LEGISLATIVE COUNCIL

Thursday 14 April 1988

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

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

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Commissioner for Equal Opportunity 1987—Report, 1986-87.

Rules of Court—Local Court—Local and District Criminal Courts Act—Pleadings in Full Jurisdiction and in Limited Jurisdiction Actions.

PLANNING ACT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Attorney-General a question on the Planning Act.

Leave granted.

The Hon. K.T. GRIFFIN: The Attorney-General will well remember the debacle involving the Government's use of section 50 of the Planning Act in relation to the Unley property of the New Age Spiritualist Mission in an attempt to stop development on the property. He will also remember that he told the Legislative Council that he had advised the Government to revoke that use of section 50 because its application to stop the Unley development was inappropriate—in fact, that the use of section 50 for that purpose was not available to the Government. That Unley block was vacant land with a portable toilet on it, but the Minister for Environment and Planning indicated that the section 50 proclamation had been revoked because there had been substantial development occurring on the property.

It appears that yet again the Government has used section 50 for a purpose for which it was never intended to be used, namely, to stop a development. This has occurred in relation to a subdivision and housing development on section 50 at Waterloo Corner Road, Burton, in the area of the Salisbury council. The developer obtained approval from the Salisbury council for a major subdivision in October 1985. On 10 March 1988 the Government made a proclamation invoking section 50 to stop the development after substantial work had been done on the land, much more than on the Unley property which only had a portable toilet on it. If substantial work having been undertaken on property is the reason why the use of section 50 is inappropriate, one has to ask why the Government invoked it in relation to the Burton subdivision.

Members will know that section 50 relates to facilitating developments of major social, economic or environmental importance to the State. Will the Attorney-General advise the Government, as he did in the Unley case, that the use of section 50 to stop the development at Burton is inappropriate and not available to the Government for that purpose?

The Hon. C.J. SUMNER: I do not know the full circumstances of the case to which the honourable member refers, but I will have inquiries made and provide him with a reply in due course.

NURSING HOME CARE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Health a question about nursing home care.

Leave granted.

The Hon. DIANA LAIDLAW: Over the past week the Federal Minister for Housing and Aged Care, Mr Staples, has dismissed as 'utterly without foundation' concerns expressed by the Voluntary Care Association of South Australia and by a great many people throughout the State about proposed changes to the funding of nursing home care which, I understand, will be effective from 1 July.

South Australian nursing home care is high due to the South Australian Health Commission regulations which were developed by the former Minister of Health (Hon. Jennifer Cashmore) in 1980 and which were implemented by the present Minister. The regulations provide for active rehabilitation and not merely custodial care. That is not the case in New South Wales and Queensland. Over the past week Mr Staples has described in the interstate press the variation of care between States as 'extraordinary and unjustifiable'. This statement contradicts the statements that he saw fit to release to the South Australian media on the same subject.

Perhaps Mr Staples is under the mistaken impression that South Australians do not have access to or do not read the papers from the eastern States, because he seems to believe that in the same week he can make contradictory statements on the same issue, all in an effort to placate the concerns being expressed in various States about the Government's proposed changes to funding. Alternatively, it has been suggested to me that Mr Staples simply does not know what he is talking about. My questions to the Minister are:

1. Does the Minister accept Mr Staples' view that the concerns being expressed in South Australia about the proposed changes to funding for nursing home care are 'utterly without foundation' or, alternatively, that the concerns are motivated by a genuine sense of alarm that the changes will lead to a loss of staff hours and a drop in the standards of care and quality of life for frail, elderly residents of nursing homes in South Australia? If the latter, will the Minister seek to advise Mr Staples of the true position in South Australian nursing homes?

2. Will he call on him to desist from making further ill-based and what appear to be most inflammatory statements?

3. In respect of his negotiations with his Federal counterparts, does he propose to insist on a level of funding which will maintain the current high standard of care in nursing homes in South Australia and/or to urge that no loss of hours should occur until a properly researched study has been undertaken on the impact of the new funding proposals on nursing home care standards in South Australia?

The Hon. J.R. CORNWALL: I have already met with both the Minister for Community Services and Health (Neal Blewett) and with the Minister (Peter Staples) about their proposals to move to uniform standards for nursing homes around the country. I have made our position very clear and I have already asked that, in any reorganisation or changes, South Australia be accorded a special three year program. According to whom you listen at any time, because the experts come and go in these areas, South Australia has the highest level of nursing and personal care in the country and one of the lower dependencies.

I think that a case has been made. It creates something of a catch 22 situation. Relative to Victoria, which already

has high nursing and personal care hours, South Australia has a somewhat lower level of dependency. People in aged care—particularly those who are responsible for nursing home care—argue that that relatively low dependency as measured within some of the Commonwealth parameters is precisely because we have high numbers of hours. In other words, it is not just custodial care; there is a very active element of rehabilitation in the care that is delivered in South Australian nursing homes generally.

I made it clear that the Government would not accept any proposition that moved to the measurement of outcome standards and in the process adopted some sort of lowest common denominator approach. I am very much in favour of Queensland and New South Wales having their hours upgraded, but I have argued very strongly that that should not be done, or be seen to be done, at the expense of South Australia. When I met with Peter Staples following a meeting with all the stakeholders in the nursing home sector of South Australia, I put to him that we would be seeking special supplementation because of our current favourable position and that supplementation process would be over a period of three years.

There is in my argument a precedent for that. We were given special consideration at the time of the negotiation and signing of the original Medicare agreement because South Australia and Tasmania signed a 10-year hospital agreement in 1975. In return for surrendering that agreement and signing the Medicare agreement the Government sought a special deal and gained special consideration. So, I have argued—and am arguing—for that position of special supplementation over three years.

The Government has undertaken to establish a computerised bed bureau within the office of the Commissioner for the Ageing. That will streamline the administration and enable hospitals, relatives and patients to know where vacancies exist at affordable prices at any time. We are in an advanced stage of negotiation with the Commonwealth for the establishment of a complaints office, again under the aegis of the Commissioner for the Ageing, as a joint venture with the Commonwealth.

They are some of the things that I have put to the Commonwealth, but I repeat what I have said consistently throughout the negotiations: it is unacceptable that we should be pushed down to something like 17 hours in an oversimplified or simplistic and lowest common denominator approach.

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: I have made my position very clear. I am on the record on numerous occasions and I am quite dogmatic and unequivocal about the thing; let me make that clear. On the other hand, of course, there is always the danger that the Commonwealth may say to us, 'You can have as many nursing hours as you wish provided that you, the State Government, pay for them.' We are clearly not in a position to do that. We estimate that the difference between what has been proposed in preliminary negotiations and what is current practice would have an annual recurrent cost of the order of $15 million. The Government is in no position to find that money. Nursing homes have always been funded by the Commonwealth and must continue to be so funded. The only way that the Government could find money of that enormous magnitude within the health budget would be at the expense of the hospitals, and we will most strenuously resist that. It is simply not an option that can be considered. So, yes, we will continue to make our position known very clearly as we have already done.

The Hon. DIANA LAIDLAW: I gauge from the Minister's answers that he would not accept Mr Staples' views that the fears being expressed in South Australia that there will be a lower standard arising from the proposed changes in funding are—in his words—'utterly without foundation'.

The Hon. J.R. CORNWALL: I would have thought—and I only know what I read in the paper on this matter—that Mr Staples was putting the departmental line. I think one of the things that has been a trap for successive Ministers of all political persuasions in dealing with some of the bureaucrats formerly of Social Security and then Community Services, and now, whatever the title might be, is that they tend to speak in code. I am not sure that to date any Federal Minister has successfully cracked that code. They tend to reiterate things that are—

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: I would not be begrudging at such a great distance in time. But there is not the slightest doubt that they do talk in code, and I think that Mr Staples who is an intelligent, compassionate and personable man is probably at this stage still working on the code.

RIVER TORRENS LINEAR PARK

The Hon. C.M. HILL: I understand that the Attorney has an answer to a question that I asked recently about the linear park.

The Hon. C.J. SUMNER: The Treasurer has provided me with the following comment in response to the honourable member's question. The Government remains committed to the development of the River Torrens linear park. However, the level of funding for the project each year is determined in the context of overall priorities and the availability of capital funds. The allocation of $800 000 for the project in 1987-88 was a reduction on the figure for 1986-87 but reflects the need for restraint in the capital works program for 1987-88.

The total amount that the Government has provided for this project will be almost $22 million by the end of the current financial year. The funding level for the project in 1988-89 will need to be determined in the context of overall priorities in the 1988-89 budget.

ABORIGINAL IMPRISONMENT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General a question about Aboriginal imprisonment.

Leave granted.

The Hon. M.J. ELLIOTT: Quite obviously with the inquiry which is currently occurring nationally—and it is hearing some evidence in South Australia at the moment—there is a great deal of interest in the matter of Aboriginal imprisonment and Aboriginal deaths in custody. Recently, I had brought to my attention a report that was produced in 1973 by the Criminal Law and Penal Methods Reform Committee of South Australia, headed by then Justice Roma Mitchell, and also on that committee were a professor and a lecturer from the University of Melbourne. It is most enlightening to look at what they had to say some 15 years ago. I want to quote just a couple of parts of the report, as follows:

> The correctional problem presented by Aborigines of South Australia is that they form a component of the prison population out of all proportion to their numbers in the community . . . Of all male prisoners admitted to South Australian prisons in 1965,

Aborigines comprised 5 per cent. By 1968-69, just four years later, this proportion had risen in a steady progression to 25 per cent.

The authors went on to comment that the percentage remained at or about 25 per cent. My understanding is that even up to 1988 we have continued to have an imprisonment rate of something like that. In fact, according to the Australian Institute of Criminology, South Australia has the worst record in Australia for Aboriginal imprisonment, with the possible exception of Queensland, which will not supply any figures.

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: I know we disputed that previously, but the Institute of Criminology stands by its figures. The report makes another important observation at page 206 where it states:

Aborigines who are imprisoned for any significant length of time present a number of special features to which insufficient attention is paid. One which has been mentioned to use on a number of occasions by experienced observers is that aborigines become depressed when placed in single cells.

It discusses problems generally in relation to the imprisonment of Aborigines. It is interesting, as some people observed to me, that we are hearing these same things said 15 years down the track. I ask the Minister how it is that a report prepared by such eminent people managed to gather dust—

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: Justice Roma Mitchell was the Chairperson of the committee. How can such an important report containing recommendations as to the rate and mode of Aboriginal imprisonment have gathered dust for so long? However, we now find that this matter is being raised in our bicentennial year, but unfortunately so for our State and our nation.

The Hon. C.J. SUMNER: The Mitchell committee report has not gathered dust. Over the whole range of Mitchell committee reports a number of proposals have been taken up and implemented, either as recommended by the Mitchell committee (for instance, the abolition of the unsworn statement) or—

The Hon. M.J. Elliott: I asked about Aboriginal—

The Hon. C.J. SUMNER: Just a minute. I know what the question was about. If the honourable member stops interjecting, I will get there a little bit more quickly than would otherwise be the case. Some of the proposals have been implemented in accordance with the Mitchell committee recommendations, others have been considered and implemented in a modified form, and others at this stage have not been implemented. However, regarding the imprisonment of Aborigines, I can say that this Government has taken action that, hopefully, will lead to some reduction in the level of Aboriginal imprisonment in this State. It is not a problem unique to this State; it is a problem that exists throughout the nation, and the figures provided by the Institute of Criminology that indicated that South Australia has the highest rate are disputed by the Office of Criminal Statistics because the Institute of Criminology underestimated the number of Aborigines in South Australia. As I recall, the institute used census figures from 1981 instead of 1986. In 1986 the number of Aborigines in the South Australian population was upgraded significantly as a result of the census.

Nevertheless, whether or not that is true the fact of the matter is that there is a major problem in relation to the imprisonment of Aborigines throughout Australia. That is not something peculiar to South Australia. The Government has recognised that and, through a number of legislative initiatives, it has taken action which will not remove the problem, obviously, but which should alleviate it to some extent. The bail legislation that was introduced by the Bannon Government was designed to ensure that bail authorities placed less emphasis on monetary sureties. That was clearly one area where Aborigines were at a disadvantage, because they could not provide adequate monetary sureties whereby to obtain bail. The provisions under that Act are designed to ensure that people are not placed in custody pending trial where the only reason for that is their financial means, or lack of financial means.

The sentencing legislation currently before Parliament has a similar objective in mind, that is, where fines are to be imposed to broaden the options available in sentencing and to place on the court an obligation to inquire as to the means of the offender before choosing a fine as an option. Again, another problem for Aborigines is the area of fine default. We have introduced legislation to provide for community service orders for fine defaulters. This is another measure that should have some effect, although the problem is difficult on the level of Aboriginal imprisonment. A considerable amount of work and expenditure has gone into renewing our prison system in South Australia to try to overcome the problems of inadequate prisons. Adelaide Gaol has been closed; Mobilong has been opened; Adelaide Remand Centre has been opened; and Yatala has been modernised and upgraded. The cost of these measures is more than $70 million, a very substantial commitment to correctional services in this State.

No-one wishes to run away from this problem. The Government is aware of it. A number of the initiatives introduced have been designed to attempt to alleviate the problem. We had a specific study carried out under the auspices of the Justice and Consumer Affairs Committee of Cabinet which is currently going through the process of examination by Government. Again, that is designed to ensure that Aborigines are not in prison when a reasonable alternative option is available.

As I have said on previous occasions, the problem has been identified for a long time. I do not know what more the Royal Commission on Aboriginal Deaths in Custody will ascertain; it may of course come up with some additional information. However, there is no doubt that the problem has been identified for some time. The real difficulty has been how to put in place legislative and administrative procedures which will alleviate the problem. The South Australian Government has taken a number of steps in that area, and we will continue that activity through the Justice and Consumer Affairs Committee and work that has been done by Aboriginal task force. The task force, which was reporting to the Justice and Consumer Affairs Committee, will continue to pursue the objective of ensuring that Aborigines who should not be imprisoned are, in fact, not given that form of correction.

CONCERT PROMOTERS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about voluntary codes of practice for concert promoters.

Leave granted.

The Hon. R.I. LUCAS: On 16 February 1987, I raised concerns publicly on behalf of many concert-goers about the practices of some concert promoters. In particular, I raised complaints that had been brought to me that day of some concert-goers who had paid $32 for tickets to a Dolly Parton and Kenny Rogers concert and had not been able to see the performance.

An honourable member interjecting:

The Hon. R.I. LUCAS: If one notices the size of both performers, clearly there was some difficulty if they could not see them. At that time I called on the Minister of Consumer Affairs to initiate discussions with concert promoters about the possibility of a voluntary code of practice which would include a guarantee that if concert-goers paid sums of money for tickets, they would at least be able to see the performers on stage.

On 17 February 1987 the Minister of Consumer Affairs responded positively to the request by asking the Commissioner for Consumer Affairs to instigate urgent discussions with concert promoters. Soon after that date I was contacted by the Acting Commissioner for Consumer Affairs in relation to the commission's investigations. On 2 December 1987, not having received a response, I asked the Minister of Consumer Affairs for a response to the investigations. Again, the Minister responded positively in this Chamber and said:

I will obtain some information on the topic and bring down a reply.

Now, some 14 months after raising the matter and receiving a positive response from the Minister of Consumer Affairs, we still have not received a response on that investigation. Has the Minister yet received a report from the Commissioner for Consumer Affairs and, if so, what has been the substance of that report to the Minister?

The Hon. C.J. SUMNER: I will take up the matter with the Commissioner for Consumer Affairs and provide information on the matter to the honourable member. My recollection is that this is not an area of great consumer complaint and, of course, in order to establish a case for regulation or a code of practice, it is important that the problems be identified and their significance established. If that is the case, the matter will be examined. I will take up the matter again with the Commissioner for Consumer Affairs and reply to the honourable member.

COLES MYER LEASE DOCUMENT

The Hon. I. GILFILLAN: I seek leave to make a brief explanation prior to asking the Minister for Consumer Affairs a question on the Coles Myer lease document.

Leave granted.

The Hon. I. GILFILLAN: Smaller tenants in large shopping centres are carrying the burden of exorbitantly high land tax due to an accumulative aggregation of land tax under the present system. Landlords are in many cases paying a higher rate per area, with the higher rates being loaded on to the tenants and shopkeepers. It is obviously a heavy burden for them to bear. An interesting article appeared in the Institute of Trading Standards Journal in February/March 1988 under the heading 'Here is a turnabout: It's been a bad month for landlords'. The article states:

In this journal we report on the coming into operation of the Retail Tenancies Act, which outlaws some favourite practices of landlords. On top of that now comes the news that Australia's biggest retailer, Coles Myer, is preparing its own lease document which the company will insist be accepted by landlords if they want Coles Myer as a tenant. That's a turnabout if ever there was one!

Most people know that the 'anchor' tenants such as Coles Myer in major retail developments pay far less rental per square metre than other tenants in the shopping centre but the new standard lease is understood to go a lot further than that. The new document will reject many traditional clauses which landlords have imposed over the years such as a requirement to pay for centre promotions, refurbishment and rent reviews based on the consumer price index. Coles Myer is also understood to be saying that they will no longer pay for escalators, repainting and other improvements to the shopping centre. The company is starting to put the screws on landlords like it has done to its suppliers for many years. So it's been a bad month for landlords with the small shops gaining the protection of the Retail Tenancies Act and the big shops beginning to dictate their own tenancy terms. With all the stories and experiences which we know of concerning malpractices of landlords we can't say that we are at all sorry.

It is proper to observe that the Bill we passed amending the Retail Tenancies Act recently in this place has been of benefit to small tenants, which is a plus in the circumstances. However, it concerns me that if Coles Myer and others that may follow will shed these costs and fair areas of responsibility to be shared between tenants, it is quite obvious who will pay: it will not be the landlords but rather it will be loaded onto the small tenants and, in due course, onto the consumer; otherwise small tenants may have to close because they can no longer run an economic enterprise in that centre.

With that background I ask the Attorney whether he has seen the proposal for Coles Myer to prepare its own lease document. Does he agree that, on the understanding that I have given to the Council on this article, the practice is unfair in relation to Coles Myer being a tenant in a shopping centre? Does he see any scope under any legislation available in this State or Federally to ensure that all tenants are treated fairly, in particular, in the matter of Coles Myer attempting to lower its responsibility in this dictatorial manner?

The Hon. C.J. SUMNER: I have not heard of the proposal. Obviously a number of issues are giving cause for concern in the area of commercial tenancies. The Government before the last election introduced legislation that provided some protection for tenants in commercial shopping centres. Of course, that legislation was clarified and updated recently, the Bill having passed late last year. Nevertheless, that has not resolved all the problems that exist in this area. Some issues need to be further examined. One obviously is the question of the obligation on smaller shopkeepers to stay open in the large shopping centres. That matter is to be addressed in a Bill still on the Notice Paper, at least in respect of the proposed extension of trading hours on Saturday afternoon. As that extension of trading hours has been defeated, the immediacy of giving small shopkeepers relief from the obligation to stay open is removed.

Nevertheless, it is probably true that concerns are still being expressed by small shopkeepers about the requirement in their leases to stay open. Concerns are expressed by small shopkeepers about the treatment of land tax in lease agreements whereby the landlords have the land tax levied on them on the capital value of their property and pass it on to the tenants. That is an area in which some concern has been expressed. Concern has also been expressed on whether a sufficiently adequate means exists for arbitrating disputes between owners of large shopping centres and their tenants. Despite the fact that the trading hours issue has been resolved and therefore that the problems of tenants being required to stay open at least for extended hours is now gone, that issue still remains to some extent an issue of concern to them.

I have also asked the Commissioner for Consumer Affairs to discuss other issues with the owners, organisations such as BOMA (Building Owners and Managers Association) and other organisations representing small shopkeepers. In that context I will have the issues raised by the honourable member examined and advise him whether or not the Government believes that any action is necessary. That answer has given me the opportunity to say what I was going to say briefly—

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: That is one of the issues you have raised. The issues the honourable member has raised in his question I will have examined along with the others I have just mentioned. All the questions that the honourable member has raised will be referred to the Commissioner for Consumer Affairs for examination in the context of looking at some of the issues still causing concern in the area of commercial tenancies which have to some extent been brought to light by the shopping hours debate.

I can probably now indicate that I will not have to say the same thing in relation to the Landlord and Tenant Act Amendment Bill, which is Order of the Day Government Business No. 2 on the Notice Paper, because I have already said what I wanted to say in answer to the Hon. Mr Gilfillan's question.

SIGNPOSTING

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

Leave granted.

The Hon. L.H. DAVIS: I resisted the temptation of asking a question about earwigs, because I was frightened of the possible reaction by the Hon. Mr Hill. On 4 November 1987 I asked the Minister of Tourism a question about signposting for the historic Bungaree Station which has overnight accommodation in the shearers' quarters for up to 31 people and it can also be inspected by visitors. Because Bungaree is often confused with Bungaree North and Bungaree East, the proprietors, George and Sally Hawker, in October 1986, about 18 months ago, asked the Clare council for a sign to be placed at the junction of the Spalding/Jamestown Road to ensure that visitors could more easily find Bungaree, which is about six kilometres from this junction on the main road to Port Pirie.

In December 1986 the Clare council agreed and wrote to the Highways Department recommending that this sign should be erected. It also had the support of tourism officers in the area. In July 1987, seven months later, the Hawkers received a letter saying that, as the road junction was six kilometres from the site, it was too remote to conform to Highways policy, which was only to provide tourism signs within the vicinity of a feature. Dozens of people kept getting lost. In answer, the Minister said that she would take up the matter with the appropriate authorities but, at the same time, she said I had trivialised the issue of signposting and was treating the matter flippantly.

The Minister would be interested to know that, 5½ months after she promised to take action, the Hawkers still have had no official contact about the much needed sign. People are still getting lost. There might be a whole township of people out there comprised of people who have got lost. Nothing has happened for 18 months.

Recently, with my wife, I drove from Burra through Spalding to Port Pirie for the regional tourism awards presentation. The road is well used by visitors coming from Broken Hill, the Riverland and Burra, but the only thing that can be said about the signposting along that road is the lack of it. A visitor without a map would get lost. Invariably, the signs refer to the next town but not to a major destination such as Port Pirie. The most accurate sign on the road was a large hand painted sign which said, 'This road is not a bicentennial project.' It was located on a 12 kilometre horror stretch which gave me an unexpected opportunity to experience the joys of the old around-Australia Redex Trials. My questions to the Minister are:

1. Will the Minister immediately rectify this slack approach to the important question of signposting and explain why nothing has happened in 5½ months and why it has taken the Hawkers 18 months to get nowhere on the question of a basic sign?

2. Will the Minister make public the working party report into signposting which she received in December 1987 but which, nearly four months later, is apparently gathering dust on her desk and has not yet been made available to interested parties in the tourism industry?

The Hon. BARBARA WIESE: As I have indicated a number of times in this place on the numerous occasions that the honourable member has raised the issue of signposting, the Government is addressing the matter. The working party that was established to bring the various Government agencies together to try to sort out some of the conflicts of interest in the matter of signposting around South Australia has managed to make substantial progress on the issue of trying to establish some common ground between the various agencies that take an interest in signposting but, inevitably, some conflict will remain, in that, in the interests of broader road safety, there will be occasions when tourism needs will not be able to be satisfied.

In those cases it is unfortunate that it will not be possible for tourism operators' desires to be fulfilled but, in a number of other cases where in the past it has been impossible for individual operators to achieve success with the Highways Department in obtaining appropriate signposting, in future there will be an opportunity for those people to satisfy those needs. It will take time to establish those results and, now that the working party has completed its work, efforts will be made within the various Government agencies to implement the new principles, once they have been agreed to by the Minister concerned, so that we are able to improve signposting around the State.

The working party is only one aspect of the work that is being undertaken around South Australia to improve tourism signposting. Tourism South Australia has been working with individual councils in this State to survey signposting needs in particular tourist locations. Once needs have been established, and also through financial assistance being provided by Tourism South Australia to various councils, a program of upgrading tourism signposting will be accelerated. A program of upgrading is already taking place, the most recent of which occurred on Kangaroo Island where I think everybody agreed that the signposting was inadequate. As I understand it, in the case of Bungaree, the advice that was given some months ago concerning the Highways Department safety considerations is a matter that would remain unchanged under the new signposting agreement.

The Hon. L.H. Davis: It's got nothing to do with safety—that wasn't the argument they used. They said it was too far away.

The Hon. BARBARA WIESE: That is one argument, certainly, and the distance is also taken into account by the Highways Department when it considers particular requests for signposting. As I indicated, now that the working party has looked at ways of improving our signposting systems around the State, over the next few months and beyond there will be an opportunity for Tourism South Australia to pursue the new policy with individual Government agencies and also local government in the interests of tourism operators.

COUNTRY SCHOOL DENTAL CLINICS

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Health a question about country school dental clinics.

Leave granted.

The Hon. M.B. CAMERON: Last November and December in this Chamber I raised the issue of proposed closures to several school dental clinics in country areas of this State. Among those scheduled for closure was the Keith school dental clinic, which subsequently was closed on 31 March 1988. At the time of the proposal to close that clinic, and one at Penola, I questioned how the Minister could justify the closures on the grounds of under-utilisation when both had been unable to meet the demands of appointments during 1987. In part of his reply the Minister quoted the rationalisation as follows:

> The undertaking is to provide services to every child in the State; not to provide a dental clinic on site in every primary and secondary school campus in the State . . . It is about administrative efficiency and, wherever possible, cost savings.

It seems that the recent closure of the Keith clinic certainly will not improve efficiency very much, particularly in the education field, because now students will have to be away from classes for hours on end while each classmate is seen by a dentist in another town. It is also unlikely to save the Government much in costs if the Keith closure is any guide.

Following the closure of that clinic, the School Dental Service, which is administered by the South Australian Dental Service, has offered to subsidise the cost of transporting schoolchildren from Keith to Bordertown, which is now the nearest clinic. The school does not have buses of its own; they are all owned by private contractors. The Keith Area School believes it is impractical for students to be tied up waiting at Bordertown while classmates receive attention at the dentist. It is wasteful of students' and teachers' time, is costly and disrupts the regular flow of classes. So, the school council has made an offer; it will pay SADS the $11 per student that it says is the cost differential involved in running a clinic at Keith.

I think that is a very generous gesture on the part of the school council. This seems a particularly generous offer from the community at Keith, particularly since a local woman—a former New Zealand dental therapist—would be able to run the clinic for minor dental treatment.

It appears that there is a prime opportunity for the Minister and his Government to listen to and heed what people at the grassroots are asking for in the country. In view of the offer made of $11 per head subsidy from the community, will the Minister take steps to reverse the decision by SADS to close the Keith clinic and accept the very generous offer by the school council to pick up the differential cost of retaining a local school clinic?

The Hon. J.R. CORNWALL: I am not attracted to the somewhat loose offer that has been made. Incidentally, it has not been made to me. I have a table referring to a number of dental clinics at Fulham Gardens, Darlington, Mount Gambier East, Murray Bridge, Mount Gambier North, Campbelltown, Naracoorte, Port Lincoln South, Mansfield Park, Bordertown, Keith and Penola. It gives details concerning the number of patients; the number of days in each week for which those school dental clinics are open; the number of therapists or full-time equivalent therapists and the salaries attributed to that number; the number of part-time dentists who are involved in each of those clinics; the number of dental nurses and their salaries; clinic costs; travel costs; cleaning costs, the total costs; and a breakdown of costs per patient. I seek leave to have this table, which is of a purely statistical nature, inserted in *Hansard* for the benefit of Mr Cameron and others.

Leave granted.

CLINIC COST COMPARISONS

Clinic	Patients	Open	Therapists		Dentists		Dental Nurse		Clinic Costs	Travel	Cleaners	Total	Per Patient
				Sal. 24 100		Sal. 42 200		Sal. 17 000					
Fulham Gardens	2 048	5	0.99	23 859	0.20	8 440	1.00	17 000	10 327		3 500	63 126	$30.82
Darlington	2 709	5	1.63	39 283	0.20	8 440	1.20	20 400	12 541		3 500	84 164	$31.07
Evanston	3 322	5	2.25	54 225	0.40	16 880	1.20	20 400	11 851		3 500	106 856	$32.17
Mount Gambier East	2 469	5	1.56	37 596	0.20	8 440	1.20	20 400	12 290		3 500	82 226	$33.30
Murray Bridge	1 927	3	1.10	26 510	0.20	8 440	1.00	17 000	11 698		2 100	65 748	$34.12
Mount Gambier North	3 014	5	1.97	47 477	0.40	16 880	1.40	23 800	14 014		3 500	105 671	$35.06
Campbelltown	1 600	5	0.91	21 931	0.20	8 440	1.00	17 000	7 775		3 500	58 646	$36.65
Naracoorte	1 907	4	1.27	30 607	0.20	8 440	1.20	20 400	8 379		2 800	70 626	$37.04
Port Lincoln South	1 387	5	0.82	19 762	0.20	8 440	1.00	17 000	6 688		3 500	55 390	$39.94
Mansfield Park	1 303	5	0.78	18 798	0.20	8 440	1.00	17 000	7 592		3 500	55 330	$42.46
Bordertown	1 047	3	0.76	18 316	0.20	8 440	0.60	10 200	4 345	2 764	2 100	46 165	$44.09
Keith	804	2	0.54	13 014	0.20	8 440	0.60	10 200	3 406	5 391	1 400	41 851	$52.05
Penola	764	2	0.56	13 496	0.20	8 440	0.60	10 200	5 437	3 456	1 400	42 429	$55.54

Please Note:

Clinic costs include dental supplies, stationery, telephone, power and cleaning supplies. The figures presented are the actual expenditure in 1986-87.

The data presented in the table are for comparative purposes only and should not be used in any other calculations for the following reasons:

- No central costs are included, for example, costs of running payroll, trade accounts, and the like.
- Staffing needs are based on 1987-88 figures while clinic costs are based upon actual expenditure in 1986-87.

The Hon. J.R. CORNWALL: The table shows that the annual cost per student patient at the Fulham Gardens clinic is $30.82; at Mount Gambier East, $33.30; at Naracoorte, $37.04; and, without boring members with all the figures as the table will be in *Hansard* and can be read, the cost at Keith per student per year is $52.05 and at Penola $55.54. So, the cost per student at Penola and Keith is almost double that at Fulham Gardens and is substantially more than the cost of $35.06 at Mount Gambier North.

Over the past five years the School Dental Service has been expanded from merely being available to primary school students—that is, up to and including year 7—to now being available to every student in this State up to and including the year in which they turn 16. This has been done virtually, if not literally, within standstill budgets. It has been a remarkable feat in terms of both financial management and administration and in clinical terms.

The School Dental Service was the subject of a wide-ranging Public Accounts Committee inquiry during the time of the Tonkin interregnum. It was also examined very carefully, professionally and expertly by an expert from the World Health Organisation, Dr Barnes from memory, who was invited to South Australia by me as the new Minister of Health in 1983 to review the service. Of course, the service had been pilloried and denigrated by both the South Australian Branch of the Australian Dental Association and, to a very significant extent, by a number of Liberal politicians. That service was charged—and has been charged during the 5½ years that I have been Minister—with the good conduct of a comprehensive school dental service. When one looks at the figures for opening the clinics for two days at Keith and Penola one can see immediately that relatively they are very expensive.

When one looks at the capital upgrading that needs to take place at those two part-time clinics, one draws the inevitable and unavoidable conclusion that they are the least cost effective school dental clinics in this State. As I said, in all the circumstances the decision—which was a Cabinet decision, I might say, and not something done in splendid isolation by the Minister of Health—to close seven or eight of these clinics ranging from suburban Adelaide to Whyalla (and I note that the Hon. Jamie Irwin interjected and said that there are no votes for us in Penola or Keith; I should have thought that Whyalla was still an area of very considerable activity) was—

The Hon. J.C. Irwin interjecting:

The Hon. J.R. CORNWALL: You have very short memories indeed. I think Whyalla is safe for the Labor Party for all time. Of course, clinics were also closed in suburban Adelaide—

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: No, I do not think that we are at this point, because they are extremely well represented by my very good friend Frank Blevins. Whyalla is not—and must never be—regarded as an electorate to be treated other than with great care and concern.

The other clinics that were closed—and I do not recall all of them—were scattered through electorates around suburban Adelaide. The closure was not done on the basis of where we have a safe seat for the Liberal Party or the Labor Party. We do not do business that way in health; we do the right and the efficient thing for all the population. So, that closure was done on the basis of efficiency. As I said, I have not had a direct proposition made to me. Mr Cameron and his close personal friend, the member for Victoria, have apparently been negotiating with the school councils and parents. I understand that they have been negotiating with SADS and with the parent bodies at those two places. I would be prepared to give the matter some consideration, but I have to say in all honesty that at this stage I am not attracted to the idea. I have made the offer to subsidise the purchase of a small bus for both those schools, and for any children for whom transport would be a problem the bus could be used. For many children at Kalangadoo, Tarpeena and Nangwarry who used the Penola clinic, it is closer for them to go to Mount Gambier, anyway.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: I did not say that I would be prepared to negotiate; I said I would be prepared to look at a formal proposition, although at this stage I am not attracted to it.

The PRESIDENT: Call on the business of the day.

PERSONAL EXPLANATION: BARE BOAT CHARTERS

The Hon. R.J. RITSON: I seek leave to make a personal explanation.

Leave granted.

The Hon. R.J. RITSON: Last week I asked the Hon. Ms Wiese why the Government had been unable to give a yes or no answer as to whether a bare boat chartered sailing vessel of 10 or more metres in length was required to be submitted for survey. When she explained why the Government was unable to answer that question at this stage she indicated to the Council that I really ought to have telephoned the department, if the answer was that simple, and obtained an answer from the officers in that department. That statement was met with some slightly foolish 'Hear, hears!' from members opposite, and I think it is important for me to explain why I did not do that and why the matter is not that simple.

There is, in fact, a file of correspondence, straddling several years, which involves an operator who is required to submit to survey while competitors are alternatively told that they are required to submit their vessels to survey and yet are permitted to continue to operate without, apparently, any prosecution or any restriction by the department. When my constituent asked for further explanation of this, subsequent correspondence from the department was such that it said yea out of one beak and nay out of the other. So, it has become important to get a clear statement of policy, a yes or no from the Government—that is, from the organ grinder and not his monkey. So, I refute entirely the proposition that it represents a lack of diligence on my part not to have telephoned the department on the matter, and I reassert the necessity for the Government to give a clear explanation of policy, a yes or no, on this question.

TELECOMMUNICATIONS (INTERCEPTION) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act for enabling the South Australia Police Force to be declared an agency for the purposes of the Telecommunications (Interception) Act 1979 of the Commonwealth; and for other related purposes. Read a first time.

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

That this Bill be now read a second time.

In 1987 the Commonwealth Parliament enacted the Telecommunications (Interception) Act Amendment Act which, *inter alia*, contains provisions enabling State Police Forces to apply for the issue of warrants authorising telecommunications interception. The Act provides that the power to obtain interception warrants is available only to State agencies which have been 'declared' by the Commonwealth Minister on the basis that the Minister is satisfied that the State has legislation making satisfactory provision regarding matters set out in section 35 of the Act.

This Bill makes provision for the matters set out in section 35 of the Commonwealth Act. These matters relate to:

- the retention of warrants and instruments of revocation by the Commissioner of Police;
- the keeping and retention of proper records relating to interceptions, the use of intercepted information and the communication and destruction of intercepted information;
- the regular inspection of records by an independent authority (the Police Complaints Authority) and for the

reporting by that authority to the Attorney-General of the results of each inspection;

- the furnishing of reports by the Attorney-General to the Commonwealth Minister of all reports by the independent authority;
- the furnishing by the Commissioner of Police to the Attorney-General of copies of all warrants and instruments of revocation and the reporting to the Attorney-General within three months after the expiration or revocation of a warrant on the use made of intercepted information and the communication of that information;
- the furnishing by the Attorney-General to the Commonwealth Minister of copies of all warrants and instruments of revocation; and
- for the destruction of irrelevant records and copies of intercepted communications.

The Commonwealth Telecommunications (Interception) Act 1979 provides the framework for intercepting telecommunications. It establishes the offences for which interception warrants may be obtained, the grounds on which warrants will be issued by a Federal Court judge and the use that may be made of information obtained as a result of an interception.

The offences for which warrants may be obtained are repeated in clause 3 of this Bill. There are two classes of offence. Class 1 offences are murder and kidnapping; and class 2 offences are those punishable by imprisonment for life, or a maximum period of at least seven years involving loss of life or serious personal injury, or the serious risk of such loss or injury; serious damage to property in circumstances endangering a person's safety; trafficking in narcotic drugs; serious fraud or serious loss to the revenue of the State; and aiding, abetting, counselling, procuring or conspiring in relation to any of the above.

In determining whether to issue a warrant in relation to a class 1 offence the judge must take into consideration, *inter alia*, the extent to which other methods of investigation have been used, how much information would be likely to be obtained by such methods, and how such methods would be likely to prejudice the investigation. In relation to a class 2 offence, the judge must also have regard to, *inter alia*, the privacy of persons likely to be interfered with by the interception, and the gravity of the conduct constituting the offence being investigated.

Information obtained as a result of an interception can only be used in court proceedings or passed on to another eligible agency if it relates to an offence under the law of the State of that eligible agency; or relates to proceedings for confiscation or forfeiture of property; or may give rise to policy disciplinary proceedings; or involves misbehaviour or improper conduct of an officer of the State. Intercepted material is inadmissible in court proceedings if it is not obtained in accordance with the provisions of the Commonwealth Act.

Under the provisions of the Commonwealth Act the State Police are to obtain their own warrants from a Federal Court judge. All interception warrants are to be executed by the Telecommunications Interception Division of the Australian Federal Police, and all interceptions are to be conducted through Telecom, except where a judge specifically authorises the AFP to intercept independently of Telecom on being satisfied that Telecom cannot assist for technical reasons, because its facilities are not available, or its assistance might jeopardise the security of the operation.

The Government believes that telecommunication interception is a cost effective means of combating serious crime. It also recognises that telecommunication interception is a particularly intrusive form of investigation and should be used only in special circumstances where other less intrusive methods would be ineffective. By restricting the authority to make use of interceptions to serious crimes, by requiring judicial authorisation for warrants, by providing for ministerial review of all warrants issued, and by providing for independent inspection of police records, the Government is satisfied that the proper balance has been obtained between the protection of the community against criminal activity and criminal injury on the one hand and the privacy of the individual on the other.

This Government has already done much to further its resolve to protect the community against criminal activity and injury. I mention some measures already taken: the National Crime Authority legislation, the revision of drug offence penalties and the confiscation of profits of crime legislation. The present measure will further enhance the community's protection against criminal activity. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement on proclamation.

Clause 3 provides a series of definitions the majority of which are, of necessity, straight copies of definitions in the Commonwealth Act. The definitions of 'ancillary offence', 'Class 1 offence', 'Class 2 offence', 'prescribed offence' and 'serious offence' are all required for the purposes of clause 6 of the Bill which obliges the Commissioner of Police to give very detailed reports to the Attorney-General. Subclause (3) provides that any expression not defined in this Act has the same meaning as in the Commonwealth Act.

Clause 4 requires the Commissioner of Police to keep copies of all interception warrants issued to the police force of this State, copies of each notification given to the Federal Police Commissioner as to the issue of a warrant pursuant to a telephone application, copies of all revocations of warrants, copies of certain evidentiary certificates that the Commissioner of Police is empowered to give under the Commonwealth Act, copies of written authorities given by the Commissioner to police officers authorising them to receive information obtained by interceptions, and copies of all records made under Clause 5 of the Bill.

Clause 5 requires the Commissioner of Police to make written records of a wide range of matters relating to warrants and their revocation or refusal under the Commonwealth Act, to the movement of records of interceptions into and out of the hands of the Police Force and to the use made of information obtained through interceptions.

Clause 6 requires the Commissioner to give the Attorney-General a copy of each warant or revocation of a warrant as soon as possible after its issue. The Commissioner must also report to the Attorney-General, not later than three months after a warrant ceases to be in force, on the use made and communication of any information obtained pursuant to the warrant. An annual report must also be given to the Attorney-General setting out detailed information and statistics generally relating to the whole area of warrants, arrests and convictions made on the basis of information obtained through interceptions and the types of offences involved in such proceedings.

Clause 7 requires the Commissioner of the Police to keep restricted records (this is records, whether audio or transcripts, of interceptions) in a secure place that is not accessible to persons other than those who have lawful access to

them. The Commissioner is also obliged to destroy such records once they are no longer needed.

Clause 8 requires the Police Complaints Authority to inspect the records of the Police Commissioner at least twice a year in order to ascertain whether or not the requirements of this Act as to the keeping and making of records (sections 4 and 5) and the security and destruction of restricted records (section 7) are being complied with. Not later than two months after completing such an inspection the authority must give a written report of the results of the inspection to the Attorney-General. If certain other offences come to light during such an inspection, the authority may include that information in any such written report.

Clause 9 gives the authority and any authorised officer of the authority powers of entry into Police Force premises and the right to inspect all police records and require any member of the Police Force to give information relevant to the inspection. A person is not excused from giving such information on the ground of self-incrimination, but any such information is not admissible in evidence against the person (except in proceedings for an offence against section 10).

Clause 10 establishes the offences of refusing or failing to comply with requirements made under section 9 and of hindering an inspection or giving false or misleading information.

Clause 11 prohibits the Police Complaints Authority and its officers from divulging information obtained pursuant to this Act except, of course, as may be required or authorised by this Act.

Clause 12 provides that the above offences are summary offences.

Clause 13 gives immunity to the Police Complaints Authority, and to such of its officers as may be acting under its direction or with its authority, when acting in good faith under this Act.

Clause 14 obliges the Attorney-General to give a copy of all warrants, revocations and reports received under this Act to the relevant Commonwealth Minister.

Clause 15 is a regulation making power.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL (1988)

Adjourned debate on second reading.

(Continued from 7 April. Page 3883.)

The Hon. K.T. GRIFFIN: It is somewhat surprising that major amendments to the Workers Rehabilitation and Compensation Act should be brought into the Parliament only six months after the Government's well promoted WorkCover scheme came into operation. One would have thought that after the legislation had been subjected to careful analysis of the Parliament and after such an extensive period of review before the legislation was introduced there would be a much longer period than six months before amendments, and quite substantial amendments, were proposed. All I can say in relation to this Bill generally is that the extent of the amendments demonstrates how ill conceived the original WorkCover legislation was and how much of a problem the scheme is already becoming for the Government as it endeavours to broaden its revenue base to meet the expenses necessarily incurred in the operation of this monopoly scheme.

My colleague the shadow Minister, the member for Mitcham (Mr Baker), in the other place extensively reviewed the problems that have been reported to the Opposition by employers and workers regarding the operation of WorkCover during the limited period in which it has been in operation, and I do not intend to canvass again all the points the honourable member put on the record in *Hansard* and through public statements. However, there are a number of areas which warrant comment and which are pertinent to the ambit of this Bill.

It is obvious from this Bill that the Government is trying to find a way to cut its WorkCover costs and to increase the revenue that flows into the corporation to enable it to at least attempt to cover both present and contingent liabilities. It is obvious too that more and more of the burdens of this scheme will be placed upon employers as the Government, through this legislation and through administrative actions, pushes more of the cost on to those employers. Only recently there was a major reshuffle of levies: 111 categories were decreased but 146 were increased. There was a major adjustment in the levies for charitable and voluntary organisations, some levies being increased beyond 3.8 per cent of salaries, wages and other so-called benefits (and I refer to the nursing home area) while some levies were reduced from that level to between 1.4 per cent and 2.3 per cent.

It is interesting to note that as part of that major reshuffle of levies the levy for the Casino was reduced to 1.4 per cent, yet the amount that licensed clubs, which get very much less turnover of trade and burdensome activities, were required to pay to WorkCover was dramatically increased to 3.8 per cent. There is no discernible reason why the Casino is treated differently from licensed clubs which, of course, encompass football clubs, social clubs, country and other community clubs as well as a variety of clubs that serve the interests of ordinary members of the community. Ordinarily, one would expect that the levy for those clubs would be in the range of the levy for the Casino, which has a much higher profile and range of activities in the refreshment and hospitality and gaming and wagering areas than has any club of the nature to which I have referred.

When the Government proposed this Government monopoly scheme of WorkCover it promised reductions of about 40 per cent in the premiums that employers would pay but, even in the short time during which the scheme has been operating, we have seen a quite dramatic increase in the costs of cover for about 75 per cent of employers, most of whom fall into the small business category. We must take into account not only the levies but also the fact that employers are required to bear the burden of the employee's first weeks off work.

Only the other day an electrical contractor told me that, prior to the introduction of WorkCover, he had 78 employees but, with the introduction of WorkCover together with the dramatically increasing burden of land tax, council rates and other Government costs and charges, he made the conscious decision to wind down his business to a point where he employs fewer than 10 people. He no longer feels that he is working only for his employees and for the Government. There are many other instances where employers have indicated, either through their trade organisation or through the Opposition, or in other ways through the media, a dramatic increase in the costs of cover for workers compensation. One small refrigeration business wrote to me only the other day indicating that in the private enterprise free market, the cost to the company for workers compensation premiums even with the considerably greater benefits available to workers under that system than under

the present system, were $3 204, yet under WorkCover that firm has been levied a percentage rate of 2.8 per cent which, for the same salaries this year, will cost $8 272 in premiums to WorkCover, an increase of about 158 per cent.

That has occurred notwithstanding the fact that there has been only one claim to the company's previous insurers in its 18 years of business, and that claim was for $90. Although the WorkCover board has said that it is not able to take into account past records, one of the great inequities of the current system is that employers with excellent records over the years in relation to accidents in the workplace have been penalised quite dramatically along with others whose record is not as good. They are paying the same levy. Therefore, there is really no incentive in the current scheme for a person to ensure proper work practices in the workplace except under the penal provisions of the Occupational Health, Safety and Welfare Act.

The Hon. R.J. Ritson: Didn't the Labor Party argue that—

The Hon. K.T. GRIFFIN: Well, there is a clause in the Bill which purports to deal with it, but there are so many other burdens created by the Bill that I would suggest that any attempt to give incentives is really more than overcome by those other burdens presented by this Act. Of course, the other question one has to ask is how genuine the WorkCover system will be in seeking to give incentives for enhanced performance within the workplace.

The other point that must be made in respect of the electrical contractor to whom I referred earlier is that he has indicated to me that he has very rarely had an employee injured at work who has taken more than a week off from work. Under the present system, he is finding that he is bearing the burden of these employees where they are injured and take perhaps one or two days off work because, of course, the employer pays the first week's compensation.

We know that there is considerable cross subsidisation. That was clear at the time that the Government proposed the current scheme: it was something the Opposition fought quite strongly against. One of the difficulties I have is in appreciating how the employers could have fallen for the concept of cross subsidisation. It really meant that the bulk of employers were paying more, rather than less. A few, particularly in the manufacturing industry, among whom were a number of larger employees, gained substantial benefits by reduced levies.

The levies being imposed by WorkCover are, in fact, levied on very much more than was ever intended by the Parliament. When the Parliament had the principal Act before it, we talked about the concept of average weekly earnings. We talked about concepts of notional weekly earnings, and the weekly payments in respect of a disability for which a worker would be compensated. In all of those discussions the concept of salaries and wages being the basis upon which this scheme was founded was the essence of the debate. When we talked about remuneration being the basis upon which the levy was imposed it was never, at any time, envisaged that the whole range of benefits granted to an employee should be the subject of a levy, particularly where those benefits were never, at any time, part of the calculation of average or notional weekly earnings, or the basis for calculating weekly payments of compensation to an employee. In fact, in section 35, which deals with weekly payments and where there are to be reductions in payments made to an injured worker certain benefits such as superannuation and pensions were to be expressly excluded from consideration when reductions were to be made in those weekly payments.

If one looks at the list of items which the board of the corporation has declared will be included in the description of remuneration, it is clear that many of them have no relationship to salary and wages. Of course, one of the oversights which the Council committed during the course of consideration of this Bill was that we did not require the declaration of what was to be included as remuneration to be undertaken by regulation, rather than by merely publishing a notice through the corporation in the *Government Gazette*.

That was a big mistake because it did not make the corporation accountable to the Parliament and there can be no check on what the corporation seeks to include in remuneration, which will be the basis for fixing the levy. If we look at the declaration made by the WorkCover board we see payments such as annual leave, back pay, bonuses, holiday pay, leave loading, salary, service increments, and so on, which one would normally regard as falling within the concept of salary and wages. On the other hand we see items for contributions to superannuation, life assurance, personal accident and sickness insurance and so on which could not, by any stretch of the imagination, have been regarded as salaries and wages for the purpose of calculating average weekly earnings or payments for which an injured worker is to be compensated.

Other allowances include those for accommodation, clothing, dry cleaning, entertainment, fares for travel, footwear, home entertainment, living away from home, motor vehicle, rental and so on, all directed towards ensuring that a worker does not suffer as a result of certain additional burdens being placed on that worker either in relation to the sort of work done, whether it be dirty work requiring dry cleaning of clothes, living away from home or, as a commercial traveller, having to travel around South Australia and incur motor vehicle costs, accommodation expenses and meal allowances. Those sorts of allowances are really in the nature of reimbursement of costs directed towards ensuring that the worker is in no worse a position than any other with respect to those additional onerous duties placed upon him.

It is quite wrong for those amounts to be subject to the levy payable to the WorkCover board to cover workers compensation because those items are not taken into account in respect of the calculation of weekly payments. It is either naive or dishonest of the WorkCover board to suggest that, because these items are included in salary for the purpose of calculating payroll tax, they should therefore be the subject of a levy under this legislation. It is naive because none of these items is compensable and they are all directed towards earning a living. It is not the remuneration for the work actually done that ought to be the basis on which the levy is imposed.

It is either naive to believe that all of these items should be the subject of a levy or it is another grab to widen the base upon which the levy is imposed as much as possible or, alternatively, to be charitable the logic was never really thought through. I suspect that of those three options it was the desire on the part of WorkCover to increase its leviable base that prompted the breadth of determination to be promulgated to widen the area of remuneration. In Committee I will seek to bring that under control and bring it back under parliamentary scrutiny, without unduly prejudicing the operation of the WorkCover system.

The Minister of Labour in another place quite incredibly said that the reason for this breadth was to ensure that the $150 million should be raised and that the levies would be apportioned according to the amount which had to be raised. He forgot that the levies were fixed before any public or private intimation was made of the amount that WorkCover would have to raise to meet its liabilities and the 4.5 per

cent maximum levy was imposed only as a sop to employers to get at least some of the major employers on side to get this legislation through the Parliament with a minimum of hiccup.

Other issues have been raised in relation to WorkCover. There have been complaints of delay in payments from doctors and employers in respect of certain reimbursements. One employer recently telephoned me to say that an application had been made for certain reimbursements for medical expenses in October and still had not been paid in March. He indicated to me that around employer groups the view was held that the only way to get WorkCover to pay was to send a fax every week initially and then daily towards the end of that period of frustration, each fax being prepared in firmer language than the previous fax so that ultimately employers may get some payment for their outstanding disbursements. That is a sad commentary on the operation of this scheme.

My colleague Mr Stephen Baker, the member for Mitcham, in the other place referred to a report that was a review of the administrative arrangements for WorkCover. He has canvassed that more than adequately in the House of Assembly and I do not intend to go over that ground again, save to say that the report indicated that major problems exist with the administration of WorkCover and, although there was an attempt to blame the agency, one has to be realistic enough to appreciate that the agency was given only a very limited time to get the scheme up and running after the legislation was passed early last year, so the fault is not all on one side. The major issues in the Bill, to which I will refer briefly, are as follows: a question exists about what is to be included in the base for calculating the levy. I will move an amendment which will refer to remuneration as salary and wages and such other benefits as may be prescribed but excluding superannuation and other payments as may be prescribed.

There will be a mechanism by which Parliament will be able to review the decisions of WorkCover in respect of the levying of those levies. There will not be the risk, if the regulations are disallowed, that WorkCover will lose all its income, because the intention of my amendment will be to use salary and wages as the base and not to make that subject in any way to disallowance; to exclude superannuation contributions which ought not be the subject of the levy, because they are not taken into account in determining the amount of compensation payable to an injured worker; and to allow other items to be both included and excluded by regulation. Those two areas will need to be the focus of attention during the Committee stage.

The next item is of some significance and it relates to the question of the continuation of employment which is referred to in clause 15 of the Bill and which seeks to require certain reports in respect of return to work and, also, to place an obligation upon an employer in relation to a return to work in circumstances which might be regarded as inequitable. I want to develop a scheme which, whilst recognising the obligation of an employer to take back an injured worker when that worker is fit for work, nevertheless ensures that, if an employer has no capacity to do so, either because of the size of the work force or because of the fact that the employee has been off work for so long that the employer has had to fill the position with some other employee, then there will be certain mechanisms by which the employer will not be compelled to re-employ. The spirit of the obligation will remain, but there will be certain safeguards against an employer being unduly prejudiced.

I will want also to focus on the imposition of levies as set out in clause 19 which, among other things, allows a levy to be determined by reference to a class of industry, or the predominant class of industry, in which an employer is engaged, even though the work may occur on two or more campuses and each campus having a different class of industry undertaken on those premises. We are very much opposed to the sort of rule of thumb, everything in together attitude, which WorkCover and the Government seek to adopt. Rather than bringing everything down to the lowest common denominator, the Government takes it to the highest common denominator. We also oppose that it should provide, as does clause 19, that any question as to the class of industry or the predominant class of industry in which an employer is engaged will be conclusively resolved by determination of the corporation. One can only ask how the corporation is to be accountable. It is a monopoly insurer and it will make decisions which affect its income, but it will not in any way be subject to review.

I want to focus on the review process which seeks to change quite significantly the present review process. I am conscious that the Law Society has had discussions with the Government on amendments to clause 33 in particular, and I see from amendments circulated by the Attorney-General that there has been a substantial modification of the provision relating to appeals and the review of decisions of a review authority. However, when the Bill came before us it was quite offensive in that it sought to place in the hands of an untrained review officer, who was an employee of the corporation, the right to review certain decisions as though that review officer was sitting in a judicial capacity and, in effect, to provide that review officer with what was tantamount to the final say on any dispute raised by a self-insurer, an employer (in some instances another employer) and by an injured worker, and to limit the appeal quite dramatically. Of course, it was an appeal from Caesar to Caesar and an incestuous proposition. It was a breach of generally accepted principles of natural justice and did not in any way make the corporation or the review officer accountable for the decisions of that officer. As I say, it was quite incestuous and offensive and, I suppose, one might even use the word 'corrupt' without using it to connote that any individual was corrupt in the sense of engaging in malpractice; rather, just looking objectively at the system proposed by the Government and the way that all issues were to be dealt with in-house and with inadequate rights of review. I am pleased that to a certain extent the amendments placed on file by the Attorney-General overcome the rather offensive limitations on individual rights proposed in the Bill.

The only other major issue to which I want to refer at this stage relates to the disclosure of confidential information under clause 38. I find it quite unbelievable that the Government would seek to propose the disclosure of information collected by WorkCover (even though it is to be disclosed in accordance with regulations) to any other prescribed Government authority, agency, or instrumentality of the Crown, whether of this State or of another State or Territory of the Commonwealth, or of the Commonwealth. I think that that clause has many problems in principle. WorkCover is no longer likely to maintain confidentiality. It will be enabled to disclose information according to regulations which, in my view, ought to remain confidential.

I regard a variety of other matters as important and they will be the subject of more detailed consideration at the Committee stage. Suffice to say that the Opposition is perturbed about many aspects of this Bill. It is concerned about the operation of WorkCover in any event and just reaffirms its concerns which it expressed when the principal Act was before this Parliament and was extensively debated. I am

prepared to indicate support for the second reading on the basis that some matters in the Bill can be supported but also to enable the consideration of amendments, some of which are proposed by me.

The Hon. C.J. SUMNER (Attorney-General): The honourable member has used this opportunity once again to criticise the WorkCover scheme. As everyone knows, the scheme was introduced to try to restrain the dramatically increasing costs of workers compensation which were occurring at that time—and had been occurring for some time—through the private system and through the system which provided for Full Court hearings for claims for workers compensation. The honourable member should not be surprised that there are amendments at this stage. Obviously there will be amendments to this legislation, I suspect on a regular basis, during the course of the next few years. This is new legislation in South Australia; it must be kept under constant review; and amendments are designed to pre-empt problems.

The recent levy review used updated information to provide for more equitable sharing of the costs. Rates were set on the basis of professional actuarial advice. Clearly, this was done on the basis of the best information available. The honourable member said that there were increases in costs of cover for some 75 per cent of employers. I am advised that this is not correct. Major sections of industry—and this is not given any publicity—have had substantial reductions as a result of a maximum rate of 4.5 per cent of the payroll, whereas before in many cases they were paying 20 per cent or more.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, that is the fact. That is what was happening under the old scheme. The reality was that our workers compensation rates in some industries in South Australia were becoming uncompetitive with those in other States of Australia and, if one wants to attract industry to South Australia, it is necessary to have workers compensation rates which are competitive with those in other States. The reality is that the major gains as a result of the WorkCover system were made on manufacturing, primary production and construction.

In the area of service industries rates have increased as a result of cross-subsidisation, but in general they are not in competition to the same extent with interstate or international competition. The scheme was designed to provide relief in those industries where there was direct competition with interstate and where we must attempt to upgrade our productivity performance to improve our export performance. The reality is that, despite all the criticisms of the scheme made by members opposite, they have not come up at any stage with a proposal which would have had the effect of reducing premiums.

The Hon. K.T. Griffin: That is not right; we did.

The Hon. C.J. SUMNER: You didn't come up with anything to reduce premiums to the extent that would have enabled those industries to be competitive with the rates that apply in other States. The fact is—and this is why pressure was made to make changes to the scheme—that the old Workers Compensation Act, the way it was structured and the benefits that it provided meant that before the introduction of WorkCover there were dramatically escalating premiums that industry was rightly complaining about. A penalty and bonus system will be introduced when the corporation has sufficient claims experience, probably in 12 or 18 months. It will then be possible to adjust the rates more specifically, depending on the accident experience of particular industries and enterprises.

I do not want to go into the honourable member's criticism in any great detail. I will deal with some of it in the Committee stage. I have answered the principal criticisms of the honourable member. I repeat that the scheme was designed to ensure that, particularly in key industries, South Australia remained competitive in relation to workers compensation rates with other industries in Australia and that the escalating costs of the old scheme were brought to a halt.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Functions and powers of the corporation.'

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

Page 2, lines 4 to 6—Leave out subsection (3) and insert the following subsection:

(3) The corporation may carry out such investigations and inquiries as are reasonably necessary for the purpose of—

(a) determining any matter that might affect its liabilities; or

(b) carrying out any of its other functions.

The object of this proposed clause is to introduce into the powers of the corporation some requirement that when it conducts investigations and inquiries it must ensure that they are reasonably necessary for the purpose for which they are undertaken. They are undertaken for determining any matter that might affect its liabilities or the carrying out of any of its other functions. It seems to me that it is not unreasonable to import into that provision some element of reasonableness as a prerequisite to undertaking the investigations and inquiries. If one looks at what is in the Bill, one sees that it provides a very wide power to the corporation. Its powers of investigation and inquiry are limited only to the extent that the investigation or inquiry may not relate to any matter that may affect its liabilities or in some other way not relate to the carrying out of its other functions. It is very broad.

I suppose that it could extend to entering premises of persons who were not employers but who might have access to information, documents or papers which might relate to the liabilities. I suppose that it might extend to entering a lawyer's office to conduct certain investigations. It might also extend to entering a doctor's surgery to look at case notes. There are a whole range of issues that it might cover. It is very wide, and it seems to me that, if it is qualified to the extent that it should be reasonable, it is a reasonable limitation.

The Hon. C.J. SUMNER: The amendment is opposed by the Government.

The Hon. K.T. GRIFFIN: I indicate that if on some of these amendments I can get the drift of the Committee that I will not succeed on the voices I will not divide. However, I believe there are some issues of sufficient importance to warrant division, notwithstanding that I might lose an issue on the voices. This is one such amendment, in relation to which, if I lose on the voices, in the light of the intimation by the Hon. Mr Gilfillan, I do not intend to divide.

Amendment negatived; clause passed.

Clauses 5 to 9 passed.

Clause 10—'Incidence of liability.'

The Hon. K.T. GRIFFIN: Paragraph *(c)* provides for a new subsection (8a). It provides that regulations may exempt prescribed classes of employers from the operation of subsection (3), which provides for the employer to be liable for the first week's income maintenance. Can the Attorney indicate whether there is any present intention to exempt a prescribed class of employer and, if there is, can he indicate what might be that class or those classes of employers?

The Hon. C.J. SUMNER: It is proposed to exempt householders who are employing domestics.

The Hon. K.T. GRIFFIN: At any particular level of remuneration, or all of them?

The Hon. C.J. SUMNER: All of them.

Clause passed.

Clause 11 passed.

Clause 12—'Determination of claim.'

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

Page 3, after line 22—Insert the following:

(ab) no member of the police force attends at the scene of the accident;.

The Hon. C.J. SUMNER: That amendment is accepted.

The Hon. K.T. GRIFFIN: The amendment now appears to have unanimous support, and I am delighted. It may be that this is a forerunner of things to come—I can only live in hope. Basically, it is to ensure that where a member of the Police Force attends at the scene of an accident there is no further obligation for the claimant to then report the accident to a member of the Police Force or at a police station.

Amendment carried; clause as amended passed.

Clause 13—'Limitation of employer's liability.'

The Hon. K.T. GRIFFIN: Clause 13 relates to a further limitation on the liability of the employer in relation to a compensable disability which arises out of the use of a motor vehicle. As I understand it, it is designed to prevent third parties from recovering, ultimately from WorkCover, where that third party is a worker who might otherwise have his or her rights to workers compensation limited. I can see what the Government is seeking to do in respect of this clause, but I must say that I have some reservations about it. I am not convinced that there ought to be that limitation on liability where the injury arises out of the use of a motor vehicle. However, I do not intend to formally oppose the provision.

I express concern about the further limitations on the rights of an injured worker, and particularly in relation to the possibility of a further claim under the compulsory third party bodily injury insurance which might cover that motor vehicle. It seems to me that there is a real prospect that, even though injured on the road, under the compulsory third party bodily insurance scheme, the other person may have very substantially limited rights of recovery, if no rights at all, where previously those rights were available.

Perhaps, though, before the clause is put the Attorney-General can indicate whether the Government intends to remove the right of action not only by another worker injured as a result of a motor vehicle accident against his or her or the other worker's employer with respect to a WorkCover but also in relation to compulsory third party bodily injury claim under the Motor Vehicles Act.

The Hon. C.J. SUMNER: The purpose of the clause is to stop third party claims against an employer which would have to be reimbursed by WorkCover. For instance, if an employee is injured as a result of the negligent actions of a fellow employee the injured employee would have, rightly, his claim against WorkCover. The clause is trying to prevent the injured worker employing the fellow worker, getting a judgment against the fellow worker, and then the fellow worker claiming that judgment against the employer.

The Hon. K.T. GRIFFIN: The employer may have two indemnities—one under WorkCover as the employer and the other as the owner of the motor vehicle which is insured under the CTP scheme.

The Hon. C.J. SUMNER: I am advised that it does not have anything to do with the third party motor vehicle situation; it has to do with attempting to stop the situation that I have outlined, where a worker is injured as a result of the negligence of another worker, the injured worker suing the negligent worker at common law and then that negligent worker being able to claim against the employer who has no insurance for it, because it is not covered by the WorkCover scheme. It is designed to block that off.

The Hon. K.T. GRIFFIN: But not to prevent a claim against an employer as the owner of the motor vehicle insured under the CTP scheme.

The Hon. C.J. SUMNER: No.

Clause passed.

Clause 14 passed.

Clause 15—'Reports of return to work, etc.'

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

Page 5, lines 11 and 12—Leave out paragraph *(a)* and substitute the following paragraph:

(a) a worker who—

(i) suffered a compensable disability arising from employment with that employer;

and

(ii) has been receiving weekly payments for total incapacity for work resulting from that disability,

returns to work with that employer.

This clause seeks to insert two new sections, one relating to reports on an employee returning to work and the other relating to continuation of employment. My first amendment seeks to require a report to the corporation only where a worker who suffered a compensable disability arising from employment with an employer and who had been receiving weekly payments for total incapacity for work resulting from that disability returned to work with that employer.

It limits the extent to which the employer is required to report. It seems to me that this provision places an onerous burden on the person who was the employer at the time when the worker was injured. Paragraph *(a)* of new section 58c (1) relates to a worker who has been receiving weekly payments for total incapacity and who returns to work. It does not refer to a worker who returns to work with the person who was the employer at the time that worker was injured.

Since new section 58a (1) is broad and places unrealistic and unreasonable burdens on the employer, I prefer to limit the provision whereby the employer must notify the corporation when the injured worker returns to work with that employer. Only that fact will be within the knowledge of that employer; he might not know when the injured employee returns to work with some other employer. I also propose to delete paragraph *(c)* of new section 58a (1) to ensure that, on each occasion when there is some change in the type of work performed by a worker, the employer does not have to notify that change to the corporation. Even though the work might be at the same level, I foresee that this could become something of an administrative nightmare for employers where an injured worker is partially incapacitated but is performing some work. The employer would have to report to WorkCover each occasion on which the type of work performed changed.

The Hon. C.J. SUMNER: The Government opposes this amendment. Basically, this is an anti-fraud provision to stop employees from taking on additional work where the employer knows that that employee has been on compensation but has not advised WorkCover that additional work has been taken on.

The Hon. K.T. Griffin: What if the employer doesn't know?

The Hon. C.J. SUMNER: In that case there is a reasonable excuse under new section 58a (4). The corporation believes it is important to place this obligation on employers if they know that a person has been on compensation and if that employee returns to work; the employer must notify

WorkCover that that has occurred, otherwise there could be an opening for fraud on the system. The amendment would only place an obligation on the injury employer to notify WorkCover of a return to work. The Government's Bill is wider and requires the current employer or employers (if more than one) to notify of a return to work. It is obviously important that employers, when they know that a worker has been off employment because of workers compensation, whether or not the worker was injured in their employment, to notify of the return to work. If that does not occur, there is an invitation to fraud.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. A similar amendment was moved in the House of Assembly and virtually the same debate took place and the same replies were given. I hope that on our last day of this sitting we will not go through a complete duplication. I understand that there are two or three fresh matters—

The Hon. K.T. Griffin: We are, actually. If you don't want it on the record, that is fine, but I am entitled to put it on the record of this Chamber.

The CHAIRPERSON: Order! The honourable member may speak when he has the call.

The Hon. I. GILFILLAN: The honourable member is interjecting to the point I made. I am not laying blame on the Hon. Trevor Griffin, but I point out that there is an extensive amount of work to be done, and we must consider that. I certainly do not intend to indulge in drum beating for the Democrats by saying that the legislation would have been worse if we had not had our say and comment merely in order to put the Democrats point of view. It is obvious that there is a job to be done. Much of the work on this Bill has been done in discussion of the amendments in the House of Assembly, so I plead with the Hon. Trevor Griffin to bear that in mind when he exercises his discretion on how long to draw out the debate on the issues that have been debated satisfactorily. If he wishes to raise fresh argument, that is fair enough, but let us not duplicate for the sake of duplicating. The Democrats support the Government's argument and oppose the amendment.

The Hon. K.T. GRIFFIN: Madam Chair, I do not care if the Hon. Mr Gilfillan has already had some discussions with the Government over this and has come to some agreement with it about what he will not support. The fact is that I am entitled to move these amendments, and I will move them. If I want to explain them, I will explain them. It is important for me, in this Chamber, to put on the record the Liberal Party's point of view. If I want to call for a division on these issues, which I think are important, I will call for a division.

It is all very well for the Hon. Mr Gilfillan to say that I should have consideration for the Council: I do have it. I have been fairly economic in what I have had to say on all of the Bills that I have handled in this place. I believe that the Attorney-General and I have expressed our points of view fairly efficiently and they are on the record. I will continue to do that, as I believe the Attorney-General will generally endeavour to do also. The fact is that this is a separate House. In ordinary circumstances, one could expect that the Hon. Mr Gilfillan might be open to persuasion by the Opposition to support a point of view. However, on WorkCover he sold out 12 months ago. He has got the scheme for the community of South Australia, and let no-one forget it. If I want to make some observations on that point I will.

The Hon. C.J. Sumner: He's getting a lecture now.

The Hon. K.T. GRIFFIN: Well, he will get a lecture on it. I have worked hard on this and other Bills and am entitled, even if he thinks it is repetitious, to repeat the argument put in the other place which was, I must say, rather off-handedly dealt with by the Minister of Labour. The Minister of Labour indicated that he would reconsider some matters. Quite obviously, from the amendments that the Attorney-General has put on file, there has been some reconsideration. There has obviously been some further debate between the Law Society and the Government on one issue which caused real concern to me, as it caused to the Law Society—

The Hon. I. Gilfillan: Get on with it.

The Hon. K.T. GRIFFIN: We will get on with it. I do not insist on going home at 12 o'clock at night; I insist on staying here to do my job as a member of the Legislative Council.

The Hon. C.J. Sumner: Well said.

The Hon. K.T. GRIFFIN: Madam Chair, I believe the amendment is important. I believe that the Bill places a very heavy burden upon employers. I do not want to detract from the principle of generally keeping the WorkCover Corporation informed when an employee goes back to work, but I would suggest that the obligation imposed by the Bill is much too onerous. It is only one more of the many onerous obligations imposed upon employers by this legislation largely as a result of the Hon. Mr Gilfillan capitulating.

Amendment negatived.

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

Page 5, after line 17—Insert the following at the end of subsection (1):

(but notification is not required in a case or class of cases excepted by the corporation from the operation of this subsection).

This amendment seeks to allow some flexibility in the arrangement requiring employers to notify changes in the circumstances of workers who are on workers compensation benefits and who have returned to work.

The Hon. K.T. GRIFFIN: To show how reasonable I am, I am prepared to support this amendment. This matter was raised in the other place by my colleague Mr Baker. It is obvious that there has been some consideration of the point of view which he expressed. I support the amendment.

Amendment carried.

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

Page 5, line 23—After 'event' insert 'or such longer period as the regulations may allow'.

Amendment carried.

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

Page 5, lines 30 to 36—Leave out subsection (1) and insert new subsections as follows:

(1) If a worker who has been incapacitated for work in consequence of a compensable disability is able to return to work, then—

(a) where—

(i) the worker is fit to undertake the employment in which he or she was engaged when the disability arose;

and

(ii) the employer from whose employment the disability arose is in a position to re-employ the worker in that employment,

the employer must, on the application of the worker, re-employ the worker in that employment;

(b) where—

(i) the worker is not fit to undertake the employment in which he or she was engaged when the disability arose but is fit to undertake some other kind of employment;

and

(ii) the employer is in a position to make available to the worker that other kind of employment,

the employer must, on the application of the worker, employ the worker in that other employment.

(1a) If—

(a) an employer employs or re-employs a worker in pursuance of subsection (1);

(b) there is a consequential detriment to the profitability of the business in which the employer is engaged,

the Industrial Court must, on the application of the employer, quantify the detriment and the corporation must reimburse the employer for the amount of the detriment, or the amount of the levy paid by the employer for the period over which the detriment arose (whichever is the lesser).

This amendment relates to new section 58 *(b)*, which places a substantial obligation upon an employer to re-employ an injured worker without much regard for the practicalities of the employer's position. Of course, that must be considered in determining the obligation of an employer.

This amendment seeks to provide that, if a worker has been incapacitated and is able to return to work, if the worker is fit to undertake employment, then the employer must re-employ the worker if the employer is in a position to do so. If the worker is not fit to undertake all of the responsibilities of the work which he or she undertook when the disability arose, and the employer is able to make available other employment, then the employer must employ that worker.

If there is any dispute, the Industrial Court is the body that ultimately makes the decision. If there is a detriment to the employer he should quantify it and there is then an obligation on the corporation to reimburse the amount of the detriment. That is a much preferable proposal and mechanism to that in the Bill.

The Hon. C.J. SUMNER: The Government opposes the amendment. The Government's Bill places an onus on employers to provide such work whereas the Hon. Mr Griffin's amendment only requires the employer to do so if the employer 'is in a position to re-employ that person'. This would be a serious loophole because the employer would simply fill the worker's vacant position with a permanent employee and claim that he or she was no longer in a position to employ the worker. The amendment also requires the worker to make application for re-employment. However, in some cases workers may choose to stay on benefits rather than apply for their old job or alternative work. This is undesirable and the onus should be on the employer to make work available, not for the worker to apply for it. The proposal that, if an employer takes back a worker and the employer suffers financially because of it, the employer should be reimbursed for any detriment by the corporation is not acceptable. The injury employer has a responsibility to provide work. If he or she does not do so the employer's levy should be increased. The employers will keep premiums low if they provide alternative work. They should not be subsidised for keeping in employment a worker whose injury they may have contributed to.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. A distinct advantage exists for rehabilitation if one returns to the previous job, wherever possible. Whatever steps the corporation takes to rehabilitate the worker who is incapacitated—and this is one of them—should be supported.

Amendment negatived.

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

Page 5, lines 43 and 44,
Page 6, lines 1 to 8—Leave out subsections (3) and (4).

The Hon. C.J. SUMNER: This amendment is opposed. It will delete the proposal for employers to give 28 days of notice of any intention to terminate the employment of a worker who has entitlement to benefits under the Act. The Government Bill seeks to stop dumping and the notices to enable WorkCover to intervene and try to keep the worker in employment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived; clause as amended passed.

Clause 16—'Exempt employers.'

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

Page 6, lines 15 and 16—Leave out paragraph *(eb)*.

I feel very strongly about this issue as it seeks to amend section 60 dealing with exempt employers and seeks to add matters which the corporation shall have regard to when determining whether or not to register an employer as an exempt employer. There is certainly no difficulty with the corporation having regard to the record of the employer or employers constituting the group in providing suitable employment for workers who suffer compensable disabilities. However, it is in my view quite wrong for the corporation to take into consideration the effect that registration of the employer or group would have on the compensation fund. It really is quite unreasonable for that to be a criterion where the object ought to be for employers to exercise such responsiblity in the workplace that they minimise accidents and compensable disabilities and take a very effective initiative in getting employees back to work.

The Hon. I. GILFILLAN: The Democrats support the amendment and agree with the arguments put up by the Hon. Trevor Griffin that it is inappropriate for an application to be rejected on that basis. It is of interest to the Committee to note that I have on file an amendment which gives the corporation some flexibility as far as time goes. I understand the fear that the corporation would have if there were to be a substantial change in the financial position as a result of several substantial employers in the scheme being granted exempt status and moving out without any opportunity for preparation for that financial impact on the corporation. I outline the effect of the amendment I have on file, which will limit that. We support the amendment moved by the Hon. Trevor Griffin.

The Hon. C.J. SUMNER: We oppose the Hon. Mr Griffin's amendment.

Amendment carried.

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

Page 6, lines 17 to 19—Leave out paragraph *(b)*.

I do not see any reason why there should be a specific provision stating that the corporation retains an absolute discretion to decide the matter as it thinks fit. Already under subclause (4) *(g)* it can take into account such other matters as the corporation thinks fit. The decision of the corporation is reviewable. I fear that if paragraph *(b)* is left in it may well prejudice the right to have the decision of the corporation reviewed. Sure, it has a discretion, but there ought to remain the right to have the corporation's decision reviewed.

I oppose the Hon. Mr Gilfillan's later amendment, which provides that the date from which a registration takes effect is not reviewable, because I think it is reasonable that a review should be allowed of any decision of the corporation. That will keep the corporation accountable. If an appeal of a court or tribunal's decision is either non-existent or limited, those courts or tribunals then become a law unto themselves. It is important to ensure that all bodies that make decisions affecting citizens should in some way be accountable and their decisions should be reviewable.

The Hon. I. GILFILLAN: The Democrats support the amendment.

The Hon. C.J. SUMNER: In relation to the previous amendment which was passed, the corporation believes that it already has the power under existing section 60 (4) to consider the financial effects on the compensation fund of granting exempt status.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They tried to make it clear, but I want to make that point in case there is any argument about it later. I am advised that they intend to act on that basis in appropriate circumstances. We have obviously lost the day with this immediate amendment.

The Hon. I. GILFILLAN: My amendment is on the same line, but, when I spoke to the original amendment moved by the Hon. Trevor Griffin, I did discuss it earlier. It is clear that I will vote in favour of the Hon. Trevor Griffin's amendment and I will move my amendment when you, Madam Chair, give me the indication that it is time to do so.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 6, lines 18 and 19—Leave out paragraph *(b)* and substitute the following:

(b) by inserting after paragraph *(a)* of subsection (5) the following paragraph:

(ab) takes effect on a date fixed by the corporation;.

This amendment still gives the corporation the protection in relation to the financial impact of the timing of employers who will be granted exempt status. I believe that, as far as the proper financial management of the corporation is concerned, that is important.

The Hon. K.T. GRIFFIN: I am happy to agree to this amendment, but I would not be prepared to agree with the Hon. Mr Gilfillan's related amendment to clause 32, which would make that decision on the date when the decision takes effect not subject to any review. It is quite possible for a corporation to put an effective date on its decision so far in advance that the decision has virtually no effect or consequence. I would not like to see the decision as to the date not being reviewable, although I can accept that the corporation should be able to make a decision, based on all the information before it, as to the date when the decision ought to take effect. I support one limb of the Hon. Mr Gilfillan's amendment, but not the other.

The Hon. C.J. SUMNER: I support the amendment.

Amendment carried; clause as amended passed.

Clause 17 passed.

Clause 18—'Preliminary.'

The Hon. K.T. GRIFFIN: This is a fairly critical provision and I intend to call for a division if I do not succeed on the voices. This clause relates to section 65, which deals with the imposition of levies. Section 65 (1) contains a definition of remuneration, which includes payments made to or for the benefit of a worker and which, by the determination of the corporation, constitute remuneration but do not include payments determined by the corporation not to constitute remuneration. When I made my second reading contribution I said that, when the principal Act was before us, we did not provide for such a determination to be made by regulation and thereby be subject to review. That was a mistake which I think resulted more from an oversight than anything else. It was certainly not a deliberate intention to make this sort of issue unreviewable by the Parliament. I want to strike out that definition of 'remuneration'. I move:

Page 6, line 26—After 'amended' insert the following:

(a) by striking out from subsection (1) the definition of 'remuneration' and substituting the following definition:

'remuneration' of a worker means salary, wages and payments of a prescribed class made to or for the benefit of the worker but does not include superannuation payments or payments of a class excluded by regulation from the ambit of this definition:;

and

(b) [the remainder of clause 18 becomes paragraph *(b)*].

It means that salary and wages become the basis upon which the levy is to be paid. Any further payments of a prescribed class must be referred to in a regulation, which is subject to review by the Parliament but, if there is any disallowance of such a regulation, it will not prejudice the income of the corporation to the extent that salary and wages still provide the basis for the levy. My definition excludes superannuation payments, but it gives the Government other flexibility.

I feel very strongly about this matter because of the determination of August 1987 to which I referred earlier and which brought into account a number of payments to workers. Those payments were in the nature of reimbursement of expenses incurred by those workers whilst performing their duties for their employers and earning their income. In no way could those payments be regarded as a form of profit to the worker. A number of items are not in any way relevant in the determination of the weekly payments which would be made to an injured worker. For that reason, I believe that this is a very important amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment, which seeks to delete superannuation payments from the remuneration base on which levies are calculated. This proposal has been considered by the corporation's board, employer and employee representatives, and rejected. The simple fact is that if these payments were excluded average rates would rise to cover the loss of revenue. There has to be a certain amount of revenue to provide for the scheme, so it does not seem to me that a great deal would be achieved by the deletion of this. I understand that under the old scheme—the private sector insurance scheme—superannuation payments were included in the remuneration base for the purpose of calculation of levies.

The Hon. I. GILFILLAN: The Democrats oppose the amendment but have some sympathy for the arguments for its proposal. I have some misgivings about its being a just and fair way to levy the actual contribution to the corporation. However, the board has been fairly widely appointed—it is representative of a wide range of interests—and my advice is that it was unanimous in its rejection of this amendment and its wish to continue with the current means of calculating levies. It may be that in the fullness of time it will accept a different formula, but I do not believe that it is our right to impose it.

The Hon. C.J. Sumner: It was not unanimous.

The Hon. I. GILFILLAN: My advice has been varied. I must have got that wrong to start with. Apparently there was one dissenting voice in the corporation. My point remains that I believe the corporation is there to make this decision. It may in its wisdom decide to vary it. In fact, I hope it does, because it is a disincentive to employers who are contributing to superannuation schemes. But, despite that, I do not believe that it is the right of Parliament, at this stage at least, to legislatively interfere. I therefore oppose the amendment.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, M.B. Cameron, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (10)—The Hons G.L. Bruce, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Pair—Aye—The Hon. L.H. Davis. No—The Hon. J.R. Cornwall.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 19—'Imposition of levies.'

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

Pages 6 and 7—Leave out paragraph *(a)*.

This amendment relates to section 66 with respect to the imposition of levies. Paragraph *(b)* seeks to delete subsections (2) to (5), which presently provide for the levy as a percentage of the aggregate remuneration paid in each class of industry in which the employer employs workers and provides that the corporation may divide the industries into various classes and determine certain questions relating to those classes. It sets criteria by which the class of industry will be applied.

The amendments seek to give even greater authority to the WorkCover Corporation to ensure that the levy is paid on the basis of the predominant class of industry in which the employer is engaged. It allows the corporation to divide industries into various classes. It then goes on with a quite obnoxious provision that any question as to the predominant class of industry in which an employer is engaged will be conclusively resolved by determination of the corporation. I do not believe that there is any need for the change which is being proposed in paragraph *(a)*. Accordingly I have moved my amendment.

The Hon. C.J. SUMNER: This amendment is opposed by the Government. The Hon. Mr Griffin seeks to oppose the proposed amendment by the Government which would provide more flexible provisions for determining the industry or class within which employers are classified for levy rating purposes. The Government amendment seeks not to change the basic thrust of the current Act but simply to enable tighter controls to be exercised over the determination of a company's predominant activity. The provisions of the original Act were modelled on the Victorian Act. The Government's amending Bill is based on Canadian provisions and is designed to avoid the need to look at each separate physical location of employer for rating purposes unless there are reasons for doing so.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. We believe that the intention and effect of the Bill will be to allow more accurate and fair levy calculations.

The Hon. K.T. GRIFFIN: What it does is give more power to the corporation. It is as simple as that.

The Hon. I. Gilfillan: Don't you trust the corporation?

The Hon. K.T. GRIFFIN: No, I don't trust the corporation.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I didn't want the corporation. I don't want to run it. The problem is that the corporation will be a law unto itself. It will not be accountable to anyone. The thrust of all these amendments is to put more and more power into a statutory corporation and not have the exercise of that power subject to review. That is what I find objectionable.

The Hon. C.J. Sumner: What review was there of insurance companies under the old scheme?

The Hon. Diana Laidlaw: At least there was competition.

The Hon. K.T. GRIFFIN: There was competition. Anyway, the point is that it is a statutory corporation. The whole thrust of this Bill is to give it more power and to make it less accountable and less subject to review. If the Hon. Mr Gilfillan wants that, then that is up to him. But, I want to put my view on the record that we oppose that trend. The Liberals do not believe that that is appropriate. The corporation ought to be accountable and, the way it is going, it will not be.

Amendment negatived; clause passed.

Clause 20—'Adjustment of levies.'

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

Page 7, lines 30 to 37—Leave out paragraph *(b)*.

This clause deals with section 67 of the principal Act, allowing adjustments to be made in respect of particular employers. The factors that the corporation may have regard to are to be extended to include the failure of an employer to provide employment to a worker who has suffered a compensable disability in the employer's employment and the failure to retain in his or her employment a worker who has suffered a compensable disability in that employment. We have already provided for the employer not to continue to employ where it is not reasonably practicable to provide that employment, in accordance with subsection (1) of the new section 58b, and to provide for dismissal after 28 days notice. It seems to me that paragraph *(b)* of the clause seeks to find an alternative way by which it can prejudice an employer who has exercised his, her, or its rights under this legislation. It is for that reason that I move the amendment to leave out paragraph *(b)*. It does, in effect, place the employer in a position of double jeopardy.

The Hon. C.J. SUMNER: The Government's Bill seeks to ensure that those employers who do not retain employees in their employment when it is reasonable to do so suffer a penalty for not so doing. If they are not penalised then other employers must carry the cost of those offending employers who unreasonably fail to provide alternative work to their injured employees. The Government opposes the amendment.

The Hon. K.T. GRIFFIN: The Bill says nothing about 'reasonableness'. It deals with absolute facts.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived; clause passed.

Clauses 21 and 22 passed.

Clause 23—'Review of levy.'

The Hon. K.T. GRIFFIN: This clause deals with section 72, which relates to review of the levy on a particular employer. I find the amendment quite offensive, again, as many of them are, because this gives the board absolute discretion to determine whether to permit the employer to appear personally or by representative before it. Why should not the employer have the right to make a decision as to what is the best way to make a representation and who should accompany him or her or it to the board hearing to determine this question of the levy? The board can have anyone there—it can have its legal advisers there and it can do just about anything.

I had a case recently, although not in relation to WorkCover, where a person was required to appear and was not allowed to take anybody with him to appear to make representations to the statutory body involved. Yet three other persons were present, all acting on behalf of the statutory authority, all present and ranged against this poor small individual seeking to get some justice. One has to remember that this does not apply only to large employers, who frequently can handle themselves pretty effectively without much outside assistance, but it also extends to the single person employer and the small business person. I see no reason at all why that person should not have a right to say, 'On this occasion I am going up before this august board to argue my case for a reduction in levy, and I think I ought to have someone who knows a bit more than I do about how to present a case.' Why should not an employer have that right? For that reason, I indicate that I oppose this clause very strenuously.

The Hon. I. GILFILLAN: I indicate that the Democrats support the clause.

The Committee divided on the clause:

Ayes (11)—The Hons G.L. Bruce, J.R. Cornwall, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn

Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Noes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Majority of 1 for the Ayes.

Clause thus passed.

Clauses 24 to 27 passed.

Clause 28—'Principles relating to reviews.'

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

Page 9, after line 24—Insert subsection as follows:

(2a) Where an expert's report is obtained under subsection (2), the expert must, if a party to the proceedings so requests, be called for examination or cross-examination on the subject matter of the report.

This clause seeks to provide an expert's report. My amendment provides that, if a party to the proceedings requests, the expert must be called for examination or cross-examination on the subject matter of the report.

Amendment carried; clause as amended passed.

Clause 29 passed.

Clause 30—'Powers of review authorities.'

The Hon. K.T. GRIFFIN: I see no reason at all why a member of a medical review panel who examines a worker should not subsequently be called to give evidence in any proceedings relating to the worker's claim. It is perfectly reasonable that, if such a panel has examined the worker and reached certain conclusions, it should subsequently be called to account or be required to give evidence. I oppose this clause.

The Hon. I. GILFILLAN: I understand that this relates not so much to a medical officer but to a member of a medical review panel being called before another reviewing tribunal. On that basis, the Democrats support the clause.

Clause passed.

Clause 31 passed.

Clause 32—'Application for review.'

The Hon. I. GILFILLAN: I move:

Page 10—Lines 9 and 10—Leave out all words after 'amended' in line 9 and insert the following:

by inserting at the end of paragraph *(d)* of subsection (2) '(but a decision as to the date from which such a registration will take effect is not reviewable)'.

I believe that the Hon. Trevor Griffin opposes this clause. We have discussed the matter previously, and this relates to the comments I made in relation to my first amendment to clause 16. My amendment will protect the financial position of the corporation from the unpredictable effect of a considerable proportion of employees who are covered by WorkCover being removed because of the granting of exempt status. The Democrats have removed from the Bill the Government's intention to allow the corporation to obstruct the granting of an exempt status upon review by the reviewing officer, but we have considered sympathetically the position that would evolve if there was no control over the timing at which that exempt status came into effect. The amendment leaves the timing in the hands of the corporation, and we believe that is how it should be.

The Hon. C.J. SUMNER: The Government accepts it.

The Hon. K.T. GRIFFIN: I oppose the clause, because I see no merit in it. This clause amends section 95 which relates to an application for review. Subsection (2) *(d)* provides that certain decisions are reviewable, for example, a decision refusing registration or cancelling registration of an employer or group of employers as an exempt employer or group of exempt employers. I do not know whether the Hon. Mr Gilfillan will support me in opposing the clause. It seems to me that that decision should be reviewable. I am not happy to support the honourable member's amendment, because I believe that the decision should be reviewable.

Amendment carried; clause as amended passed.

New clause 32a—'Review by review officer.'

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

Page 10, after clause 32—Insert the following new clause:

32a. Section 96 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) A party to proceedings before a review officer must disclose to the review officer and all other parties to the proceedings the existence of all material in the party's possession or power that may be relevant to the proceedings and must, if the review officer so requests, produce all or any of that material to the review officer.

Problems have arisen under the current system where parties are withholding evidence from review officers. This provision seeks to ensure full disclosure of documentary and other material evidence.

The Hon. K.T. GRIFFIN: I believe that there should be full disclosure. I have said that in relation to court proceedings, tribunal proceedings and anything else—it does not matter whether it is workers compensation or whatever. If parties are declining to disclose information for a review officer, I believe we should endeavour to overcome that. Frequently matters can be resolved at a very early stage, whether it is in these sorts of proceedings or in courts or tribunals, if all the cards are on the table at the earliest opportunity. Therefore, I support the amendment which has been somewhat modified. It needs to be ultimately read in conjunction with other amendments which broaden the appeal process beyond that which the Government proposed in this Bill.

New clause inserted.

Clause 33—'Appeals.'

The Hon. K.T. GRIFFIN: I do not intend to proceed with my amendment because I believe that it has been superseded by other events. As I understand it we are moving towards the question of registration, or cancellation of registration, of an employer as an exempt employer. That will, in fact, go to a review officer.

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

Page 10, lines 34 to 38—Leave out paragraph *(b)* and substitute:

(b) direct the review officer to furnish a report (which must be made available to the parties to the appeal) on any aspect of the subject matter of the appeal.

This amendment complements the proposed changes to the appeal procedure. It seeks to encourage full dislosure, but not necessarily full trials before review officers, to ensure that appeals to the tribunal are not by way of the full rehearing of evidence unless there has been a breakdown in the transcription of evidence at the review level, or the parties, by agreement, have chosen not to call certain evidence at the review level without prejudice to their rights to call it later before the tribunal, if it is relevant in the appeal, or if there are other substantial reasons why evidence should be heard in the interests of justice. These amendments have been the subject of discussion with the Law Society and have been agreed to.

The Hon. K.T. GRIFFIN: I am prepared to support the amendment. I understand that this results from a long series of negotiations between the Law Society and the Government in respect of the appeal process. This series of amendments to clause 33 will effectively allow a greater opportunity for a rehearing before a properly constituted appeal tribunal, rather than all of the decisions effectively being taken by an unqualified review officer employed by the corporation and without appropriate representation. Accordingly, in the light of discussions that have taken place on this issue and the quite substantial concessions made by the Government, I am prepared to indicate support for the proposal.

Amendment carried.

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

Page 10, lines 39 and 40—Leave out subsection (4d) and substitute:

(4d) Subject to subsection (4e), the appellate authority has a discretion to rehear the whole or any part of the evidence taken before the Review Officer, or to take further evidence.

(4e) The appellate authority must, on the application of a party to the appeal—

(a) rehear evidence taken before the Review Officer if the evidence is relevant to the appeal and the record of the evidence is incomplete or inaccurate in a material particular;

(b) hear oral evidence relevant to the appeal from a witness from whom evidence was taken in documentary form by the Review Officer;

(c) take further evidence if the evidence is relevant to the appeal and the party seeking to introduce it could not reasonably be expected to have done so in the proceedings before the Review Officer;

(d) take evidence if—

(i) the evidence is relevant to the appeal; and

(ii) there is some substantial reason for admitting the evidence in the interests of justice.

(4f) A party must be afforded a reasonable opportunity to examine or cross-examine witnesses appearing before the appellate authority.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 34 passed.

Clause 35—'Special provision for prescribed classes of volunteers.'

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

Page 11, lines 26 and 27—Leave out subsection (1) and substitute the following subsection:

(1) The Crown is the presumptive employer of persons of a prescribed class who voluntarily perform work of a prescribed class that is of benefit to the State (and the Crown therefore has the liabilities of an exempt employer in relation to persons of that class.

This amendment was moved in the other place. It seeks to bring into effect the proposition that the Crown is the presumptive employer of persons of a prescribed class who voluntarily perform work of benefit to the State. The amendment's objective is to ensure that in taking on those responsibilities the Crown is placed largely in the position of an exempt employer in respect to its liabilities to the WorkCover Corporation so that it carries its fair share of the burden of financing the scheme.

The Hon. C.J. SUMNER: The Government opposes the amendment; it is not necessary because the objective has been achieved.

The Hon. I. GILFILLAN: I assume, from my reading of it, that it puts beyond doubt the intention of the wording in the clause, so I indicate our support for the amendment.

Amendment carried; clause as amended passed.

Clauses 36 and 37 passed.

Clause 38—'Confidentiality.'

The Hon. I. GILFILLAN: I move:

Page 12—

Line 35—Leave out 'and'.

After line 40 insert the following—

and

(c) by inserting after subsection (2) the following subsection:

(2a) A regulation made for the purposes of subsection (2) *(e)* cannot take effect unless it has been laid before both Houses of Parliament and—

(a) no motion for disallowance is moved within the time for such a motion; or

(b) every motion for disallowance of the regulation has been defeated or withdrawn or has lapsed.

This clause provides for the disclosure of statistical and other information. The Democrats are uneasy about the clause and that is why we propose to amend it. We are prepared to recognise that there is some economy to the Government in the proper use of statistics and information that is acquired and accumulated by WorkCover but, because of our concern as to what could happen in the uncontrolled and unrecognised exchange of this information, we are not prepared to grant the freedom to make it available to other departments without the restraint that it can occur only with the consent of Parliament. It is an unusual restraint on the regulation, but it satisfies our requirement in that it will allow the profitable and innocuous transfer and use of information without risk to privacy and other contraventions of civil liberties. Parliament will be able to see exactly what is happening.

The Hon. C.J. SUMNER: It is not opposed.

The Hon. K.T. GRIFFIN: I support the amendment because it is better than what is there. However, I will still oppose the clause.

Amendment carried; clause as amended passed.

Clauses 39 and 40 passed.

Clause 41—'Evidence.'

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

Page 13, lines 33 to 38—Leave out subsection (1).

This clause deals with evidentiary matters. My first amendment is to delete subsection (1), which deals with the question of proof of the status of a person as an employer and the status of a person as a worker. It seems to me that there is really no reason at all for this to be proved by way of certificate. It can easily be proved. I am somewhat cautious about allowing too much of these procedural matters to be proved by way of certificate, which may well create some injustice.

The Hon. C.J. SUMNER: The Government opposes the amendment. It has clearly been demonstrated now with the operation of the corporation that there are some problems with collection of debts by the corporation. It is important that all employers contribute. Some employers are welching on their responsibilities; obviously the whole scheme is affected. This is an evidentiary aid to ensuring that debts can be collected properly.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. It is a *quasi* reverse onus which makes us uneasy with the general principle. We are concerned that the corporation is able to get fair contribution. It is quite unreasonable if other employers fulfilling their obligations have to carry the extra burden of those who are welching on the system.

The Hon. K.T. GRIFFIN: It is not really an issue about who is welching or not, it is really an issue about who is an employer and who is not and who is a worker and who is not. I suggest that there is no prejudice if a case has to be proved that a particular person is an employer and thereby required to pay a levy rather than, as the Hon. Mr Gilfillan has indicated, reversing the onus of proof.

Amendment negatived.

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

Page 13, line 40—Leave out 'an officer' and insert 'a member of the board, or the General Manager,'.

I am concerned about an officer of the corporation, as defined in proposed subsection (6) being the person who gives that certificate. That person, although not an officer of the corporation, is acting under delegation of the corporation. I would have thought that, to ensure some safeguards in the system, we require that certificate to be given by a member of the board or the General Manager. That is not too onerous as there are 14 members of the board plus the General Manager. I have not moved this amendment in relation to proposed subsection (1), because I was seeking

to have it deleted completely. If the principle of my amendment is accepted, I propose we ensure consistency by subsequently recommitting subsection (1) to enable that to be made consistent. With a matter that is as important as a certificate that is to be evidence in the absence of proof to the contrary, it is not good enough for any person in the corporation or even a person exercising delegated authority to give that certificate. It ought to come from the highest level.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment negatived; clause passed.

Clause 42—'Offences.'

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

Page 14, lines 19 and 20—Leave out 'a member of the staff of the corporation, or any person acting on behalf of the corporation'.

The object of this amendment is that, where there is a breach of confidentiality, a member of the staff of the corporation or any person acting on behalf of the corporation is not immune from prosecution. I can accept that the provision in the clause in so far as the corporation is a statutory body should not be subject to prosecution because that is difficult in conceptual terms. However, I would have thought that a member of the staff or any person acting on behalf of the corporation who discloses confidential information ought to be subject to prosecution.

The Hon. C.J. Sumner: It deals with confidentiality to be maintained. Section 112 of the Act—

The Hon. K.T. GRIFFIN: This overrides it. It says that it does not render the corporation liable to prosecution. The concern I have is that this clause will mean that members of the staff will escape prosecution if they are guilty of a breach of confidentiality.

The Hon. C.J. SUMNER: The Government is opposed to this amendment as it is designed to override section 112 of the Act.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. My understanding is that this Bill does not exempt the corporation from civil liability, and that seemed to me to be the major concern; but it protects individual officers of the corporation from prosecution.

The Hon. K.T. GRIFFIN: This clause deals with section 122. It provides:

A person who contravenes or fails to comply with the provision of this Act is guilty of an offence.

What happens if an officer of the corporation or a person who is exercising delegated authority commits a breach of the Act? What we are doing is adding a new subsection which provides that they are not liable to prosecution. I suggest, with respect, that that is nonsense.

The Hon. C.J. SUMNER: Our advice is that section 112 would still stand.

The Hon. I. GILFILLAN: It is a dog's breakfast of a position. I do not set myself up as an authority to make a personal interpretation of the legislation and its consequences: I am purely guided by advice which I have found reliable. My understanding is that the corporation still has civil liability. I admit that the wording of the amendment includes the corporation, and it exempts it from liability to prosecution for any act or omission related to the administration or enforcement of the Act. I think that that wording does not exempt the corporation from action to recover damages under civil liability. If that is the case, I oppose the amendment.

Amendment negatived; clause passed.

Clause 43—'Regulations.'

The Hon. K.T. GRIFFIN: The Opposition opposes this clause. We see no reason for regulations to allow matters to be determined at the discretion of the corporation or to confer other forms of discretionary power on the corporation, any more than this Act as amended by the Bill does already.

The Hon. C.J. SUMNER: We do not agree.

The Hon. I. GILFILLAN: The Democrats do not agree.

Clause passed.

Clause 44—'Amendment of First Schedule.'

The Hon. I. GILFILLAN: I move:

Page 14, after line 36—Insert subsection as follows:

(3a) Where a compensating authority—

(a) pays compensation to a claimant under this Act;

(b) becomes entitled to recover a proportion of the payment from an employer by virtue of subrogation to the rights of the claimant under subclause (3) *(a)*;

(c) notifies that employer in writing of the payment,

the amount recoverable from the employer will be increased by interest at the prescribed rate as from the date of the notification.

I am unclear about what the Government intends to do in relation to its amendment to this clause and about whether my amendment will be relevant to the wording of it. The intention of my amendment is that, in relation to the balance between the transfer from existing insurance companies and the corporation, where there has been an excess proportion of payment made erroneously, then there will be repayment with interest, which seems fair, as far as the repayment to the insurance company is concerned. The purpose of my amendment is to make that even-handed so that, if undue and excessive payment has been made by the corporation, it is entitled to the same consideration.

The Hon. C.J. SUMNER: I accept the amendment.

The Hon. K.T. GRIFFIN: I do not oppose the amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: My amendment seeks to require consultation between the corporation and any employer or insurer. I notice that the Attorney-General's amendment has now picked that up. I also seek to provide for a review by the Industrial Court and for interest to be payable, one way or the other, as ordered by the Industrial Court, where an amount has not been paid which ought to have been paid. It seems to me that that mechanism is preferable to that contained in the Bill and even to that proposed by the Attorney-General. Without my formally moving my amendment at this stage, perhaps the Attorney-General might care to indicate what his amendment does and we can get an indication from the Hon. Mr Gilfillan to see what he will support. By that method, we can determine who moves first.

The Hon. C.J. SUMNER: I suggest that I move first. The Government's amendments will provide for a consultation phase before the corporation makes a determination on questions of subrogation of rights and the sharing of costs of transitional disabilities. The amendments also provide for workers to have rights of appeal in these matters. Further, the amendments allow for any disputes to be referred to commercial arbitrators, if all parties agree. The Government's amendment has been agreed to by the Insurance Council of Australia, whose submissions have been taken into consideration in drafting the amendment. I move:

Pages 14 and 15—Leave out subclauses (4) to (9) and substitute:

(4) The corporation will, in the first instance, make a determination of—

(a) the extent of a subrogation under subclause (3) *(a)* or a reduction in the amount of compensation under subclause (3) *(b)*;

and

(b) the amount of any consequential liability.

(5) Before making such a determination the corporation must allow any person whose interests may be affected by the determination a reasonable opportunity to make representations to the corporation on the subject matter of the determination and

when the determination is made the corporation must give written notification (personally or by post) of the terms of the determination to every person whose interests are affected by it.

(6) Any such person may, by written notice served personally or by post on the corporation within one month after receiving notice of the determination or such longer period as the corporation may allow, dispute the determination.

(7) Any such dispute may be referred on the application of any party affected by the determination—

(a) to the Industrial Court;

or

(b) if all parties affected by the determination agree—to an arbitrator appointed under the Commercial Arbitration Act 1986,

(but where the dispute is referred to an arbitrator no part of the costs of the arbitration can be awarded against the worker).

(8) Where a dispute is so referred, the Industrial Court or the arbitrator will review the corporation's determination and may confirm, vary or revoke it.

(9) Subject to the regulations, a determination by the corporation under this clause may be enforced in the same way as a judgment of the Industrial Court.

(10) A determination by the corporation may be enforced notwithstanding that it is disputed, but if it appears from the result of a review that a compensating authority has recovered an amount in pursuance of the determination to which the compensating authority is not entitled, that amount must be repaid together with interest at the prescribed rate.

The Hon. I. GILFILLAN: We will not oppose the Government's amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

[*Sitting suspended from 5.58 to 7.45 p.m.*]

LANDLORD AND TENANT ACT AMENDMENT BILL

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

That Orders of the Day: Government Business No. 2 be made an Order of the Day for the next day of sitting.

This Bill was introduced in response to the shopping hours issue and was designed to ensure that tenants in shopping centres would not be obliged by their landlords to stay open on Saturday afternoon, that is, the period that was suggested as the extension of shopping hours in this State.

As the shopping hours Bill has been defeated, and there does not seem to be any immediate prospect of its being reconsidered, this Bill in that sense becomes unnecessary. However, as I said earlier today in answer to a question asked by the Hon. Mr Gilfillan, there are a number of issues in the area of commercial tenancies which do need to be examined. The Government will do that and, if it feels that any further amendment to the law is necessary, it will introduce legislation later on the topic. I would refer members to what I said this afternoon in answer to the question asked by the Hon. Mr Gilfillan, but in the meantime I believe that there would be no useful point served in our embarking on a full-scale debate on this Bill, which had a narrow compass and which was introduced in response to the extended trading hours legislation.

Therefore, I move that this matter be made an order of the day for the next day of sitting, realising of course that it will not then be debated and will be taken off the Notice Paper, but it and other issues relating to commercial tenancies may have to be addressed by the Parliament at some stage in the future.

Motion carried.

MOTOR VEHICLES ACT AMENDMENT BILL (1988)

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: I have on file the following amendment:

Page 1, line 15—After 'amended' insert—

(a) by inserting after 'the parking' in paragraph *(b)* of subsection (3) 'or positioning';

and

(b) [the remainder of clause 3 becomes paragraph *(b)*].

I placed it on file to endeavour to overcome what I thought was a possible difficulty in the interpretation of the present paragraph *(b)* of subsection (3). I do not want to insist upon it, because I think there are advantages in going some way towards what the Attorney-General proposes in his amendment. At present section 99 (3) provides:

For the purposes of this Part and the fourth schedule death or bodily injury shall not be regarded as being caused by or as arising out of the use of a motor vehicle if it is not a consequence of the driving of the vehicle, the parking of the vehicle or the vehicle running out of control.

The difficulty was with the concept of parking and also in respect of the sort of incident which the Bill is directed towards overcoming. The Attorney-General's amendment proposes to delete the reference to the parking of a vehicle and to focus on a collision or action taken to avoid a collision with a vehicle when stationary. That overcomes my problem, if the Attorney-General moves his amendment, with a truck or other vehicle that is stationary on a road having broken down and someone coming over the hill either hitting it or swerving to avoid it and having an accident.

The Bill deals with the opening or closing of the door of a vehicle, and I suggest to the Attorney-General that a happy combination of the two would overcome all difficulties. If we left in the opening or closing of a door of a vehicle so that death or bodily injury was caused by or arose out of such an activity, it was covered as would be the collision or action taken to avoid a collision with the vehicle when stationary. I think that overcomes the problem and, as the Bill has been introduced with the concept of the opening or closing of a door of a vehicle being contained therein, it seems that no problem is created if that is left in, but the existing paragraph *(b)* is amended as proposed in the Attorney-General's amendment. I would like to put to the Attorney-General the proposition that not only do we have the Bill as it is, but also we add to it—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Leave the opening and closing of the door—and, instead of deleting that, just add to it the amendment to strike out paragraph *(b)* of subsection (3) and substitute the following paragraph. Then you have one paragraph in substitution for paragraph *(b)* in the Bill and you have the additional paragraph *(ba)*, which is already in the Bill.

The Hon. C.J. SUMNER: What is gained by leaving it in the original Bill? What we have attempted to do with my amendment is encompass what was in the original Bill, at least in most of its relevant respects. The particular factual situation that gave rise to this amendment was the opening of a door by a driver and a collision with that door, for example, by a cyclist riding past. The argument was put to the Government—and the Government accepted it—that in those circumstances, if the driver of the vehicle opened the door negligently, the cyclist would not be able to come within the compulsory third party claim because of the amendments that we made in 1986.

The Government felt, and I think it was agreed by SGIC and the Insurance Council, that that factual situation ought to be covered by compulsory third party bodily injury. It was for that reason that we introduced the provision which said that the use of the motor vehicle which involved the opening or closing of a door of the vehicle did attract the compulsory third party provisions. However, the Hon. Mr Griffin then raised problems, and he was really directing his attention to existing section 99 (3) *(b)*, where he was talking about the parking of the vehicle.

He said that there is still excluded or potentially excluded from third party the situation where a person has a breakdown with the vehicle and negligently leaves their vehicle in an unsafe situation. He then argued that that might not be covered by parking and that we should try to amend the law to pick up that situation. That we did by the amendment that is now before the Committee, that is, by providing that where there was a collision or action taken to avoid a collision with a stationary vehicle it would pick up the third party—both the situation raised by the honourable member of the broken down car inadvertently left on the road in a negligent manner and the cyclist passing the car from which someone was alighting.

On the face of it, both the position that the Government wanted to cover and that raised by the honourable member have now been covered by the amendment that the Government has placed on file. If you go back to the opening or closing of a door of the vehicle and reinsert that, which was designed just to pick up that earlier problem that was drawn to our attention, you probably also include—and the Government was never entirely happy with this—actions completely unrelated to the driving of the vehicle, such as a kid's fingers getting caught in the door when they are getting in, or a kid's fingers even getting caught in the door when they are just playing around with the car in a back lane. Indeed, an owner getting in or out of the car would be able to complain under third party if there was a provision that the coverage of third party extended to the opening or closing of a door of a vehicle.

When the Government introduced this Bill it did it in those terms and it was prepared to accept that it was necessary to have that category of claim, that is, covering the fingers in the door, in order to clarify a law that we consider to be unjust and unsatisfactory. But having now given more thought to it on the agreed policy basis, and having come up with a different formulation, the Government would now say: why in strict logic should the case of a person injured by the opening and closing of a door in a situation where there is no real collision or no act pertaining to driving, or whatever, be lumped on to third party?

With all the discussions and all the to-ing and fro-ing, I think we now come down to that point in principle. Should the situation involving an injury which arises purely and simply out of the opening and closing of a door, without a collision or the driving or parking of a vehicle being involved, or without a vehicle running out of control, be covered by compulsory third party, or should that area be picked up by the general insurance industry?

The Government is now saying that we feel that the amendment that I have moved is a better statement of the position of principle than the one we had previously and that to keep in the provision relating to the opening or closing of a door of a vehicle will potentially open up the third party areas which ought not be covered. There is no real magic about that; it is pretty clearly a policy decision whether an individual who injures himself or herself getting in and out of a car as a result of the opening or closing of a door of a vehicle, where there are no circumstances relating to driving out of control, parking, etc., ought to be covered by compulsory third party bodily injury. The Government argues that on the sort of principles that we have adopted previously that probably ought not to be covered. I think that that is the position we would want to stay with—subject to any other argument.

The Hon. K.T. GRIFFIN: I understand what the Attorney-General is putting. It really falls into two categories. The first relates to the question of fraud, which I understand does exist but which I do not think ought to be allowed to colour the view in respect of the principle. This is fraud in the sense of someone jamming their finger in the door and then blaming the driver of the car for closing the door on their finger. I agree that that ought not to be covered: if it is fraudulent it ought not to be covered. However, on the other hand, I just wonder whether there might be events where negligence is involved which arise out of, for example, the driver closing the door of the car without being concerned to see who is around, and jamming someone's hand in it. Should that be covered? If someone closes the door on their own finger, that certainly is not covered—that is just back luck, although I suppose an element of fraud could come into that, too, because then someone could say 'I was driving and I jammed the finger in the door.'

There will always be an element of fraud in some of these areas, and it is just something that good surveillance will have to try to overcome. If a person walks by on the footpath and the door is opened suddenly and injures the pedestrian, I suppose it really has to be in the category of a collision. If you are getting into the car as a driver but do not look around and close the door on somebody's hand, that is negligence and it is part of the business of using the motor vehicle. Personally, I would not see any great difficulty with that.

As we discussed last year, if you are unloading something from a vehicle and drop, say, a drum on somebody's foot, there is no way in which that can be legitimately related to the use of the motor vehicle. So, while I understand what the Attorney-General is raising, I think I would tend still to the view that on the principle of it both the Bill as it is at the moment, with the opening or closing of the door of a vehicle, and the collision concept are compatible and could be usefully left in the legislation. I am not going to the barricades over it. It is a difficult area to try to resolve. The line is drawn, but it is a question of whether it is drawn in such a way that it is fair and reasonable. I think the two paragraphs together would not be unfair or unreasonable in all those circumstances.

The Hon. M.J. ELLIOTT: The Democrats agree with the sentiments of what the Attorney-General is attempting to achieve. As far as I can see, the wording there will achieve the desired effect. Unless the Attorney-General himself is having second thoughts, I am of a mind to support his amendment.

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

Page 1, lines 15 to 17—Leave out all words in these lines after 'amended' and insert 'by striking out paragraph *(b)* of subsection (3) and substituting the following paragraph:

(b) a collision, or action taken to avoid a collision, with the vehicle when stationary;.

The CHAIRPERSON: Mr Griffin, are you moving the amendment standing in your name?

The Hon. K.T. GRIFFIN: My amendment is not relevant in that context. There have been some informal discussions about that paragraph *(b)* in the Attorney-General's amendment and I am happy to support that part of the amendment. I would still prefer to see both paragraph *(ba)* in clause 3 of the Bill and new paragraph *(b)* in his amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

WRONGS ACT AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Motor accidents.'

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

Page 1, lines 15 to 17—Leave out all words in these lines after 'amended' and insert 'by striking out paragraph *(b)* of subsection (5) and substituting the following paragraph:

(b) a collision, or action taken to avoid a collision, with a stationary vehicle;'.

The Hon. K.T. GRIFFIN: What I said earlier on the Motor Vehicles Act Amendment Bill applies equally in this case.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

SEXUAL REASSIGNMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 6, page 2, line 25—Leave out '$10 000' and insert '$8 000'.

No. 2. Clause 6, page 3, line 13—Leave out '$10 000' and insert '$8 000'.

No. 3. Clause 9, page 5, after line 22—Insert 'Penalty: $500'.

No. 4. Clause 12, page 6, line 12—Leave out '$5 000' and insert '$2 000'.

No. 5. Clause 13, page 6, line 16—Leave out '$5 000' and insert '$2 000'.

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

That the House of Assembly's amendments be agreed to.

Basically, the amendments do two things. First, the amendments dealing with the reduction of the fine from $10 000 to $8 000 and the amendments dealing with the reduction of fines from $5 000 to $2 000 bring the penalties into line with the standard penalties that were adopted in the sentencing legislation. The problem was that in the original Bill we had a penalty of $5 000 or six months imprisonment, whereas the monetary penalty attaching to six months imprisonment is $2 000.

Therefore, these amendments simply bring the monetary penalties into line with the divisions of sentencing categories that we have already enumerated and agreed as being applicable throughout State legislation. That being the case, with the terms of imprisonment that are prescribed for these offences, the appropriate monetary penalties are $8 000 in respect of clause 6 and $2 000 in respect of clause 12.

Clause 9 inserts a penalty for a breach of subclause (4) relating to the misuse of a copy of an extract of a register that shows a reassigned sex. At present the Bill prohibits misuse but does not provide any penalty for such misuse. The amendment that I ask the Committee to accept rectifies that by providing for a penalty of $500.

The Hon. K.T. GRIFFIN: I will not oppose this proposal. I recognise that the monetary penalties, particularly in relation to amendments 4 and 5, bring them into line with the sentencing appeal provisions. I would have liked to see a higher monetary penalty for breach of confidentiality, but I console myself with the thought that there is, after all, a penalty of a maximum of six months imprisonment. That would be, by far, the greater deterrent of the two penalties. For that reason, I will not oppose the motion.

Motion carried.

CRIMINAL LAW (SENTENCING) BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 3, page 3, after line 11—Insert new definition as follows:

'sentence of indeterminate duration' means detention in custody until further order:.

No. 2. Page 8, after clause 20—Insert new heading and clause 20a as follows:

DIVISION III—SENTENCES OF INDETERMINATE DURATION

Application

20a. (1) Subject to subsection (2), this Division does not apply in relation to a child.

(2) The Supreme Court may exercise its powers under section 20c in relation to a child who is to be sentenced as an adult pursuant to the Children's Protection and Young Offenders Act, 1979.

(3) For the purposes of this Division—

'child' means a person who was under the age of 18 years at the time of the commission of the offence in question.

No. 3. Page 8—Insert new clause 20b as follows:

Habitual criminals

20b. (1) This section applies in relation to offences of the following classes, whether committed before or after the commencement of this Act:

Class I	Sections 21 to 25—Wounding
Class II	Sections 26 and 27—Poisoning
Class III	Sections 48, 49, 56, 59 and 72—Sexual Offences
Class IV	Sections 81 and 82—Abortion
Class V	Sections 155 to 158—Robbery
	Sections 159, 160, 161, 162, 164 and 165—Extortion
	Sections 167 to 172—Burglary
	Sections 131, 132 and 173—Larceny
	Sections 176 to 178 and 182 to 192—Embezzlement, etc.
	Sections 195, 196, 197 and 199—False pretences, receiving
Class VI	Section 85 (1)—Arson
Class VII	Part VI—Forgery

(Classes I to VII refer to offences under the Criminal Law Consolidation Act 1935)

Class VIII Part IV of the Crimes Act 1914 of the Commonwealth—Coinage.

(2) Where—

(a) a defendant is convicted of an offence that falls within Class I, II, III or IV and has had two or more previous convictions of an offence of the same class; or

(b) a defendant is convicted of an offence that falls within Class V, VI, VII or VIII and has had three or more previous convictions of an offence of the same class,

the Supreme Court may, on application by the Crown, in addition to any other sentence imposed in respect of the offence by the court by which the defendant was convicted, declare that the defendant is an habitual criminal and direct that he or she be detained in custody until further order.

(3) A previous conviction for an offence committed outside South Australia will be regarded as a previous conviction for the purposes of subsection (2) if it is substantially similar to an offence of the relevant class of offences.

(4) The detention of a person under this section will commence on the expiration of all terms of imprisonment that the person is liable to serve.

(5) Subject to subsection (6), a person detained under this section will be detained in such prison as the Minister of Correctional Services from time to time directs.

(6) Subject to the Correctional Services Act 1982, that Act applies to a person detained under this section as if that person were serving a sentence of imprisonment.

(7) Subject to this Act, a person will not be released from detention under this section until the Supreme Court, on application by the Crown or the person, discharges the order for detention.

No. 4. Page 8—Insert new clause 20c as follows:

Offenders incapable of controlling sexual instincts

20c. (1) In this section—

'institution' means—

(a) a prison;

(b) a place declared by the Governor by proclamation to be a place in which persons may be detained under this section;

and

(c) in relation to a child, includes a training centre:

'offence to which this section applies' means—

(a) an offence under section 48, 49, 56, 58, 58a, 59, 72 or 255 of the Criminal Law Consolidation Act 1935;

(b) an offence under section 23 of the Summary Offences Act 1953;

(c) any other offence where the evidence indicates that the defendant may be incapable of controlling his or her sexual instincts.

(2) Where a defendant is convicted of an offence to which this section applies by a District Criminal Court or a court of summary jurisdiction, the court may, if of the opinion that the powers under this section should be exercised in relation to the defendant, remand the defendant in custody or on bail to appear for sentence before the Supreme Court.

(3) The Supreme Court may, in relation to—

(a) a defendant convicted of an offence to which this section applies by the Court;

or

(b) a defendant remanded to appear for sentence before the Court pursuant to subsection (2),

before determining sentence, direct that at least two legally qualified medical practitioners, specified by the Court, inquire into the defendant's mental condition and report to the Court as to whether the defendant is incapable of controlling his or her sexual instincts.

(4) For the purposes of an inquiry under subsection (3), each medical practitioner—

(a) must carry out an independent personal examination of the defendant;

(b) may have access to any evidence before the Court by which the defendant was convicted;

and

(c) may obtain the assistance of a psychologist, social worker, probation officer or any other person.

(5) If—

(a) each of the medical practitioners reports to the Supreme Court, on oath, that the defendant is incapable of controlling his or her sexual instincts;

and

(b) the Court, after hearing any evidence or representations adduced or made by the defendant, is satisfied that the defendant is so incapable,

the Court may declare accordingly and direct that the defendant be detained in custody until further order.

(6) The Supreme Court may exercise its powers under subsection (5) in addition to, or instead of, imposing a sentence of imprisonment for the offence.

(7) If the detention is in addition to a sentence of imprisonment, the detention will commence on the expiration of the term of imprisonment, or of all terms of imprisonment that the person is liable to serve.

(8) A person detained in custody under this section will be detained—

(a) if the defendant is under 18 years of age—in such institution (not being a prison) as the Minister of Community Welfare from time to time directs;

(b) in any other case—in such institution as the Minister of Correctional Services from time to time directs.

(9) The progress and circumstances of a person subject to an order under this section (whether in custody or not) must be reviewed at least once in each period of six months by—

(a) in the case of a person detained in, or released on licence from, a training centre—the Training Centre Review Board;

(b) in any other case—the Parole Board.

(10) The results of a review under subsection (9) must be embodied in a written report, a copy of which must be furnished to the person the subject of the report and—

(a) in the case of a report of the Training Centre Review Board—to the Minister of Community Welfare;

(b) in the case of a report of the Parole Board—to the Minister of Correctional Services.

(11) Subject to this Act, a person will not be released from detention under this section until the Supreme Court, on application by the Crown or the person, discharges the order for detention.

(12) The Supreme Court may not discharge an order for detention under this section unless—

(a) it has first obtained and considered the report of at least two legally qualified medical practitioners each of whom has independently examined the person;

and

(b) having taken into account both the interests of the person and of the community, it is of the opinion that the order for detention should be discharged.

No. 5. Page 8—Insert new clause 20d as follows:

Release on licence

20d. (1) The Supreme Court may, on application by the Crown or the person, authorise the release on licence of a person detained in custody under this Division.

(2) On the Court authorising the release of a person under subsection (1), the appropriate board must order the release of the person on licence on the day specified by the Court.

(3) The release of a person on licence under this section will be subject to such conditions as the appropriate board thinks fit and specifies in the licence.

(4) Where the Supreme Court has refused a person's application for release on licence, the person may not further apply for release for a period of six months, or such lesser or greater period as the Court may have directed on refusing the application.

(5) The appropriate board may—

(a) on application by the Crown or the person, vary or revoke a condition of a licence or impose further conditions;

or

(b) on application by the Crown, cancel the release of a person on licence, if satisfied that the person has contravened, or is likely to contravene, a condition of the licence.

(6) Where an application has been made to the appropriate board for cancellation of a person's release on licence, a member of the board may—

(a) summon the person to appear before the board;

or

(b) apply to a justice for a warrant for the apprehension and detention of the person pending determination of the application.

(7) Where a person who has been summoned to appear before the appropriate board fails to attend in compliance with the summons, the board may—

(a) determine the application in his or her absence;

or

(b) direct a member of the board to apply to a justice for a warrant for the apprehension and detention of the person for the purpose of bringing him or her before the board.

(8) A member of the appropriate board may apply to a justice for a warrant for the apprehension and return to custody of a person whose release on licence has been cancelled by the board.

(9) The appropriate board may, if it thinks good reason exists for doing so, cancel a warrant issued under this section at any time before its execution.

(10) Where a person who has been released on licence commits an offence while subject to that licence and is sentenced to imprisonment for the offence, the release on licence is, by virtue of this subsection, cancelled.

(11) Where a person has been subject to a licence under this section for a continuous period of three years, the order for his or her detention under this Division will, unless the Supreme Court, on application by the Crown, orders otherwise, be taken to have been discharged on the expiration of that period.

(12) For the purposes of this section—

'the appropriate board', in relation to an application under this section, means—

(a) if the person the subject of the application is being detained in a training centre, or has been released on licence from a training centre—the Training Centre Review Board;

(b) in any other case—the Parole Board.

No. 6. Page 8—Insert new clause 20e as follows:

Court may obtain reports

20e. (1) A court may, for the purpose of obtaining assistance in making a determination under this Division, require the Parole Board, the Training Centre Review Board or any other body or person to furnish the court with a report on any matter.

(2) A copy of any report furnished to the court under subsection (1) must be given to each party to the proceedings or to counsel for those parties.

No. 7. Page 8—Insert new clause 20f as follows:

Parties

20f. Both the Crown and the person to whom an application under this Division relates are the parties to the application.

No. 8. Page 8—Insert new clause 20g as follows:

Service on guardian

20g. Where the person to whom an application under this section relates is a child, a copy of the application must be served on a guardian of the child, unless—

(a) it is not practicable to do so;

or

(b) the whereabouts of all of the guardians of the child cannot, after reasonable inquiries, be ascertained.

No. 9. Page 8—Insert new clause 20h as follows:

Proclamations

20h. The Governor may, by proclamation, vary or revoke a proclamation under this Division.

No. 10. Page 8—Insert new clause 20i as follows:

Regulations

20i. The Governor may make regulations—

(a) providing for the care, treatment, rights and duties of persons detained in custody under this Division in consequence of being found to be incapable of controlling his or her sexual instincts;

(b) providing for the granting of periods of leave for persons so detained;

(c) providing for any other related matter.

No. 11. Clause 23, page 11, lines 33 and 34—Leave out 'imprisonment at Her Majesty's or the Governor's pleasure' and insert 'indeterminate duration'.

No. 12. Clause 35, page 15, lines 22 and 23—Leave out all words in these lines and insert 'If the Minister of Correctional Services is satisfied, on the application of a probationer—'.

No. 13. Clause 35, page 15, line 29—Leave out 'court may, by order' and insert 'Minister may, by instrument in writing'.

No. 14. Clause 44, page 19, line 1—Leave out 'consideration' and insert 'account'.

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

That the House of Assembly's amendments be agreed to.

The amendments that I am asking the Committee to accept seek to insert a wholly new Division III in Part II of the Criminal Law (Sentencing) Bill comprising new clauses 20a to 20i. The purport of the amendment was foreshadowed by me on 22 March 1988 in this place. It deals, under the broad heading to Part II of 'General Sentencing Provisions', with the powers of the Supreme Court to sentence certain categories of persons to detention in custody until the futher order of the court. In other words, the Supreme Court in exercising its criminal jurisdiction may, in certain instances, pass a sentence of indeterminate duration on certain categories of offenders in addition to, or instead of, any other sentence it may lawfully pass.

This amendment, in effect, picks up modified or adapted provisions of existing section 77a and section 319 of the Criminal Law Consolidation Act which are to be repealed by the accompanying miscellaneous Bill. Those sections presently deal, respectively, with persons found to be incapable of controlling their sexual instincts and persons who are declared to be habitual criminals. The present law requires such persons to be detained at Her Majesty's or the Governor's pleasure. This amendment will place such persons more properly at the disposition of the Supreme Court.

The amendment rationalises and streamlines the existing substantive and procedural law—consistently with modern statutory drafting—and provides that the Supreme Court—not the Executive Government of the day—will be the arbiter of the fate of persons who fall within the provisions. There is also to be provision for court-ordered release from detention on licence. Various ancillary review, machinery and enforcement provisions are also included; and there are also provisions to enable release on licence.

In short, the amendment seeks to place the indeterminate sentencing disposition of the two categories of persons where they more properly belong (that is, with the Supreme Court which has had occasion to deal with them). It makes it clear that children can also be made the subject of appropriate orders only where they are to be dealt with by the Supreme Court as an adult pursuant to the Children's Protection and Young Offenders Act. However, they cannot be declared 'habitual criminals'.

The Government believes the rights and interests of the persons affected—as well as the community itself—are consequentially better assured and protected. Most importantly, the questions of the appropriateness and timing of a person's liberty from detention are removed from the sphere of any suggestion of day-to-day influence or the whim of Executive Government. That is one issue which has been dealt with.

The other issue concerns clause 35. This amendment merely seeks to reinstate existing law, which is to be found in section 8 (3) of the Offenders Probation Act 1913. No evidence was given in another place why such a provision should be altered in the way it was. It is preferable to retain the *status quo*, that is, the Minister of Correctional Services ought in certain circumstances to be enabled to waive the obligation of a probationer to comply any further with a condition of a bond that requires his or her supervision. Clause 44 effects a formal drafting amendment to ensure consistency in the use of relevant language. I commend the amendments to honourable members.

The Hon. K.T. GRIFFIN: I am delighted that the Government has decided to retain in our law some provisions to deal with those persons incapable of controlling their sexual instincts and those who might be declared habitual criminals. When the Bill was before us in Committee, the Attorney-General indicated quite unexpectedly that the Government had changed its view on the repeal of those provisions of the Criminal Law Consolidation Act that dealt with habitual criminals and persons unable to control their sexual instincts. Apart from the general principle that that was to be put with the Supreme Court rather than being left at the Governor's pleasure and subject to the supervision of the Parole Board, requiring the Government of the day to make a decision as to release through the Governor in Council, notwithstanding what the Attorney-General indicated, no detail accompanied it.

I was rather surprised yesterday when one of my colleagues in the House of Assembly confronted me with these very extensive amendments which could be equated with a Bill in themselves. At short notice I have endeavoured to work through the amendments which pick up most of the provisions of the Criminal Law Consolidation Act. There are several matters on which I wish to make an observation. First, the Opposition does not agree that the responsibility for the release of offenders declared by the court to be incapable of controlling their sexual instincts and those declared habitual criminals should be exercised by the Governor in Council and not by the Supreme Court. The effect will be that, if anything goes wrong, the Supreme Court will cop the flak and not the Government of the day. In addition, in these sorts of decisions the Government of the day ought to be accountable. Quite obviously, that will no longer be an issue on which one can throw stones at the Government of the day.

The Hon. J.R. Cornwall interjecting:

The Hon. K.T. GRIFFIN: I can read between the lines. With respect to amendment No. 4, four sections of the Criminal Law Consolidation Act are not referred to, namely, sections 63, 64, 65 and 69. Will the Attorney-General indicate the reason why they are not included in this amendment? Thirdly, I am of the view that this provision ought to be in the Criminal Law Consolidation Act. That is the legislation dealing with the substantive penalties and the capacity to impose penalties.

The sentencing Bill is really an administrative or mechanical Bill; it indicates how sentencing is to be effected. Whether the Attorney-General is putting it across into the sentencing Bill for the purposes of creating a perception that things are different, or whether it is a deliberate decision to bring it into the sentencing Bill notwithstanding my argument (and I think the argument in the other place) that it more properly rests with the Criminal Law Consolidation Act, I am not sure. But, I would also like some comment on that.

The fourth issue relates to amendments Nos 12 and 13 relating to clause 35, which seeks to reinstate the authority of the Minister of Correctional Services in relation to the changing of certain parole conditions. My view is that those amendments ought not to be agreed with, and I will take that view on the occasion that the amendments are put to the Committee.

The Hon. M.J. ELLIOTT: I will address two matters. The first matter concerns the question raised by the Hon. Mr Griffin in relation to the Supreme Court or the Governor making the determination finally as to whether or not a person may be released on licence. It seems to me, if we are asking the Supreme Court, on the advice of two medical practitioners (for instance), to make a determination that a person be imprisoned for an indeterminate duration, then it should not be unreasonable that the Supreme Court also, on the same sort of advice, may make a determination that that person may be released. I cannot see any conflict; in fact, it makes sense to me.

The other matter is a question to the Attorney-General in relation to amendment No. 4. I wonder why, when we talk about people being sentenced in relation to sexual instincts, we are looking at two medical practitioners who 'may' get the assistance of a psychologist, and why, in the first instance, we are not using two medical practitioners with psychological training, or just two psychologists. That would seem to me to be more sensible. I would like an explanation about why it was decided to do it that way.

The Hon. C.J. SUMNER: With respect to the final point, that just picks up the existing criteria for having someone declared incapable of controlling their sexual instincts. So, we are not changing the substantive law in that respect.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: All I can say is that we are not changing the substantive law in that respect. It is what has been in place now for some years. The Hon. Mr Griffin asked why were sections 63, 64, 65 and 69 excluded from the provisions of either the sexual instincts clause or the habitual criminals clause. Sections 63, 64 and 65 were never in the habitual criminals clause, as I understand it; they were never grounds for declaring someone an habitual criminal, apparently, but they were grounds for declaring someone to be incapable of controlling their sexual instincts.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: If you examine sections 63, 64 and 65 they basically deal with procuring persons to be prostitutes, procuring sexual intercourse, and having a householder or someone not permitting unlawful sexual intercourse on the premises. It was felt that really they do not relate to sexual instinct as such. They are activities which perhaps surround sexual activity but they are not activities which one would expect people to carry out because they cannot control their sexual instincts. That was the reason for this.

We do not see that they really are offences that are appropriate to be included in clauses dealing with the control or otherwise of sexual instincts, because basically we are dealing with procuring persons to be prostitutes under section 63 of the Criminal Law Consolidation Act, procuring sexual intercourse under section 64 of that Act and permitting the premises to be used for unlawful sexual intercourse. I think that the rational and logical decision is that those sections do not deal with circumstances where people are incapable of controlling their sexual instincts and, therefore, should not be included in the offences that may give rise to a declaration under the old section 77a.

Section 69 was included in both the sexual instincts provision and the habitual criminals provision. It deals with persons who commit buggery with an animal and provide that they shall be guilty of a misdemeanor and liable to be imprisoned. It was felt again that, in this instance, no violence was used against another human being.

The Hon. M.J. Elliott: You've just lost the Animal Liberal vote.

The Hon. C.J. SUMNER: Perhaps. If members want to argue that it should be put back in, I will not get very upset about it one way or the other. It does not remove the offence from the statute books. Essentially, it says that this act would not trigger the operation of either the habitual criminal clause or the uncontrollable sexual instincts clause. I am not necessarily wedded to the matter: if any member wants to suggest that it should go back in, I do not mind. I suppose that the Democrats will have to decide this matter. They are used to dealing with these delicate issues and I would be prepared to let them decide. Frankly, on balance, we felt that because this deals with the committing of buggery with an animal, in a sense it is a victimless crime.

The Hon. K.T. Griffin: It is a pretty abhorrent crime.

The Hon. C.J. SUMNER: It is certainly personally abhorrent, I agree, but we were not sure whether or not it should lead to the full paraphernalia of habitual criminals and uncontrollable sexual instincts. If the Committee believes that this offence should attract those provisions, I would not be overly bothered.

The Hon. K.T. Griffin: Are you going to tell me about why it is in this Bill and not in the other Bill?

The Hon. C.J. SUMNER: The sentencing Bill is supposed to constitute a code, as far as it can, and to be one source of reference for sentencing matters. That was part of the rationale for introducing the Bill, that is, to provide a more rational basis for the law, everything could be found in one place instead of as it is at the present time in many statutes.

I think that it is appropriate only if one is dealing with sentences, whether it be the normal sentencing process or indeterminate sentences, which we have now put back in to some extent, that they ought to be dealt with by a sentencing Bill. I did not quite follow the Hon. Mr Griffin's argument in that respect. We are attempting to get a code relating to sentencing, albeit a code which still relies on common law principles, but nevertheless a rational statement of the law in one Act of Parliament, and it seems to me to be reasonable that all matters relating to sentencing should be included.

The Hon. K.T. GRIFFIN: I understand what the Attorney is saying about it all being in the sentencing Bill, and I suppose it is a matter of judgment as to in which Bill these provisions are included. I will not go to the wall on that. I tend to the view that the Criminal Law Consolidation Act as the substantive criminal code is the preferable vehicle for this sort of provision. In respect of the sections that have been omitted from the amendment, I take the Attorney's point in respect of sections 63, 64 and 65 which relate largely to offences of procuring. As he indicated, they were never in that part of the Criminal Law Consolidation Act which relates to habitual criminals but only in those parts which relate to offenders incapable of controlling their sexual instincts. If one looks at it objectively it seems to me

that there is a valid argument for not including them in the concept of this proposal.

With respect to section 69, I appreciate what the Attorney-General is saying, that he is not going to the wall on which way he will move on this issue. I think that section 69 ought to be included in both provisions in relation to both offenders incapable of controlling their sexual instincts and habitual criminals. I confess I picked this up only when I looked at it tonight, so I have not had a chance to do any research on the extent to which that offence is committed or the extent to which it might be necessary for the court to make an order detaining a person for longer than the period of a sentence for that particular crime. The maximum penalty is 10 years imprisonment, thus it is a significant offence and it is an abhorrent crime. I would tend to the view that it ought to be referred to in both areas.

The Hon. C.J. SUMNER: In the light of that I suggest that we take the amendments *seriatim* and at the appropriate time I will move an amendment to the amendments suggested by the House of Assembly. Having done that, we should be able to agree to the amendments.

Amendments Nos 1 and 2:

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

That the House of Assembly's amendments Nos 1 and 2 be agreed to.

Motion carried

Amendment No. 3:

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

That this amendment be amended by adding the numeral '69' after the number '59' and before the word 'and', and that the House of Assembly's amended amendment be agreed to.

Motion carried.

Amendment No. 4:

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

That the numeral '69' be inserted after '59' and before '72', and that the House of Assembly's amended amendment be agreed to.

Motion carried.

Amendments Nos 5 to 11:

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

That the House of Assembly's amendments Nos 5 to 11 be agreed to.

Motion carried.

Amendment No. 12:

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

That the House of Assembly's amendment No. 12 be agreed to.

The Hon. K.T. GRIFFIN: I do not support that. I believe that the Legislative Council's amendment should remain.

The Hon. C.J. SUMNER: I ask the Committee to accept this amendment. The simplest point I can make is that it is the present law and has worked satisfactorily. I do not think that a major problem will be caused by retaining it in the legislation. While it was an amendment that was initially carried by this Council, I ask, because it is the existing law and because no real case has been made out for any major mischief with it, that it remain in the law. If a problem is identified at some stage in the future, obviously the Legislature could reconsider it.

Motion carried.

Amendment No. 13:

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

That the House of Assembly's amendment No. 13 be agreed to.

The Hon. K.T. GRIFFIN: I oppose the motion, although the amendment is consequential on the earlier one. Nevertheless, I do not support it.

Motion carried.

Amendment No. 14:

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

That the House of Assembly's amendment No. 14 be agreed to.

Motion carried.

The following reason for disagreement to amendments Nos 3 and 4 was adopted:

Because section 69 dealing with buggery with animals was omitted from the House of Assembly's amendments the Legislative Council believes that that section should attract the provisions relating to habitual criminals and inability to control sexual instincts.

STATUTES AMENDMENT AND REPEAL (SENTENCING) BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Page 1, line 6—in the Title—after 'Acts Interpretation Act 1915,' insert 'the Children's Protection and Young Offenders Act 1979,'.

No. 2. Page 1, line 7—in the Title—after 'Correctional Services Act 1982,' insert 'the Criminal Injuries Compensation Act 1978,'.

No. 3. Page 1, line 8—in the Title—leave out 'and'.

No. 4. Page 1, line 9—in the Title—after '1926' insert 'and the Road Traffic Act 1961'.

No. 5. Page 2, after clause 6—Insert new headings and new clause 6a as follows:

PART IIA
AMENDMENT OF CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT 1979

Short title

6a. The Children's Protection and Young Offenders Act 1979, is referred to in this Part as 'the principal Act'.

No. 6. Page 2—Insert new clause 6b as follows:

Substitution of section 55

6b. Section 55 of the principal Act is repealed and the following section is substituted:

Sentence of life imprisonment for murder

55. A child who is convicted of murder shall be imprisoned for life.

No. 7. Page 2—Insert new clause 6c as follows:

Imprisonment of children

6c. Section 58 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) Subject to subsection (2), a child who has been sentenced to imprisonment by an adult court will serve that sentence in prison.;

and

(b) by striking out subsection (3) and substituting the following subsection:

(3) Where an order is made under subsection (2) in respect of a child—

(a) the court must not, at the time of imposing sentence or at any other time while the child is detained in a training centre, fix a non-parole period in respect of the sentence of imprisonment;

and

(b) this Act applies in relation to the child while in a training centre to the exclusion of the Correctional Services Act 1982, as if the child had been sentenced to detention in a training centre.

No. 8. Page 2—Insert new clause 6d as follows:

Insertion of new section 58a

6d. The following section is inserted after section 58 in Division IV of Part IV of the principal Act:

Release on licence of children convicted of murder

58a. (1) Where a child who has been sentenced to imprisonment for life is being detained in a training centre, the Supreme Court may, on the application of the child, authorise the release of the child from detention on licence.

(2) On the Supreme Court authorising the release of a child under subsection (1), the Training Centre Review Board must order the release of the child on licence on the day specified by the Court.

(3) The release of a child on licence under this section will be subject to such conditions as the Training Centre Review Board thinks fit and specifies in the licence.

(4) Where the Supreme Court has refused an application by a child for release on licence, the child may not further apply for release for a period of six months, or such lesser

or greater period as the Court may have directed on refusing the application.

(5) The Training Centre Review Board may, on the application of the Crown or the child, vary or revoke any condition of a licence under this section.

(6) The Training Centre Review Board may, on the application of the Minister, cancel a release on licence under this section if satisfied that the child has contravened a condition of the licence.

(7) Where an application has been made for the cancellation of a child's release on licence, a member of the Training Centre Review Board may—

(a) summon the child to appear before the Board;

or

(b) issue a warrant for the apprehension and detention of the child pending determination of the application.

(8) Where a child who has been summoned to appear before the Training Centre Review Board fails to attend in compliance with the summons, the Board may—

(a) determine the application in the child's absence;

or

(b) direct a member of the Board to issue a warrant for the apprehension and detention of the child for the purpose of bringing him or her before the Board.

(9) A member of the Training Centre Review Board may issue a warrant for the apprehension and return to custody of a child whose release on licence has been cancelled by the Board.

(10) Where a child who has been released on licence commits an offence while subject to that licence and is sentenced to imprisonment or detention for that offence, the release on licence is, by virtue of this subsection, cancelled.

(11) If a child who is to be returned to custody on cancellation of his or her release on licence has attained the age of 18 years, he or she will be returned to custody in such prison as the Chief Executive Officer of the Department of Correctional Services directs.

(12) A child released on licence pursuant to this section will, unless the release is earlier cancelled, remain subject to that licence until the Supreme Court, on the application of the Crown or the child, discharges the child absolutely from the sentence of life imprisonment.

(13) Both the Crown and the child are parties to any application under this section.

(14) A copy of an application under this section must be served on a guardian of the child, unless—

(a) it is not practicable to do so;

or

(b) the whereabouts of all of the guardians of the child cannot, after reasonable inquiries, be ascertained.

(15) For the purposes of determining an application under this section, the Supreme Court—

(a) may hear, or receive submissions from, any person it thinks fit;

and

(b) may direct the Training Centre Review Board or any other body or person to furnish the Court with such reports as the Court may require.

No. 9. Page 2—Insert new clause 6e as follows:

Conditional release from detention

6e. Section 64 of the principal Act is amended by inserting in subsection (2) '(other than a child serving a sentence of life imprisonment)' after 'a child who has been sentenced to detention in a training centre'.

No. 10. Page 3, after clause 8—Insert new clause 8a as follows:

Interpretation

8a. Section 4 of the principal Act is amended by striking out the definition of 'sentence of indeterminate duration' and substituting the following definition:

'sentence of indeterminate duration' means detention in custody until further order of a court:.

No. 11. Clause 10, page 3, lines 21 to 23—Leave out subsection (2) and insert subsection as follows:

(2) The advisory committee is comprised of not less than three, nor more than five, members appointed by the Minister, of whom—

(a) one will be appointed after consultation with the United Trades and Labor Council;

and

(b) one will be a person nominated by the Permanent Head.

No. 12. Clause 10, page 3, after line 36—Insert new paragraph as follows:

(ab) one will be appointed after consultation with the United Trades and Labor Council;.

No. 13. Page 5, after clause 13—Insert new clause 13a as follows:

Assignment of prisoners

13a. Section 22 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) A person may be detained in a particular correctional institution pursuant to this section notwithstanding that the warrant of commitment by virtue of which the person is detained in custody directs that he or she be detained in some other correctional institution.

No. 14. Page 5—Insert new clause 13b as follows:

Reports by the Board

13b. Section 64 of the principal Act is amended by striking out subsection (5).

No. 15. Page 5, after clause 15—Insert new heading and new clause 15a as follows:

PART IVA
AMENDMENT OF CRIMINAL INJURIES COMPENSATION ACT 1978

Short title

15a. The Criminal Injuries Compensation Act 1978, is referred to in this Part as 'the principal Act'.

No. 16. Page 5—Insert new clause 15b as follows:

Imposition of levy

15b. Section 13 of the principal Act is amended by inserting after subsection (7) the following subsection:

(8) Notwithstanding any other provision of this section, the Governor may remit a levy, or any part of a levy, payable by a person under this section.

No. 17. Page 5, after clause 16—Insert new clause 16a as follows:

Death and injury arising from reckless driving, etc.

16a. Section 19a of the principal Act is amended by striking out paragraph *(b)* of subsection (6) and substituting the following paragraph:

(b) the disqualification may not be reduced or mitigated in any way or be substituted by any other penalty or sentence.

No. 18. Page 5, after clause 17—Insert new clause 17a as follows:

Repeal of s. 77a

17a. Section 77a of the principal Act is repealed.

No. 19. Page 5—Insert new clause 17b as follows:

Repeal of ss. 134 and 135

17b. Sections 134 and 135 of the principal Act are repealed.

No. 20. Page 6, after clause 27—Insert new clause 27a as follows:

Repeal of ss. 319 to 328 and heading

27a. Sections 319 to 328 (inclusive) of the principal Act and the heading preceding section 319 are repealed.

No. 21. Page 9, after clause 55—Insert new headings and new clause 55a as follows:

PART VIIA
AMENDMENT OF ROAD TRAFFIC ACT 1961

Short title

55a. The Road Traffic Act 1962, is referred to in this Part as 'the principal Act'.

No. 22. Page 9—Insert new clause 55b as follows:

Failure to stop and report in case of accident

55b. Section 43 of the principal Act is amended—

(a) by inserting in paragraph *(a)* of subsection (3b) 'or be substituted by any other penalty or sentence' after 'in any way';

and

(b) by striking out paragraph *(b)* of subsection (3b).

No. 23. Page 9—Insert new clause 55c as follows:

Reckless and dangerous driving

55c. Section 46 of the principal Act is amended—

(a) by inserting in paragraph *(b)* of subsection (3) 'or be substituted by any other penalty or sentence' after 'in any way';

and

(b) by striking out paragraph *(c)* of subsection (3).

No. 24. Page 9—Insert new clause 55d as follows:

Driving under influence

55d. Section 47 of the principal Act is amended—

(a) by inserting in paragraph *(b)* of subsection (3) 'or be substituted by any other penalty or sentence' after 'in any way';

and

(b) by striking out paragraph *(c)* of subsection (3).

No. 25. Page 9—Insert new clause 55e as follows:

Driving whilst having prescribed concentration of alcohol in blood

55e. Section 47b of the principal Act is amended—

(a) by inserting in paragraph *(b)* of subsection (3) 'or be substituted by any other penalty or sentence' after 'in any way';

and

(b) by striking out paragraph *(c)* of subsection (3).

No. 26. Page 9—Insert new clause 55f as follows:

Police may require alcotest or breath analysis

55f. Section 47e of the principal Act is amended—

(a) by inserting in paragraph *(b)* of subsection (6) 'or be substituted by any other penalty or sentence' after 'in any way';

and

(b) by striking out paragraph *(c)* of subsection (6).

No. 27. Page 9—Insert new clause 55g as follows:

Compulsory blood tests

55g. Section 47i of the principal Act is amended—

(a) by inserting in paragraph *(b)* of subsection (14a) 'or be substituted by any other penalty or sentence' after 'in any way';

and

(b) by striking out paragraph *(c)* of subsection (14a).

No. 28. Clause 59, page 9, lines 34 to 39—Leave out subclause (2).

No. 29. Page 9, after clause 59—Insert new clause 60 as follows:

Sentences of indeterminate duration

60. (1) Subject to this section, nothing in this Act affects—

(a) the validity of a sentence of indeterminate duration (detention at Her Majesty's or the Governor's pleasure) being served, or to be served, by a person pursuant to an order of a court made before the commencement of this Act under a provision repealed by this Act;

or

(b) the validity of the release on licence by the Governor of such a person before the commencement of this Act.

(2) On the commencement of this Act—

(a) a sentence of indeterminate duration referred to in subsection (1) will, subject to subsection (3), be taken to be a sentence of indeterminate duration imposed under the Criminal Law (Sentencing) Act 1988;

and

(b) a release on licence referred to in subsection (1) will be taken to be a release on licence under that Act by the Parole Board or the Training Centre Review Board, as the case may require, on the authority of the Supreme Court.

(3) Where a child is, at the commencement of this Act, serving a sentence of indeterminate duration imposed on conviction of murder, the following provisions apply:

(a) the sentence will be taken to be a sentence of imprisonment for life imposed by the Supreme Court;

(b) if the child is in custody in a training centre, the child must (unless earlier released on licence) be transferred to a prison on turning 18 years of age;

and

(c) if the child has been released on licence by the Training Centre Review Board prior to the commencement of this Act the child will be taken to have been released on licence by the Board under section 58a of the Children's Protection and Young Offenders Act 1979, on the authority of the Supreme Court.

(4) In subsection (3)—

'child' means a person convicted of murder who had not attained the age of 18 years on the day on which he or she committed the offence.

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

That the House of Assembly's amendments No. 1 to No. 5 be postponed and taken into consideration after amendment No. 29.

Motion carried.

Amendment No. 6:

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

That the House of Assembly's amendment No. 6 be agreed to.

This amendment seeks to make various amendments to the Children's Protection and Young Offenders Act 1979. Consistent with the amendments to the Criminal Law (Sentencing) Bill, the Government is seeking to abolish indeterminate sentences at the Governor's pleasure where they are part of a sentence for children convicted of murder. Instead, as with adults, the penalty will be mandatory life imprisonment. There is to be a provision for the Supreme Court to release the child from detention on licence. When a child reaches 18, he or she, as with any other adult, will be able to apply to the Supreme Court for the setting of a non-parole period. There is provision to enable the child to apply to the Supreme Court for an absolute discharge from the sentence of life imprisonment.

The Hon. K.T. GRIFFIN: The whole area of the Children's Protection and Young Offenders Act in the context of this Bill is a new development. I see no reason why a child who is convicted of murder as a young offender should not after attaining the age of 18 be subject thereafter to that part of the law which deals with adult offenders in respect of detention. So, to that extent I believe the amendment can be supported. I should say again, as I pointed out when speaking to the other message in relation to the Criminal Law (Sentencing) Bill, that it is very difficult to assess the substance of these amendments, as they have come to us so late in the session and in such substantial form. However, the principle seems to me to be appropriate, and all we can really do is to rely on the undertaking of the Attorney-General that the drafting does accord with the principle that he has espoused.

Motion carried.

Amendment No. 7:

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

That the House of Assembly's amendment No. 7 be agreed to.

The same argument applies as that in relation to the previous amendment.

Motion carried.

Amendments Nos 8 and 9:

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

That the House of Assembly's amendments Nos 8 and 9 be agreed to.

Motion carried.

Amendment No. 10:

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

That the House of Assembly's amendment No. 10 be agreed to.

This is a formal amendment which places a definition of 'sentence of indeterminate duration' in the Correctional Services Act, being the same definition as we have already inserted in the Criminal Law (Sentencing) Bill.

The Hon. K.T. GRIFFIN: I do not raise any objection to this amendment now. I have lost the debate on this issue, and this proposal is now consistent with the scheme that has been adopted under the Criminal Law (Sentencing) Bill.

Motion carried.

Amendments Nos 11 and 12:

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

That the House of Assembly's amendments Nos 11 and 12 be agreed to.

These amendments seek to retain the existing law as it presently appears in sections 5d (1) *(a)* and 5d (5) *(b)* of the Offenders Probation Act 1913 regarding the involvement upon a consultative basis only with the United Trades and Labor Council in the establishment of the Community Service Advisory Committee and the Community Service Committees for each community centre. Those provisions were inserted in 1981 after protracted debate, and there is no good cause for their removal.

The Hon. K.T. GRIFFIN: I indicate my opposition to amendment No. 11 as well as to amendment No. 12. I should say that the Hon. Ian Gilfillan supported me on my amendment, which was to remove the requirement to consult with the United Trades and Labor Council. If the Government of the day wishes to do that, it is at liberty to

do so, under the provision that is now in the Bill. The Community Service Advisory Committee is comprised of not less than three nor more than five members appointed by the Minister, of whom one must be a person nominated by the permanent head.

In respect of the community service committees, to which amendment No. 12 relates, a community service committee consists of not less than three nor more than five members, of whom one will be a magistrate and one will be a person nominated by the permanent head. Those members are appointed by the Minister upon such terms and conditions as the Minister thinks fit. I see no reason at all for the United Trades and Labor Council to be specifically referred to in either of these two provisions. If the Government of the day wishes to do that, it is at liberty to do so, under the clause that is presently in the Bill as passed by the Legislative Council. So, I indicate quite strong disagreement with amendments Nos 11 and 12.

The Hon. C.J. SUMNER: I understand, of course, that from time to time there is debate about this sort of clause in the Council. However, I emphasise that no less a personage than the Hon. Murray Hill said, after detailed discussions, on 11 June 1981, almost seven years ago—

The Hon. K.T. Griffin: That was to stop the Bill from being lost.

The Hon. C.J. SUMNER: That may be, but nevertheless there was a lot of to-ing and fro-ing. He said:

> It is proposed that the Minister shall appoint one person after consultation with the UTLC to be a member of each community service committee.

I cannot think of a more lasting legacy from the Hon. Murray Hill than for him to agree this evening with that very progressive proposition that he brought to the Council on 11 June 1981. Recognising that there is a debate about the matter and legitimate differences of opinion, I would say, however, that it has been in the law since that time. There is no evidence that it is causing problems. On that basis alone—apart from the principle which I also support—I would ask that the Committee agree with these amendments.

The Hon. M.J. ELLIOTT: I do not support either amendment No. 11 or and No. 12. The Hon. Mr Gilfillan rejected this matter when the Bill was first before this Chamber and, to maintain consistency and in the absence of powerful arguments from the Attorney-General (I admit that a legacy from the Hon. Mr Hill would be nice), I cannot support them.

The Hon. C.J. Sumner: One argument is that we will have to go to a conference.

The Hon. M.J. ELLIOTT: The Attorney-General has not persuaded me.

The Hon. C.J. SUMNER: I hope that I can persuade the honourable member because there is no option but to go to a conference if this matter remains in dispute. In the final analysis, we may end up losing the Bill, and that would be a significant indictment of Parliament, if the Bill was lost over a clause of this kind, one that has been in operation since 1981. It was introduced into the legislation in 1981 by the Liberal Party, albeit as part of a compromise. That is the reality.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: All right, but with the enormous amount of work that has been done on this Bill, which is a significant reforming measure, I would have expected the Democrats to support it.

The Hon. M.J. Elliott: We support every other clause.

The Hon. C.J. SUMNER: I know, but given that you have the alternative of supporting this or risking the Bill being defeated—

The Hon. M.J. Elliott: Are you saying that we will throw it out or that you will throw it out?

The Hon. C.J. SUMNER: No, we will not throw it out.

The Hon. M.J. Elliott: That is what it sounds like.

The Hon. C.J. SUMNER: I put it to you that this amendment is extraneous to the Bill because all we did with our Bill was—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Just a minute. All we did was continue with the existing law. I would not have thought that it was an issue of great principle for the Democrats or the Opposition because I emphasise that it was the Liberal Party that put this clause in the Bill in 1981. The substantive argument is that community service orders involve prisoners or accused persons carrying out work in the community. Therefore, there is a potential conflict between people carrying out community service work pursuant to a correctional services order and people who earn their living from that sort of work. The reason for having someone not nominated by the Trades and Labor Council but appointed after consultation with the Trades and Labor Council was to give the community service orders committees, which are chaired by magistrates in the various regions in the metropolitan area and the State, access to expertise on the industrial ramifications of certain community service orders. It was done to ensure that no disputes would arise with the trade union movement and with the people they represent who do paid work. That is the rationale and, in my view, it is of some substance.

I did not go into this in great detail in the early part of the Committee stage because I thought that, given that the Bill is a very significant piece of amending legislation, this particular clause, having been in the law since 1981, would not have been a stumbling block to many reforms that the Democrats support. If we cannot agree in this Committee about the amendments made by the House of Assembly, we have a major problem. I repeat that this amendment is extraneous to the Bill that was introduced. In that respect, the Bill picked up the existing law, which was made in 1981 after extensive debate in this Chamber. There is no evidence that this measure does not work. For the reasons that I have outlined, having someone with industrial experience on these committees is desirable. It would be a great pity if what I consider to be a significant piece of reforming legislation fell by the wayside because the Committee could not agree on a provision that has been in the law since 1981.

The Hon. M.J. ELLIOTT: I was mindful of some of the arguments put forward by the Attorney-General. The Hon. Mr Gilfillan has taken a fairly consistent stand against representatives of the UTLC having membership on a large number of bodies simply because they are there. Now that the Attorney has expanded his argument and seems more fair dinkum about the whole thing, I tend to agree with what he said about the need for the UTLC to be involved in areas where there is an opportunity for some future Government to use offenders on community service orders as a way of displacing the legitimate roles of some sections of the Public Service. That would be of concern to me, and I exercise my right to change my indication. I will support amendments Nos 11 and 12.

The Hon. K.T. GRIFFIN: I remain steadfast in my opposition to these amendments. The Hon. Mr Elliott has bowed to the threats of the Attorney-General that there would be a conference.

The Hon. M.J. Elliott: Don't give me that rubbish.

The Hon. K.T. GRIFFIN: He has! The honourable member has capitulated.

The Hon. M.J. Elliott: I could have gone to the conference and done it there. Don't be ridiculous.

The Hon. K.T. GRIFFIN: Come on.

The Hon. C.J. Sumner: That is unfair.

The Hon. K.T. GRIFFIN: It is not unfair. It is a fact of life. You threatened that it would be lost.

The Hon. C.J. Sumner: I didn't.

The Hon. M.J. Elliott: He threatened, but it made no difference.

The Hon. K.T. GRIFFIN: Well, I do not believe that. There is no logic in it. There is no reason for the United Trades and Labor Council to be involved. The fact that a compromise was made in 1981 does not mean anything now.

The Hon. C.J. Sumner: It was introduced by the Hon. Murray Hill, the grandfather of the Parliament.

The Hon. K.T. GRIFFIN: It was a compromise. You know that. You were threatening then to defeat the Bill.

The CHAIRPERSON: Order!

The Hon. K.T. GRIFFIN: You were threatening then to defeat it; now you are threatening to drop it.

The CHAIRPERSON: Order! I ask that interjections cease. All members can speak as often as they wish in Committee, and all comments should be addressed through the Chair.

The Hon. K.T. GRIFFIN: I am addressing them through you, Madam Chair.

The CHAIRPERSON: I heard the word 'you' in your utterances that was not directed to me.

The Hon. K.T. GRIFFIN: No, I was addressing my remarks to you, but I do not want to argue with you, Madam Chair, because we are nearly at the end of the session, fortunately. What happened in 1981 was as a result of the Hon. Mr Sumner threatening to have the Bill laid aside or defeated, but it was a compromise.

The Hon. C.J. Sumner: We didn't have the numbers.

The Hon. K.T. GRIFFIN: It was a compromise, then. The Hon. Mr Milne—

The Hon. C.J. Sumner: That's right.

The Hon. K.T. GRIFFIN: You had him up against the wall, did you? I still remain steadfast in my opposition to amendments Nos 11 and 12 because I see no reason for them. They serve no useful purpose. If the Government of the day wants to consult with the United Trades and Labor Council, it can do so under the amendment that was previously carried by the Council.

The Hon. M.J. ELLIOTT: I stand for only one reason at this time and that is to deny most strongly the suggestion that I would bow just because there is a threat of losing the Bill.

An honourable member: Why did you make the threat?

The Hon. M.J. ELLIOTT: He made the threat. Those sorts of threats have been made before and have been totally ignored.

The Hon. K.T. Griffin: The Democrats have never laid a Bill aside, have you?

The CHAIRPERSON: Order!

Members interjecting:

The CHAIRPERSON: Order! Come on, I have called for order.

Members interjecting:

The Hon. M.J. ELLIOTT: We are not afraid to take a stand against something, nor are we afraid to be convinced by a good argument.

The Hon. C.J. SUMNER: Madam Chair, I think that the Hon. Mr Elliott has been most unjustly maligned by the Hon. Mr Griffin in this respect. I think the record should be put straight. There were no threats involved in what I said. All I said was that we have an important reform measure which now the Chamber—

Members interjecting:

The Hon. C.J. SUMNER: No, of course. But I am talking about what the Parliament has substantially agreed to. In the whole context of an important reform measure this particular issue is not, I would suggest, of major importance given the nature of the legislation. However, I am pleased that the Hon. Mr Elliott, when faced with what I, too, think was a reasonable argument, has accepted the validity of that argument. That is a reasonable approach. I would like to commend him for it. I think the Hon. Mr Griffin's attack was quite unwarranted.

Motion carried.

Amendment No. 12:

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

That the House of Assembly's amendment No. 12 be agreed to.

Motion carried.

Amendment No. 13:

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

That the House of Assembly's amendment No. 13 be agreed to.

This deals with a new clause 13a. This further amendment to the Correctional Services Act is designed to revive the old and by this Bill repeal section 93a of the Justices Act which enables a person named in a warrant of commitment to be committed to any gaol of the State and not merely the one named in the warrant.

This revival of the section 93a type provision is even more necessary now that Adelaide Gaol is no longer operational, as many outstanding warrants, of course, name that as the institution to which a person is to be committed. In short, this amendment is an essential transitional measure which seeks to retain the present law on the topic. Its reinclusion was recommended by the Crown Solicitor.

Motion carried.

Amendment No. 14:

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

That the House of Assembly's amendment No. 14 be agreed to.

The amendment to section 64 of the Correctional Services Act is wholly consequential on the repeal of section 77a of the Criminal Law Consolidation Act.

Motion carried.

Amendment No. 15:

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

That the House of Assembly's amendment No. 15 be agreed to.

This amendment to the Criminal Injuries Compensation Act confers on the Governor the power to remit the obligation of a defendant to pay the victim's levy. The Governor's prerogative powers to remit a fine do not extend to the remission of a levy which is not a fine or pecuniary sanction imposed by the order of the sentencing court but is in contrast to a sum fixed by law and payable pursuant to statute. There will be some cases—impecuniosity, hardship, unfairness—where the interests of justice can be better served by an act of executive clemency, that is, remission of the levy, which act of executive clemency can already be applied to fines.

The Hon. K.T. GRIFFIN: The first question to the Attorney-General is whether he would intend publicising in the *Gazette* the fact of such remission as occurs with respect to the remission of monetary penalties.

The Hon. C.J. Sumner: That would follow.

The Hon. K.T. GRIFFIN: I have some reservations about the amendment, only because, when the Criminal Injuries

Compensation Act Amendment Bill was before us in relation to levies, my recollection is that it was the firm view of the Attorney-General then that these levies would be paid by everybody who would be liable to make the payment as a result of a criminal conviction in any of the courts or an expiation notice. I am surprised that in the light of what I recollect to be the Attorney-General's view then, we are now to some extent detracting from that policy. If the Attorney-General is strongly committed to it, I do not propose to vote against the proposal but merely indicate my reservation.

Motion carried.

Amendment No. 16:

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

That the House of Assembly's amendment No. 16 be agreed to.

It is the same argument.

Motion carried.

Amendment No. 17:

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

That the House of Assembly's amendment No. 17 be agreed to.

The amendment to section 19a of the Criminal Law Consolidation Act will have the effect of making quite clear that the new Criminal Law (Sentencing) Bill cannot be invoked in order to reduce or mitigate any licence disqualification following a conviction for reckless driving resulting in death or injury.

Motion carried.

Amendment No. 18:

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

That the House of Assembly's amendment No. 18 be agreed to.

This simply repeals section 77a of the Criminal Law Consolidation Act dealing with persistent sexual offenders as is now contained in the sentencing Bill.

Motion carried.

Amendment No. 19:

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

That the House of Assembly's amendment No. 19 be agreed to.

Section 134 of the Criminal Law Consolidation Act provides that any person who commits simple larceny after a previous conviction for a felony, whether the previous conviction took place on an information before the Supreme Court or before a court of summary jurisdiction, shall be liable for imprisonment for any term not exceeding 10 years. We have received representations from the Legal Services Commission to the effect that punishment for a first offence of simple larceny under section 131 is imprisonment for any term not exceeding five years. That offence is, of course, a felony. That first offence is able to be heard by a summary court as a group 3 minor indictable offence. Some magistrates are taking the view that where a person commits a simple larceny after a previous conviction for larceny, they have no jurisdiction to hear the matter and are accordingly committing the person charged to the District Criminal Court for sentence or trial. That seems to be unnecessary. It is the view of the Director, Legal Services Commission, that the interpretation being used for section 134 is correct and that neither the prosecution nor defence, if both wanted them to be dealt with in the Magistrates Court, could have it dealt with in that summary jurisdiction.

The amendment we have moved repeals those sections. Certainly, to say that to go from one simple larceny on top of another simple larceny ought to automatically thereby produce a maximum sentence of 10 years is out of proportion with the nature of the offence. Similarly, section 135 of the Criminal Law Consolidation Act renders simple larceny after previous convictions for misdemeanour outside the jurisdiction of summary courts. The submission from Lindy Powell, the Director of the Legal Services Commission, is that urgent legislative intervention is required. Warden Kelly, in *Summary Justice*, the handbook for courts of summary jurisdiction, suggests that no question relating to jurisdiction would arise unless the prosecutor expressly invokes section 134. The Director, Legal Services Commission, does not agree with that view and it appears that the magistrates do not agree with it, either.

If magistrates are to continue to interpret the section in this way serious repercussions will follow for clients of the commission and for the commission itself in dealing with these categories of offence. Where a client wishes to plead not guilty to a charge of shop lifting, and there is a reasonable prospect of success, significant sums of money would have to be spent. Previously the matter would probably be capable of disposition by a one day trial in the magistrates court. However, with respect to a second offence, if this interpretation is maintained, the matter would have to be dealt with in the District Court and that really does not seem to be justified, given the nature of the offence. The Government believes that the reasonable approach in this matter is to delete those two sections 134 and 135.

The Hon. K.T. GRIFFIN: I do not support the House of Assembly's amendment. I think that the Attorney-General is repealing two substantive provisions of the Criminal Law Consolidation Act, when in fact a procedure may have to be looked at. I find it difficult to accept that, at this very late hour of the session, when we have this message before us with only 1½ hours or so of the session left, we are going to repeal two pretty significant sections of the Criminal Law Consolidation Act that deal with second and subsequent offences that are dependent on offences of simple larceny or any other offence like simple larceny, made punishable, as it applies under section 135. I would have thought that that was a pretty significant and serious—

The Hon. C.J. SUMNER: It means that there can be a simple larceny of $1 shoplifting first offence and a $1 shoplifting second offence, and that has to go to the District Court.

The Hon. K.T. GRIFFIN: Surely that can be accommodated by procedures rather than by repealing the substantive provisions of the Act. Really, you are removing an option from the court just to accommodate a particular problem with procedure. I have not had time to even think about the way in which it should be dealt with, but what first comes to mind is that surely there must be some form of words which can accommodate dealing with that matter as a summary offence, if that is the wish of one or both parties, rather than to repeal these two provisions of the Act.

The Hon. C.J. Sumner: It's already five years for simple larceny.

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

The Hon. C.J. Sumner: Why should it go automatically to 10 years for two simple larcenies?

The Hon. K.T. GRIFFIN: The word 'simple' tends to take it out of context a little. It can still be very serious.

The Hon. C.J. Sumner: It can also be very minor. There could be two shopliftings one after the other and, even though the prosecution and defence agree that it should be dealt with in the Magistrates Court, some magistrates say that it cannot be and send it over to the District Court.

The Hon. K.T. GRIFFIN: Yes, but, the letter which the Attorney-General read from the Legal Services Commission is on the basis of its interpretation of the available procedures and not on the basis of the substantive provisions of

these two sections. What the Attorney-General has argued to me on many occasions is that these are always maximum sentences and the court always has a discretion to impose very much less than the maximum penalty.

The argument here is no different from those other occasions when he has used that in answer to me when I have raised the significance of some penalties that have been sought to be imposed by Bills that have come before us. I have very grave concerns about taking this step to try to accommodate a particular problem which apparently has only just been highlighted to the Attorney-General and which conveniently has been picked up at the eleventh hour in the other place because this Bill is before the Parliament.

The Hon. M.J. ELLIOTT: If it were not for the goodwill of the Liberal Party in handling this Bill to begin with, I do not think that I would be willing to handle it, either. It is very useful when there is a lawyer in the Opposition who can scan through things and say, 'Look, I agree with this', and substantially they have agreed to most things. Some issues are fairly cut and dried and the arguments simple. But, while I do not deny that in this amendment the Attorney-General is trying to tackle a legitimate problem, I do not know whether or not this is the way to go about it. I do not think that I should make a snap decision about the matter at this stage. For that reason, and for that reason alone, I will vote against the motion, because at least it will leave the law as it now stands rather than making a change of which I am not convinced.

Motion negatived.

Amendment No. 20:

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

That the House of Assembly's amendment No. 20 be agreed to.

This amendment is consequential upon the habitual criminals provisions which are now placed in the Criminal Law (Sentencing) Bill.

Motion carried.

Amendment No. 21:

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

That the House of Assembly's amendment No. 21 be agreed to.

This series of amendments to the Road Traffic Act makes it quite clear that the new Criminal Law (Sentencing) Act cannot be invoked in the relevant driving provisions to reduce, mitigate or substitute penalties for licence disqualification orders. These are wholly housekeeping amendments. Presently the Offenders Probation Act 1913 is referred to, and that Act is being repealed by this Bill, so it merely retains the existing law in this respect.

The Hon. K.T. GRIFFIN: This series of amendments largely arises from the issues which I raised during the course of the debate in this place on the Criminal Law (Sentencing) Bill and the extent to which penalties, particularly those under the Road Traffic Act, may be reduced, even though they are referred to as minimum penalties. I have not had an opportunity to look carefully at each of the offences which are referred to in this series of amendments.

Because of the hour, I can do no more than accept the Attorney-General's assurance that they are no more than housekeeping amendments. However, it is interesting to note that they are now brought before us but, when the Bill was first debated, it was not felt so strongly that provisions like this were necessary.

Motion carried.

Amendments Nos 22 to 27:

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

That the House of Assembly's amendments Nos 22 to 27 be agreed to.

Motion carried.

Amendments Nos 28 and 29:

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

That the House of Assembly's amendments Nos 28 and 29 be agreed to.

These amendments are wholly in the nature of transitional provisions. Existing sentences of indeterminate duration, that is, at Her Majesty's or the Governor's pleasure, are to be deemed to be sentences of indeterminate duration under the Criminal Law (Sentencing) Act 1988, that is, detention until further order of the Supreme Court. Any existing release from detention on Government licence will also be deemed to be released from detention by the Supreme Court.

A child convicted of murder who is presently serving a sentence of detention at the Governor's pleasure will be deemed to have been sentenced to life imprisonment by the Supreme Court. These transitional provisions will, for all purposes, therefore in effect transmute all extant current Governor's pleasure sentences into sentences of indeterminate duration within the meaning of that expression in the Bill. The new judicial regime of indeterminate sentences will apply in full forthwith to persons currently detained under sections 77a and 319 of the Criminal Law Consolidation Act which, of course, are repealed by this Bill.

Motion carried.

Amendments Nos 1 to 5:

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

That the House of Assembly's amendments Nos 1 to 5 be agreed to.

Motion carried.

The following reason for disagreement was adopted:

Because the House of Assembly's amendment No. 19 deals with the substantive law and should be given further consideration by the Parliament.

CORRECTIONAL SERVICES ACT AMENDMENT BILL (No. 2)

In Committee.

Clause 1 passed.

Clause 2—'Segregation.'

The Hon. DIANA LAIDLAW: The Liberal Party did not receive a large number of submissions on this Bill when we forwarded it and the second reading speech to various individuals and organisations seeking their comments. However, the Offenders Aid and Rehabilitation Services indicated that it believed that the Bill had some dangerous aspects and argued that it was a regressive measure.

Their submission indicated that the organisation felt that the powers incorporated in the Bill at the present time were sufficient to ensure the maintenance of sound management practices within prisons. As I indicated in my second reading speech, the Liberal Party did not entirely accept that analysis. We did agree that there were reasons, as the Attorney had argued, for the extension of the grounds for the segregation of prisoners.

However, we were sympathetic to the argument by OARS that there was some potential for misuse of the very considerable powers that the Government is seeking under this Bill. The Government argued in the Attorney's second reading speech that the matter of safeguards was an important consideration in framing this Bill. They indicated that in clause 2 (4) one of the safeguards will be that any direction in regard to segregation must be in writing and must specify the grounds on which it is given.

New subsection (8) indicates also that the Minister may establish, in respect of any correctional institution, a com-

mittee with the function of reviewing the segregation of prisoners within the institution. It is in respect of this subsection that I raise some concerns this evening. This measure has been incorporated in the Bill on the basis that it will be a safeguard for prisoners in respect of when segregation is seen as necessary for those prisoners.

However, OARS have argued (and I believe that their arguments are valid) that, because the composition of the committee is not specified in the Bill, and as the outline of the committee in the second reading speech comprises solely Correctional Service officers or prison staff, it is inadequate in terms of its independence in reviewing prison procedures and the determinations in respect of a prisoner being segregated. The Attorney's second reading speech indicated that the committee would be chaired by a senior officer of the Prisoner Assessment Committee and would include other members, such as the manager of the prison or his nominee, and one or more Assistant Chief Correctional Officers and any other persons nominated by the manager.

If the Government was prepared to outline the proposed composition of such a committee within the prisons (referred to in the second reading speech), why were the people involved not nominated in the Bill? Secondly, why has the membership of the committee been confined to prison or correctional services staff? The Government has not seen fit to include people from outside to be members of that committee. The OARS organisation, for example, believes that it is very important that people from outside the Department of Correctional Services environment should be represented on the committee, and it believes very strongly that in such circumstances not only would prisoners see justice being done but it would be seen to be done.

The Hon. C.J. SUMNER: The authority to review decisions relating to segregation is administrative. The Correctional Services Act vests custody of all prisoners with the chief executive officer of the Department of Correctional Services. Essentially, that responsibility for the security of prisoners must rest with officers who are accountable. The Hon. Ms Laidlaw is suggesting that this need not be the case and that a more desirable way to go would be to have a committee made up of, say, members of the public—I think she suggested—who are neither experienced nor accountable for their advice. The reality is that the prison system can be difficult on occasions. Someone has to be responsible for the management of prisons and for ensuring safety in the prisons and, clearly, some method of segregating prisoners is required.

The role of the Segregation Review Committee will be to provide advice on the continued segregation of prisoners in the segregation unit. It will be an internal committee and it will include an officer from the Prisoners Assessment Committee. It will be internal, because the Government sees this basically as an administrative function, that is, a function involved in the management of prisons. That responsibility must rest with someone. It rests with the chief executive officer, the Director of the Department of Correctional Services, which is where it should so rest. However, in carrying out these functions, the chief executive officer will have access to this Segregation Review Committee in circumstances where the continued segregation of prisoners is deemed to be necessary. An independent review mechanism has been established through the visiting tribunal, and that is mentioned in the legislation. Further, all administrative actions are subject to review by the Ombudsman.

The Hon. DIANA LAIDLAW: In respect of the Attorney's reply, I wonder why the Government has even seen fit to introduce this amendment to establish a committee within any correctional institution if it really is going to be undertaking the function that is already within the powers of the permanent head. If it is going to remain an internal function, I cannot understand why it does not remain with the permanent head. The Attorney-General did indicate that an independent review procedure would be available through the visiting tribunal. That is already established, and it seems to me that the arguments that the Attorney put forward in response to my inquiries suggest that this new committee is rather irrelevant in the whole procedure. I cannot understand why, when the permanent head will be overviewing the function of this internal committee, and when the committee's recommendations will still be subject to the review of the independent visiting tribunal, this committee is indeed necessary in the first place.

The Hon. M.J. ELLIOTT: I must say that the feeling I have in relation to this committee is that it will probably make the work of both the tribunal and the Ombudsman a lot more difficult because, having been set up by the permanent head, it is really carrying out the permanent head's function.

The Hon. C.J. Sumner: No, set up by the Minister.

The Hon. M.J. ELLIOTT: The Minister, on the advice of—

The Hon. Diana Laidlaw: The Minister may establish it but it is essentially carrying out the functions of the permanent head.

The Hon. M.J. ELLIOTT: That is what I am saying. I am sure that the Minister will be asking the permanent head who should be on it as well, and it is my feeling that there is a real danger that it will be nothing more than a rubber stamp for actions that have been taken, since it will be composed almost entirely of correctional officers. In some cases it will probably foil any sort of inquiries that a tribunal or the Ombudsman wants to make and, in fact, tend to deter them, because it would be suggested that the committee has already looked at a matter and there are no problems. I am not quite sure that it offers the sort of protection to prisoners that it purports to offer.

The Hon. DIANA LAIDLAW: In raising the Liberal Party's reservations about the value of the committee, I indicate that we did not intend to oppose this provision but to indicate that we think it is superfluous. We can see no point in it other than adding another bureaucratic layer to this whole procedure. I indicate that in our view it is rather irrelevant, though it is not our intention to oppose the provision.

Clause passed.

Clause 3—'Powers of the board.'

The Hon. DIANA LAIDLAW: The Liberal Party opposes this clause. The Government has argued that it is necessary to limit the number of prisoners who may seek an interview before the Parole Board. The Government claims that the 133 prisoners who, in the past year, have sought interviews or been granted interviews before the board is an indication that, in future, the board will be swamped by requests for interviews, given that board members serve on a part-time basis.

The Liberal Party opposes this provision on a number of grounds. I outlined them at some length in my second reading speech so I will not speak to them at length again. However, I highlight that, first, Opposition members believe that the Government has provided no satisfactory explanation to substantiate its concerns that the Parole Board will be flooded with requests for interviews. Secondly, we believe that, where there are isolated cases of abuse, that does not justify the wholesale denial of such a right to all but a select group or class of prisoners. We are also conscious of the fact that, because amendments were made to

the parole legislation last year, there is little reason for prisoners to seek an interveiew with the Parole Board because it can no longer set the terms of a prisoner's sentence but only the conditions that will apply. Therefore, interviews before the Parole Board are far less relevant to a prisoner than they have been in the past. Prisoners who have been in contact with the Opposition on this matter suggest that, contrary to the Government's suggestion that the Parole Board will be subject to many requests for interviews in future, the reality is quite the opposite.

Lastly, Opposition members believe that it is a fundamental right of prisoners to seek an interview before the Parole Board, especially in light of the fact that there are misgivings within the community and from OARS that this Bill is regressive. I do not suggest that it is dangerous, but OARS certainly has, and the Opposition recognises that the measures in this Bill are much tougher than they have been in the past. In all of those circumstances, the Opposition does not accept that it is also necessary to restrict the access of prisoners to interviews before the Parole Board. Therefore, the Opposition opposes this clause.

The Hon. C.J. SUMNER: It is a bit hard to discern what the Liberal Opposition has in mind, except the inclination to be bloody-minded at this stage of the session.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Because there is no need to say that every prisoner has an automatic right to go to the Parole Board. Some are not even eligible for parole; they have sentences of less than 12 months. What the honourable member has said is that they can have access to the Parole Board.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: For what purpose?

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Okay. The Government says that it is too all encompassing and unnecessary. The intention of the 1986 amendments to the Act was never that all prisoners should have access to the Parole Board, although this has proven to be the outcome in practice. The amendment posed by the Government rectifies that situation, and aims to limit those prisoners who can request interviews. Therefore, the Parole Board is obliged to interview prisoners of a prescribed class once a year, that is, lifers, prisoners detained at the Governor's pleasure and prisoners with a sentence of greater than one year but who have no non-parole period. Many prisoners request interviews with the Parole Board in order to discuss problems that could be better dealt with elsewhere, rather than involving—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Well, under the existing law there is an obligation on the Parole Board to interview people at least once a year. Many prisoners request interviews to discuss problems that could better be dealt with elsewhere such as with prisoners assessment committees, social workers or prison managers. These days, it is not possible for a prisoner to be lost in the system and have no access to anyone who can assist that prisoner with their problems: there are the visiting tribunal, the Ombudsman and the officers in the correctional services system. All prisoners will still have the right to send written submissions to the Parole Board on any issue they desire. The amendment is justified to reduce the number of interviews the Parole Board is required to hold with prisoners in any one year. The Government does not believe that it is necessary to provide that all prisoners have the right to be interviewed by the Parole Board once a year. Anyway, some of them are not subject to parole.

Therefore, the Government believes this is a sensible amendment tidying up what was intended and giving certain categories of prisoners automatic access to the Parole Board by way of interview once every 12 months, but enabling other prisoners to put submissions before the board in writing in such a way that they are not required to be interviewed by the board.

The Hon. M.J. ELLIOTT: Can the Hon. Ms Laidlaw explain what she feels would be gained by people who are not eligible for parole having the capacity to see the parole board?

The Hon. DIANA LAIDLAW: It is an interesting question, but I would assume that it should have been directed to the Government. That is exactly the point that I made in commencing my comments on this clause: the Government has not, in fact, substantiated the reasons why it would be seeking to limit the classes of persons.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Not all of these people. They are now seeking to limit classes of—

Members interjecting:

The Hon. DIANA LAIDLAW: It limits it to prescribed classes of persons. We believe that, notwithstanding the fact that there are other options for a prisoner, and the Attorney has outlined those other options, prisoners should have the right of access to the Parole Board for that interview at least once a year. If it is inappropriate that a prisoner is requesting such interviews on more than one occasion (and I understand that that has been the case in the past), it is less likely to be the case in the future because the Parole Board itself is being very restrictive in the conditions that it is placing upon prisoners.

It is also suggesting that it is inappropriate for some prisoners to be interviewed before the Parole Board in certain circumstances, and there are other avenues and more appropriate forums for the prisoners to be heard. However, we still believe that this involves a fundamental right. This provision was introduced by the Government in 1982, and it should remain in the Act. We oppose the amendment on those grounds.

The Hon. M.J. ELLIOTT: That really does not answer my question, so I will turn the question around and direct it to the Attorney-General. What happens in the present circumstance with people who are not eligible for parole? Was the Attorney saying by way of interjection that the Parole Board is obliged to hear prisoners under the current legislation?

The Hon. C.J. Sumner: If they request it.

The Hon. M.J. ELLIOTT: I can understand that nobody categorised in new subsection (5) *(a)* and *(b)* would be due for parole. However, I would have thought that under paragraph *(c)* a person may have a sentence of more than one year but if they are in the latter part of their sentence they may be eligible for parole.

The Hon. C.J. SUMNER: No. You have to have 12 months or more to qualify for a non-parole period. Otherwise, you just serve your sentence. The Hon. Mr Elliott has perhaps misunderstood the purport of new subsection (5). Those who are serving a sentence of life imprisonment, of indeterminate duration, or of imprisonment for more than one year, in respect of which a non-parole period has not been fixed, will continue to be able to have access to the Parole Board once a year if they request it. That category of prisoner which is clearly the most serious—a sentence of life imprisonment—and those with indeterminate sentence or where a non-parole period has been fixed in excess of 12 months have access to the Parole Board upon request at least once a year because of the seriousness of the sentences.

The Parole Board is obliged to interview them at least once a year, if they so wish. The point I was trying to make is that the present law also provides that any prisoner who might have been sentenced for less than 12 months, and therefore is not really subject in any way to the Parole Board, can also have access to the board as of right at least once a year if they so request. That category of prisoner really has nothing to do with the Parole Board or parole. They do not have parole conditions imposed on them. It seemed to the Government on reflection that it broadened the scope of prisoners who had access to the Parole Board beyond what was reasonably necessary.

Clause passed.

Clause 4—'Apprenhension, etc., of parolees.'

The Hon. DIANA LAIDLAW: Would the Attorney-General outline why this provision has been introduced, what is wrong with the present situation, why has no time limit for detention been indicated in respect to this provision and will it apply to all breaches of parole by parolees, whether they be major or minor breaches? I raised these questions during my second reading contribution and, as the Attorney did not sum up that debate, I raise them again now.

The Hon. C.J. SUMNER: The rationale for this is to ensure that there is a legal authority to retain in custody a parolee who has been apprehended and clarifies what one would expect to be the case. It is not practical for the board to interview a parolee immediately upon apprehension. When the board is advised of the execution of the warrant, that is, the apprehension, it schedules an interview at the earliest possible date following the execution of a warrant. The board interviews prisoners once a month. To require the board to interview more frequently would necessitate an increase in expenditure. Over 50 per cent of warrants issued by the Parole Board are as a result of the parolee absconding and therefore the parolee is not following any of the conditions of parole. Apprehending these parolees and keeping them in custody until the board interviews them ensures their appearance before the board. There is not much point in apprehending an absconding parolee and having to release and apprehend them again when you think the board is available to interview them. A warrant is not issued by the board unless there has been a serious breach of parole. The board issues a summons or warning letter for less serious breaches.

Clause passed.

Title passed.

Bill read a third time and passed.

TOBACCO PRODUCTS CONTROL ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 15, page 5, lines 34 to 36—Leave out subclause (1) and insert subclause as follows:

(1) Subject to this section, the Governor may, by proclamation—

(a) exempt a person from the operation of a provision of this Part subject to such conditions as may be set out in the proclamation;

(b) vary or revoke an exemption under this section.

No. 2. Clause 15, page 7, lines 17 to 23—Leave out subclause (3).

No. 3. New clause, page 12—Insert new clause 18 as follows:

18. The Tobacco Product (Licensing) Act 1986 is amended—

(a) by striking out from subparagraph (i) of paragraph *(a)* of subsection (1) of section 13 '25' and substituting '28';

(b) by striking out from subparagraph (ii) of paragraph *(a)* of subsection (1) of section 13 '30' and substituting '33';

(c) by striking out from subparagraph (i) of paragraph *(b)* of subsection (1) of section 13 '25' and substituting '28';

(d) by striking out from subparagraph (ii) of paragraph *(b)* of subsection (1) of section 13 '30' and substituting '33';

and

(e) by inserting the following section in Part V before section 25:

Application of money collected under Act

24a. (1) The money collected under this Act as licence fees must be paid into the Consolidated Account.

(2) Not less than 10.7 per cent of the amount collected under this Act as fees for tobacco merchants' licences (not being restricted licences) must be paid into the Sports Promotion, Cultural and Health Advancement Fund for application in accordance with the provisions of the Tobacco Products Control Act 1986.

(3) Payments must be made into the Fund for the purposes of subsection (2) at times and in amounts determined by the Treasurer after consultation with the Minister of Health.

(4) This section is sufficient authority for appropriation from the Consolidated Account of the amounts referred to in subsection (3).

Amendment No. 1:

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

That the House of Assembly's amendment No. 1 be agreed to.

I do not think that I need go over the arguments at any length. That was done during the rather exhaustive Committee stage when the Bill was last before the Council. The fact is that the Government and the responsible Ministers need to be able to negotiate exemptions in good faith with a range of people, and that would range from outdoor advertisers to sporting and cultural bodies. I explained that to have this done by the subordinate legislation process and to achieve a situation where quite practically a regulation could come before this Council as much as six months after an agreement with one of these organisations was reached and ratified by Cabinet—the Government of the day—it could then, because of the vagaries or the cynicism of an Upper House in which the Government of the day did not have the numbers (and that will almost certainly be the case to the end of this century, regardless of which Party is in Government in this State; that just happens to be a fact of life, unpalatable though it might be)—

The Hon. K.T. Griffin: We might have an Aboriginal person, or the Hon. Mr Gilfillan—

The Hon. J.R. CORNWALL: Yes, but one thing is certain: it is very unlikely in the span of most of us in this Chamber (and there are those who will be here after I have gone) or between now and the year 2 000 that any Government in this State will have a clear majority in the Upper House. So it is unworkable and we are quite unable to accept it. I might say in this respect—and this is not a threat—that this matter was discussed in Cabinet as recently as last Monday. I have very clear directions from my Cabinet—

The Hon. M.B. Cameron: You'd love to see the Bill disappear.

The Hon. J.R. CORNWALL: I have fought very long and hard for this Bill and I have an enormous commitment to it.

The Hon. M.B. Cameron: The Premier hasn't got the same commitment.

The CHAIRPERSON: Order!

The Hon. J.R. CORNWALL: There isn't the slightest doubt that this will be, in public health terms, the most significant piece of legislation that I am likely to be asso-

ciated with—not the slightest doubt. Anybody who approaches this matter intelligently and does not listen to the flat earth theories that are advanced and accepted for the most cynical purposes by the Opposition, anybody who approaches it objectively and scientifically would agree that it is the most significant public health initiative that has been taken in this State since the Jonas Salk polio vaccines in the mid 1950s. It will do more in the medium term and particularly in the long term to stop a very large number of preventable deaths than anything else that has been done in this place for very many decades—indeed, more than anything that has been done in the public health area generally for 30 years.

I have the highest commitment to this legislation. I view it as the apex of my political career. That is the degree of commitment I have to it, but we cannot and will not accept a situation where we, as a Government, and where successive Governments, be it the third or fourth Bannon Governments, would be put in a position of not being able to negotiate in good faith, to reach agreements and ensure that those agreements, ratified by Cabinet, would stick. In this case, we would not accept the situation where the power would literally be taken away from the Executive.

The Hon. M.B. CAMERON: The level of commitment of the Government was demonstrated by those last few remarks. I would believe the Minister if I thought he was fair dinkum and that would be shown if the Bill did not contain all these exemptions. This is the silliest, most stupid and cynical piece of legislation that I have ever seen passed in my time in this Parliament.

Members interjecting:

The Hon. M.B. CAMERON: I do not want to canvass all the arguments again; I will just put a few succinct points. The very high profile sports and subjects will all be exempt and, under this clause, so it will continue. The Parliament will not have any idea of what is occurring. It will all be done under this clause if we do not insist on our amendments. I ask the Committee to insist on the amendments, because this legislation only moves advertising out of one arena into another. It moves it to the newspapers and, if the Government and the Minister were fair dinkum, the newspapers would not be exempt. If the Minister really believed in this legislation, the newspapers would not already be exempt from its provisions. Because Mr Murdoch has some hold over the newspapers of this State, and because the Government is frightened of the newspapers, they are exempted immediately.

One only has to pick up the daily newspaper to see the blatant advertising, which will continue. We have canvassed that argument. This silly legislation is being considered. It gives the Minister a warm inner glow, but it is a load of nonsense. If the Government really believed in it, it would not be in its present form; rather, it would be dinkum legislation. I ask the Committee to insist on the amendments and to say that, if it is left in its current form, we will drop the legislation. It just demonstrates the level of commitment. The real fact is that Cabinet would dearly love the legislation to disappear, so I think that the Minister is half hoping that we will insist so that he can have an excuse. I think that the legislation is a load of rubbish.

The Hon. M.J. ELLIOTT: Whether this Bill emerges with or without the amendments, it will still be a good Bill and a step in the right direction. It will not do anywhere near as much as I personally would have done. In fact, the Bill which I introduced last year and which is still on the Notice Paper went considerably further than this legislation. It is quite clear that I am disappointed in this Bill. But it would be wrong to say that it is not good legislation and I agree with the Minister in that it is a significant public health measure. I am afraid that too many people have taken a position and then developed their arguments around the position rather than really examining the arguments in any great depth. I believe that this Bill is an important public health measure.

I sought to make several amendments to strengthen the Bill in order to ensure that, if there were to be exemptions, they would be for very good reasons. I happen to disagree with the Minister of Health that it makes the Bill unworkable. I contend that any sporting function that will need exemption will be a major event. If it were a major event it would be organised years ahead and, that being so, I do not believe that it would run into any difficulty at all. I am also aware that there are a few people in the Government—and I think the Premier might be the main one—who are rather wonky on this.

I think that that is because he has never had any real social commitment. His greatest commitment is to political survival and he does not want to do anything to upset people who are willing to spend hundreds of thousands, if not millions, of dollars to remove him. As soon as he sees himself under any sort of political threat, the Premier backs away from something, regardless of its merits. I am afraid that the Premier is doing that right now. It is very easy to insist upon an amendment in a Bill when the Government is absolutely desperate for it. I believe that the Minister of Health is desperate for it, as are many Government members. However, I am afraid that I am not convinced that the Premier is desperate.

That being the case, I realise that, if I insist upon these amendments, the Bill may be lost and we may not make any more progress in this direction for another decade; and that would be very sad. I am sure that, although the members of the Liberal Party say that they would like to make the Bill more consistent, they are extremely mindful of the possibility that, by insisting on these amendments, the Bill will be thrown out. It is hard to tell which is more important for them: the need for consistency or the need to have the Bill thrown out. I suspect that at this stage political opportunism would suggest the latter.

The Hon. M.B. Cameron: Don't ever ask us for help with your amendments. We support you with your amendments and then you attempt to slag us!

The CHAIRPERSON: Order!

The Hon. M.J. ELLIOTT: You characters help me with amendments so rarely! Although there is a degree of political opportunism, by the same token, I believe that the amendments could have been workable. However, I will not risk the Bill. It is more than risking the Bill: I know that the Bill would be lost. I will not do that, because I will not have this public health measure lost for that reason.

Motion carried.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be agreed to.

This amendment refers to the membership of the trust. The Bill as it left this place had been amended to force the Executive to use the subordinate legislation process. All the members of the trust would have had their names laid before both Houses of Parliament for 14 sitting days. That is without precedent, and I stress that point. No committee, council or trust that has been appointed by the Government anywhere in this State goes through that process. Even membership of the Housing Trust board, for example, which is one of the most significant and important boards in this State, does not have to go through that process. The membership of the Electricity Trust, an enormously important

organisation in this State, does not have to go through that process. Those members are appointed by the Governor in Executive Council, so the decision is taken by Cabinet.

Because of the nature of this trust, there is not the slightest doubt that, not only will its members be very carefully chosen but also that individual Ministers and the Government will literally agonise over those appointments, as it will be enormously important that the membership of the first trust, in particular, and the chairing of the first trust be seen to be scrupulously correct and appointed with all due propriety.

It is also very important, in my view, that whoever chairs the trust is not somebody who is or has been actively associated with the political scene in South Australia. It is unlikely, on any of the names that have been considered to date, that that would be the case. We have not at this stage, unfortunately, got a Chair. I would dearly like to be able to announce, at least, who the Chair was likely to be, in order to ease any residual misgivings that the Hon. Mr Elliott might have. Unfortunately, such is the level of concern that we get it right that, despite some initial discussions between the Minister for Recreation and Sport, the Premier and myself, at this stage we literally do not have a Chairperson to be able to announce.

I certainly reiterate that we are giving it serious and very careful consideration. It is extremely unlikely that the Chair of the trust will be anybody currently or historically associated with the active political processes in this State, not that, if there was an outstanding Chair, that ought to be a bar. I point out that Michael Wilson, for example, has been appointed to a senior position on one of our important boards and is doing a first-class job. Mr Cameron's running mate from the halcyon days of the LM, John Carnie, has also been appointed to at least two boards by this Government and is doing a first-class job.

The Hon. C.J. Sumner: The Hon. Mr Hill might be looking for a job.

The Hon. J.R. CORNWALL: I will not canvass his appointment as Chairman of the Sports, Cultural and Health Advancement Trust at this time. He may be just a little too closely associated with the contemporary political scene. I make the point that certainly the sort of people whom I have been canvassing are not actively or historically associated directly with politics in South Australia.

I think at this stage I can do no more than give Mr Elliott that assurance. We cannot accept, and will not accept, this horrendous precedent of asking people to be members of this board and then having the names go through the disallowance process and have the risk of people being bagged under privilege when they have indicated their willingness to participate on this trust in good faith. Again, the arguments that I went through at great length last time I have reiterated very briefly and updated. I make it clear that this was discussed in Cabinet as recently as Monday and my instructions in the matter are perfectly clear. I have no room for manoeuvre.

The Hon. M.B. CAMERON: So the farce goes on. I ask the Committee to insist on this amendment. I do not see anything wrong with our having some indication and knowledge of, and some say in, what occurs. As I said before, it is not an unusual event. In the American system, appointments to controversial positions, as these potentially are, are subject to very careful scrutiny.

The Minister is really reflecting on members by saying that people will be bagged under privilege. That is simply not the case. Certainly, there would be some very careful searching of the names by the Houses of Parliament where an amount of money that will be distributed like this is subject to potential misuse—not by the people concerned but in the way it is used to promote certain areas. I do not see anything wrong with the Council having some say. It is an unusual body—a very unusual body indeed—that is being set up.

The Hon. M.J. ELLIOTT: The position that I am in with this amendment is quite obviously the same as with the previous one. I have no doubt that the first trust will be a good one because I think that the Minister cannot afford to make blatantly political appointments with the first trust. My concern is more with how the trust might evolve in the longer term. So many things start off with a good intention but deterioriate with the effluxion of time. However, once again, I do not intend to throw out the Bill as I seek to improve it and I know that that would be the exact consequence of insisting upon this clause. Once again I say that one cannot amend a Bill which the Government is not absolutely desperate to have.

The Council divided on the motion:

Ayes (9)—The Hons G.L. Bruce, J.R. Cornwall (teller), M.J. Elliott, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Noes (8)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, Peter Dunn, C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons T. Crothers and I. Gilfillan. Noes—The Hons. K.T. Griffin and J.C. Irwin.

Majority of 1 for the Ayes.

Motion thus carried.

Amendment No. 3:

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

That the House of Assembly's amendment No. 3 be agreed to.

This provision came before this place in erased type because it was a money part of the Bill and as such could not be initiated here. Quite obviously it is central to the Bill and must be passed, otherwise there will not be any money for the trust to perform its functions. So, I strongly commend it to the Committee.

Motion carried.

OPTICIANS ACT AMENDMENT BILL

Returned from the House of Assembly with the following amendment:

Clause 15, page 7, line 16—Leave out 'except contact lenses' and insert 'but is not entitled to fit contact lenses'.

Consideration in Committee.

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

That the House of Assembly's amendment be agreed to.

The amendment is self-explanatory. It is a consequential amendment. We amended part of the Bill here but we did not pick up the consequential amendment to be made to clause 15. This therefore tidies up the matter. It is entirely within the spirit and intent of the report of the select committee and the legislation that we introduced following the unanimous agreement of that select committee.

The Hon. J.C. BURDETT: I support the amendment. It is purely a drafting amendment which improves the Bill.

Motion carried.

MEDICAL PRACTITIONERS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

LOCAL GOVERNMENT FINANCE AUTHORITY ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (CONSENT TO MEDICAL AND DENTAL PROCEDURES AND MENTAL HEALTH) BILL

Returned from the House of Assembly without amendment.

EVIDENCE ACT AMENDMENT BILL (No. 2) (1988)

Returned from the House of Assembly without amendment.

WORKMEN'S LIENS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL (1988)

The House of Assembly intimated that it had agreed to the Legislative Council's amendments without amendment.

SITTINGS AND BUSINESS

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

That the Council at its rising do adjourn until Tuesday 17 May 1988 at 2.15 p.m.

The Hon. C.M. HILL: Madam President, I thank the Council for this opportunity to speak for the last time in this Chamber. Most members who are in the happy position to foresee retirement end their careers with valedictory speeches. That has been traditional Westminster procedure. However, some are able to do this and some are not. It all depends on the particular circumstances.

In our work there are two kinds of retirement: voluntary or enforced. The latter can be like unforeseen sudden death at either preselection time or at the polls. I have been lucky enough to escape such a fate. I simply want to record my appreciation to members who have helped me since I was first elected to this Chamber on 4 December 1965 and to those with whom I have worked in public life, and also to express appreciation to officers of this place, departments and institutions where such people have assisted me most kindly over the years.

It has been an honour to serve in this Legislative Council, and I am fully appreciative of that. Leaving here will be a significant break in my lifestyle. Indeed, it will be a major change. During our lives we encounter such occasions of great change. When I look back, I see my life thus far in three rather equal periods: the first 20 years or so were of youth and culminated in war service; the next 20 years was a period in which I was a small business proprietor; and, then I turned away from that and have now had over 22 years as a Parliamentarian, this latter stage in my life now coming to a close.

I record some reflections and observations of that latter period and bear in mind Edmund Burke's view that people who do not look back to their ancestors cannot be trusted to look out for the interests of their posterity. First, I thank the people of South Australia who have supported my Party and me during my term of office. There are 935 000 people who vote on the present State-wide system for the Legislative Council and these people are or have been my masters. I thank those who in recent years have voted for my Party and thereby elected me. In earlier years, when the vote was of a more personal nature, I thank those people in the old Central District No. 2 electorate who voted for my colleague and me at the various elections. I have always endeavoured to honour such support. To do this I have tried to assess the opinions of a general cross-section of the community of ordinary men and women and, in my political work, I have always taken special heed of the views and aspirations of such people.

Next, I thank members on both sides of this Chamber (of course, I refer to former as well as present members) for their association and their good spirited comradeship during my term of office. I have seen great change occur in this Council during the time I have been here. Few would have experienced such change in former times. When I came here, the numbers in the House between the major Parties were 16 Liberal to four Labor, and now we have a House of 22 members with very even representation between the major Parties: indeed, with the balance of power being with a minor Party. When I was first elected, there was a somewhat restricted voting franchise, and that inevitably evolved to the present open franchise system. When I arrived, the electorate system involved five separate electorates, and now we have State-wide voting. From a preferential voting system we have changed to a proportional representation form of voting.

I make two observations relative to this Legislative Council. First, the House is becoming less effective than it should be because of the strength of the two major Parties, the vigorous confrontationist attitude between these Parties on the floor of this House, the similarity of debates in this Chamber to debates on the same Bills in the House of Assembly, and the emergence of the technocrat era, when specialist professionals debate with other professionals, and members of the back-benches and the public in the gallery find themselves either confused or bored.

There is an urgent need to establish a committee system of both standing and select committees and to develop such a system, particularly with a standing committee or committees as a major function of this second Chamber. As a Committee House, the Council could justify its existence. If the Council continues as it is, the time will come, and it will not be long, when the public will seriously challenge the worth of this Chamber within the parliamentary system. I know that the Hon. Mr Sumner, the Leader of the House, at one stage endeavoured to explore the standing committee system, and I commend him for that, but his endeavours were unsuccessful. At some stage I think somebody should take the initiative again in that area. It is not too radical to suggest that every Bill coming before this Parliament should be considered by a committee of this House as part of our democratic parliamentary procedure.

Political awareness by representative groups and individuals, and participatory democracy have emerged within our society. These trends are to the good, and the change will not go away. At the present time, for example, on such vital and emotive issues as abortion, smoking and gun control, associations and individuals write hundreds of letters to

their members in this place. A few people manage to lobby members personally and then the involved constituents await our verdict. With a sophisticated committee system, the public could attend the relative committee meetings, give evidence and participate in the discussions and deliberations. Is not that latter system more sensible and in keeping with modern democratic practice than the present practices?

I have been told that the procedure has existed in California for years. I would suggest that if all issues came before this House in that manner, governments would amend Bills to conform with the findings of such standing committees, formal business would be handled more quickly and effectively, and the contribution and worth of this Chamber would be acknowledged by both Parliamentarians and the public at large.

If I reflect again on the change that has occurred in this place during my time here, I remember the House of 20 years ago as an institution, jealous of its independence and autonomy within the parliamentary system, exercising that independence from time to time, yet respecting the will of the other place and of the Government of the day. Now we have become a rubber stamp of the Assembly. Both major Parties caucus prior to our sittings, amendments moved in this place are identical (or almost identical) to those in the other House, Opposition front bench members lead debates after conferring with their opposite numbers down below, and the battles here become a clash between the major Parties within what is now a Party House and almost identical debates can be heard in each Chamber.

I am not wishing to be too critical. I am certainly not criticising the lawyers in this place for debating for hours the clauses of so many law reform or similar measures, but much of that debate could be committee work, I would suggest. In recent years, there have been occasions when select committees of this House have worked successfully, involving backbench members from both sides and the public as witnesses and, as a result, one can foresee the advantages of an expanded committee system if the House moved in that direction.

Secondly, we should not forget that one of the objectives of this second Chamber should be to hear individual contributions on special issues of public concern. During the whole period of my service here, there have been very few contributions on public issues from ALP members, and within the Liberal Party there has been an unfortunate drift into a situation now similar to that in the ALP. One of the problems is that such individualism can at times be interpreted as criticism of one's own Party, and is looked upon, with the help of the press, as evidence of Party disunity. Of course, this is not really the case. In my view, it is evidence of a Party's strength rather than disunity.

My Party colleagues may remember the Playford era when, for example, a strong willed individual who treasured some independence, such as the Hon. Sir Collier Cudmore, often spoke out courageously in this place and that, in my view, was a sign of Party strength rather than weakness. Indeed, Sir Collier was respected highly by Sir Thomas Playford.

I cannot pass over reference to this Legislative Council without urging all members to enhance its reputation and authority within the Westminster system. This Legislative Council evolved from the Governor in Council first established in 1836. Just as the House of Commons was added to the House of Lords, the oldest and most venerable of all British institutions, in the thirteenth century, so was the House of Assembly added to the South Australian Parliament in 1857. The tradition of dignity and legitimate ambition should be cherished within this Chamber, and be an example for all to perceive.

My appreciation of working in this place is not only limited to the Legislative Council but, indeed, extends to the whole Parliament. I have enjoyed working with members from both Houses and both sides of those Houses and also with members of staff. Particularly, I have admired the dedication and professionalism of the table officers in this Council since I was first elected. I shall never forget the camaraderie that exists between all members of parliament and of which I have been a part.

Six Premiers have held office during my years of service. I came here as the Playford era, which resulted in so much economic growth in South Australia, came to a close. The Walsh Labor government gained office in early 1965. Sir Thomas remained on as a backbench member, until his retirement at the 1968 election. During that short period he kept reminding those of us who were his colleagues of the need to keep down manufacturing and other costs in South Australia and of difficulties which would confront the State if we could not compete with the Eastern States, where the large populations and markets existed. Hand in hand with this requirement, of course, was the need for a rather frugal social order.

When Playford departed, the brakes came off and great changes took place, and the trend has not subsided. Unfortunately, in this new world, South Australian establishments have been taken over by national and international interests and the age has also been one of amalgamation of business and commercial concerns. The State's population, as a percentage of the Australian population, continues to fall. What has occurred, of course, is that from a State which was jealous of its autonomy and Statehood, of its relative independence financially, industrially and commercially, we have moved to be a more intergral part of Australia. Some of my friends abhor this but, personally, I find the change exciting.

The news media, particularly television, have hastened the trend. National news takes precedence over both local and international news in my view and, of course, with television the items are beamed into everyone's home every day and night. Opportunities for travel have expanded and now, within an hour or two, our citizens in considerable numbers can reach the great cities and populous States of Australia.

Our planning and our politics will become more and more interwoven with national changes and growth, and our progress as a State will always be difficult as a result of our geography, our limited natural resources, our small population and the power that lies in Canberra, New South Wales and Victoria.

The challenge to South Australians in the future, to those who have jobs, will not be to boast of their leafy streets and acclaimed environment and way of life, but to work as Australians more effectively, more efficiently and with dedication to achieve greater productivity, in line with the rest of the modern world, especially in the Asian regions.

Having said that, I still reminisce with admiration and pride when I recall Sir Thomas Playford and his remarkable skill and capacity as a great South Australian. I have had the privilege of serving in two Governments. It is well to remember that Governments in South Australia administer the affairs of a State which is older than Germany, older than Italy, older than 22 of the 50 United States, and older than 139 of the 159 members of the United Nations. Our two Houses here have met in regular session, year in and year out, for 131 years. This record of continuity can be matched by the elected Legislatures of only four nations on earth. With statistics like that one can be proud of having been part of our parliamentary system.

I thank the Liberal Party for all that the Party has done for me in my parliamentary career. Some 36 years ago I was inspired by the principles upon which the relatively new Party was established, and I joined up. The Party was founded by Robert Menzies in 1944 in protest against the inflexibility and conformity of socialist thinking that was then seeking to impose itself upon Australia.

Menzies stressed in 1944 that the new Party was determined 'to be a progressive Party, willing to make experiments, in no sense reactionary but believing in the individual, his rights and his enterprise, and rejecting the socialist panacea.' In the 1949 election campaign five years later he emphasised the Liberal Party's great love of freedom and said:

> The real freedoms are those to worship, to think, to speak, to choose, to be ambitious, to be independent, to be industrious, to acquire skills, and seek rewards. These are the real freedoms, for these are of the essence of the nature of man.

The Party, of course, did not begin with a completely new philosophy in 1944 because the origins of liberalism in Australia went back to Alfred Deakin and indeed liberal principles were espoused by Gladstone in the Victorian era and Asquith earlier this century.

I should mention that my closeness to my Party has not been limited to my years in this place. Before being elected, I spent very many happy years within the organisation, especially in the southern suburbs and in the City of Adelaide at branch level, and I still retain many friendships that commenced with my political work at that time. I accept that it is not possible for all new members to spend about 12 years, as I did, before election, within their Party organisations, but the experience can be very helpful to the individual concerned, after election, as well as giving the Party ample opportunity to know its candidate, at the time of the preselection procedures.

I hope that my Party will always remember the early principles as laid down by its founders, and the basis of liberalism, for which we should stand. I have been somewhat concerned in recent times with the growing pre-occupation amongst our Party members of the perceived efficiencies of the marketplace. We should not forget that the free market can very easily benefit the powerful, and in consequence the danger looms of neglecting the weak and less fortunate within the community. In the Liberal Party we must never forget our responsibilities to the weak and those in genuine need of assistance. If we move to the right of the political spectrum, we will not, in my view, truly reflect the views of the average citizen, of the ordinary men and women, to whom I referred earlier and, despite recent poll results, we will lose support in the longer term.

Of course the same situation in principle exists with the other major Party, the Australian Labor Party, where there is evidence of this movement away from its fundamental beliefs, with a consequent perceived loss of contact with its traditional grassroots support. However, the pendulum moves from one side to the other and I hope within the Liberal Party trends may be corrected in the not far distant future. I have faith in my Party and its membership and I believe, without question, that the Party provides, when given the opportunity by the people, the best possible Government for the people at both the Federal and State level. It has been an honour to represent the Liberal Party in this Parliament.

Next, I would like to record my appreciation to senior public servants with whom I have worked or had close contact over the past 23 years. I have admired their dedication and professionalism. Particularly, I refer to heads of departments (and institutions) over which I have held ministerial portfolios, namely roads, transport, arts, housing, local government and ethnic affairs. I would also commend our major statutory bodies such as, for example, the Electricity Trust of South Australia and the South Australian Housing Trust, over which latter body I held ministerial responsibility, for the corporate contribution they make to South Australia. I would caution their critics, from both within Parliament and outside, upon the over-zealous criticism that one hears from time to time. Checks and balances against inefficiency, waste and malpractice within statutory bodies already exist through the Auditor-General's annual scrutiny, statutory annual reports, privileged questioning within Parliament, and the separate accounting practice which exists for each specific institution.

My experience has been that such statutory bodies, their officers and their boards, are efficient and committed to providing a high standard of corporate performance. I now refer for a few moments to local government. In aggregate I had the privilege of holding the Local Government Minister's portfolio for nearly 5½ years and enjoyed a close association with members of councils, the council staff and the Local Government Association. I have maintained a very high admiration for all those involved in local government. Local government provides a community service at the grassroots level and, in my view, is an excellent form of community service. I remember with affection the years 1968 to 1970 when the main thrust of my ministerial work was to go out and see local government in action.

My wife and I visited nearly every council in South Australia. They welcomed me warmly as Minister and extended great kindness to both my wife and me. Those visits enabled me to acquire an intimate knowledge of how this third tier of government operates especially in rural South Australia. Of course, local government is now exceptionally well organised through the Local Government Association (to which all councils finally joined during my term as Minister), and those who have been instrumental in the orderly growth of that association deserve congratulations. I served for nine years at the local government level, commencing in 1959 as a member of the Adelaide City Council.

It has been claimed that that council was the first to be established in the British Empire outside the British Isles. In fact, however, it was the second. It was first elected in 1840. This long history is another tradition which we in this city should not forget. I was a councillor for Grey ward in the south-west corner of the city and that area was then predominantly occupied by traditional city cottage dwellers. Of course, the streetscape has changed in the last 30 years. My constituents voted Labor in State and Federal elections, but Party politics did not intrude in my council work, and the ratepayers supported me strongly. I have always advocated keeping Party politics out of local government and, in so doing, speak from that personal experience in Grey ward. However, local government is a good training ground and I learnt a lot about practical politics from being out amongst those ratepayers and from within the council itself.

My council colleagues were men of high stature within this city. Names such as Glover, Rymill, Irwin, Gerard, Bonnin and Phillips come readily to mind. My co-councillor for those nine years was the late Councillor Edwards, an exceptionally capable debater and a former Labor member of this Parliament. I thank all of those people with whom I have been associated in the wide local government area for the friendship and respect which has developed between us, and I congratulate them all upon their efforts for the good of the local government cause generally. I expect local government to continue to play a fundamental role in organisation and servicing of our communities both in urban and rural areas. Enhanced by the notion of voluntary service it

provides a unique close contact between the electorate and elector.

It would be remiss of me to conclude without expressing my appreciation to those involved in the area which we call ethnic affairs with whom I had close contact as shadow Minister for Ethnic Affairs and, in the Tonkin Government, as Minister Assisting the Premier in Ethnic Affairs, for the contribution which they have made and are still making to South Australia, and Australia, and for the pleasure that knowing them has brought to my wife and me. Those involved in administration do a splendid job, and yet it is often quite difficult work. Many citizens in various clubs, brotherhoods and associations here (and we have been guests of so many such diverse groups) have been extremely kind and generous to us both.

I acknowledge that our way of life in Australia—our lifestyle if you like—has been tremendously broadened and enriched as a result of post-war migration. We should thank these migrants for this new environment and this new society in which we live. Australia is a land of migrants or those of migrant stock, and the community at large has been tolerant and understanding of the acceptance of large numbers of newcomers over the last 40 years. The migrants themselves are part of this Australian nation, and the mix of cultures, languages and former nationalities has given our overall community an international concept and a very rewarding social base. The economic benefits have also been immense.

I thank honourable members for their patience. I simply wanted to endeavour to express my thanks to those with whom I have been associated during the past nearly 23 years, and I hope that I have done that. I have been asked, 'If you had your life over again would you enter politics as you did in 1965?' My answer to that has been a firm 'Yes', because I have enjoyed my work very much. The second reason is that I have provided a public service. I strongly believe that everyone should endeavour to provide some community service or public service during one's lifetime. I do not want to expand on that point, but I believe it to be very important.

Thirdly, I have been blessed with a wife who has strongly supported me in my work. Finally, I suppose that my answer is 'Yes' because I have a thick skin. One has to have a hide like a rhinoceros to stand up to this job. Many live through it all, as I have done, despite having one's character besmirched and one's reputation impugned from time to time. In political life one just cannot escape the sandpaper of criticism that opponents apply from time to time. I think, too, that I have enjoyed my work because I have done my best to keep away from being involved in unfair political tactics, nor have I ever connived for advancement.

I leave the job at my own initiative and when I have decided that it is time to retire. I wish everyone in this Chamber success in their deliberations in the future. I leave in the belief that members will endeavour to maintain the high standards of service and contribution to the State that has always been provided by the South Australian Parliament. For your patience, Madam President and honourable members, I thank you; or, as the Greeks say, *enkaresto.*

The Hon. M.B. CAMERON (Leader of the Opposition): It is a rare event in the Parliament to say farewell to the father of the Parliament and the father of the Council. It is a sad day for me, Murray, because I now become the father of the Council, and that is a bit of a worry because, once you become the father of the Council, people start looking at you and asking, 'How long before you go?' Murray, it has been a pleasure to have you as a friend and colleague. My first association with you was when I became a candidate in the now forgotten seat of Millicent. I vividly recall having lost by one vote after having rushed around kissing every baby in sight, and of trying to win again.

There was an announcement by the newly appointed Minister of Transport that the Kingston to Naracoorte railway line was to be closed forthwith. I vividly recall thinking that that was not a very good move from my point of view and that I had probably wasted my time on the babies. But there was some economic justification for that, such as 1.4 passengers a day or a week (whatever it was). No doubt these days Ministers would say that that is absolutely correct. But Murray, you then came to that electorate and I greatly admired your dedication to my cause as you stood in the rain along with other people and handed out cards, only to see me lose once again.

Since then I have entered this Chamber with you and I have greatly admired the way in which you conduct yourself as a member of Parliament. We will miss your special ability to probe, particularly in the Party room, and that voice saying, 'Just a minute. Let us get down to the fine detail of this matter because I do not fully understand what you are doing.' Lo and behold, we have so often found that we did not understand, either, even though we thought we did. We will certainly miss the probing nature of the way in which you do your work.

You have been here for a long time and I think that only two of us from the old Legislative Council districts will be left when you leave this Parliament, and that is the Hon. Mr Burdett and me, and we were members for Southern. We went through a period of fairly dramatic change. I recently recall some people getting very upset in this Chamber about matters that came before the Council, and I could not help thinking then that they should have been around in 1973 when the Council was undergoing quite dramatic change.

When the Hons Mr Hill, Mr Burdett and I came into this place, one had to be over the age of 30 years before one could stand for election. One also had to be a property owner and have all sorts of qualifications. That was certainly a period of dramatic change in the Council after a period of 130 years. I must say, Murray, that I admired the way you stood up at that time and supported the changes that were essential for this Chamber.

You have suggested some new ideas and I have no doubt that members have listened very closely to them. I have no doubt that in the future the Council will change again, because that is the very nature of politics. If we did not have change in politics and the way in which the State is run, we would not be here—we would not need a Parliament. That is the very nature of politics. It has been a great pleasure to serve with you. I regret your departure, because you are a very excellent member of the Council. You have performed your roles as Minister, member and friend magnificently and I trust that you and your wife have a very happy retirement. It is with deep regret that I witness your departure from the Council and I am certain that I speak for all your colleagues on this side of the Council and, I have no doubt, for every member in this Council.

The Hon. C.J. SUMNER (Attorney-General): The Hon. Murray Hill has chosen the adjournment debate at the end of this session of Parliament to deliver a few valedictory thoughts on a wide range of topics. I certainly thank him for his contribution. As he said, he has been one of those rare people, in a sense, who has had the opportunity of giving a valedictory speech on the adjournment motion, because he has been involved in a voluntary as opposed to an involuntary retirement.

I would not like to let the occasion of what is probably the Hon. Mr Hill's last sitting day in the Parliament pass without making a few remarks of my own with respect to the honourable member. He is retiring after 23 years of service in the Legislative Council, which included periods as a Minister in both Liberal Governments formed during that time. He was a Minister in the Hall Government between 1968 and 1970 and in the Tonkin Government between 1979 and 1982. I think it is a tribute to the Hon. Mr Hill and his abilities that he was appointed a Minister in the Hall Government after only three years in Parliament. Of course, he was an automatic selection in the Tonkin Government where he took on the publicly onerous tasks of local government, the arts and ethnic affairs.

It is one of the ironies of politics that during the past 10 years I have probably had more dinners, shared more social functions, and had more conversations with the Hon. Murray Hill than with my best friends or many members on my side of politics. This is because our careers have been interlocked for many years. I cannot recall precisely when the Hon. Mr Hill took responsibility for ethnic affairs on behalf of the Liberal Government, but I believe that it was some time before the election of the Tonkin Government. I have had such responsibility as either a backbencher or a Minister since 1975. From 1979 I was the shadow Minister when the Hon. Murray Hill was Minister Assisting the Premier in Ethnic Affairs and really substantially responsible for policy in that area. Of course, after the election of the Bannon Government in 1982, the roles were reversed.

Since his retirement from the shadow ministry in 1985 the Hon. Murray Hill has continued his interest and commitment in this area. As Minister, the Hon. Murray Hill took on some of the most publicly arduous ministerial responsibilities and, when I refer to 'arduous', I mean in terms of contact with the public. I refer in particular to the portfolios of ethnic affairs, local government and the arts, all of which require significant contact with community groups and general members of the public at various functions.

All those portfolios came into that category, and the Hon. Murray Hill was assiduous in his devotion to his duties in those areas. The Liberal Party and the Tonkin Government were indeed fortunate to have a person of the Hon. Mr Hill's commitment as a Minister in these areas. Although, as is inevitable, not all his decisions were universally applauded, he was held in high esteem by those whom he was asked to serve. In the area of ethnic affairs, while there were differences of emphasis and administrative direction, he and I were fortunate that we were able to work in an area where, at least in general policy terms, there was genuine bipartisan agreement. I certainly trust that that will continue.

In some quarters, certainly in the present climate, bipartisanship in politics is a dirty word, yet there is no doubt that our collective purpose as legislators demands that there be some areas of political activity where bipartisanship is necessary. It is as regrettable to me as it is, apparently, to the Hon. Mr Hill that the scope for this has reduced significantly in recent years. The honourable member mentioned in his contribution the development of a committee system. These are remarks in which I concur. Unfortunately, I feel that the committee system in this place now runs the risk of being brought into serious disrepute because of the nature of the committees that are being set up. They tend now to be set up with what I would describe as a narrow political purpose.

The Hon. Mr Hill mentioned my efforts to get the committee system established in the Parliament, and I suppose that one of my regrets in the time that I have spent in the past five years as Minister is that I was not able to do that, although I acted in good faith in the first Bannon Government by setting up, as the honourable member has mentioned, a select committee of both Houses of the Parliament to try to work towards those ends. Unfortunately, as time goes by and as bipartisanship becomes less fashionable, the capacity for an established committee system becomes less possible. Nevertheless, it is a principle which I think should be taken on. If it is taken on, however, it will clearly have to happen on the basis that there is a scope for bipartisan approaches to political issues in this State.

The Hon. Mr Hill, in terms of his political principles, has always been committed to principles of freedom, and in much of his political life I believe was guided by liberal democratic principles which are, of course, a component in varying degrees of both major political Parties and, indeed, I would even suggest, of the Democrats. I do not mean that in any derogatory sense. Clearly, all the major political Parties in our political system have a commitment to those principles to one degree or another.

The Hon. Mr Hill's commitment to those principles was seen in his support, as the Hon. Mr Cameron mentioned, for principles of universal franchise and the fight for electoral justice in this State which he supported through the reform group in the Liberal Party. He supported homosexual law reform in the Parliament. He supported the Millhouse Abortion Bill in 1969. His contributions tonight reflect his concern for the less privileged, and I also believe that he had the capacity as a politician practising in this community to recognise social change and the need to adapt to it. The honourable member as Minister of Ethnic Affairs was responsible in the time of the Tonkin Government for the establishment of the Ethnic Affairs Commission which, of course, has continued. Another major achievement to which I think he can point was getting the Tonkin Government to accept the Ethnic Museum, now the Museum of Migration and Settlement, which the Edwards committee set up but the Dunstan Government had recommended.

That, of course, is another success story in the area of ethnic affairs. Because of my close association over many years with the Hon. Mr Hill, I wish him and his wife well in his retirement. I have had numerous contacts with him and many discussions on a wide range of topics, political, social and personal, because of that close contact and because we were thrown together as Ministers shadowing each other. I never felt during that time that the trust and confidence displayed in any of those discussions that I had with him had been betrayed. I felt confident that we could talk freely and openly without fear of it being used against each other if the political opportunity arose.

The Hon. Murray Hill exhibited high standards of personal propriety. His integrity could not be questioned, and one could have trust and confidence in the honourable member. To my mind it is regrettable that those high standards which he has set in this Parliament over his years of service seem not able to be accepted by some people in the contemporary political scene. I am sure that the honourable member will not mind my recalling that before he announced his retirement—indeed I think it was before he announced it to his Party or indeed to his Leader—the honourable member came to me and indicated that he was thinking of retiring. It was clearly a confidential discussion. He wanted to know some factual information about when the House was going to get up and what the Government arrangements were. I gave him that information openly, and, I told no-one. I did not tell the Premier or anyone in Government, yet, I suppose, it would have been easy enough to drop the word to a friendly journalist that Murray Hill was retiring.

I could have made a good bloke of myself and the journalist would have got a front page story. However, I resisted that temptation—if there was a temptation, which there was not—because I knew that the Hon. Murray Hill had approached me in confidence. I respected that confidence and dealt with the matter on that basis. That has been the nature of the relationship which we have had and which I respect.

No doubt the honourable member will continue to serve his Party until 30 June, which I understand is D day as far as his retirement is concerned. I am sure that we will continue during the next few months to socialise at functions and to do what we have done over the past 10 years or so, which is to swap stories and discuss issues as we inevitably must when we are dinner partners—certainly at one stage it was every week—once a week and on some occasions more than once a week. I know that we have a standing arrangement after his retirement—and we will leave it until after his retirement on 30 June—for a dinner for ourselves and our respective wives when I am sure that we can swap anecdotes in a relaxed atmosphere about our experiences over the past 10 years or so.

I thank the honourable member for his services to the Parliament over the past 23 years. I thank him for the friendship that we have been able to establish during my time in Parliament, and I thank him for the standards that he has brought to the Parliament and to his relationships with all honourable members.

The PRESIDENT: Before putting the question to the vote, I want to add on behalf of all members of the Parliament our very best wishes to the Hon. Mr Hill for his forthcoming retirement. I have known Mr Hill for about half his time in this place, and I have always encountered the greatest courtesy and consideration from him, as I am sure all other members of Parliament have. I recall with pleasure experiences on select committees such as those which went to Coober Pedy and Port Pirie, where the Hon. Mr Hill as Minister at the time provided a most enjoyable addition to the work of the select committee once the day's work had been done.

Members interjecting:

The PRESIDENT: Happy dinners of the whole select committee together. I would like to mention one other matter to the credit of the Hon. Mr Hill, and I do not think this has ever been mentioned before publicly. When the Tonkin Government was elected in 1979 and the Hon. Mr Hill became Minister of Local Government, I was a ministerial representative on a committee responsible to the Minister of Local Government. I immediately offered him my resignation so that he could appoint someone from his own Party, but he very courteously declined my resignation and allowed me to continue and complete my term of office on that committee, before appointing his own nominee. That was a generous gesture and I very much appreciated it.

Although, obviously, members on the Government side of the Chamber differ from the Hon. Mr Hill politically, I am sure that I speak for members on the Government side as well as those on the Opposition side in expressing our appreciation of what Murray has done for the Legislative Council. We wish him well with his Italian studies in future. I am sure that we all wish the Hon. Murray Hill and his wife a very long and happy retirement.

Motion carried.

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendment.

Consideration in Committee.

The Hon. BARBARA WIESE: I move:

That the Legislative Council do not insist on its amendment.

The arguments concerning this matter of limited liability have been rehearsed extensively both in this Council and in another place, and I certainly do not intend to repeat them. I simply want to indicate that the Government believes that there should be a limited liability clause in the legislation. I do not expect that the Council will support me in my attempt to reinsert such a clause, but I want to place on record the Government's concern that not only will this exclusion have the potential to place an extraordinary and unreasonable financial burden on the trust in the event of a bushfire disaster occurring again but it will ensure an escalating insurance Bill for ETSA which ultimately will be borne by consumers by way of tariff increases. I would certainly urge the Committee to reconsider its position and support the Government's attempts to limit the trust's liability in this matter.

The Hon. PETER DUNN: I must say that it flies in the face of democracy or as we know the law today, that an organisation like ETSA cannot maintain the required liability. It saddens me to think that the Government has to go in to bat for it. The fire that occurred on Ash Wednesday, as we all know (and if we talk to the people who forecast our weather patterns), was a one in 100 year event—was a rare occasion.

The other thing that saddens me about the effect of this amendment is that it picks off country people against city people, because we know that the city does not burn but that the country does. Therefore, it is a specific clause in the Bill which in effect says, 'You in the country, hard luck; you will pay for it. But for you in the city it is not likely to occur.' For those reasons, I believe that we should not insist that the clause remain in the Bill.

The Hon. M.J. ELLIOTT: I do not doubt for a moment that ETSA has a problem. The question is how it goes about solving it. It is not equitable or just for it to try to solve its problem by having legislation passed which removes any liability for something for which it may have been responsible. That is a plainly unjust thing to do. I suggested in Committee that there were other ways of limiting liability in so far as, if people had not properly looked after their property, if they had exacerabated the fire risk and therefore were in part responsible for the damage, the cost could be shared, and I am sure if we tried to follow that path we would have a way of reducing real damage done, reducing possible liability and, therefore, reducing insurance costs.

That would be a fair and just way to go and it would put the onus squarely on to people to look after their own properties as best as they can, whilst also leaving an onus on the trust itself to ensure that its equipment is as safe as possible. I will not agree with the Minister. We must insist on our amendment.

Motion negatived.

HON. C.M. HILL'S RETIREMENT

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

That the Council note the impending retirement of the Hon. C.M. Hill.

Madam President, in moving this motion, it seems that there was some misunderstanding in relation to the previous

motion moved earlier. I, as mover of the motion, was replying, having assumed from the pregnant pause that occurred before I got to my feet, that there were no further speakers, but I understand that certain honourable members opposite wanted to contribute to the debate. Therefore, I am moving this motion to give them the opportunity to do so.

The Hon. L.H. DAVIS: I thank the Attorney for his generosity. I may say that perhaps it is not inappropriate that we have two motions to pay tribute to the Hon. Mr Hill, because he is twice as good as most members of Parliament.

The Hon. Murray Hill was elected to the Legislative Council in late 1965. He is the father of the House—he is the father of the Parliament. With his retirement there will be no-one left in the Parliament of South Australia who served with Sir Thomas Playford, Premier of South Australia for a record term between 1938 and 1965.

The Hon. Murray Hill came into the Legislative Council after serving his country in the Second World War and the commercial community as President of the Real Estate Institute. He also served on the Adelaide City Council, having first been elected in 1959. Indeed, he continued to serve on that council for nearly three years after his election to the Legislative Council.

I understand he resigned from the Adelaide City Council only after the Liberal Party won Government in 1968, and he was made a Minister of the State Government. That must surely be some record. His first speech was in early 1966. It related to a Bill amending the Succession Duties Act. The Hon. Murray Hill, as a rookie politician, was certainly very uncertain about that Bill. He said, 'In my view as a new member, the Bill is too complicated, confusing and complex.' It is good to see that nothing has changed. I should record that the Labor Party lost that Bill narrowly 15 votes to four.

He was a Minister for Roads and Transport and Local Government in the Liberal Government from 1968 to 1970, and he was a driving force for the implementation of the MATS plan for Adelaide to provide adequate transport corridors for future generations. We may have cause to regret that his vision was not carried through in the last two decades. The Hon. Murray Hill presided over the rationalisation of the Department of Roads and the Department of Transport. In Opposition in the early 1970s, he was both courageous and outspoken. In 1972 he risked criticism from political and personal friends to introduce for the first time in Australia reform laws on homosexuality. In 1974 he predicted the failure of Monarto and he attacked the waste of Government funds. In that same year he expressed concern that the State Government was allowing high income earners to occupy low rental Housing Trust homes. Then under David Tonkin's leadership, the Hon. Murray Hill continued to have responsibility in arts, local government and also ethnic affairs.

In May 1977, he announced that the Liberal arts policy included the establishment of a Department for the Arts. He also gave notice that a Liberal Party Government would establish an Ethnic Affairs Commission which would both recognise the multicultural nature of our society and provide ethnic communities with an opportunity to administer their own affairs. In 1979, as a Minister in the Tonkin Government, the Hon. Murray Hill was able to establish both a separate Department for the Arts and the Ethnic Affairs Commission. The widely acclaimed Youth Performing Arts Centre at Carclew was also the brain child of the Hon. Murray Hill, as was the Harvest Theatre initially established as a regional theatre to serve the Eyre Peninsula.

The honourable member was responsible for the shift of the South Australian Film Corporation to its present headquarters at Hendon, and he presided over the commencement of the Migration and Settlement Museum and the new Conservation Centre. It is appropriate that exciting development in the area behind the North Terrace cultural precinct, the Barracks, and the Armoury has just been completed in the last few weeks. As Minister of Local Government, the Hon. Murray Hill had a commitment to the revision of the Local Government Act. That was a high priority. He was also committed to less interference in local government affairs. He was responsible for local government being recognised in the State's constitution—an important initiative.

As Minister for Housing, the Hon. Murray Hill introduced the now well established, efficient, less costly and aesthetically pleasing design and construct program. He was the moving force in the local government aged home program. But it is only in the last few years that the Hon. Murray Hill's wit and style has been on public display. He showed that politics is a dog's life when in 1981 he brought his Cavalier King Charles spaniel into the House of Assembly Chamber because that breed had, by Royal decree, the freedom to move anywhere and, presumably, do anything at any time. In 1986 he suggested the establishment of dog parks in the metropolitan area. But arguably the high point was when the Hon. Murray Hill was spread across page 3 of the *News* in 1986 posing as a Gondolier on the River Torrens. With rose gritted between teeth in a Venetian striped top and pole in hand, Murray was pictured smoothly stroking a Gondola holding two lovers—that is, the Gondola was holding two lovers, not Murray Hill. But where are the Gondolas? Could this be a retirement project?

In 1982 the *Advertiser* described the then Minister Hill as having aristocratic poise and a penchant for style and things orderly, an astute politician. In 1986 a press report suggested his speech on the woes of the Government weekend baking plan was more in the vein of a Dean Martin celebrity roast rather than a scholarly analysis of the rises and falls of the baking business. The speech was in fact made on the day when Murray was celebrating his 21st year as a member of Parliament.

The fact is that the Hon. Murray Hill, like a good red wine, has improved with age. Who could ever forget his question concerning the Henley Beach jetty? I have said before, and I will say it again, that the Hon. Murray Hill quite clearly has been one of the most underrated politicians in South Australia in the last two decades. His vision, creative endeavour, organisational skills, wisdom, reliability, hard work and his love of people have been an asset to the Liberal Party, to the Parliament and, most importantly of all, to the community. Above all, the Hon. Murray Hill has had integrity. He was a man of his word. This trait is not always in evidence, and the political arena is no exception.

The Hon. Murray Hill was particularly admired in the arts community and among the many ethnic groups in South Australia. He can retire with satisfaction and pride for he can reflect on tangible achievements such as the establishment of the Department of the Arts, the Ethnic Affairs Commission, and two terms as Minister of Local Government. All his colleagues in the Liberal Party and, I am sure, on the benches opposite, will remember Murray Hill the parliamentarian, Murray Hill the Liberal politician in the Liberal tradition, a politician of conviction and courage, Murray Hill a person of compassion and caring. His political shoes will not be easy to fill because they are the very biggest size you will find in the Parliament.

The Hon. DIANA LAIDLAW: I appreciate the opportunity to speak briefly to this motion. My family has enjoyed a long and close association with the distinguished career of Murray Hill. I am the third generation of my family in this Parliament. My grandfather served from 1947 to 1965, and it was upon his death and the casual vacancy created as a result that Murray Hill deservedly won a keenly fought contest and began his long term of service within this Parliament. When my father stood for Parliament in 1975, I know that he appreciated the encouragement and guidance of Murray Hill. In fact, it is not my father's belief but it is certainly my family's belief that with the support of Murray Hill, my father was able to achieve No. 2 spot on that ticket following Murray Hill who won the No. 1 spot in 1975. My father served from 1975 to 1982, and I was fortunate to win pre-selection in 1982 to this Parliament.

However, in the meantime, between 1979 and 1982, I was extremely fortunate to work as the ministerial assistant to Murray Hill. I had previously worked with three Federal members of Parliament, and while I do not want to cast a reflection on any of those members of Parliament, I changed jobs rather rapidly in each instance and started to think that perhaps the rapidity with which I did so was going to start to reflect on my own capacity. However, Murray Hill was, in those circumstances, brave enough to take me on, and I believe that those three and a half years of working with him were some of the most rewarding and happiest of my working career. I thank him very, very much indeed for his encouragement and support, and the responsibility that he entrusted to me during those years.

I believe that I was extremely fortunate to work with Murray Hill. He taught me an enormous amount. I had certainly been brought up in a family for which service was a very important part of our background but the energy and commitment with which Murray Hill applied himself to in his job was something that made me stand back and reflect at length. Notwithstanding all his other responsibilities in four portfolios, I could not help but admire the way he was still able to attend, on occasions, seven functions on a weekend. That was a most extraordinary effort and one that has helped me apply myself to my job. Murray Hill set an example that I have tried to maintain in the years that I have been in this Parliament. I must admit that at times I wonder whether I will have the energy to keep up with that because he set such an extraordinarily high standard. I can assure the honourable member that I will continue to try to follow his example in that respect.

Not only have I developed a tremendous respect for his capacity for work but also for his absolute commitment to the well-being of individuals and families in our community. Mr Hill had responsibility for the very people-oriented portfolios of housing and ethnic affairs. In those portfolios one certainly works with many people who suffer considerable disadvantage. The compassion and drive with which Murray Hill sought to help those people overcome that disadvantage is something that was not only a lesson to me but which I would like to see applied by more of my colleagues.

I found that I was totally compatible with the philosophy of Liberalism that Murray Hill outlined today. However, above all, in the eight and a half years that I have worked with Murray Hill, the quality that I respect most is his integrity. If we can do no more in the Parliament now and in the future, we must all strive for individual integrity and Party integrity. Ultimately we must respect the fact that as parliamentarians we have a responsibility to this institution and the integrity of this institution. Over the years that I have known and worked with Murray Hill his integrity has been something that I admired greatly.

When I first entered this job in 1982 I had a range of qualities that I thought were necessary for a member of Parliament. However, at that time, I did not have a sense of humour at the top of that list. I have since learned that a sense of humour is one quality which, perhaps above all, is necessary in this place. There are many times over the five and a bit years that I have been in this place in Murray Hill's company, that I have been encouraged to laugh about experiences in this place, about the pressures and about the characters. I will miss that a great deal.

This evening I am very conscious of my father's advice when I entered this place that I would make no real friends. I think that was his experience. However, I have told him many times since that I believe that in Murray Hill I did make a very good friend and I will miss him very much indeed.

I do not wish to go over all the Hon. Mr Hill's achievements as Minister, but one which that I wish to highlight but which has not been mentioned by others was the Hon. Murray Hill's initiative to establish the cooperative housing scheme with women's shelters. That was the first cooperative housing scheme of its type in Australia. It has been such a successful initiative involving the women's shelters, the Cooperative Building Society and the South Australian Housing Trust that it has become a major means by which many people who suffered disadvantage have been able to re-establish themselves in the community and go on to better things. My small part in working with the Hon. Murray Hill to achieve that end is certainly one of the achievements which I hold dear and from which I gain considerable satisfaction today when I see so many other organisations that have followed the example. He not only established it first but also ensured that it was established on such a sound basis that it became a successful operation throughout the State.

I conclude my remarks by wishing the Hon. Murray Hill and his family well in his retirement and assure him that I regard him as a very dear friend. I shall miss his guidance, encouragement and support and hope that in times of real need I shall be able to ring him and look forward to his encouragement. I wish him well.

The Hon. R.J. RITSON: I thank the Attorney-General for making Government time available for this function and for his heartfelt, sincere and generous farewell to the Hon. Murray Hill. I will be extremely brief. The Hon. Murray Hill has been to me a friend and a man of humour—not the sort of humour that hits you like a fire hose, but the sort of humour that you appreciate by sipping a good draught of the Hon. Murray Hill, like a good wine. He is an honest man; he is a good man; he is a kind man; and I shall miss him.

The Hon. K.T. GRIFFIN: I desire to complete the reflections on the Hon. Murray Hill's perspective of a fellow member of the Tonkin Cabinet for just over three years. One of the advantages of being a member of Cabinet is that, as the Attorney-General has said on so many occasions, it is inappropriate to disclose discussions that occur at Cabinet level. For that reason, therefore, I declined to reflect upon and disclose many of the discussions that occurred during the three years that he and I shared positions in that Cabinet. However, I can say that one of the monuments to the period of Murray Hill as Minister in the Tonkin Government must be the Museum and related buildings in the North Terrace precinct for which he fought many a battle

and which he won. His advice and experience to Cabinet were very much appreciated and valued.

The Hon. Murray Hill was always steady, competent, amiable and hardworking. He was respected and always out at functions serving the community as well as the Government of that day. One could say that Murray Hill is a member of Parliament who has more friends and acquaintances than any other as a result of his long period of service as a Parliamentarian and as a Minister and as a result of his portfolio responsibilities. He was, of course, a performer as a Minister and as a member and, as the Hon. Legh Davis so clearly indicated, there were many occasions on which a very clever idea could be turned to publicity advantage either as a Venetian gondolier or as the master of a King Charles spaniel.

The Hon. Murray Hill did, on occasions, suffer, but quietly, indignities, not the least of which was having to push an old white LTD that had broken down on one occasion and also to have to squeeze into a Holden Commodore as a result of some public undertakings by the Hon. David Tonkin before becoming Premier that he would get rid of all the big white cars. That was one public undertaking that we all very much regretted.

I value very much my association with Murray Hill. I have no doubt that that association will continue for many years to come and that we will see quite a lot more of Murray Hill as he embarks on the next 20-year period of his life to follow on the three which he outlined so clearly in his own address. I take this opportunity not only as a fellow member of Parliament but as a fellow member of Cabinet to record appreciation for his guidance and work and to record the much broader appreciation which the community of South Australia has for him and his contribution and that of his wife, Eunice. I join with other members in wishing both of them many more years of happiness in doing all those things in the community that public life as a member of Parliament and Minister frequently precludes.

He will now be able to make his own decisions in conjunction with Eunice without being at the beck and call of every citizen who, in many respects, quite rightly demands attention from members of Parliament. I wish him well in the next stage of his already extensive and varied career.

The Hon. R.I. LUCAS: The political record of the Hon. Murray Hill has been dissected in great detail by all who have spoken before me and I can only say that I share all that has been said. I add to the accolades that have been placed on the record an accolade from a younger member of our community: I place on the record the accolade from my seven year old son who, at Christmas time last year, had the pleasure of seeing the Hon. Murray Hill in a somewhat different fashion to that which we are normally used to seeing him in this Chamber. He was decked out in fishing gear on the beach at Goolwa, astride in the surf with a 12 foot surf rod.

The Hon. Diana Laidlaw: He looks impressive.

The Hon. R.I. LUCAS: He certainly looks very impressive. My seven year old lad, Ben, thought that Mr Hill, or Rob Hill's dad as he refers to Murray, was the world's greatest fisherman. I am yet to disabuse him of that notion. On that day he did not catch anything and he certainly did not catch anything on subsequent days when he had his grandchildren on the beach with him at Goolwa.

I will not add any further comment. I offer my personal best wishes and those of my family to you, Murray, and to Eunice for the future. I know that we will see a little of each other privately, as we have done over the past few years.

The Hon. J.C. BURDETT: I think that everything that can be said about the Hon. Mr Hill's distinguished public career has been said. I add a few private comments. When I first came into this Chamber I sat in the seat now occupied by the Hon. Diana Laidlaw and, later, that was behind the Hon. Mr Hill, who then occupied the seat which is now occupied by the Hon. Trevor Griffin. I later moved on to the front bench on this side of the Chamber alongside the Hon. Murray Hill and then, fortunately, the front bench on the other side which, once again, I shared with the Hon. Murray Hill. For the whole of that time I was able to get advice very quickly and succinctly from the Hon. Murray Hill while I was on my feet speaking.

An honourable member interjecting:

The Hon. J.C. BURDETT: No, I did not ever get that. I was never told to shut up. In fact, on the contrary, I recall an occasion when I rose to speak to a Bill and began by saying that I opposed the Bill. The President said, 'We will vote against it.' Of course, that took the wind out of my sails, but Murray Hill said, 'Go on speaking, John', which I did. I was certainly never told to shut up. I was very well advised as to what to do.

I have the greatest affection for the Hon. Murray Hill and I value his advice, which I have no doubt I will seek in the future. I wish him and his wife Eunice the very best in his well deserved retirement.

The Hon. PETER DUNN: I rise to wish you farewell, Murray. My first contact with you was on my own property on Eyre Peninsula. You were a long way from home. You conducted yourself like you do now—in a very elegant manner. Thank you for all your help and God bless you and Eunice in the future.

The Hon. J.C. IRWIN: I thank the Government for the opportunity to make a brief contribution to this debate. I certainly wanted to have something to say about my friend and colleague before it got too late. I acknowledge the bipartisan support for the first motion, and no doubt for this motion. I will always strive to achieve bipartisan support. In my 2½ years in this place I have seen it in many areas and I suppose that it is evident in most Bills that go through this place, but I think that we can also find it in other areas in this place. I suppose that we see it in select committees.

That takes me now to the Hon. Murray Hill's second point—standing committees. I admit to having some positive support for the role of the Legislative Council in standing committees. In my opinion, the Legislative Council is no longer a House of Review when more than 50 per cent of the legislation is introduced in this very Council which is supposed to review its own legislation. I am not by any means the first person to point that out.

Like that of the Hon. Ms Laidlaw, my family has had a long association with the Hon. Mr Hill. His nine years on the Adelaide City Council coincided with some of the 30-odd years my father served on that council which, over the years, has developed this beautiful city which we hope to be able to maintain as the premier city of this country. I acknowledge the contribution the Hon. Mr Hill made in that area of local government. His general area of contribution in local government has been acknowledged, as has his council work.

Due to some oversight, while people have been mentioning the Hon. Mr Hill's contributions to the State through

his work in this Parliament and local government, no-one has mentioned his distinguished naval service. He had the opportunity to serve his country in time of war. No-one wants war, but that is the ultimate service: to serve one's country in time of conflict. It has been a privilege for me to have served as the Hon. Mr Hill's colleague for just over two years. Incidentally, I addressed the Hon. Mr Hill as 'Sir' right up until the time I came into this chamber and became a parliamentary colleague. I have always believed in showing respect to my elders and betters: an old and good habit, but one which is now declining, to my sorrow. The titles used in this Chamber of 'honourable' and 'Minister' remain, and I am happy to see those remain because that is another way, for traditional and other reasons, of showing respect to the people we are addressing.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. IRWIN: I am not sure what the honourable Minister is referring to. Interjections are out of order. In local government I worked with the Hon. Mr Hill through my council in the South-East while he was Minister, and while Minister in the Tonkin Government he initiated a border council meeting which involved all of the councils on both sides of the South Australian-Victorian border. I am sure that was a first for South Australia, and the benefits of that meeting will continue for a number of years. Certain things came out of that conference, and my old friend, Digby Crosier, was Minister in Victoria at that time. I wanted to mention that.

As I have said, much has flown from that. I was fortunate to be the Hon. Mr Hill's nomination to the South-East Cultural Trust in Mount Gambier, in which capacity I served three years. It was a time when the building was being completed and used for the cultural benefit of the South-East, and particularly Mount Gambier, although it was not built just for the benefit of Mount Gambier. The Hon. Mr Hill faithfully continued the visions of the then Premier, the Hon. D.A. Dunstan, in establishing regional cultural trusts throughout South Australia. I guess the Tonking Government would have added to those cultural trusts from the original trusts envisaged by the Dunstan Government. They are of very great benefit to the people in the rural areas of this State.

Mr Hill should take a lot of praise for continuing that marvellous idea of the Dunstan Government. I thank you, Murray, for your encouragement, advice and support over the years; I have valued them most sincerely. I hope to see much of you and your wife over the years ahead. I do not think you will ever retire; I think that you will just keep going. It has been a privilege to have worked with you.

The Hon. M.J. ELLIOTT: I did not speak earlier out of respect for the honourable member because I felt it would be rather precocious of this whipper-snapper to try to pass judgment on the career of the Hon. Mr Hill. Let me say simply on behalf of my colleague, the Hon. Mr Gilfillan and myself, that we have always held him in the highest regard and wish him well in the future.

Motion carried.

MOTOR VEHICLES ACT AMENDMENT BILL (1988)

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

WRONGS ACT AMENDMENT BILL

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

CRIMINAL LAW (SENTENCING) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment to the House of Assembly's amendments Nos 3 and 4.

STATUTES AMENDMENT AND REPEAL (SENTENCING) BILL

The House of Assembly intimated that it did not insist on its amendment No. 19 to which the Legislative Council had disagreed.

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

The House of Assembly intimated that it did not insist on its disagreement to the Legislative Council's amendment.

ADJOURNMENT

At 12.39 a.m. the Council adjourned until Tuesday 17 May at 2.15 p.m.