracy of the context in which statements are made. It also minimises the opportunity for criticism to be made of the statement that is handed up. One knows that it is possible to leave out material which the interviewer might regard as being unrelated to the topic under examination but which may assist in putting questions and answers on other issues into a more appropriate and balanced context.

With respect to videotaping, I must say that I am surprised that it does not extend also to audiotaping, which might be a good halfway measure. At least there would be accuracy in the recording of questions and answers, particularly where those questions are asked by a person other than a trained police officer. I recognise that there may be difficulty with verification of the tape, particularly audiotape, although some systems are available which claim to be tamper-proof.

The Bill does not indicate clearly that the police officer making the affidavit as to the accuracy of the transcript should be the police officer actually present at the interview which is videotaped. It is also not clear whether or not that interview may be conducted by some other person, such as a medical practitioner or social worker, and whether or not it is to be in the presence of a police officer making the videotape. As drafted, the clause is open to the interpretation that the police officer need only check the transcript of the video with the videotape and, if that is proposed, I am of the view that it is much too limited. This issue needs clarification and it may be appropriate to amend it to ensure that it cannot be misinterpreted, that is, the transcript should be verified by the police officer who made the videotape and was present during the interview. I think that is an appropriate way to deal with this issue.

Some people who have commented on the Bill have indicated that a videotape record is an appropriate way to go, but that the provision of a transcript might lead a magistrate to take short cuts to read the transcript without viewing the context in which the spoken word was uttered. I have some sympathy with that view, but I think that the transcript is important. Videotaping is in its infancy and a pilot program is currently being conducted by police. I hope that that program can be extended to alleged child sexual abuse cases.

I refer to one other issue and that is that the amendment relating to the statements of children go beyond the prosecution of cases of child sexual abuse. I have some reservations about that matter. I ask the Attorney-General why that is the position—why should the provision in the Bill not be limited to sexual offences, reviewing the effectiveness of that application before extending it to cover all criminal activity? The Bill comes before the Council on the basis that it essentially deals with child sexual abuse involving children under 10 years of age. I think it is appropriate in the present context to limit the handing up of statements to those cases in which the allegation is that the child is a victim of a sexual offence.

I turn now to the way in which these cases are handled. The recommendation of the task force is that there should be a minimum of five persons within the Crown Prosecutor's office of the Attorney-General's Department to be appropriately trained to undertake the prosecution of all cases of child sexual abuse. It has been put to me, and I tend to the view that, where the police intend to prosecute an allegation of child sexual abuse where the child is under 10, the Crown Prosecutor ought to be the prosecutor at all stages. If the statement of a four or five year old is handed up at committal, the Crown may later decide that the child is too young to go into the witness box at the trial, that decision being taken by balancing the interests of the child against the desire of the family and friends to push the issue to a conviction, regardless of the detrimental long-term effects on the child. When a child gets into the witness box it is incumbent upon the defence lawyer to test that child's statement and to determine whether or not the child is telling the truth. That necessarily means that the statement tendered at the committal proceeding must be tested, and the child may in fact get the impression that he or she is not believed. That is adverse to the long-term interests of the child; the child needs to be believed.

So, weighing up all of the considerations, putting the interests of the child foremost, it is likely in many instances where a four or five year old child is involved that the Crown Prosecutor will decide that the child should not be subject to the trauma of cross-examination at the trial and the matter therefore cannot proceed. If there is a period of 18 months or so since the allegations were made, committal has been ordered, and the trial is listed for hearing, there can be quite extraordinary disruptions to family life and to the interests of the child if the decision is then taken by the Crown Prosecutor not to proceed. That decision ought to be taken at the earliest possible time and can only be taken by the Crown Prosecutor. That view is no reflection on police prosecutors.

Mr Paul Byrne, a Commissioner with the NSW Law Reform Commission, speaking at a seminar earlier this year on child sexual assault, in referring to the reforms which have taken place in NSW, said:

> In addition [to other changes] the prosecution of offences of child sexual assault has been reorganised. A separate unit has been established within the office of the Solicitor for Public Prosecutions with the exclusive responsibility for child sexual assault cases. The practice known as vertical prosecution is followed. This involves the case being conducted by a single officer of the Solicitor for Public Prosecutions virtually from the time the charge is laid. That officer will personally conduct the prosecution case at committal proceedings and will instruct the Crown Prosecutor if there is a subsequent trial. The important reasons for introducing this practice are, firstly, that from the point of view of the child victim, there is one person who is responsible for the conduct of the case from the time it is instituted until its conclusion. This enables a relationship of trust and confidence to develop. Secondly, involving a specialised solicitor in the early stages of the prosecution will mean that the preparation of the case for trial can be accelerated, thereby reducing the time during which the matter is awaiting hearing in the courts.

He goes on to say:

> Although the implementation of this scheme has meant that police prosecutors no longer conduct committal proceedings on behalf of the prosecution in cases of child sexual assault, the role of the police is naturally closely linked with that of the prosecutor. In the prosecution of crimes of this kind the establishment of a specialist unit within the Police Force, namely the Juvenile Services Bureau, and a specialist unit within the Solicitor for Public Prosecutions ensures that the relationship between the police and the prosecuting authority will be a close and continuing one. The prosecuting authority has adopted a policy of requiring the brief to be given to them no more than 21 days after the accused person has been charged. After examining the brief, the prosecuting authority is in a position to determine what charges, if any, should be laid. It can give advice as to the need or desirability for further evidence to be obtained or for other charges to be laid. The prosecuting authority has also adopted a policy of serving the trial brief for the prosecution upon the legal representative of the accused person as soon as it is available.

That system has a lot to commend it. It is in this context that I believe a mandatory requirement ought to be written into the legislation that, where a prosecution is proposed relating to a child under 10 years of age where a sexual offence is alleged, that case must be handled by the Crown Prosecutor.

The only other matter is the question of its application to matters pending. Personally, I have no difficulty with the view that this ought to apply regardless of when statements were taken and when persons were charged. The same critical standards must be applied to the evidence now as before. I know that there are some cases pending where this issue has resulted in adjournments, although in at least one case it has resulted in a dismissal of the committal.

As I said at the beginning, it would have been much more preferable to be able to deal as a whole with the Government's proposals for changing the law relating to child sexual abuse and the proof of allegations by a child under 10. The procedure adopted by the Government is unsatisfactory. However, it is not appropriate for the Opposition to seek to defer consideration of the Bill before us. We have, in some respects, to fly blind and that means making observations upon the Bill which are designed to improve it rather than to create particular difficulties. We will certainly be giving careful attention to other legislation which may be introduced to deal with allegations of child sexual abuse.

The Opposition supports the Bill and seeks to amend it to put matters beyond doubt and to provide a proper balance between, on the one hand, the rights of the child victim and the need for that child to be dealt with sensitively and responsibly and, on the other hand, the rights of the accused who in our system is innocent until proved guilty beyond reasonable doubt. The object is to see that justice is done and is seen to be done. I support the second reading.

The Hon. DIANA LAIDLAW: I, too, support the second reading. It is not so long ago that the plight of abused children was absolutely ignored. Today child abuse/sexual abuse is the Department for Community Welfare's number one priority in respect of the provision of services. This turnabout suggests that in the area of sexual abuse of children much progress has been made, particularly in the very recent past.

However, I, together with my colleagues in the Liberal Party, recognise that there is a great deal more that can and must be done to help a child victim. It is clear that, if victims are not identified and assisted, as older children they are often provoked to try to resolve the situation for themselves by running away from home or escaping through the use of drugs. Others harbour guilt or suffer humiliation and emotional problems throughout their lives. While I am not familiar with similar statistics in South Australia, Odessy House, in New South Wales has found that one in five of residents on their drug program were victims of intrafamilial sexual assaults, while the Single Women's Refuge in Sydney has found in recent years that 95 per cent of adolescent girls seeking refuge have run away from incest.

The Liberal Party's concern about the plight of abused children and the need for multi-disciplinary change in the way that victims, their families and offenders are treated led my Party to release in October last year a position paper on 'Child Abuse—Directions for the Future'. It outlined a range of reforms that we considered necessary to reduce the incidence of abuse, to upgrade the investigation of cases, to improve the present justice system and to increase the range

of rehabilitation services. Our recommendations, of which there were 61, canvassed the subject of the presentation of a child's evidence at a committal hearing, including the use of audio and video recordings at a child's initial interview.

In part, these matters are the subject of this Bill to amend the Justices Act, and I welcome their long-awaited introduction to the Parliament. However, I share the disappointment expressed by the Hon. Trevor Griffin—a disappointment that has been echoed by lawyers, community welfare workers and the staff of women's shelters with whom I have spoken in recent weeks—that we are unable to assess the changes proposed in this Bill with the full set of procedural changes envisaged by the Government for the presentation of evidence at a trial.

Throughout this year, up to a few weeks ago, it was the Government's intention to deal in one piece of legislation with amendments to the Justices Act, the Evidence Act and the Community Welfare Act. That was an appropriate course to follow because the measures proposed were interrelated. Now we have before us amendments to the Justices Act only, focussing on one small area of evidence at the committal stage of any criminal proceedings. The Notice Paper makes no reference to when the Government intends to address the interrelated matters of the competence of children to give evidence nor the mandatory requirements to report suspicion of abuse. Accordingly, I was not surprised to learn last week that the participants at the child sexual abuse workshops that were conducted in Port Lincoln the previous week unanimously expressed alarm that the Government was seen to be stalling on the introduction of long-awaited reforms in relation to child abuse.

There is no doubt that the present justice system is not dealing adequately with child abuse and that it must be improved. Currently, when a child makes a complaint of sexual assault, or a suspicion of assault is reported, the usual procedure involves the child having to tell a wide range of people the intimate details of the assault. The child may be required to relate the same version of events to a police officer, a doctor, a social worker, representatives of the Department for Community Welfare, the prosecutor appearing in court and perhaps to a solicitor if an application is made for compensation. At a later stage there may be a need for interviews with counsellors from the Family Court and lawyers appearing in the proceedings.

Apart from this, the child may suffer the ordeal of being required to attend at committal hearings to give oral evidence. This courtroom ordeal is oftem exacerbated by the fact that defence counsel has a responsibility to their client to exploit any variation in evidence that may, and inevitably does, arise from the many interviews required of the child. The goal of protecting the child victim from the ordeal of repeatedly having to recount details of a sexual assault and of protecting the child from the ordeal of court proceedings is a most desirable one, and there is a clear need to examine alternative procedures.

Many studies of the vexed subject of child abuse in this country and overseas have highlighted that the techniques used to obtain relevant evidence in child sexual assault cases can be improved by the use of videotaping equipment. The advantages of having a videotaped record of the child's statement in relation to the offence are seen to be:

1. That the use of videotape allows the child's evidence to be preserved whilst recollection of the events in question is still fresh.

2. That it would spare the child witness the ordeal of having to recount the facts on a number of occasions.

3. That the videotape recording is a valuable aid to both the prosecution and the defence in the preparation of a case for trial.

4. That the use of the videotape recording will, in many cases, convince an accused person of the fact that the child has made a complaint and encourage an admission of guilt and the consequent avoidance of distress for all those concerned in the trial process.

5. That from the point of view of the accused person the videotape recording can be used to check whether the child's version of events was unfairly prompted by improper questioning, and

6. That if the interview is conducted by a properly trained investigator a complete record of relevant material in an admissable form may be obtained.

The South Australian Task Force on Child Sexual Abuse accepted the argument that a child victim would benefit from a video recording of his or her statement being made at an early stage of the investigation. In doing so, however, the members acknowledged that a number of potential disadvantages were associated with this procedure. Some of these disadvantages were pointed out to the Hon. Trevor Griffin and me when we attended the South Australian Police Department recently to learn about its pilot study into the videotaping of the interrogation of suspects.

In respect of these problems, however, I am confident that each can be overcome as officers and the legal system adjust to the demands of the videotaping system. In respect of the project itself, that is, the widespread use of videotaping, I was most impressed by the enormous amount of caution employed by the police officers responsible for ensuring that their procedures were tamper proof. Equally, I was impressed by the expenditure that would be required if videotaping was one day to be employed in all child sexual abuse investigations around the State, let alone extended to all forms of child abuse or all investigations of any form of crime.

While this initial expenditure will be enormous for the Police Department if pursued, the cost benefits incurred by other parts of the judicial system may ensure that videotaping of investigations is a most worthwhile financial exercise, as well as being a most worthwhile procedural tool.

Related to the issue of techniques used to obtain relevant evidence is the equally important matter of the presentation of that evidence to court. Currently at the committal hearing the evidence of witnesses over the age of 10 years can be submitted by declarations—by written statements which are declared and witnessed. However, for a child who is not considered old enough to make such a declaration, that is, a child under 10 years, the only method of having the child's evidence considered is to require the child to give oral testimony.

This particular rule of evidence compounds a major difficulty associated with the prosecution of child sexual abuse cases, that difficulty being the inability of most children to recall the event, or the exact details related to the event that is in question at the committal hearing. Unfortunately, this basic problem in presenting a child's evidence before a court is being exaggerated by the very long delays being experienced in South Australia between the time of investigation, committal hearings and trial.

This matter of court delays was highlighted in the Government's task force report on child sexual abuse and also in my own Party's position paper on the subject and, like the Hon. Trevor Griffin, I look forward to an early resolution of this problem.

To date, the reason why earlier testimony given out of court has not been admitted is that it breaches the rule

against the admission of hearsay evidence. There are, however, many exceptions to the rule against hearsay which allow for the admission of otherwise inadmissible evidence.

This Bill simply creates an additional exception so that when a young child gives evidence that an earlier recording of his or her statements was made then the earlier statement is received as evidence, subject to certain conditions. The conditions outlined in the Bill include verification by affidavit by the person who took the child's statement that the statement is an accurate record of the interview. A further condition is that the alleged victim can be called or summoned to appear at the committal hearing if the justice is satisfied that special reasons exist for the oral examination of the alleged victim and that the alleged victim can be called upon at any trial to be a witness and to be liable to cross-examination.

These conditions seem to me to be both logical and fair, as does the move to provide as admissible in later court hearings a statement by a child, of any age, recorded earlier on videotape equipment. In effect, the proposal permits hearsay evidence to be received as if it was made when the facts were fresh in the memory of the child making the statement.

Before concluding my remarks on this subject, I want to make some further comments about the procedures adopted in interviewing a child who is suspected of being a victim of abuse. As this will take a little time, I seek leave at this stage to conclude my remarks later.

Leave granted, debate adjourned.

TECHNICAL AND FURTHER EDUCATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 August. Page 549.)

The Hon. R.I. LUCAS: I indicate the Liberal Party's support for the second reading of this Bill. It is only a short Bill, and I doubt whether it will take up too much time of the Council. I ought to say at the outset that, unlike a number of other matters in relation to technical and further education to which we have addressed our minds over recent weeks, this Bill is not related in any direct way to matters pertaining to the current ongoing dispute between the Minister of Employment and Further Education and TAFE teaching staff—although, of course, indirectly there are flow-on effects from this measure and the current ongoing dispute between the Minister and the TAFE staff. However, as I have addressed the Council on two separate occasions already on the TAFE dispute, I do not intend to take up any time of the Council in going over those matters again at this stage. I shall have another opportunity to do so tomorrow during private members' business.

This Bill seeks to provide the teaching staff of TAFE with the same long service leave entitlements as those available for public servants under the Government Management and Employment Act. The major amendment provided in this Bill is to allow the teaching staff to take *pro rata* long service leave after seven years service at the discretion of the Director-General of the Department of Technical and Further Education. If that leave is approved, the timing and extent of the leave will, of course, be subject to departmental convenience, as it is at the moment.

During debate on the Government Management and Employment Bill we provided that that benefit should apply to all Public Service personnel employed under that legislation, and the Liberal Party has taken the view in relation to this Bill and the related Bill, the Education Act Amendment Bill, that it is appropriate that that provision to which the Parliament agreed in relation to public servants ought now to be extended to employees of the Education Department and the Department of Technical and Further Education.

A further matter involved is that the Bill allows flexibility for the Director-General of TAFE to allow payments to be calculated at non-substantive salary rates. This provision is intended to cater for the situation where an officer who has acted at a higher classification level for an extended period prior to taking long service leave and who expects to return to that classification level following the leave can be paid at the higher salary rate. I am advised that there is a similar provision in the Government Management and Employment Act. I refer to the regulations under the Government Management and Employment Act, in particular, to regulation 117, dated 26 June 1986, and I will quote the regulation relating to long service leave. I refer to schedule 4 of the Government Management and Employment Act 1985 and, in particular, section 9, which states:

(1) Subject to this clause, the salary to which an employee is entitled during long service leave shall be:

(a) the salary appropriate to the classification level of the employee's position during that leave;

and

(b) subject to the regulation, where the employee was employed at a higher classification level (either before or after the commencement of the Act) during part of the employee's effective service, such additional salary as is determined by the Commissioner.

The regulation to which I referred earlier (regulation 117 of 1986) in paragraph 31 states:

Where an employee employed at a higher classification level is transferred to some other position at a lower classification level—

(a) upon a recommendation made under section77 of the repealed Act;

(b) upon a recommendation made under section 59 of the Act;

(c) upon a recommendation made under section 78 of the repealed Act on the ground that the employee was unfit to discharge the employee's duties due to injury or illness;

or

(d) upon a recommendation made under section 60 of the Act, the Commissioner shall determine the additional salary to which the employee is entitled during the long service leave as being the difference between the amount of salary to which the employee would have been entitled if the employee had continued to be employed at the higher classification level and the amount of the employee's salary at the lower classification level.

In the response from the Minister I will seek information whether those provisions under the Government Management and Employment Act, and in particular that regulation, are mirrored exactly by the particular provisions that we have before us in this Bill and, if not, I will seek from the Minister the reasons for their not being mirrored in exactly the same terms as those regulations under the Government Management and Employment Act.

As we understood it, the whole essence of this Bill was to provide similar provisions to the Government Management and Employment Act and, on the surface, it would appear that the regulations under that Act are differently worded and, I suspect, have some slightly different effect than the provisions contained in this Bill. I ask the Minister whether that is the case and, if it is, the reasons why: first, there is slightly different wording and, secondly, the different effect there may well be for TAFE staff as opposed to public servants under the Government Management and Employment Act.

In relation to the net cost effect of the Bill on the department, in discussions that I have had with TAFE officers it

was suggested that there would be a neutral cost effect if this provision were introduced. I ask the Minister: what is the current situation in relation to the payment of long service leave for those officers within the Department of TAFE who may already have acted at higher classification levels than their substantive classification levels? Am I to understand that, prior to the passage of this Bill, all such officers will have been paid long service leave at their substantive classification levels? If not, under what provisions of the Act or administrative instructions have they been paid at higher classification levels? Further, how many officers within the Department of TAFE are likely to be in a position where they could seek the payment of long service leave at a higher classification level than their substantive classification level?

I am advised that, of the over 300 staff in the central office of TAFE, a good many are lecturers or teachers who have been seconded and, as I understand it, they act at higher classification levels, and certainly higher salary levels within the Department of TAFE. I will seek a response from the Minister as to whether it is envisaged that they are the sorts of officers who might be covered by this provision and, therefore, after the passage of this Bill, will be eligible to receive payment of long service leave at the higher classification level rather than their substantive classification level, which might have been at just the level of teacher, or perhaps lecturer.

Although I may be in error on this matter, I understand that the practices under the Government Management and Employment Act are that long service leave is allowed to be taken at the higher rate of the acting classification level after a two year qualifying period of acting on higher duties. Department of TAFE officers told me that they believed similar provisions presumably would be picked up for the TAFE Act by administrative direction rather than by being included in the Bill. Further, I was advised that it would be unlikely that anybody would be in this position and, therefore, further cost implications are remote. I have already addressed that question and I have asked the Minister to respond as to whether or not that is the case. The information that has been provided to me indicates that under the Government Management and Employment Act the practice is that, if an employee is acting at a higher level for a two year period, then that is the rough criterion that is used in allowing that employee to seek the payment of long service leave at the higher classification level and, assuming that the officer intends to go back after long service leave to that particular acting position which is at a higher classification level.

I seek a response from the Minister as to whether the information that I have been given outside the Chamber is correct, that is, presumably this two year qualifying period would be the one that will be picked up by the Department of TAFE via administrative direction. If that is to be the case, how many officers within the Department of TAFE will come within that provision where they have been acting at a higher classification level for a period of two years or more? I refer to clause 20 (7), which states:

> Where the effective service of an officer consists in whole or in part of part-time service, the officer may elect to take long service leave on the salary applicable to full time service and, in that event, the period of the long service leave will be reduced accordingly.

I ask the Minister whether that is a new provision and whether it is mirrored by similar provisions under the Government Management and Employment Act. Further, is it envisaged that many officers would be availing themselves of that provision?

I refer to part-time public servants and officers of TAFE being eligible for these provisions under the long service leave provisions of TAFE. It is something that certainly the Opposition supports, as we understand that it has been provided for public servants under the Government Management and Employment Act. Therefore, the Opposition has no objection to them being similarly provided to officers of the Department of TAFE under this Bill. Another matter to which I shall refer is the amendments to section 19(4) of the Act as follows:

> (4) This Division—
> *(a)* does not affect an entitlement to long service leave or payment in lieu of long service leave that accrued before the commencement of the Technical and Further Education Act Amendment Act 1987:
> and
> *(b)* does not prejudice an entitlement to pro rata long service leave arising after five years' effective service that would have come into existence if the Technical and Further Education Act Amendment Act 1987 had not been enacted.

That would appear to be a provision seeking to protect existing benefits that some staff enjoy under the present TAFE Act. I seek a response from the Minister as to which officers of TAFE currently enjoy those benefits, the number of officers and how those benefits came about.

I apologise for treating the second reading as a Committee debate but, as we do not have the Minister in this Chamber, it is more beneficial to raise the questions now that I wish to ask in Committee so that the Minister in charge of the Bill in this Chamber can seek responses from the Minister. Hopefully, if they are resolved in the Minister's response in the second reading debate we will not need to prolong the debate at the Committee stage.

The Opposition takes the view that if we do not accept the responses made in the second reading reply we will seek further explanation at the Committee stage. However, generally we have not needed to avail ourselves of that opportunity during the Committee stages of Bills to amend the Education Act and the TAFE Act. With those words I indicate my support and that of the Liberal Party for this provision with those questions directed to the Minister and seek a response from him during the second reading stage.

The Hon. BARBARA WIESE secured the adjournment of the debate.

EDUCATION ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 August. Page 549.)

The Hon. R.I. LUCAS: This is a similar Bill to the one on which I have just spoken, namely, the Technical and Further Education Act Amendment Bill. Many of the comments I have made in relation to that Bill I will repeat at this stage. The Bill seeks to provide the teaching staff of the Education Department with the same long service leave entitlements as those available for public servants under the Government Management and Employment Act. The major amendment in the Bill is to allow teaching staff to take pro rata long service leave after seven years service at the discretion of the Director-General and, if leave is approved, the timing and extent of the leave will be subject to departmental convenience.

As I indicated with the amendment to the Technical and Further Education Act Amendment Bill, the Liberal Party supports the major thrust of this Bill as it provides a similar benefit to that which the Parliament provided for public servants employed under the Government Management and

Employment Act when debating that legislation some two years ago. Once again I want to direct some questions to the Minister responsible in relation to some other aspects or provisions of this Bill.

In days gone by I could have said 'ditto' as we had the one Minister responsible for education and also for technical and further education. But, of course, the Hon. Mr Arnold handles technical and further education whilst the Hon. Greg Crafter handles education, so I presume that two separate groups of officers will be chasing up the questions that the Opposition puts in this Chamber. Therefore, I will need to put again a number of the questions that I want addressed by the respective Ministers. I refer, first, to clause 19 (4) of the Bill which provides some protection of existing benefits that some sections of the Education Department clearly already enjoy with respect to long service leave—benefits that would have been prejudiced if this Bill had passed without an appropriate provision being included. I seek a response from the Minister of Education as to which groups of employees are so covered by this provision. Secondly, how many such employees are protected by the provision included in clause 19 (4)?

I also wish to direct questions to the Minister of Education in relation to the provision in this Bill to allow the Director-General to make payments to officers to be calculated at non-substantive salary rates. As I indicated in the TAFE Bill, this provision is intended to cater for the situation where an officer who has acted in a higher classification level for an extended period prior to taking long service leave and who expects to return to that classification with leave being paid out at the acting and higher classification level and salary.

I seek a response from the Minister as to the net cost effect of this whole Bill, but in particular the net cost estimates of this provision of the Bill. How many employees currently acting at a higher classification level would be eligible for payment at the higher level as envisaged by this provision? I can think of very many employees of the department who act in positions such as advisers and seconded teachers—persons in areas such as the Wattle Park College at the Wattle Park Teaching Centre, persons at the Orphanage on Goodwood Road and in a number of other offices of the department—who have substantive classifications as teachers back in a school but are acting at a higher classification level such as adviser and therefore receiving significantly increased salaries for the higher classification and workload they are required to undertake in that position of adviser within the Education Department.

A number of those advisers have spoken to me and they were not clear whether this provision would allow them to seek payment of long service leave at the higher classification level. Most of them are on contracts or arrangements of some two years and have to apply at the end of the two year period to continue that position as an adviser in the Education Department. Many of them have been in those advisory positions for many years. Some who have spoken to me have acted in their particular position for eight to 10 years. Their substantive classification level is still that of a teacher but they have lived and worked at the higher classification level of adviser, receiving a higher salary for up to eight to 10 years. Is it envisaged by the Minister of Education that those advisers can seek payment of long service leave at the higher salary level rather than at the existing salary level? If that is the case, as I said earlier, I seek an estimate from the Minister as to the number of officers who might qualify and the net cost to the department of this provision.

I also seek from the Minister a rough indication of the length of service acting in a higher position that will be acceptable to the Minister and to the Director-General. As I indicated in the debate on the Technical and Further Education Act Amendment Bill, employees under the Government Management and Employment Act work on a rough criterion of two years working at a higher level, and the officer of the Department of TAFE indicated that he presumed that the similar two-year provision would be used by the Director-General of TAFE. I seek a response from the Minister of Education whether the two-year provision is likely to flow through to the Director-General of Education in relation to staff seeking payment of long service leave at a higher salary level.

I also direct the same question to the Minister of Education as I directed to the Minister of Further Education in relation to the different wording under the provisions of the Government Management and Employment Act and its associated regulations in relation to long service leave and the provisions that the Council is debating in the Education Act Amendment Bill. As I indicated earlier, the wording is different and it would appear on the surface that the effect is slightly different. Given that the substantive intent of this Bill is to bring employees of the Education Department into line with employees under the Government Management and Employment Act, I wonder what is the reason for the difference of the wording and possibly the effect of these provisions under the Education Act Amendment Bill.

I have raised a number of matters during the second reading stage that I would usually raise in the Committee stage solely to assist in the Council's deliberations on this matter, and I seek a response from the Minister responsible during her reply. With that, I indicate my support and that of the Liberal Party for the second reading of this Bill.

The Hon. BARBARA WIESE secured the adjournment of the debate.

MARKETING OF EGGS ACT AMENDMENT BILL

In Committee.

(Continued from 27 August. Page 543.)

Clauses 2 to 5 passed.

Clause 6—'The South Australian Egg Board.'

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

Page 2, lines 15 and 16—Leave out subsection (2) and insert the following subsection:

(2) The Minister will, after consulting the United Farmers and Stockowners of S.A. Incorporated, appoint a member of the board to preside at its meetings.

This amendment concerns the appointment of the Chairman of the Egg Board. It is important that there be general agreement with the industry as to who should be Chairman of the board. The Chairman must have a wide range of skills, he must be independent and he must also be seen to be independent. Under the present arrangement, the Chairman is a public servant and, with no reflection on his ability or on the way in which he has carried out his duties, I must say that his independence is compromised somewhat by his being a public servant. The Opposition simply asks the Committee to consider the amendment favourably, which provides that the Minister of Agriculture consult the body representing the producers about whom he intends to appoint as Chairman of the Egg Board.

The Minister of Agriculture does not have a good record of consultation with this industry in particular. Along with others, I have often reflected on this point. All this amend-

ment does is to ensure that the Minister consults at least with the United Farmers and Stockowners. After all, this board of only five members represents the egg industry from producer to the sale and promotion of the product, which is important in providing ever-increasing sales through innovative ideas of using the egg product. I am talking about whole eggs, pulp, shells, etc. Every step along the line is largely financed by the producer. I put to the Committee that producers have every right to demand a healthy say in how the production and the sale of their product is managed.

As the Committee is aware, if this legislation is passed, as it will be with the Opposition's support, the producers are in a minority on the board. There will be only two producers out of the five members. This solution has been arrived at by negotiation between the UF&S and the Minister. The two representatives are chosen by a lengthy process of selection which was agreed upon by the Minister of Agriculture. This amendment cannot force the Minister to appoint as Chairman someone nominated by the UF&S but it will at least ensure that consultation takes place. It is nonsense to say, as the Minister did in another place, that the consultation process would be endless, that the Trades and Labor Council has an interest. Consumers and the health industry also have an interest. I do not want to sidetrack the Minister of Health, who is handling the Bill in this Chamber, on this proposition but, as I said, the health industry has an interest in eggs as it does in milk, meat and sugar. As a matter of course, the Minister of Agriculture should consult with the producers, the packers, the marketers and the consumers, and I understand that he will. Indeed, he said in the other place that he will do so. The body representing the very people whose product is the subject of this Bill must be asked for its advice prior to any member of the board being appointed as Chairman. The Opposition supports the amendment.

The Hon. J.R. CORNWALL: This is a silly amendment and the Government opposes it. The Minister's relationship with the UF&S is very healthy and productive and, in fact, this legislation—

The Hon. M.J. Elliott: From time to time.

The Hon. J.R. CORNWALL: Yes, from time to time, of course. The Minister of Agriculture is his own man and a very intelligent one at that. We do not expect to reach 100 per cent agreement on all matters all the time. It would be a dull world if we did. The essence of democracy is that we vigorously and robustly debate a diversity of ideas. The fact is that the Minister of Agriculture on this occasion—as on so many other occasions—has developed the legislation in consultation with the UF&S. I am told that the UF&S is not attracted to the amendment moved by the Opposition. We would certainly be prepared to consider an amendment which provided that the Minister would, after consultation with the egg industry, appoint a member of the board. That is a fairly reasonable step and we would not oppose that very vigorously, but to direct the Minister of Agriculture of the day to consult with one body, and one body alone, is silly. We will not accept it.

I am a reasonable member of a very reasonable Government and I have discussed this matter with the Minister. If the Opposition was to amend its amendment to the extent that it provided that the Minister would consult the industry, we would certainly be prepared to consider it sympathetically. I do not think we should continue on a collision course on a matter which, at the end of the day, is not terribly important. It is obvious that any Minister of Agriculture would consult the industry before making an appointment to the board, just as any Minister in any portfolio would consult industry before making an important appointment. I am sure the Minister of Tourism would not make a senior appointment to chair a board without consulting widely, any more than I would appoint a chairman or a chairperson of, say, the Institute of Medical and Veterinary Science without taking wise counsel. To say that the Minister of Tourism would consult with one body, and one body alone, or that the Minister of Health, pursuant to a direction of Parliament, would be so tied that he could consult with only one body before making an appointment is, as I said, just plain silly.

The Hon. M.J. ELLIOTT: Whilst I agree with the Minister when he says that this amendment is not one of the most important amendments that has been put before us, I think a couple of points need to be conceded. First, when the original legislation was before this Council to abolish the Egg Board, the Minister had not had a great deal of consultation with the industry generally, nor with the UF&S in particular. His consultational abilities improved when he was more or less told by this place that they should improve, and that only sensible things would get through.

While it is true to say that the UF&S is not the only body representing egg producers, it is, I suggest, the most representative of any of the bodies. The amendment only provides that the Minister should consult the UF&S; it does not say he should consult only the UF&S and ignore everybody else. The word 'consultation' is not as binding as it might be. All that is being asked is that the Minister will consult the UF&S, which is perhaps the prominent body, if not the only one representing egg producers and others. I do not see any harm in the amendment as it is currently proposed.

The Hon. J.R. CORNWALL: I offered a sensible compromise and I would have thought that Mr Elliott might have looked at it.

The Hon. M.J. Elliott: Tell us again.

The Hon. J.R. CORNWALL: Why do we not amend the amendment to provide that the Minister will, after consulting with the egg industry, appoint a member of the board.

The Hon. M.J. Elliott: That's a bit waffly.

The Hon. J.R. CORNWALL: It is not waffly at all. As I explained before, when there are sundry interests involved—and there are a number of important and legitimate bodies which have an interest in the marketing of eggs—it just does not make sense to simply pluck out the UF&S. That body was involved in the development of this legislation and has taken part in the discussions leading up to the introduction of the legislation, yet it has expressed no particular wish for this amendment at all—it is, in a sense, being foisted on it. It is, as I said before, plain silly.

If members are unable to accept the middle ground, clearly we will have to divide. I discussed this matter with the Minister only 30 minutes ago and he feels very strongly about being directed specifically to consult with one particular body. He is perfectly happy, as I said, to accept an amendment which would require him to consult with the various interests involved in egg production and marketing. He does not, and will not, accept an amendment which specifically directs him and which does not say he may, but that he will, consult with one particular body.

The Hon. J.C. IRWIN: I think both Opposition Parties have been fairly moderate in their remarks. We could have considered an amendment which provided 'with the concurrence of the UF&S the Minister will appoint a chairman'. We feel that strongly about it. This board represents the producers of eggs in this State. The majority of the egg producers have two members out of five on the board. I think we have been moderate in the wording of the amend-

ment when we ask the Minister to just consult with the UF&S, a body, which is moderate in its political outlook in the industry that it represents. Of course we hope that the Minister will consult with the industry. The wording of the amendment should not need to state that he should consult the industry—he ought to be doing that. However, in my short time in this Parliament the egg legislation was brought forward in November last year and thrown out by this Chamber. It was sent back to the Minister requiring him to consult. His history has been that he has not consulted. We hope to determine that over the next three years he will consult the UF&S, and we know that he can go his own way once he has finished that consultation, but I think he is too sensible to do that.

I now allude to the next amendment which is whether the review period for the whole industry will be after three years or five years. Surely after the three or five year period, or whatever period is fixed by Parliament, we can look at the matter then. If the Minister and the UF&S are not getting on, after that three or five year review period, we can look at it again. The Opposition insists on the amendment.

The Hon. M.B. CAMERON: I did not intend to join in this debate, which was being very ably handled by the Hon. Mr Irwin. However, I have been somewhat surprised at the vehemence that the Minister has shown on behalf of his colleague on this matter.

I know the Minister in the other place, whose Bill this is, and I cannot believe that he would adopt such a petulant attitude as to say that if the Bill required him to consult with the UF&S once every three years on such a simple matter as this he would throw it out. That would be absolutely stupid! This amendment is a simple one and is not of enormous consequence. However, it ensures that there is consultation between the major body that represents the majority of egg producers in this State and the Minister, who is always on about the need to consult with unions (and this is in a way a union of egg producers), before a chairman is appointed. One would think that the Minister of Agriculture would include that sort of requirement in the Bill for the very purpose of getting consultation, and I cannot believe that he would take such a petulant and small minded attitude as to say, 'If you insist on this, we will throw out the Bill.' If that is the case, my respect for the Minister will go down the tube, as the Minister of Health would say.

The Committee divided on the amendment:

Ayes (10)—The Hons M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, C.M. Hill, J.C. Irwin (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (7)—The Hons G.L. Bruce, J.R. Cornwall (teller), M.S. Feleppa, Carolyn Pickles, T.G. Roberts, G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons J.C. Burdett and K.T. Griffin.

Noes—The Hons T. Crothers and C.J. Sumner.

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. J.R. CORNWALL: I move:

Page 4, after line 12—Insert new section as follows:

14. (1) Every three years the Minister will appoint a suitable person to examine the degree of efficiency with which the board carries out its functions under this Act and the Egg Industry Stabilisation Act 1973.

(2) The person appointed under subsection (1) must deliver a report to the Minister on his or her findings and the Minister must, within 12 sitting days after delivery of the report, cause a copy of the report to be laid before each House of Parliament.

(3) The costs of the examination and the report will be met by the board from its funds.

This is a sensible, self-explanatory amendment which I hope commends itself to the Committee.

The Hon. J.C. IRWIN: The Opposition in another place moved an amendment which was unsuccessful, and we would have moved a similar amendment in this place except, as I indicated in my second reading speech, the Minister said that he needed time to consider Mr Gunn's amendment, which sought a five-year review period for the persons appointed. The Minister's amendment seeks a three-year review period and provides, in addition to the wording of the Opposition amendment, that the costs of the examination and report will be met by the board from its funds. That is in line with the autonomy and independence of the board. Most, if not all, funds will be provided by the people who produce this product.

This important amendment, which the Opposition supports, will guarantee that the South Australian public and the Parliament are fully aware of the operations of the Egg Board. My quick calculation indicates that a three-year review period will fit in, more or less, with the term of appointment of board members. However, although that will be the case initially, it will get out of kilter as time passes. At the end of the three years there will be a review, and I guess that the matter will not come before the Parliament within six months of the commencement of that review. It must then address that matter within 12 sitting days. If there needs to be an adjustment to the board's structure the three-year period will fit in quite well with the term of appointment of board members.

One of the difficulties facing members of Parliament is a lack of information about Government instrumentalities and departments. Although this is improving, it is still a problem. If organisations must subject themselves to a regular objective analysis and the Parliament receives a report about that, it can then debate such reports and the public will be made aware of shortfalls in the legislation. The Opposition believes that this is an appropriate amendment which will greatly improve the legislation. We initiated the direction of this amendment in The Assembly. The Opposition commends the responsible Minister in this place and the Minister of Agriculture for taking up the initiative of the shadow Minister and getting advice on it. A similar provision in the Samcor legislation has operated effectively, so the Opposition is happy to accept this amendment.

Amendment carried; clause as amended passed.

Remaining clauses (7 to 10) and title passed.

Bill read a third time and passed.

EGG INDUSTRY STABILISATION ACT AMENDMENT BILL

In Committee.

Bill taken through Committee without amendment.

Bill read a third time and passed.

[Sitting suspended from 5 to 5.30 p.m]

JUSTICES ACT AMENDMENT BILL

Second reading debate resumed on motion.

(Continued from page 708.)

The Hon. DIANA LAIDLAW: Before seeking leave to conclude my remarks earlier, I indicated that, alone, the measures proposed in this Bill will not satisfy our obligations as legislators to protect the child victim. Nor, I believe, will this goal be realised by either of the further Bills pro-

posed by the Government to amend the Evidence Act and the Community Welfare Act. Certainly, each will help in their own way, but overriding all these measures is the very basic need to obtain information in a way and by a person who cannot be challenged by the court as to the methods used to obtain that information and of forming opinion on the information obtained.

I believe that a large amount of the anger and frustration evident among workers and families in the area of child sexual abuse arises today from the fact that so much of the evidence gathered is being challenged, very successfully, on two counts—either because of improper methods used in gathering that evidence or because the information has been gathered by a person who does not have the necessary skills to do so. In making these remarks, I would argue very strongly that I do not believe that it is in the best interests of any child, particularly a child who has suffered the trauma of child sexual abuse, that we should be tolerating circumstances where, because of methods of gathering evidence and because of the skills of a person being insufficient, cases are being successfully challenged and lost.

As the Hon. Trevor Griffin noted in his response to this Bill, court proceedings always depend for their success on proper investigation and recording of the facts. Related to this concern, recently I was fortunate in having an excellent article in the July edition of the *Police Journal of South Australia* brought to my attention. Entitled 'Police interviews of sexually abused children', it was written by Sergeant Michael Hertica, who was Supervisor of the Juvenile Section of the Police Department in Torrance, California, a State which has, as honourable members who have taken an interest in this matter of child sexual abuse for some time would know, many years of experience in this area, certainly many more years of experience than we in South Australia, have in terms of investigation of cases of child sexual abuse. The article addresses six major psychological issues of significance to investigators. They were cited to be secrecy; helplessness; entrapment; delayed, conflicting and unconvincing disclosures; transference of feeling; and the retraction of a complaint. It was argued that these theories helped to explain why victims of child sexual abuse often lie, often change their stories and even recant them. It was the view of Sergeant Hertica that officers investigating cases should have knowledge of all six therapeutic considerations, because they may affect (and regularly do affect) the disclosure of information by a child who is an alleged victim of sexual abuse.

In the light of these issues relative to obtaining a disclosure, Sergeant Hertica went on to make recommendations on how to conduct the interview and again those recommendations were based on his many years of experience in this very vexed area. For instance, he states:

> Prior to the interview, it is important to gather as much information as possible . . . If the child believes that you already know what happened—

and generally the case affects a girl—

> she will usually talk to you more freely. To gather this information the officer should begin with the person who made the first disclosure. This may be a teacher, therapist, or parent, among others. In addition to gathering information at this point, there may be references made to others who may be able to provide information. When practical, a follow up on all of this should be conducted before the interview.

I highlight that point, because that is certainly not the case in South Australia today and I think that it is an important step that we should consider following if we are to make some inroads into this issue of child sexual abuse and the procedures for gathering information and following through the investigations. Sergeant Hertica further states:

> The sex of the police officer conducting the interview is not as important as having an officer who is caring, sympathetic, and can relate to the child victim.

The Hon. R.J. Ritson: Or a psychiatrist, even.

The Hon. DIANA LAIDLAW: That could follow, from this gentleman's experience. He said that it was preferable to have officers of both sexes available at most if not all times. Sergeant Hertica further stated:

> More often than not, however, the child will open up to the police officer, regardless of sex, who the child trusts will believe her.

That is a very important consideration in the conduct of investigations in this State. Sergeant Hertica also states:

> A primary consideration is to provide a setting in which a child can feel safe. Only after a sense of security is established can a child be expected to trust the examiner sufficiently to be able to describe the events which took place.

He further states:

> It is essential that at some point in the evaluation the child be seen alone to provide an opportunity to discuss sexual matters without censorship from either parent.

He suggests that it is most important not to push too hard 'or the child may lose confidence' in the interviewing officer. That is an important point, because at present the very number of notifications and the few people we have on the ground with experience in trying to deal with these matters is restricting the time available to actually investigate the cases properly and that may be one reason why the evidence presented to the court is not in a form that is sufficient for the court. Pressuring the child and rushing the interview merely to meet deadlines and workloads is a very important consideration. Sergeant Hertica further states:

> After the disclosure, if the case is going to be prosecuted, the victim is going to experience several more processes that may cause stress. These may include further disclosures, medical examinations, testimony in court, and placement. Since the officer may be the first person in the 'system' to establish rapport with the victim, it is helpful if the officer acquaints the child with what is going to happen.

Sergeant Hertica further states:

> It is helpful if the officer accompanies the child to the hospital and through any other segments of the system, if possible. Since the case is totally dependent on the child's testimony—

and I repeat those words 'totally dependent on the child's testimony'—

> it is important that she [or he] not be frightened to the point that [he or] she will not follow through.

One specific way in which Sergeant Hertica suggests the child may be relaxed in regard to the imminent court procedures is by taking that child through the courtroom process. He states:

> This will make the child more comfortable and ultimately make her a better witness.

In terms of our efforts in this Parliament and elsewhere to ensure that these cases are prosecuted and, also, that we are not seen to tolerate or condone child molestation in this State, it is very essential that we get the basics right first so that the child does become a good witness and that any procedures that we establish will ensure that her case is not jeopardised by any slackness on the part of authorities.

In making some suggestions as to how to conduct an interview, Sergeant Hertica also mentioned a number of cautions. He stated:

- Don't interview victims in front of other victims or witnesses. It may taint their statement.
- Don't assume that you are obtaining all the information; children are sensitive about certain details and acts and it may take very extensive interviewing to get it.

That point gets back to the one that I made earlier about the current pressures on our system and the number of notifications combined with the limited number of people

on the ground and the even more limited number who are trained in this area. It has relevance also to videotaping evidence. If the interviewing in a lot of these cases is to take a long time, the videotaping procedure, if it is an option in all child sexual abuse cases at some later stage, will become an extremely expensive process. Sergeant Hertica suggests that one must not ask leading questions. He indicates that this will be hard at times but he states:

> . . . let the child tell the story in her own words and then ask clarifying questions.

He further suggests:

> Don't ask questions that reflect on the child's feelings of guilt.

Later, he also suggests:

> Don't push the child too hard or expect to get all the information in one session.

He suggests that it is essential to be patient.

In conclusion, I support the Bill which, together with amendments later to the Evidence Act and the Community Welfare Act, will be important measures in trying to come to terms with this very emotive and vexed issue of child sexual abuse. Despite accusations from the Minister in Question Time today and on earlier occasions when this issue has been raised, I point out that I do not know one person in this Parliament who is not genuinely concerned to ensure that we stamp out, as far as possible, this horrible area of child sexual abuse. I do not know one member who tolerates such a practice and I personally find it offensive that questions raised in this place with a genuine concern to ensure that the procedures are right for the long-term benefit of the children are not treated as such.

It does not do the Minister or, through him, the Government any good at all to damn those on this side or elsewhere who are raising concerns about the procedures adopted by the Department for Community Welfare. It is indeed a very new area and one in which I believe the DCW can be accused of, not intentionally, panicking and over-reacting in some areas. The fact that it does not have sufficient resources on the ground but many theorists (albeit well meaning) at the top is not helping this whole area. The Minister should be prepared to look at what is happening, rather than abuse those with legitimate concerns, which are ultimately in the best interests of the children and aimed to help them become better witnesses, thus ensuring that the cases to be prosecuted are ultimately successful. I indicate again that I support this measure.

The Hon. R.J. RITSON: I support the second reading, as the Bill is a step in the right direction. I wish to make some remarks about videotaping of evidence in relation to some of the evidentiary problems inherent in this matter. Obviously the sort of brutal cases described to us by the Minister during Question Time are matters which come before the notice of authorities with a fair amount of other evidence. For example, in the case of people with gonorrhoea we have bacteriological evidence and in the case of abuse with instruments there are signs of trauma. Those cases probably proceed in a fairly straightforward manner because of the corroborative evidence. Similarly, all of the reading I have been able to do on the subject indicates that, where an allegation is volunteered by a child in a way that seems to make sense, it is very likely to be true, and even if on the basis of that allegation alone, without corroborative evidence, a prosecution fails it is neverthless reasonable for the department to intervene, exercising its judgment on the balance of probabilities.

The difficulty arises where there is no complaint from either parent and no volunteered complaint from the child but a third party interprets some signs of behavioural disturbance as signs of possible sexual abuse. Increasingly, this interpretation is made, as the work of Dr Sgori is being taught to people with various levels of involvement in child care and various levels of expertise or, in some cases, inexpertise in dealing with the matter. The cases that have been brought to my notice as the most contentious ones and those causing the most ill feeling in the community are those where the allegations proceed not from within the family but from a care giver. There are cases in which frequently, upon medical examination, there are no physical signs whatsoever of trauma. The essential conflict that exists where a care giver is an investigator is obvious. I make the point that this problem will continue so long as the people who are the care givers are also the so-called therapists and investigators of the child.

The Bill creating the option for the statement at the committal hearing to be videotaped is good as far as it goes. A videotape not only enables the court better to assess the demeanour of the child and the circumstances of the questioning but also enables other expert witnesses to review and comment on the meaning of what the child may say without the child having to undergo successive examinations by experts appearing on behalf of other parties to any dispute. I have a concern because a lot of questioning and investigation can go on before a statement is made to the police. The contentious cases (those which have been brought to my attention) have arisen because a third party observes that a child is exhibiting signs of emotional and behaviourial disturbance and seeks actively to look for evidence of child abuse. This is a process in which the child may have a number of long sessions with the therapist who is supposed to be treating the child over many months but is also attempting to discover, by the use of projective tests such as asking the child to draw figures or to play with dolls, the evidence that will then be handed on to the police. In the assessment of the meaning of what is finally produced as a statement, it is very important to know the nature of these other investigations.

I could supply the Attorney-General with quite a thick report containing transcripts of serial questioning of a child over many months by the therapist or treater and he will understand how one would need to know all of that history before assessing the final statement. If the Attorney is really intent on moving along this path, he ought to look at at least audiotaping the sessions with therapists that lead up to the eventual divulgence by the child of a statement which then becomes the basis of a statement to the police. Perhaps the Attorney could ponder that point. At least an audiotape is not obtrusive and would not alter the nature of the therapeutic interview. I support the Hon. Ms Laidlaw's remarks about the level of expertise required. The physical medical examinations at the moment are conducted by people without post-graduate qualifications.

They have an undoubted dedication to their work, but the reports that I have seen tend to contain statements such as, 'From observing something or other I formed the opinion that . . .'. However, they completely lack the sort of annotation that somebody trained in forensic medicine would make. Forensic pathologists go into court with extremely detailed material such as photographs of organs. I hope that more use is made of forensic training in this area.

There is an official forensic pathology instrument of Government and a division of forensic psychiatry, and it would make a lot of sense for those divisions (I think that the Health Commission controls them) to be built upon so that the pathologists and psychiatrists gain more expertise in forensic child psychiatry and forensic medicine. The care givers should simply give care in a non-judgmental way and the investigators—the people who interview a child perhaps regularly to gain the child's confidence to see whether they

can find out what happened—should be quite divorced from the Department for Community Welfare.

In short, my anxiety is that a videotape may be tendered at the committal stage, which is the end product of a long period of quite influential interaction between the child and the therapist and that, without knowing all that went before and knowing the way in which questions are asked, one cannot evaluate the final statement that appears on the videotape. Similarly, the use of videotape in the medical examination would have some value. In one case that I have in mind, no signs of trauma were discernible and they were not recorded at the investigation, nor were they found by any other doctor. However, an opinion was formed about the movement of the musculature in the perineum. That evidence fell down very badly in court. A videotape of the examination would have been able to show the judge what the doctor was trying to talk about.

So, there is a long way to go. I urge the Attorney-General to ensure that it is done well. It is just as important in convicting the guilty as it is in defending the innocent. Naturally, it is the people who feel unjustly accused that seek redress by going to a member of Parliament. The methodology needs to be sorted out and tightened up. In that way I hope that less evidence will fall down in court for want of its preparation, and that there will be more convictions of the guilty as well as fewer accusations of people who are not guilty.

The committal stage is very important because it determines whether a person will be subject to trial. It has been said in Australia that the worst thing that can happen to one is to be convicted of a crime and that the second worst thing that can happen is to be acquitted. I urge the Attorney-General, in the case of young children, to consider requiring audiotapes of the sessions of therapy that lead eventually to disclosure by a child to be submitted together with the audiotape.

As a member of the Opposition, I will not try to amend the Bill. It is more complicated than that. I just ask the Attorney-General to keep his mind open to it and to seek expert advice in relation to that in those cases where the only evidence is the eventual statement of the child after the child has been in therapy for months. The court needs to know what the therapy was. With that caution and with great faith in the Attorney-General's very professional devotion to justice and truth, I support the second reading of the Bill.

The Hon. M.J. ELLIOTT: I support the Bill. I will speak only briefly today, but I will have a lot more to say when the other Bills that make up this suite come through. I have been very disturbed at the way in which the Minister of Health has decided to let his paranoia get in the way of reasonable discussion on matters relating to child sexual abuse.

The Hon. R.J. Ritson: The Attorney is reasonable.

The Hon. M.J. ELLIOTT: I have no reason to criticise the Attorney at this time at all.

The Hon. K.T. Griffin: So far.

The Hon. M.J. ELLIOTT: Yes, so far, at this time. We should always be careful with that rider. I have raised matters in this Chamber and it is appropriate to expand on them albeit slightly because I want to speak only briefly. My concern with the way in which child sex abuse is to be handled in future under this piece of legislation and others which we are yet to see and which, no doubt, I will support is really tied up with some of the protocols that are to be carried out by the various departments, be it the Police Force or the Department for Community Welfare.

Under this Bill, potential exists for taking videotapes and written statements. A point made by Dr Ritson is very important: at what point are they to be taken in the whole process? At what point will the police be called in? I do not believe that there is any agreed protocol. DCW appears to call in the police when it decides to do so. Sometimes the police are the first to know, and they let DCW know and vice versa. Proper protocols must be set up.

As the Hon. Ms Laidlaw said, it is true that we are in a learning phase at this stage. Whilst child sex abuse as a problem is not new, its recognition and the willingness of Governments to tackle it is a fairly recent phenomenon. We have seen a massive increase in the number of reported child sex abuse cases, which may or may not indicate changes in our society. Most probably the great increase reflects increasing awareness. Nevertheless, it is at least for us as legislators a relatively new problem. For the Department for Community Welfare and other Government departments it is also a relatively new problem, and I do not believe that they have as yet developed the sort of techniques that will adequately handle the problem.

The Hon. R.J. Ritson: It is an absolute faith in the psychological indicators that is getting them wrong.

The Hon. M.J. ELLIOTT: There is a very real danger that, as we attempt to catch the perpetrators of such crimes, we may occasionally slip up and people who are not perpetrators may be labelled as such. That is something that our system of justice, which presumes innocence until guilt is proven, never attempts to do. However, child sex abuse involves special problems because society has special obligations to children as well. It is an extremely touchy subject, and there seems to be this variation in our community from one extreme in which everything that happens in the family is okay to the other extreme in which certain people say that every male is almost certainly a child molester. I do not think that either of those extremes is present in this place but they do exist. Somewhere in all that we must find a commonsense, middle path recognising the importance of families and the rights of parents, whilst making sure that child sex abuse is prevented from occurring as far as is possible.

I will pay attention to clause 5 (10) in which a child is defined as being a person under the age of 10 years. It has been suggested to me by a number of people that the age of seven could be considered, and I understand that that has been suggested by the Government's advisory committee. I have been told by the Attorney-General's advisers that, should clause 5 (10) be changed to define a child to be a person under the age of seven, it would create difficulties under clause 5 (2) *(b)* in particular, which would mean that this legislation could provide for a person between the age of seven and 10 who could not be criminally liable for prosecution.

I am not a lawyer, but I believe that there is a problem. Perhaps the Minister might address that issue. I believe that there are some problems under clause 5 (2) *(b)* in terms of what would happen if a child was defined to be under the age of seven years. I was concerned, as was the Hon. Mr Griffin, that we were dealing with this Bill before the other two Bills. I am informed by the Attorney that there is particular haste at this time because something like 30 cases are currently before the courts and that this may create special difficulties for the children in particular if this situation is not resolved now. If the Attorney has not addressed that situation in his second reading speech, which I did not read in its entirety, I would ask him to touch on that briefly.

With those brief comments, I support the Bill. My reservations are not about the Bill itself so much as about the

various protocols which need to be put in place as a consequence of the Bill. I strongly urge the Government to act as quickly as possible in that area.

The Hon. C.J. SUMNER (Attorney-General): With respect to the concerns raised by Mr Elliott, the honourable member will be aware that a Child Protection Council has been established to give continuing advice to Government and the community in the area of child protection, which includes child abuse. The concerns that he has voiced can be considered by that council and by the Government.

With respect to the Hon. Dr Ritson's comments, I will examine what he has said in relation to the audio records of interviews. In relation to videorecording of interviews with child victims, I think it should be made clear that it does not automatically mean that on the day that this Bill passes every child will have a statement record on video that will be presented at the committal stage and available for the trial. There has to be a pilot period to assess the procedure.

I understand that that assessment will be made by the police in cooperation with other disciplines, and I have no doubt that the issues raised by the Hon. Dr Ritson will be considered in that context. Certainly, I am happy to make his remarks available to the Child Protection Council for consideration. However, I emphasise that I do not think that anyone is under the impression that everything will be easy in this area. It is an incredibly difficult area. We are merely providing the facility for a video record of interview of a child victim to be made available during court proceedings and to be submitted in evidence at the committal proceedings.

The Hon. R.J. Ritson: I alluded to that difficulty in my remarks.

The Hon. C.J. SUMNER: I accept that. This matter has to be thought through. In the ultimate analysis, the courts will have to determine certain questions of admissibility, etc., in respect of the evidence that is presented and the use that will be made of the evidence, particularly video evidence, in a trial situation. I repeat that what Dr Ritson has said will be made available to the Child Protection Council, and at an appropriate stage he can ask what is being done in that respect.

There is no doubt that there can and will be a broader debate on the issue of child sexual abuse when the main package of Bills is introduced, I hope very shortly. It was not the Government's intention to deal with this Bill separately from the amendments that are proposed to the Community Welfare Act and the Evidence Act. However, the amendments to the Justices Act with which this Bill is now dealing have proceeded separately because of problems that are currently being faced by young children who are required to attend at committals to give oral evidence the problem being that some magistrates are suggesting that the law does not permit a hand-up of a child's evidence in committals. Hand-ups in committals are common practice, particularly in sexual cases: the statements are taken and handed up, and the magistrate uses those statements to commit the person for trial without the need for cross-examination.

The Hon. R.J. Ritson: Like medical reports without the doctor being present.

The Hon. C.J. SUMNER: That can be done, but the magistrate or judge can in certain circumstances require cross-examination at the committal stage. Some magistrates have interpreted the existing law to mean that, if this Bill is not passed, children will not have available to them the capacity for a hand-up of statements at the committal stage. It would put the children in a worse position than adults in terms of appearing in court at the committal stage, and that is an unacceptable situation.

The point has only recently been raised in the courts. It is an issue that has just come to our attention. We could have appealed to the Full Court, but it was felt that, because it was essentially a procedural matter, it was better to deal with the matter and to make it quite clear by legislation that hand-ups for children—that is, children who could not give sworn evidence—were appropriate at the committal stage, instead of forcing the child to be cross-examined. There are a number of cases in the pipeline in which this situation applies and, unless this Bill is passed, when those cases are called on in the near future the child will be required to give evidence; otherwise, it is likely that the magistrate will dismiss the charge. I do not think anyone wants that situation. That is the reason why we have had to bring forward this Bill.

Apart from the general dispute about the direction that we take in other legislation such as the Evidence Act, the age of the child and other related matters, there is a dispute on which, obviously, as anyone who has read the newspapers would know, there are differing views, and that is something that the Government has been trying to find its way through in order to reach a satisfactory solution.

One of the other reasons for the delay in bringing forward the Bill is a recent decision of the Supreme Court dealing with the present provisions of section 12 of the Evidence Act, which relates to the competency of a child under 10 to give evidence. That case will decide whether or not by virtue of the present section 12 a child under 10 years should be allowed to give sworn evidence. That case is presently before the Full Court, and its outcome is likely to have implications on the drafting of the amendments to the Evidence Act. It is anticipated that that decision will be handed down in the near future and, as soon as it is handed down, it will be taken into account in the final drafting of the legislation and will be made available to Parliament. We are awaiting that decision before proceeding with the final version of the amendment to the Evidence Act.

A number of suggestions have been made by the Hon. Mr Griffin, some of which it may be possible to accede to. However, we can debate them more fully in the Committee stages. The suggestion, however, that this Bill should apply only to child victims of sexual assault in my opinion does not have any significant merit. If the provision is valid, it seems to me that it ought to be valid for all child victims, whether they are victims of sexual assault or not, and for all child witnesses. There seems to me to be no basis—

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: That is right. If child witnesses are to be protected in this way there seems to be no basis for drawing a distinction between child victims of sexual assault, child victims of ordinary assault or, indeed, child witnesses generally. That is why the Bill is drafted in a broad and all encompassing way.

The Hon. Mr Griffin raised the matter of having a Crown prosecutor assigned to a case, taking it from the committal stage right through to the final trial. That certainly has some superficial merit and, indeed, I would probably go further and say that, if we wanted to be completely theoretical about this area, there is a case for having a complete prosecution service where professional prosecutors do all the prosecuting, whether in the magistrates courts or the higher courts. Clearly, at this time we are not really able to provide the resources for that or, indeed, to have a Crown prosecutor conduct these cases from the committal stage all the way through.

However, the Crown Prosecutor has an arrangement with the police whereby these cases are referred to him and he decides whether or not a Crown prosecutor (that is, a lawyer from the Crown Solicitor's office) should be assigned to the case at the committal stage, so I think that we have gone a fair way down the track towards doing what the honourable member is suggesting, without having the constraints of legislation that will have resource implications—and I can tell the honourable member that there are no resources. If this amendment were passed we would be in difficulty in proclaiming the Bill because the simple fact is that there are no resources in the budget to cope with the extra workload that would be involved for Crown prosecutors. In any event, it might be counterproductive because proceedings might be delayed if we insisted that a Crown prosecutor should appear when a police prosecutor could conduct a case which was simple, in which the defendent had indicated he would plead guilty, and so on. Those situations do not require the attendance of a Crown prosecutor.

The Hon. R.J. Ritson: Perhaps you can pirate some of the funds that will be expended on the grand council and the extra eight committees, or whatever.

The Hon. C.J. SUMNER: There is not a lot of money being spent on the Child Protection Council—it is a small amount of money when compared to the cost of Crown prosecutors. I have not had the resource implications of this suggestion examined, but it would certainly require extra resources. The honourable member may want to ask me more about this matter tomorrow. At present the Crown Prosecutor has an arrangement with the police whereby cases are referred to him so that he can decide whether they are of such a nature that they require the expertise of a Crown prosecutor. The Crown prosecutors are going through a training seminar dealing with child sexual abuse cases so that they are better equipped to deal with them. That is part of a general approach that the prosecutors are adopting.

The Hon. R.J. Ritson: Who's training them?

The Hon. C.J. SUMNER: I can get details of that for the honourable member.

The Hon. K.T. Griffin: Do you have details of the actual arrangement between the police and the Crown Prosecutor?

The Hon. C.J. SUMNER: I will provide the honourable member with more details on that tomorrow. They were the main issues raised during the debate. There will be an opportunity to explore some of them further when addressing amendments that I understand the honourable member intends putting at the Committee stage.

Bill read a second time.

ADJOURNMENT

At 6.20 p.m. the Council adjourned until Wednesday 9 September at 2.15 p.m.