LEGISLATIVE COUNCIL

Wednesday 14 August 1991

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

DEFAMATION LAW REFORM

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about defamation law reform.

Leave granted.

The Hon. K.T. GRIFFIN: Queensland, New South Wales and Victoria have agreed to introduce uniform legislation which affects certain parts of the defamation laws in those States. I am led to believe that the Attorney-General has now given his support to those same proposals, which include the abolition of the distinction between libel and slander, provision for court ordered corrections and apologies and amendment to the defence of justification so that that defence is available where the defendant proves that a defamatory statement is true and is not an unwarranted intrusion on a person's privacy. My questions to the Attorney-General are:

1. Will he confirm that he supports the proposals agreed to by Queensland, New South Wales and Victoria?

2. Is it proposed to introduce legislation in the current session?

The Hon. C.J. SUMNER: This matter is still before the Standing Committee of Attorneys-General. As I understand it the States that have taken the running on this issue are preparing draft legislation based on certain principles which have been outlined in discussion papers issued by those States. South Australia has had a watching brief. We support in principle uniform defamation law and have done so for some considerable time, but the previous attempts to get uniformity—which go back to the early 1980s—failed, essentially because of media opposition to aspects of the reforms and, in particular, media opposition to court ordered corrections, and other media objections. It seems, however, that from reports released to date the media are now more amenable to the reforms proposed by the three States that have had the running of this issue in the Standing Committee of Attorneys-General, but obviously we will have to see a Bill when it is introduced—and that is what the South Australian Government intends to do. We will then consider our position and consider whether or not similar legislation should be introduced in South Australia.

SGIC

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about SGIC.

Leave granted.

The Hon. L.H. DAVIS: The Liberal Party over many years has expressed concern that SGIC has been roaming free of the legislative restrictions imposed on the private sector insurance companies. In September 1986, nearly five years ago, Mr McLenaghan, Regional Director of the Life Insurance Federation of Australia (LIFA) wrote to Mr Sumner suggesting that South Australia should follow the lead of New South Wales in complying with Federal insurance legislation. The New South Wales Government Insurance Office, according to the then New South Wales Attorney-General, Mr Sheehan, had 'indicated a willingness to be subjected to the same constraints and regulations as the private sector in order to maintain a position of competitive neutrality in the market place'.

LIFA then quotes directly from the Commissioner for Consumer Affairs' 1984 annual report. The Commissioner, Mr Noblett, at page 12 states:

> . . . it is recognised . . . that the commercial operations of Government and semi-government instrumentalities should where possible operate under the same regulatory controls as private organisations with which they compete.

As the Minister knows, State legislation is necessary because section 51 (14) of the Australian Constitution grants power to the Federal Parliament to make laws with respect to 'insurance other than State insurance; also State insurance extending beyond the limits of the State concerned'.

Not only did the Commissioner for Consumer Affairs raise the matter in his 1984 report but also he raised it again in his 1985 report, which was tabled in the Parliament in 1986. Mr Noblett stated:

> I also mentioned in my previous report that I would be considering the desirability of mirror legislation to cover the State Government Insurance Commission.
>
> I have come to the conclusion that such legislation is desirable. There are at least two compelling arguments in favour of such legislation. First, as a general rule the commercial operations of Government should operate under the same regulatory regime, especially marketplace controls, as do their private competitors. Secondly, the two Commonwealth Acts contain provisions for the protection of both insurers and insureds, as well as for the regulation of insurance intermediaries which are clearly in the public interest.

In other words, the Commissioner felt strongly about the need for SGIC to be playing by the same rules as its private sector competitors. But during the past five years nothing has been done by this Government in response to the suggestion of the Commissioner for Consumer Affairs. In fact, SGIC is the only mainland State Government insurance office in Australia that is not required by its Act to observe the provisions of any Federal insurance legislation. Accordingly, SGIC has been able to under-price its insurance products by avoiding legislative requirements and also has transferred money legally between its insurance funds.

Leaders in the insurance industry believe that some of the financial disasters which have occurred in SGIC in recent years, costing taxpayers of South Australia tens of millions of dollars, would almost certainly have been avoided, had the Government accepted the Commissioner for Consumer Affairs back in 1985 or 1986.

My question to the Minister is direct and simple: why has the Minister of Consumer Affairs's advice in her term of office not accepted the advice of the Commissioner for Consumer Affairs with respect to legislation ensuring that SGIC complies with Federal insurance legislation and guidelines?

The Hon. BARBARA WIESE: I am not familiar with the recommendations that were made by a previous Commissioner for Consumer Affairs on this matter. The honourable member refers to reports—

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. BARBARA WIESE: —that were made by the then Commissioner for Consumer Affairs to the then Minister of Consumer Affairs some six or seven years ago. During the time that I have been Minister of Consumer Affairs—

The Hon. L.H. Davis: The report was tabled five years ago, in 1986.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Okay—five or six years ago, if that suits the honourable member better.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The honourable Minister has the floor.

The Hon. BARBARA WIESE: The honourable member referred to recommendations that were made in 1984 and 1985.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: According to my arithmetic, that is six and seven years ago and, I have indicated, they were reports and recommendations made to a previous Minister of Consumer Affairs. No such recommendations have been made to me during the 18 months that I have been Minister of Consumer Affairs. I am not aware of what action or otherwise the former Minister may have taken on this matter. However, it has generally been the view of this Government that Government enterprises that are competing with the private sector should be doing so on the same terms as businesses in the private sector.

The record shows that in almost every case this has been the way that those Government enterprises have operated. They have generally operated in accordance with whatever rules apply. Although, for example, there has been no legal requirement for some Government agencies to pay income tax, the State Government has insisted that an equivalent amount of money be paid to the State Government as a contribution to the people of this State, as shareholders in those enterprises, so that those Government enterprises do not enjoy an unfair advantage over their competitors in the private sector.

The honourable member has tried to imply that somehow or other the State Government Insurance Commission has had problems in its operations because it was not playing by the rules, but I remind the honourable member that the committee that has recently reviewed the SGIC specifically stated that the insurance business undertaken by SGIC was very profitable and well run. It is not in the insurance business but rather in other areas of its activities that SGIC has run into difficulties.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order. He asked the question and the Minister is answering it. The honourable Minister has the floor.

The Hon. BARBARA WIESE: Be that as it may, the matters that the honourable member has drawn to my attention will now be looked at again. I will certainly consult my colleague who was then the Minister of Consumer Affairs as to whether or not he considered the recommendations that were made some years ago and, indeed, whether or not such recommendations are still relevant.

FARE EVASION

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Transport, a question about STA fare evasion.

Leave granted.

The Hon. DIANA LAIDLAW: Fare evasion has become an increasing problem on trains since the Minister decided in May to get rid of the guards who had the job of selling tickets on trains. On Monday this week the STA acknowledged the problem with a spokesman stating, 'We've already expanded our ticket inspection division by 20 members.' If one assumes that each new inspector (now referred to as a field supervisor) earns a basic $25 000 per annum, this expanded force will cost the STA an extra $500 000 this year. But the spokesman also suggested that passengers should take on the role of a vigilante and dob in a passenger who they consider may not have paid for or validated their ticket. This is a novel approach. It is also one that potentially exposes the would-be 'dobber' to physical risk. I am unsure how the scheme would operate in practice, recognising that an ever increasing number of passengers is entitled to travel free of charge on the STA system.

Considering the large extra cost—and the recurring cost—involved in employing more field supervisors, plus the dubious nature of the 'dob in the passenger scheme', I suggest that the installation of automatic ticket turnstiles on the concourse of the Adelaide railway station would prove to be the most cost efficient and effective system of eliminating fare evasion from our public transport system. Honourable members will appreciate that the vast majority of passengers enter and exit the rail system at the Adelaide railway station.

I understand that in June 1988 the STA considered such an initiative but did not proceed following a tender price of $600 000 and a subsequent cost benefit analysis. That tender price would have been a one-off cost. We now have a recurring cost of at least $500 000 a year for ticket inspectors. Today this cost benefit analysis is no longer valid following the removal of ticket sales on trains.

Therefore, will the Minister order a further cost benefit analysis on the installation of automatic ticket turnstiles on the concourse of the Adelaide railway station in an effort to reduce fare evasion?

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

PRIVACY COMMITTEE

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

Leave granted.

The Hon. M.J. ELLIOTT: In the annual report of the Privacy Committee, tabled in this place last Thursday, the committee says that it will not be able to discharge its functions and that projects it wishes to carry out may be impossible to achieve without additional resources. At present the presiding officer of the committee has one and a half staff members. The report reveals that the committee has made a number of submissions to the Attorney-General in relation to the freedom of information legislation and the proposed privacy legislation expressing concern about deficiencies. Those reports have not been publicly released, so the Parliament and the public has no way of knowing whether the criticisms made in them have been addressed to the satisfaction of the agency which has a responsibility in the area.

In the annual report the committee also says that it could not take an active role in overseeing the operation of the Justice Information System because of resourcing problems. It is now a matter of public knowledge, following the report of the select committee last Thursday in the House of Assembly, that this interdepartmental data system contains files on about 130 000 South Australians. The Privacy Committee reports that during 1990 the presiding officer suggested it would be appropriate to 'target one or two JIS applications in an endeavour to determine what data is used, who has access to it and whether information is being used for an alien purpose'.

The report goes on to say that the committee approved the proposal, but whether or not it could be pursued will depend upon the resources made available to the committee. That excerpt from the report is an admission that the Privacy Committee does not know how the main keeper of sensitive Government information is functioning and that it is under-resourced in any attempt to find out. My questions to the Attorney-General are:

1. In the interests of open government, will he realease all correspondence between his office and the Privacy Committee and reports submitted by the committee in relation to the freedom of information legislation and the proposed privacy legislation?

2. On what criterion are resources allocated to the committee?

3. Does the Attorney-General believe that the committee is able to function effectively as a privacy watchdog, given that it has admitted virtually a total lack of knowledge about the operations of JIS?

The Hon. C.J. SUMNER: The answer to the last question is that I think it does function effectively. The Chairman of the Privacy Committee in fact had a letter published in, I think, the *News* yesterday or the day before, in which he dealt with some aspects of the Privacy Committee's operations. I imagine that it could operate more effectively if it had more resources. The fact is that every agency in Government depends on resources. There is nothing particularly startling about that revelation from the honourable member, and it is a matter of allocating those resources, first of all, depending on how much money the Government has and, secondly, on the priorities that it accords to various activities.

Nevertheless, I believe that the Privacy Committee has functioned well. It has dealt with a large number of matters over the past three years since it came into existence, as I am sure would be fully revealed to the honourable member by the report tabled in this place.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: What is wrong with you today? Do you have a problem or something?

The PRESIDENT: Order!

An honourable member interjecting:

The Hon. C.J. SUMNER: I think you have. Just calm down and stop interjecting.

The PRESIDENT: Order! The honourable Attorney-General.

The Hon. C.J. SUMNER: Well, what's he on about?

The PRESIDENT: Address the Chair and we will be much better off.

The Hon. C.J. SUMNER: There must be something wrong with him. He must have had something off for lunch; that's all I can suggest.

The Hon. M.J. Elliott: The answer is off.

The PRESIDENT: Order! The honourable Attorney-General.

The Hon. C.J. SUMNER: I therefore believe that the Privacy Committee has played a very useful role in the implementation of privacy principles within the South Australian public sector and that that is revealed by its report. The suggestion could be made that it could have more resources—I am sure that there is not one agency in Government that would not come along and say that it wants more resources—but I am afraid that that is not the environment in which we are operating at present.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Agencies have to ensure that they carry out their functions within the resources that they are given. With respect to the situation with the JIS, since it was first mooted a few years ago—it was one of the Hon. Mr Griffin's big initiatives when he was in Government—

The Hon. M.J. Elliott: He might be sorry about it now.

The Hon. C.J. SUMNER: He may well be, but he did have an overseas trip to North America to investigate such systems and he came back with a glowing view of the computerised Justice Information System, which he then—

The Hon. K.T. Griffin: You were responsible—

The PRESIDENT: Order!

The Hon. C.J. SUMNER: There's something wrong with him, too.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. If people ask questions, they are entitled to an answer without interruption, and the answer should be given. The honourable Attorney-General.

The Hon. C.J. SUMNER: I agree, Mr President, I am sorry that the Hon. Mr Griffin is so sensitive about the results of his decisions in relation to this matter.

The Hon. K.T. Griffin: I'm not. You were the one—

The Hon. C.J. SUMNER: Well, you were the one who made the earlier decisions as to the direction of the JIS. That has been confirmed by the present Government—I do not deny that—but the fact is that the JIS goes back to the days even before Mr Griffin became Attorney-General in September 1979. However, that is an aside which I made only because I was distracted by the Hon. Mr Griffin's interjections.

The point I was going to make is that from the very time that the JIS was mooted it was always recognised that serious considerations of privacy had to be taken into account. Within the JIS system itself and within the board of management there is a privacy group that has monitored the requirements of privacy against the well-established privacy principles that are now formally part of the structure of Government. Prior to that, they were overseeing the JIS in accordance with the generally accepted privacy principles that had been promulgated in Australia and overseas. So, privacy has always been a major concern within the operations of the JIS. I am pleased to see the honourable member's concern about privacy and I will be delighted to see his support and that of the Democrats for the Bill, which has been supported unanimously by a select committee.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It was unanimous.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Well, there's something wrong with you then. I have seen the report and it was unanimous.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The major thrust of the report was supported by the Liberal and Labor Parties in the House of Assembly or at least by the members of the Liberal Party who served on the select committee. What happened, of course, is that the media got hold of the Hon. Mr Griffin after the report was released.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The media got hold of Mr Griffin and he then tipped a bucket on his colleagues in the Lower House for having supported this select committee.

The Hon. J.F. STEFANI: A point of order, Mr President. This is not part of the—

Members interjecting:

The PRESIDENT: Order! I cannot hear the honourable member's point of order because of the interjections.

The Hon. J.F. STEFANI: This is not part of an answer to the question that was raised.

The PRESIDENT: It has always been the custom of this Council to give a Minister liberty to answer a question in any way he sees fit. At present I can see no point of order. The honourable Attorney-General.

The Hon. C.J. SUMNER: I would have completed my answer well and truly by now if it had not been for interjections from members opposite. I am dealing with the question of privacy, which was the question raised by the Hon. Mr Elliott: privacy in relation to the JIS. I have indicated that a select committee in the Lower House presented a report, and I am hopeful that the Hon. Mr Gilfillan and the Hon. Mr Elliott will support the principles of that committee's recommendation because, if they do, there will then be in the general law of this State, for the first time anywhere in Australia, given to citizens of our State a general right of privacy, which will enable them to take action when they feel that an invasion of privacy has occurred.

It is, I believe, an important initiative, and I look forward to the Democrats' support for any Bill, so that their concerns about JIS and other matters of privacy can be given—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —effect to by the legislation, as introduced.

Members interjecting:

The Hon. C.J. SUMNER: Well, then, you don't know what you're talking about, I am afraid. I am sure that, if there is a general right of privacy in the law, then that will assist citizens if they feel, for instance, that the operations of the JIS are inconsistent with general privacy principles. As I said, JIS has always given consideration to privacy. I will examine the other questions asked by the honourable member about the release of correspondence and the like, and bring back a reply.

GARG REVIEW

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question about the GARG review.

Leave granted.

The Hon. R.I. LUCAS: Last November in this Chamber I raised the issue of a report which had been written and recently given to the Education Department and which was to form the basis of the department's response to the Blevins razor gang. The report was written by Ms Rosemary Gracanin, the Director of the southern area of the department. Broadly, Ms Gracanin's report recommended that two of the department's three metropolitan area offices should be abolished, leaving then only one metropolitan area office, as well as two area offices in the country. She also made other cost-saving recommendations such as the personnel function of the department being centralised, rather than duplicated in five offices. The bottom line was that there would be a substantial reduction in the bloated Education Department bureaucracy and that, for example, eight area directors and assistant area directors with annual salaries of up to $80 000 a year would be made redundant, together with numbers of their support staff.

I have now received a document which I understand is being widely distributed among South Australian Institute of Teachers' members and which states:

The Education Department is suffering from 'institutional paralysis' as it waits for the Government Agencies Review Group (GARG) cuts to positions and programs. Planning for the future has ground to a halt, positions are not being replaced as people go on leave or transfer and work is piling up everywhere. The director responsible for putting together the Education Department proposed cuts. Ms Rosemary Gracanin, has been removed from this position after 10 separate GARG submissions failed to please Cabinet. Ms Helga Kolbe, Director of Resources, has now taken the repsonsibility for devising the GARG cuts to education, which are expected to be severe.

It seems that the Education Department can move swiftly indeed when it comes to axing 800 teaching positions on the argument that teachers had made an outlandish push for wage increases that the Bannon Government could not have foreseen. Yet, when it comes to trimming the fat from the bureaucracy, it moves at an absolutely breathtaking crawl. Indeed, the Minister seems to be suffering from the same bureaucratic malaise—

The Hon. C.J. Sumner: Is that a comment, Mr President?

The Hon. R.I. LUCAS: Well, it is a fact, Mr President.

The PRESIDENT: It is speculation.

The Hon. R.I. LUCAS: The Minister seems to be suffering from the same bureaucratic malaise, as I still have not received replies to the questions I raised on 14 November 1990 about Ms Gracanin's report. My questions to the Minister are:

1. Can the Minister confirm that the Education Department has still not presented a GARG submission that has been accepted by the Cabinet, and is it true that Ms Gracanin has now been removed from preparing GARG submissions after a large number of failures?

2. Will the Minister take any action on the recommendations contained in a report received from Ms Gracanin late last year and, if not, why not?

3. When will the Minister provide answers to questions I asked in this Chamber last November?

The Hon. ANNE LEVY: I will refer those three questions to my colleague in another place and bring back a reply.

LOCAL GOVERNMENT RATING

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister for Local Government Relations a question about local government rating.

Leave granted.

The Hon. J.C. IRWIN: A number of recent local press stories have highlighted moves by some councils to this year rate individual home units rather than rating them collectively on one title. In some ways it is similar to those councils which, over the years, have tried to find a way to individually rate caravans within a caravan park—a matter not yet remedied, to my knowledge. I recently received a letter from the Secretary of Aged and Invalid Pensioner Homes concerning this matter of individual unit rating. The association has 72 units throughout the metropolitan area of Adelaide. Eight in one council area are now subject to individual unit rating. The rental on the single bedroom self-contained unit is currently $21 a week. The rates for these eight units have risen from $1 382.40 in 1991 to $2 280 this year—an increase of $897 or 65 per cent, and this represents nearly $2.20 per unit per week. Just to cover this increase, rentals to the pensioner occupants will have to be increased by 10.5 per cent. All the units have been allocated the minimum rate of $285.

The rating of individual units on one title seems to be contrary to the provisions of the Local Government Act. Section 169 deals with basis of rating and a fixed charge and section 170 deals with value of land for rating purposes. They are also contrary to the Government's well documented arguments about the use of a minimum rate having no relationship to the value of the land. I am not necessarily

putting to the Minister that councils have broken the law, for I do not have access to legal opinions on this matter and assume that councils and the Minister do. While I do believe that councils are the best ones to make decisions about their communities, including the invalid and the aged, they should be careful about how they interpret the Local Government Act. My questions are:

1. Is the Minister aware that some councils are applying a rate to individual living units within one title?

2. Is the Minister satisfied that this practice is within the rating provisions of the Local Government Act?

3. What steps has the Minister taken to ensure that the interpretation of the Act leading to the practice of rating a unit and not a whole title will not spread to caravan, permanent hotel and hostel residents?

The Hon. ANNE LEVY: In response to the honourable member, I am certainly aware that this practice is occurring under a number of councils throughout South Australia. As far as I am aware, this is a legal procedure and these councils are acting within the law. However, I am seeking further legal advice on this matter to reassure myself that this is in fact the case. I have not yet received that advice, but the preliminary advice that I have had indicates that these councils are certainly acting within the law. I point out to the honourable member that councils decide on their rates and on the differential rating that they may impose in their area and, providing they act within the law of the land as set out in the Local Government Act, they are quite entitled to do so. It is certainly not a matter that I—or I would hope any member of this Parliament—would want to interfere with in any way. It is a matter for councils, and the residents who have concern should take up the matter with their councils.

I wish to make two other points. Provision certainly exists in the Local Government Act for councils to provide rebates in cases of hardship or rebates on any basis on which they wish to provide them. Again, if their rating procedures are causing hardship, I can only suggest that the people concerned (for whom I have great sympathy) take up the matter with their councils, knowing that their councils have the power to grant rebates should they so wish. Again it is not a matter in which I can interfere. The Parliament has certainly given this power to local councils and it is up to them to use it or otherwise.

The other point I make in relation to separate ratings for a number of units is that, of course, had this Parliament abolished the minimum rate, this situation would not have arisen. Because a minimum rate is in existence, whereby for every assessment a certain minimum amount must be paid—even if it is much higher than would be paid purely on the basis of property value—and the fact that many councils use such rates, what appears to be an anomalous situation is arising in some council areas. This Parliament in its wisdom and against proposals from the then Minister decided that minimum rates could continue to be levied by councils whilst setting a cap on the proportion of minimum rates that could be applied in any council district. If we did not have minimum rates, many of the anomalies to which the honourable member referred would not have arisen.

PUBLIC HOSPITAL FEES

The Hon. R.J. RITSON: I seek leave to make an explanation before asking the Attorney-General, representing the Premier, a question about public hospital fees, particularly for compensable patients.

Leave granted.

The Hon. R.J. RITSON: A schedule of new fees for both private hospital patients in our public hospitals and for compensable patients, that is, those patients who appear to have a right of legal recovery from another party, has been tabled in the other place. It only takes a glance at the schedule to see that the rises are very substantial and are completely out of kilter with both the historical and expected rates of inflation. They fall heavily on compensable patients.

The increases vary from about 15 per cent in some items up to 40 per cent in others. I have not had time to do a calculation, but overall the affect would be somewhere between 15 to 20 per cent. As I look at the schedule I see, for example, that the fee for a daily bed charge at teaching hospitals for compensable patients has gone from $383 a day to $430, whereas for a privately insured patient, not legally compensable, it has gone from $175 to $185. The difference between the $175 to $185 range for the privately insured patient and the $383 to $430 a day for the compensable patient looks very odd.

The health bureacracy explains it as a process of full cost recovery. In fact, the total costs of departments are amortised so that the compensable patient charges are said to be a fair share of the costs. Whether they are a fair share of costs for the linear accelerator, mowing the lawns and various other things around the hospital, remains to be seen.

However, the charge for receiving a quick consultation and a bandaid from an intern in the casualty department of one of our hospitals (if it was compensable) has gone from $125 to $145. I know that the Government is strapped for cash. I could understand the Government in the situation it is in increasing a whole lot of taxes and charges at more than the inflation rate, out of necessity, to pay for, say, the State Bank, but in this case the money for these compensable patients will come from WorkCover and SGIC. I believe both organisations are paying exorbitantly, in terms of what they receive, for the medical services to the people they are responsible for. I ask the Premier:

1. Will he consult with SGIC and WorkCover concerning the Government charges to people that they are liable to pay for, to find out whether those organisations think that the charge for a consultation at a teaching hospital is more than the value received from that consultation?

2. Does he consider that it would be more honest, if he wanted to increase the general revenue take, to it with a visible tax—perhaps a State Government contingency tax—so we could see how we are paying for the State Bank? Of course, this policy would not do that, but if he really is going to take the money it might be more honest to do that. Further, does he realise that increasing the charges to compensable patients is simply milking money from the two other organisations that are, at least potentially, in financial difficulties, namely, WorkCover and SGIC?

The Hon. C.J. SUMNER: I will refer that question to my colleague and bring back a reply.

SPEED CAMERA FINES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about speed camera fines.

Leave granted.

The Hon. J.F. STEFANI: On 27 December 1990, Mr Roderick Easling of 20 Kiah Crescent, Sheidow Park, was booked by a speed camera for travelling at 71 km/h when driving his taxi in a 60km/h zone along Shepherd's Hill Road, Eden Hills. It followed that on 6 January 1991 Mr

Easling received an expiation notice for the offence payable on 5 March 91. Mr Easling claimed that he was innocent and that in fact he had been travelling at only 50 km/h at the time of the alleged offence. A passenger in his taxi was also witness to the lower speed at which the vehicle had been driven.

In early May 1991, Mr Easling received a summons to appear in the Magistrates Court on 19 June 1991. On the due date he appeared in court and the police prosecutor asked the magistrate to have the matter adjourned. The hearing was adjourned until 26 August 1991. Without explanation or other notice, on 5 July 1991, Mr Easling received a letter from the South Australian Police Department advising him as follows:

Dear Sir,

I wish to advise you the matter set down for hearing on the 26 August 1991 in the Adelaide Magistrates Court was withdrawn on 20 June 1991; therefore it is not necessary for you to attend on that date.

Yours faithfully,

B. H. Baron, Adelaide Prosecution.

My questions are:

1. Will the Minister provide the details that led to this charge being withdrawn?

2. If the grounds for prosecution were not certain, why did the matter proceed to court in the first instance, costing taxpayers hundreds of dollars?

3. Will the Minister advise how many prosecution cases involving speed camera summonses have been withdrawn since speed cameras have been in use?

The Hon. C.J. SUMNER: I will refer the question to my colleague and bring back a reply.

MINISTERIAL STATEMENT: MICHAEL KEITH HORROCKS

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: Yesterday, the Hon. Mr Griffin claimed in this place that a South Australian man was released four years early from prison. The Minister of Correctional Services has provided me with the following information.

The Parliament generally legislates for maximum sentences for crimes, but it gives the courts the discretion to determine what the particular sentence and non-parole period will be in each case. I have had the matter investigated, and the facts relating to the early release on unaccompanied temporary leave of Michael Horrocks are that at the time of his release in May 1990 he was serving a sentence of 4 years, 5 months and 2 days, with a non-parole period of 1 year, 8 months for: Commonwealth imposition, committed on 6.7.88 (prior to parole); larceny, committed 30.1.89; illegal use of motor vehicle, committed 30.1.89; carry offensive weapon, committed 5.5.89; larceny of motor vehicle, committed 5.5.89; manner dangerous, committed 9.5.89; drive under influence, committed 9.5.89; illegal use of motor vehicle, committed 9.5.89; carry offensive weapon, committed 9.5.89; threaten life (2 counts), committed 9.5.89; plus, cancelled parole.

He was released on unaccompanied temporary leave on 15 May 1990 and this leave was revoked on 15 June 1990. Horrocks was re-admitted to the Adelaide Remand Centre on 20 December 1990 and was released from this facility on parole on 29 April 1991.

Whilst on unaccompanied temporary leave it is alleged that Horrocks committed the following offences: stole one gas cylinder and rope, committed 18.12.90; stole one outboard motor and one 10 litre jerry can, committed 18.12.90; illegal use of a motor boat, committed 18.12.90; and illegal use of a motor boat, committed 18.12.90. Whilst on parole it is alleged Horrocks committed the following offences: DUI, PCA, illegal use of a motor vehicle and drive disqualified, committed 19.5.91; resist police, committed 19.5.91; and breached bail agreement.

Horrocks has a bail application that is to be heard in the Berri Magistrates Court on 15 August 1991 for the above offences. Should his bail application fail, he is remanded in custody until 9 September 1991.

Although Horrocks's leave was revoked, the revocation was ineffective because at that time the Correctional Services Act permitted the continuation of the sentence of imprisonment although the leave had been revoked. This anomaly in the Correctional Services Act was corrected with the introduction of section 27 (6) of the Act, 1982, effective from 21 December 1990. This section now states that a prisoner is not, whilst still at large after revocation of leave of absence, serving his or her sentence of imprisonment.

COATS OF ARMS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation prior to directing a question to the Attorney-General on the subject of coats of arms.

Leave granted.

The Hon. J.C. BURDETT: I have been informed that the practice of removing the royal coat of arms and replacing it with the State coat of arms has started in the Supreme Court. My informant has told me that when he inquired he was told that this practice is pursuant to Government policy. My informant also tells me that it is intended to carry out this practice throughout all the courtrooms in the Supreme Court.

I note that in the old Moore's building the royal coats of arms were in some cases tapestry and in others woven, as I understand it, all by volunteers. I might add that the justices of the Supreme Court are, after all, the Queen's justices. Therefore, it might be thought that it is appropriate that the coats of arms behind their benches in the courts should be the royal coat of arms because they are the Queen's justices.

My questions are: first, is it a matter of Government policy that this change be made to replace the royal coat of arms with the State coat of arms? Secondly, what will be the cost? Thirdly, what will be done with the tapestry and woven royal coats of arms in the old Moore's building?

The Hon. C.J. SUMNER: I take it that the honourable member's informant is well known to him and currently has judicial office in the Supreme Court. It is certainly Government policy that the South Australian coat of arms, not the royal coat of arms, should appear in the courts of South Australia. That is also the considered view of the justices of the Supreme Court, as I understand it, and it is certainly the view of the Chief Justice.

When I became Attorney-General in 1982, the Sir Samuel Way Building was in the process of being commissioned and volunteers had been asked to prepare tapestry replacements of the royal coat of arms for use in that building. A considerable amount of that volunteer work had been done and, although it was drawn to my attention, I felt that we could not ignore that work and accordingly the tapestry royal coats of arms were included in the Sir Samuel Way Building. I think it was a pity that the previous Government did not have a policy that the South Australian coat of

arms should be used, but it did not and it participated in getting volunteers to prepare the tapestries. This Government acceded to that decision because of the amount of volunteer work that had been put into it.

However, when there is a change in court rooms and in any new courts, the State coat of arms will be used. I think that is appropriate. The royal coat of arms is no longer appropriate for South Australian courts. Therefore, as time goes by, I expect to see all the coats of arms in the courts replaced. The policy is not to do that immediately, and in particular it is not the policy to do it immediately in relation to the tapestries in the Sir Samuel Way Building.

INTELLECTUALLY DISABLED

The Hon. BERNICE PFITZNER: I seek leave to make an explanation before asking the Minister of Tourism, representing the Minister of Health, a question regarding supported accommodation for people with intellectual disabilities.

Leave granted.

The Hon. BERNICE PFITZNER: There is a proposed transfer of funds from the Commonwealth to the State for the operation of intellectually disabled services. The method of allocating funds will be to use the 'fiscal equalisation' method—a term used frequently by the Minister for Local Government Relations. However, this time this wonderful 'fiscal equalisation' method appears to work against South Australia as far as services for people with intellectual disabilities are concerned.

Due to this 'fiscal equalisation', the supported accommodation for people with intellectual disabilities will be restricted for a period of three to five years. Because of this 'fiscal equalisation' only an extra 1.7 persons will be funded for supported accommodation this year. At present, according to the Chairperson of the Northern Region Accommodation Committee, the northern region has a waiting list for supported accommodation of 52 urgent cases, 20 immediate cases and 75 planned cases—a total of 147—and only 1.7 extra people will be funded.

My questions are: first, what will happen to the 52 urgent cases needing supported accommodation in the northern region? Secondly, what will happen, for that matter, to all the urgent cases in the rest of the State? Thirdly, will the Minister investigate the method of 'fiscal equalisation' as it relates to the intellectually disabled?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

SHARES DISPOSITION

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the use of local brokers by Government instrumentalities.

Leave granted.

The Hon. K.T. GRIFFIN: In the *Advertiser* last week there was a report that the SGIC and the State Bank had used the services of interstate stockbrokers for the sale and placement of shares in SA Brewing Holdings Ltd and in SAGASCO. The claim was that not only did that take work from South Australian brokers, but also that stamp duty did not come to the State Treasury. The suggestion in the report was that SGIC had sold 13.1 million SA Brewing Holdings Ltd shares at $3.14 a share through Eastern State broking houses and that the stamp duty on that was $246 804. That was in the last week of July. The report also stated that in March this year SGIC had sold 36 million shares in SA Brewing at a cost of $2.73 each and that, as a result of that work being transacted through interstate brokers, stamp duty of $589 680 had been lost to South Australia.

The report also indicated that several months ago the South Australian Financing Authority had sold 40 million shares, or 21 per cent of SAGASCO, through overseas brokers. The question obviously arises whether that is a common practice throughout the instrumentalities of the State or whether they may be somewhat isolated transactions.

Can the Attorney-General indicate Government policy in relation to the disposition of shares by State Government instrumentalities with respect to that work being done either by local or interstate brokers and with respect to stamp duty?

The Hon. C.J. SUMNER: I will refer that question to the responsible Minister and bring back a reply.

STATE GOVERNMENT INSURANCE COMMISSION

The Hon. L.H. DAVIS: I move:

That this Council condemns the Government and Treasurer for their failure to fulfil the duties and responsibilities set down in the State Government Insurance Act and demands the Government agrees publicly at the earliest opportunity to—

1. introduce appropriate legislation to ensure that the State Government Insurance Commission complies with the appropriate Federal insurance legislation and the requirements of the Insurance and Superannuation Commission;
2. ensure that the SGIC makes public its 1990-91 Annual Report no later than 31 October 1991;
3. ensure that the 1990-91 SGIC Annual Report contains a separate revenue statement, profit and loss account and balance sheet for both the life insurance business and general insurance business;
4. ensure that a supplementary report should be published no later than 31 October 1991 which contains a separate revenue statement, profit and loss account and balance sheet for both the life insurance business and general insurance business of SGIC for the financial year ending 30 June 1990;
5. seek an independent detailed assessment from persons acceptable to the Government and Opposition of the investment strategy, investment guidelines and any conflicts of interest in respect of property transactions and commercial mortgage loans entered into by SGIC since 1984.

The Liberal Party has already attacked with some justification the failure of the Treasurer, Mr Bannon, to establish adequate guidelines for SGIC and to act with prudence in approving SGIC's many bizarre property transactions. But the net of incrimination reaches well beyond the Treasurer. Only today we discovered that it ensnared the Attorney-General, the Hon. Mr Sumner, and the Hon. Ms Wiese as well. The evidence against the Attorney-General and the Minister of Consumer Affairs is both direct and damning.

The Liberal Party, over many years, has expressed concern that SGIC has displayed an unfair advantage over its private sector rivals.

The Commissioner for Consumer Affairs, in his 1984-85 report, stated strongly that he believed SGIC should comply with Federal requirements, but nothing happened. This lazy, lacklustre, financially illiterate and naive Government simply did nothing. At that time the Attorney-General received the recommendation from LIFA, because, in fact, he responded to that letter and said that he would investigate the matter. Presumably it disappeared into the black hole called 'inactive Government'.

The recent review of SGIC's activity canvassed the matter of compliance with industry legislation and disclosure

requirements. It made a particular point of expressing concern about the fact that SGIC was not operating on a level playing field. The Government has indicated some acceptance of the proposition in a recent statement made by the Premier and Treasurer. But, after five years of doing nothing except losing tens of millions of taxpayers' dollars, the discredited team of Bannon and Sumner must act quickly. If they do not, the Liberal Party will certainly consider introducing its own legislation.

The fact is that today South Australia is the only mainland State where the Government insurance office does not have to comply with at least some elements of Federal insurance legislation. These five years of inadequate investment guidelines, extraordinary and inappropriate property transactions and the ability of SGIC to transfer moneys illegally between various insurance funds, in contravention of Federal legislative guidelines, have meant that the taxpayers of South Australia will be losing tens of millions of dollars annually for many years come. This ability to circumvent, avoid or abuse Federal legislative requirements or guidelines has given SGIC an enormous advantage. SGIC has been able to underprice insurance products by avoiding basic requirements such as capital adequacy margins. It has also not observed industry disclosure requirements for insurance products. SGIC has claimed that it has been playing on a level playing field. That is nonsense. Treasurer Bannon has allowed it to kick goals against competitors at both ends of the ground. SGIC has also had the benefit of selling insurance products with a State Government guarantee, but paying no commercial fee for that guarantee. That, again, is an enormous advantage.

SGIC has provided meaningless information about its insurance business in its previous annual reports. It is impossible for anyone who is quite literate in the rather complex maze of insurance accounting to understand or to decipher the accounts of the SGIC with respect to its insurance business. The Liberal Party will insist that the SGIC complies with the accounting standards observed by the rest of the industry, and the Premier and Treasurer must ensure that the SGIC's annual report for the financial year just ended has a full breakdown of its insurance business. The SGIC must publish separate balance sheets for its life, health and general insurance operations, as well as compulsory third party insurance.

What has happened to the actuarial valuations of SGIC's life funds, which should have been completed in 1990? We demand to know when the actuarial valuation was completed, if indeed it has been completed, and just why such an important task was still incomplete many months after all private sector insurance groups had complied with this fundamental requirement.

My motion canvasses several elements. One is a matter relating to Federal insurance legislation, and I have canvassed that. I wish now to canvass the need for SGIC to make public its 1990-91 annual report no later than 31 October 1991. I believe it is important that SGIC does that and complies with the standards accepted by other private sector insurance companies and, indeed, publicly listed companies such as BHP and Santos—companies much larger than SGIC.

The fifth leg of this motion seeks an independent, detailed assessment by persons acceptable to the Government and to the Opposition of the investment strategies and investment guidelines and any conflicts of interest in respect of property transactions and commercial mortgage loans entered into by SGIC since 1984.

I will canvass just two of the property transactions that have given me cause for concern and, indeed, concern to a considerable number of other people.

First, I refer to the purchase by SGIC of 1 Port Wakefield Road. It is a transaction that I believe would give any reasonable person cause for concern. I am disconcerted and, quite frankly, alarmed at the facts as I understand them. The property at 1 Port Wakefield Road is on the north-west corner of the Grand Junction Road and Port Wakefield Road intersection. It was a showroom, office and warehouse. This property was sold by JRA to Fantasere Pty Ltd for $1.415 million, with settlement on 24 January 1989. Mr Kean, the Chairman of SGIC, had a financial interest in Fantasere Pty Ltd. As I said, Mr Kean's Fantasere settled on the purchase of 1 Port Wakefield Road on 24 January 1989.

However, on Saturday 18 February, little more than three weeks after settlement, 1 Port Wakefield Road was back on the market. In *Advertiser* commercial real estate advertisements the property was described as a prime industrial holding with development potential. The advertisements stated that the property was to be sold by auction on Thursday 30 March at 11 a.m. Indeed, a perusal of advertisements before 18 February suggests that the property at 1 Port Wakefield Road may have been advertised even before that date. However, I have not been able to prove that conclusively.

The advertisement stated that the property was to be sold by auction on Thursday 30 March at 11 a.m. Subsequent advertisements in the *Advertiser* described the site as underutilised. It has been suggested to me that the site was, in fact, vacant, or nearly vacant, at the time of the auction. The auction took place on the appointed day—Thursday 30 March at 11 a.m.

SGIC bid for and bought 1 Port Wakefield Road for $1.8 million and settled on 1 May 1989. Fantasere netted a gross profit of nearly $400 000 in just three months at a time when the property market was cooling noticeably. There are disturbing aspects to this transaction that can be more properly addressed by the proposed independent assessment. For example, just what was SGIC doing buying a building with no secure head tenant or secure income stream for nearly $400 000 more or 27 per cent higher than Mr Kean's Fantasere Pty Ltd had paid just weeks earlier. Moreover, SGIC was buying, in a cooling market, a building that was apparently vacant then and remains vacant now 2¼ years later.

Certainly, in March 1989 with the market cooling, any prudent investor should not have bought a property without a specific use in mind or without a secure and strong head tenant. As a statutory authority, it can be argued, without rebuttal, that SGIC must act at least as prudently as, if not more prudently than, private sector competitors. Someone familiar with the transaction wrote to me as follows:

> Any astute investor would have been aware of the recent sale price (that is, the price paid by Fantasere Pty Ltd.) That sale price would have been disclosed in section 90 statements made available before the auction.

Does this transaction not make the Treasurer or the Attorney at least blink? Does it not cause them to pause and reflect on the circumstances surrounding the purchase? That is the first property which, I think understandably, gives cause for concern.

I turn now to another property owned by the SGIC. In fact, it is situated across the road from Parliament House. The SGIC has been playing 'tycoons on The Terrace'. In June 1988, SGIC, through a subsidiary (Bouvet Pty Ltd), purchased the Ansett Gateway Hotel. Bouvet now owes SGIC $100.2 million. It purchased the hotel at a cost of

$40 million and it has apparently spent over $60 million on refurbishing the hotel, which is now called The Terrace.

I have spoken to professionals in the hotel industry both here and interstate about The Terrace Hotel. There is universal and strong criticism of this investment by SGIC: everyone agrees that SGIC has badly overcapitalised the building. Although over $100 million has been lavished on the building, it would have a current market value of only half that amount—in the range of $50 million to $55 million. The Terrace, with 334 rooms, opened in 1989 at a cost of just $100 million. SGIC at least had the advantage of starting with an existing building. The Hyatt, which is undoubtedly a superior hotel with 390 rooms, was opened a year earlier in 1988 for a cost of $110 million, while the Ramada Grand at Glenelg, with 226 rooms and 35 luxury apartments for sale up to a value of about $600 000, was opened in 1990 for a cost of $76 million.

The hotel industry has expressed amazement that SGIC committed itself to buying The Terrace without having a firm agreement with a leading international hotel chain such as the Sheraton. If SGIC was to buy the hotel, it should have been in a position to refurbish the building and hand it over to a well respected professional operator; in other words, a turnkey operation. The benefits of belonging to a strong hotel network are obvious, particularly given the fact that most of the hotel clientele in Adelaide are Australians. As one interstate hotelier observed, SGIC has committed hotel harakiri.

The Terrace has five food and beverage areas which, according to industry sources, is unheard of in a hotel of that size. The SGIC's strategy of buying and refurbishing The Terrace has been poorly conceived and inappropriately and expensively executed. There is a total confusion of purpose. The Terrace is attempting to masquerade as a five star hotel, when it was always smarter to be in a more popular and less costly three and a half star market. Not surprisingly, this reflects on the fact that the SGIC is not a hotel operator: it does not have that experience, and it shows.

The Rolls Royce, apparently purchased from United Motors, is a bizarre touch. Again, the question of conflict of interest arises. Why was a Rolls Royce purchased? It is clearly out of place at The Terrace. Were competitive tenders obtained, given that United Motors is a company in which the SGIC Chairman (Mr Vin Kean) has a substantial interest?

There are many disturbing aspects of the review of SGIC by the Government Management Board. On page 96, the report notes:

> Various major initiatives of the board pushed for the major diversification by SGIC into operating businesses. These included The Terrace Hotel, private hospitals, Austrust and Scrimber. In the committee's opinion the majority of these investments were funded by interfund loans by the life fund to the compulsory third party fund.
>
> Simply stated, the CTP fund acquired non income producing long-term assets by borrowing short term from the life fund. Senior management and the board did not control interfund loans and did not seem to be aware of their significance although middle management in the investment division were aware.

That is an interesting quotation. It is a devastating attack on both the Treasurer (Mr Bannon) and the SGIC board. What the review is saying, in effect, is that a total of $200 million of SGIC investments occurred on the initiative of the board: The Terrace Hotel, $100 million; private hotels, $42 million; Austrust, $25.6 million, and Scrimber, $30 million.

The first question that has to be asked is: just who was driving SGIC? I find it unusual that such initiatives came from the board rather than senior management. The second question is: how did the board think the purchases would be funded? By a money tree? I am very puzzled, because it is noted on page 12 of the report:

> Interfund lending was uncontrolled and, in fact, unknown to the board until it had reached huge proportions, that is, approximately $200 million.

So, where did the board think the money was coming from? Surely, in making decisions to invest $200 million in a very short period of time—from late 1986 for the Scrimber operation through to 1988-89 for the private hospitals, Austrust and The Terrace Hotel—the board had to be aware that these major projects required funding from somewhere within SGIC. Surely, the Treasurer was consulted about the $200 million baggage of investments by SGIC, because after all Mr Bannon, as Treasurer, sets the investment guidelines.

I have received more phone calls and letters about SGIC than about any other matter—other than moral issues, such as abortion, gambling and prostitution—during my 12 year period in Parliament. Some of those calls have been from within SGIC expressing anger or astonishment at some of the SGIC's investment decisions and financial practices. Many informants, both from within and without SGIC, have been privy to sensitive information which they felt, nevertheless, should be passed over in the public interest.

SGIC's many property transactions were canvassed briefly by the review committee. Reading the report would suggest that they did not go into chapter and verse of every property transaction entered into by the SGIC in South Australia in recent years. Clearly, they had access to the Crown Solicitor's report on property transactions involving the Chairman of SGIC (Mr Vin Kean), and/or his associates. I believe there is a strong and undeniable case for that report to be made public based on the information that I have provided this afternoon.

I would hope that the Government accedes to that request at the earliest opportunity. Indeed, I would be disappointed if the Government did not accept the recommendation of the motion: that the Government should agree publicly, at the earliest opportunity, to seek an independent, detailed assessment from persons acceptable to the Government and Opposition on the investment strategy, investment guidelines, and any conflicts of interest in respect of property transactions and commercial mortgage loans entered into by SGIC since 1984.

In moving this motion, I say publicly that I support and endorse the remarks made in the very thorough review of SGIC by the Government Management Board and, in particular, the review team of Mr John Heard, Mr Dick McKay, and Professor Scott Henderson. The 108 page report was an exhaustive and very thorough examination of SGIC but, because that report is now public, there is no reason to say that all the problems of SGIC are behind us, and that there is no need for public questioning of some aspects raised in that report concerning SGIC's operations.

Indeed, as I have mentioned, it is quite clear to me that the committee did not seek to make a minute investigation of the SGIC property transactions in Adelaide. It also seems apparent that, whilst it examined the life and general insurance businesses of SGIC, there was no detailed examination of the financial position of those businesses. That is not surprising because, to examine in detail the financial accounts of the insurance businesses of SGIC, would have required the committee to reconstruct the revenue accounts, profit and loss statements, and balance sheets of the life fund and general insurance businesses. That would have been a very difficult, perhaps impossible task, in the short time frame in which it operated. Nevertheless, I believe that it is impossible to make a reasonable comment on the insurance busi-

nesses of SGIC without having a better knowledge of how each of those businesses operates.

This motion seeks to ensure that, not only should SGIC make its annual report available for the financial year just ended by no later than 31 October 1991, but that the report should contain a separate revenue statement, profit and loss account, and balance sheet for both the life insurance business and the general insurance business. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SELECT COMMITTEE ON SA TIMBER CORPORATION AND WOODS AND FORESTS DEPARTMENT

The Hon. L.H. DAVIS: I move:

1. That a select committee be appointed to inquire into and report on the effectiveness and efficiency of operations of both the South Australian Timber Corporation and Department of Woods and Forests with particular reference to—
   (a) the failed Scrimber project;
   (b) the Greymouth Plywood Mill;
   (c) the closure of the Williamstown Mill;
   (d) the proposed scaling down of the Mount Burr Mill;
   (e) the new Nangwarry Green Mill; and
   (f) the financial accounts of both agencies.
2. That Standing Order 389 be so far suspended to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

The move for a select committee to inquire into and report on the effectiveness and efficiency of operations of both the South Australian Timber Corporation and Department of Woods and Forests comes little more than two years after a select committee of the Legislative Council reported on the effectiveness and efficiency of operations of the South Australian Timber Corporation. It is an admission of failure by the Government that the Minister of Forests in another place, Mr Klunder, has said that he will wait until the Legislative Council has determined its position on this motion to establish a select committee before he decides whether he will proceed with his announced inquiry into the failure of the Scrimber operation.

It is a public admission of failure by the Minister of Forests. Of course, it is also an admission of failure by the Bannon Australian because, for nearly nine years, the Bannon Government has presided over the progressive demise of the Department of Woods and Forests and the South Australian Timber Corporation, as leaders in the timber industry in Australia. The Department of Woods and Forests was, for many years, the undisputed leader of the *pinus radiata* industry in Australia. Indeed, the softwoods industry of Australia has, traditionally, been seen to be centred around the South-East of South Australia. That leadership is being lost because of a lack of direction and purpose, and extraordinarily bad leadership and management, both by the Government and by senior administration in the Department of Woods and Forests and the South Australian Timber Corporation.

It is interesting to reflect on the very thorough report of the select committee established in October 1987 and reporting in April 1989. It is worth remembering that the South Australian Timber Corporation has been under attack for a long time. In the 1984 annual report to Parliament, the Auditor-General expressed his concern at the magnitude of losses accumulated by SATCO since it commenced operations in 1979. He made the point that the corporation had no equity base, and that interest payments had become a significant part of its operating costs. In 1985, he observed that SATCO's borrowings had increased to $10.9 million. Those borrowings increased to $23.3 million in 1986, and continued to blow out to $43.5 million in 1987-88.

The 1986 Auditor-General's Report observed that the viability of the South Australian Timber Corporation relied heavily on the success of two ventures, one a new product, Scrimber, and the other, the acquisition of Greymouth Plywood Mill on the south coast of New Zealand. He noted that a commercial operation involving new products obviously needed time to develop, and to establish markets, and that it was unusual for a company with no capital base and, indeed, no record of profitability to embark on such projects.

The select committee reported on those points. Indeed, it noted that, towards the end of 1986, the Auditor-General became concerned about the South Australian Timber Corporation's financial position, and about the Greymouth mill. The Auditor-General blew the whistle on the problems of the Greymouth mill, even though he was not responsible for the day-to-day management of the mill.

In his 1986-87 report, the Auditor-General confirmed that, with respect to the Greymouth mill, the value of the assets purchased had been overstated, liabilities understated, profit projections overestimated, losses incurred and the mill poorly managed and in need of capital funds. It was an extraordinary revelation that, basically, the South Australian Government had bought a dog from day one and that proved to be the case. The Auditor-General's warnings from 1986 came home to roost, at a cost to taxpayers of some $15 million in trading losses over a period of just five years from the New Zealand plywood mill operation.

The South Australian Timber Corporation was also criticised by the select committee for having a duplication of operations. The corporate structure of SATCO was inappropriate, both administratively and financially, with a considerable degree of overlap with the Department of Woods and Forests. We were advised, well over two years ago, by SATCO board members at the time, that recommendations regarding some form of amalgamation between the Woods and Forests Department and SATCO had been discussed for five years but not pursued. The example was given of the extraordinary and incredible duplication that occurred, for example at Nangwarry, where both SATCO and Woods and Forests have operations side by side. They have two manufacturing units 100 metres apart, one run by SATCO and the other by the Woods and Forests Department. There are two log yards, two debarking systems, two offices, two administrations, two pay systems, two electrical systems and two maintenance organisations. It was claimed in each case that there could be one, thereby effecting significant savings. They were the findings of the select committee report, tabled in this place in 1989. To my knowledge nothing has changed.

The committee, which consisted of members of the Labor Government, the Australian Democrats and the Liberal Party, was unanimous in its findings. In conclusion, at page 32 the committee noted:

- There was a continuing failure to implement a corporate plan for SATCO and it lacked the necessary management and financial expertise to cope with its more diverse activities.
- The Auditor-General's repeated warnings of the problem resulting from the lack of an equity base have proved correct. The Government was slow in addressing this particular problem.
- A more appropriate financial and corporate structure would have reduced the level of SATCO's losses and debt.
- The overall financial performance of SATCO as measured by accumulated losses and growing debt is unsatisfactory.
- The serious and continuing problems of SATCO have occupied a significant amount of time and resources from both SATCO and the Government.

- SATCO's responsibility for accurate and useful public reporting of its affairs has not been fulfilled.

That was, in summary, a damning report of a vital statutory authority, which directly and indirectly was contributing particularly to the economic prosperity of the South-East of South Australia. However, it is clear that the South Australian Timber Corporation has continued to lose its way in the two years since the report was tabled. I will briefly comment on the problems which have existed at SATCO and which have developed at SATCO since the report of the select committee in April 1989.

Greymouth was closed early this year with trading losses of $15 million. The scrimber plant development, entered into following the agreement of the Bannon Cabinet in December 1986, was brought to an end only two weeks ago, after $60 million of taxpayers' money had been invested in the project—$30 million by the South Australian Timber Corporation and $30 million by SGIC. The project was running over three years behind schedule with a blowout in costs from an initial budget estimate of $22 million to a massive $60 million. Alongside that scrimber plant was a wood room, built largely to select logs of special taper and diameter for the scrimber plant. That sophisticated wood room with computer-aided log selection at a cost of almost $5 million can be said quite properly to be a mini white elephant, as all it can be used for now is chipping and round wood. It was originally intended that over 50 per cent of the log selection would be devoted to the scrimber operation.

We had the fabled year of 1986: probably one of the most incredible years that has ever occurred in the history of any statutory authority in South Australia. Let me explain. In 1986 the South Australian Timber Corporation, which had no capital base and which had never made a profit since it was formed in 1979, decided to embark on three projects. They were not exactly bread and butter projects—good traditional timber projects—but, rather, three highly bizarre projects which had most foresters and timbermen in Australia rolling their eyes in disbelief. First, and publicly, the South Australian Timber Corporation pursued the notion of building plywood cars. Five thousand plywood cars were to be built by the Government of South Australia.

The Hon. Diana Laidlaw: C-A-R-S?

The Hon. L.H. DAVIS: Yes. The Bannon Government was going to make plywood cars, called the Africar. A wonderful idea and novel experience—but I suspect that the only winner to emerge from the plywood car venture would be the white ant treatment operator who won the contract for the plywood cars. Can one believe that in this day and age the Bannon Government was aiding and abetting serious consideration of developing a plywood car—5 000 of them? Money was spent on the project and trips made overseas to discuss it. It was going to have a transverse engine. It was going to be so versatile, we were assured by SATCO officials with straight faces, that it could be dropped by parachute into such remote places such as deserts and jungles. That was a car for the community—a plywood car. Wonderful stuff! It is the sort of stuff that one would generally read about in a Disney comic but, no, this was the Government of South Australia at work.

The second project was the Greymouth mill. The logic for the purchase of Greymouth in the remote South Island of New Zealand still escapes me. On the select committee we travelled to Greymouth, endured the aftermath of a two-foot flood and saw the most appalling timber mill that I have seen in my life time. That mill was purchased, notwithstanding the very strong warnings of Mr John Heard—the same Mr Heard who was one of the committee members on the recent SGIC review—or the warnings of the Auditor-General over previous years about the lack of capital base and managerial ability.

The financial naivety of the Bannon Government was revealed for all of us to see in its full glory. It bought a mill which had to transport raw log from some 300 kilometres away over mountainous country, process it in what is arguably the oldest and most tired plywood mill in New Zealand—if not the southern hemisphere—and take the finished product over the mountains to the distant town of Christchurch for further transportation to the more populous North Island where the product then competed with plywood produced in more sophisticated factories close to a source of supply. That was a brilliant investment decision. The whistle was not blown on the problems of Greymouth by the South Australian Timber Corporation management: it was left to the Auditor-General to draw the great mess of financial problems of Greymouth to the attention of the Government of the day.

I was appalled when I went to Greymouth. I had been in a few timber mills in my time and I know something about the timber industry, but I had never seen a mill like that. I say nothing disrespectful about the workers because Greymouth is a timber town, and timber is Greymouth's livelihood and lifeline. Those people knew their business; they could make a crook mill work if no-one else could. It was just an extraordinary decision.

The rationale for that purchase was that South Australia was desperately short of the appropriate log following the 1983 bushfire. Plywood from Greymouth would be able to supplement the supply of plywood from the IPL plant at Nangwarry.

Indeed, assertions were made that logs were going to be floated across the Tasman to Nangwarry. To strengthen the bond of trans-Tasman friendship we were going to float logs from Greymouth to Nangwarry in South Australia. We must remember, of course, that Greymouth, although it is on the west coast of the South Island, has no port because there is a very big sand bar and it is plagued with rough weather. As the Hon. Ms Carolyn Pickles, who was a member of that select committee, would testify, it is a fairly rugged place.

So, no logs were floated across the Tasman to Port Macdonnell to be used to strengthen the bonds of timber friendship between Australia and New Zealand. Alas, very few sticks of plywood made it across the Tasman. Barely 10 per cent, at the very best, of the plywood from Greymouth was ever transported to Australia for sale. It came as no surprise to me—and I suspect to anyone on that select committee—that Greymouth went down with all hands on deck and that $15 million in losses were incurred as a result of that extraordinary, crazy and foolhardy venture.

The third leg of this memorable triella from the heady days of 1986 was, of course, the decision to invest in scrimber. Scrimber was a project of the CSIRO and REPCO—then a public company—which had been rejected by all major private timber interests in Australia but which had been picked up by this gung ho Government that was aiming for plywood cars, high technology and an offshore operation all in the one year, with no capital base and no profit record in its history. That, as Richie Benaud would say, is a very big ask, and so it proved to be.

In September 1987 I publicly and thereafter consistently criticised the Scrimber project because, although it might have been an exciting technology and a good idea as such, Government had no role in going into what was quite clearly a high risk, open ended, and new timber technology. That technology had been tried by much bigger organisations in North America without success. Yet here was the South

Australian Government embarking on a foolhardy exercise to spend taxpayers' money on this project. It came as no surprise to me when the project failed. It was sad for the management and for the workers concerned, and I have expressed publicly my tribute to their loyalty and perseverence in trying to make a very difficult, if not impossible, project workable.

However, over recent years since the committee reported not only has there been the failure of Greymouth and scrimber but also there has been the closure of the SATCO operation at the Williamstown mill, again in extraordinary circumstances, where $1.3 million worth of equipment had been purchased by the management of the mill, in one case without any authority from the SATCO board, and never installed. Some very doubtful practices were associated with the Williamstown mill which, quite clearly, are worthy of further exploration in a select committee.

Again, one can also talk with some amazement, bemusement and astonishment about the decision by SATCO to establish a warehouse in Sydney to store scrimber, well before scrimber was ever a commercial operation. SATCO rented a warehouse in Seven Hills, Sydney, for a cost of $215 000 over an 18 month period—it remained empty.

The Hon. Diana Laidlaw: They didn't even lease it out?

The Hon. L.H. DAVIS: No, it remained empty for the period 1989-90. Again, that was another example of inept management and of a Minister who just did not know what was going on in his own backyard. Of course, the South Australian Timber Corporation had a 'Rolls Royce' factory at Laverton in Victoria, which was much bigger and which was superior to that of any of its competitors. Again, the committee expressed amazement at the size of that operation and the waste of the taxpayers' money at a factory which was arguably almost big enough to house the next Commonwealth Games.

So, that is the South Australian Timber Corporation, and I have addressed some of the matters that are the subject of this motion, namely, to inquire into the effectiveness and efficiency of the operations of the South Australian Timber Corporation.

However, on this occasion, I am asking the Council to establish a committee to look not only at the South Australian Timber Corporation but also the Woods and Forests Department, because, whilst the Department of Woods and Forests has had a proud record in past years, sadly, like the South Australian Timber Corporation, it has lost its way through the woods.

Let me give some examples of just how extraordinary the decision making has been within the Department of Woods and Forests. A decision was made to commission a new green mill at Nangwarry. That $6.4 million upgrade was scheduled to be in full production last September. I went to the opening of that mill in November 1990. The mill is still incomplete. It is running at 60 per cent capacity, on the last information that I received. There is a very poor layout and extraordinarily bad design—and that, again, I understand is the responsibility of the Woods and Forests Department, not the outside contractors or engineers who have the responsibility for the installation of the equipment. So, the Nangwarry green mill is a problem to the point where $2.5 million to $3 million will be required to bring the mill into full production, which is meant to be about 130 000 cubic metres a year.

The second problem experienced by Woods and Forests in recent times has been, as I mentioned earlier, the wood room at Mount Gambier. That was due for completion in June 1988. Here we are in August 1991, three years later, and that wood room is not operational; also, the cost has blown out from $4.3 million arguably to close on $5 million. The wood room, as is described in the Woods and Forests Department annual report for last year, is a small log merchandiser that will sort the forest's first thinnings into preservation logs, small saw logs, chip material and Scrimber log and will ensure a maximum product value from each log.

The point I have already made is that more than 50 per cent of the best quality log sorted by that wood room was to be dedicated to the Scrimber project. The Scrimber project has fallen over, so the wood room has become a white elephant.

Thirdly, as if honourable members needed any more convincing, there was the decision of the Woods and Forests Department to close down the Mount Burr sawmill. That sawmill is the only unit operating within the Department of Woods and Forests or the South Australian Timber Corporation which is returning a profit. But what did the department do? It closed it down. Pretty smart operators!

The argument for that is that we need to create a super mill at Mount Gambier. There is obvious merit in the argument that, if we are to be competitive with imported timbers, we need bigger throughputs in our mills. But, as the Minister of Forests knows full well, the Liberal Party had a genuine buyer for the Mount Burr sawmill. In view of the closure of Scrimber, the privatisation of the Mount Burr sawmill should be put back on the agenda. The Government is clearly committed to closing Mount Burr—effectively closing a town and putting 140 people out of work. The link line, which was introduced only a few years ago, will be closed down. In other words, within a handful of years, the Government, having spent millions of dollars on installing a new plant at Mount Burr, has decided to close it down. What sort of strategic planning and logic is involved in that decision? There are, therefore, good grounds for examining the Department of Woods and Forests.

I return to the matter of the moment—Scrimber. I want to put on record my disgust at the shabby treatment meted out to the senior management of the Scrimber operation, namely, Mr Graham Coxon and other senior executives of Scrimber International. I have never seen a more cowardly attack on management than that by the Minister of Forests in recent days, when he blamed the management of Scrimber International for the failure of the project. That is an extraordinary proposition, and I want to test the logic of it.

The Government made the decision to go into Scrimber International. It was not the decision of the management. Indeed, the management of Scrimber International was largely hand picked and recruited over the past 18 months to three years. The Scrimber project was agreed to by the Bannon Cabinet in December 1986, but for the next 18 months the development of the Scrimber project at Mount Gambier was leaderless and rudderless. However, that should come as no surprise, given the litany of disasters that I have unveiled this afternoon.

Mr Graham Coxon was appointed in July 1988, at about the same time as Mr Klunder was appointed Minister of Forests. Mr Klunder has publicly admitted that, since the opening date of the Scrimber plant in November 1989, he has never been to that plant. That is an extraordinary proposition.

I have been to that plant. On first becoming the shadow Minister of Forests in late July 1990, I rang and asked to see the Scrimber plant, and I saw it in September 1990. I have some understanding of timber mills. Although Scrimber is a brand new technology, one does not need to be a timber technologist to understand, just from being at that plant, that the Scrimber process had enormous challenges

ahead of it. Every phase of the production process was having difficulty, from the scrimming of the timber, where they literally shred the timber, to the application of the glue and the laying up for the radio frequency tester to ensure that the Scrimber plank had the necessary bond strength. There was a problem at every stage of the production process, and very few pieces of Scrimber had been produced in September 1990.

I reject entirely the excuse that Mr Klunder has given in another place only recently that he did not know anything about timber so it was a waste of time his going down there. I want to read a statement from Mr Graham Coxon, the Chief Executive of Scrimber International. Dated 2 August 1991 and signed by Mr Coxon, it reads:

> At the conclusion of each month, each department head prepared a detailed report on his department's operations for that month. From those reports and from my own personal knowledge of the operation, I prepared a composite report for the Scrimber International board. Those reports were generally 40 to 50 pages long and covered all aspects of the company's operations.
>
> I believe that the information contained in those reports was accurate as at the date of the report and truly represent the position as it was perceived by the management team at that time. I also believe that the board reports, along with numerous written and verbal updates to the Chairman between board meetings and the Chairman's personal visits to the plant from time to time, made him fully aware of the company's position at all times. I have no knowledge of what information was passed on by the Chairman to either the SATCO board or the Minister.
>
> At no stage during my three years with the company did the Minister contact me directly regarding the status of the plant. During those three years Mr Klunder visited the Scrimber site on only two occasions. The first of those was late in 1988; the second was the official opening of the plant in November 1989. I also understand that the Minister made no contact with Kinhill regarding the status of the project, despite the fact that Kinhill Engineers had been on the site for some 18 months prior to the allegations made against Scrimber management by the Minister.

Mr Coxon has made that statement in writing and has authorised me to read it to the Council. He is concerned about the damage that has been done to his reputation. I believe that Mr Graham Coxon has been savagely and shamefully treated. His professionalism, along with that of the other members of the management team at Scrimber International, has been impugned.

The Scrimber project was agreed to by the Bannon Government of December 1986 and it involved a commitment of $60 million. I find it impossible to believe that the Minister of Forests did not have the wit or the wisdom to visit the plant, ring the Managing Director or the Engineering Manager of the plant or other production personnel, or even to ring Kinhill Engineers, who enjoy an international reputation as engineers. Kinhills are engineers to the multifunction polis, which, of course, is a strong commitment of the Bannon Government. Kinhill was brought into the Scrimber International project at the instigation of Scrimber management, not the board, in December 1989.

For the past 20 months they had been working alongside the engineering team at Scrimber International to bring the project to fruition. Presumably the Minister knew this, although one begins to wonder whether he knew anything. With a $60 million commitment, one imagines that the Minister would at least have had the commonsense to call someone whom he perceived to be independent—that is Kinhill—and ask what was the position of the project. If I had been the Minister of Forests, I certainly would have done that.

The project was under massive attack from various elements in the timber industry. I was publicly critical of the Government for embarking on the project, and the Minister stoically refused to take any advice at all from independent people on site. He refused to talk to the Managing Director of the project on site or to the engineering team. One wonders what future the Minister of Forests has with this Government. If the Bannon Government is to have any future—and I do not believe it has—it certainly has to sack the Minister of Forests today. I say publicly that I will pursue the Minister of Forests until he resigns, because in my parliamentary career I have never seen such a shameful, shabby and cowardly attack on a management team that has been trying to bring to fruition a project that many people in the timber industry said the Government should never have taken on board.

Contrast that shabby treatment of those people who were sacked with 30 seconds notice with the golden-glove treatment handed out to Woods and Forests Department and the South Australian Timber Corporation officials down through the years. They have led us into such debacles as the Greymouth Mill, Africar and numerous other extraordinary exploits. Mr Graham Coxon and his team were not responsible for recommending the Scrimber project. Presumably it involved the SATCO officials and other people involved in the Woods and Forests Department, as well as, of course, the Government of the day. It disgusts me and it revolts me to see this treatment, and I say publicly that I will definitely pursue this matter. I certainly hope that the Council recognises the importance of this matter and supports the motion for a select committee.

I wish to raise one other issue in response to what I can describe only as a remarkable and blinkered approach to the Scrimber project by Seymour Softwoods. A senior executive of Seymour Softwoods, Mr Steve Gilmour, has been lending his voice to any media representative who cares to listen to him extol the virtues of the Scrimber project. In the second half of 1990 he grabbed media attention by describing the Scrimber project as a gold mine. I spoke to Mr Gilmour at the time, and it was quite clear that he had never visited the plant. It was also quite clear to me, after discussing the process with him, that he knew very little about it or about the very deep-seated problems that this high technology project was facing.

I spoke to my contacts in the timber industry, both here and interstate, and no-one had heard of Steve Gilmour of Seymour Softwoods. Obviously, the media likes to have someone with a point of view and, not surprisingly, Steve Gilmour, who was ready to ring up at the drop of a hat to talk about Scrimber, got a pretty good run. I have no objection to that, but I want to put in some perspective the size of Seymour Softwoods, because Mr Gilmour was talking blithely about buying a licence for $3 million, and some say it might have been as high as $6 million.

However, let me put on the record that the most recent prospectus for Seymour Softwoods—which operates by raising money from people and planting forests with that money—shows that at 31 December 1990 its net assets were less than $600 000. Indeed, in the notes to the accounts, I notice that under 'contingent liabilities' mention is made of two claims having been lodged against Seymour Softwoods totalling $523 000, plus interest and costs. The directors have indicated that they will defend these actions and they have counter claimed. The profit for Seymour Softwoods is quite modest at $73 000 for the year to 30 June 1990.

It may well be that Seymour Softwoods' proprietors have private means and can sustain a $3 million investment. However, it strikes me as odd, with my financial background, that they were so ready to talk in such glowing terms about committing millions of dollars to a project about which they knew so little. I think it is appropriate that view is on the record.

The Hon. T. CROTHERS secured the adjournment of the debate.

MOTOR VEHICLES (APPROVED INSURERS) AMENDMENT BILL

The Hon. DIANA LAIDLAW obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959 and to make a related amendment to the Wrongs Act 1936. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This is the third occasion on which I have moved an identical Bill. The Bill—

The Hon. Anne Levy: Where is the copy of the second reading explanation?

The Hon. DIANA LAIDLAW: I respect what the Minister has said, but the Bill is identical.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: No, I do not have a copy.

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I appreciate the Minister's interjection; it is normal courtesy, and on this occasion I have not deliberately chosen not to do it; it is something that did not even occur to me. I apologise to the Minister. The fact is that the Bill is the same as those which I have introduced on two previous occasions. Like those Bills, this Bill also aims to facilitate the participation by approved private insurers in the underwriting of compulsory third party bodily injury insurance in South Australia.

It would be apparent to all members who have read the Government Management Board review of the SGIC that there are most devastating revelations about the SGIC's mismanagement of the CTP fund. For this reason I reintroduce this Bill today. The SGIC has been the sole underwriter of CTP insurance in South Australia since July 1975. It is clear from the report to which I have just referred that the SGIC has relied upon and taken advantage of its preferred trading position as the sole approved insurer of CTP insurance. It is clear also that, first, SGIC has funded high risk development areas from funds preserved for future CTP claim settlements; secondly, it has manipulated CTP claim reserves to the benefit of other areas of operations; thirdly, it has displayed a lack of professional duty in administering the CTP fund on behalf of South Australian vehicle owners and the general community; and, fourthly, it has failed to fully disclose and/or has misrepresented the manipulation of its financial operations to the detriment of all its stakeholders.

Essentially, it is clear that, under the protection of the SGIC Act 1970, SGIC has shown little regard for its corporate responsibilities and has actually sought ways of circumventing any implied restrictions in pursuing its growth objectives. As such, it is difficult to sustain any argument that the SGIC should maintain its monopoly status as the underwriter of CTP insurance in South Australia. At the very least, the Parliament should amend the Motor Vehicles Act and the Wrongs Act, as I have suggested in the Bill, to ensure that current legislative impediments on the re-entry of private insurers into this field are removed. If the current legislative restrictions remain and competition is not encouraged, it is clear that all motorists in South Australia will be clobbered with heavy increases in CTP premiums.

The Government Management Board's report, to which I have referred, indicates that a premium increase will soon be necessary as a direct result of high administrative expenses and reduced investment income. That statement is repeated two or three times in the report: increases in premiums will be necessary because of high administrative expenses and reduced investment income within the CTP fund. I cannot accept, however, that such increases are necessary or can be justified. I believe that motorists should not be asked to pay for SGIC's investment mistakes and manipulations or for its blatant irresponsibility as manager of the CTP fund. Certainly, on available data—

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: I don't think I am being tough; I am simply asking for accountability on behalf of taxpayers and motorists in South Australia. I would not have thought that was any less than any member in this place should be seeking. Certainly, on available data, no increase in premiums can be justified on the basis of SGIC's claims experience.

Following amendments to the Motor Vehicles Act in 1987, claims incurred fell dramatically from a high of $280 million in 1986 to an estimated $165 million in 1991. This is a reduction of 70 per cent over a five-year period and would support in real terms—and I stress this point—a reduction in premiums necessary to fund this reduced level of claims. However, contrary to this claims trend and to a 100 per cent reduction in claims processed, administrative expenses increased by a whopping 510 per cent over the same period. These expenses should be cut rather than simply passed on to the long-suffering motorist.

At the same time, it is hard to quantify accurately the degree and extent of the subsidisation by the CTP fund to other areas of SGIC's trading operations. However, it is not unrealistic to assume that an amount of some $50 million has been directly and indirectly depleted from available CTP funds in the past 12 months. Again, why should the motorist be asked to fund and to find from the family budget more money to cover this depletion of funds?

I want to speak briefly about the CTP premium review board. As members are aware, CTP premium adjustments are subject to approval by a committee established under section 129 of the Motor Vehicles Act. The committee will meet again formally in September—I understand that it has met informally in recent months—to consider premium levels. I do not envy the committee its task. Because of the distorted data supplied by SGIC, I suspect it will be extremely difficult, if not impossible, for the committee to arrive at a fair and reasonable premium scale—if, indeed, it should have been asked to look at this matter anyway. At the very least, the committee should have to assess industry comparisons.

Based on the forecast trading results of the CTP fund to 30 June 1991, an increase of approximately 10 per cent will be necessary to fund the shortfall due to mismanagement and/or fund manipulation. This level of increase will raise the standard CTP premium from $186 to $205. Earlier this year, six private insurers applied to the Minister of Transport to underwrite CTP insurance. They were: CIC Insurance Company; Mutual Community General Insurance; FAI Insurance Ltd; Mercantile Insurance Ltd; QBE Insurance Ltd; and VACC Insurance Company Ltd.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: No, because the Act has made it impossible for many companies—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes, and I will explain that in greater detail. As the Minister knows, we will have to make major amendments to the Act before the SGIC could even wish to participate on a continuing basis. One of the six companies I just named is Mutual Community. The actuarial costing undertaken by Mutual Community in support of its application recommended a standard premium of $159. This figure was to apply to 30 June 1992, one year hence, at which time it was considered a further reduction could be offered in the form of a no-claim bonus.

On the basis of the current SGIC premium level for compulsory third party of $186, Mutual Community offered motorists a saving of $27, but the saving to motorists could be $46 if and when the SGIC is granted a 10 per cent increase in September, which, sadly, appears likely to be the case. The remaining five applicants share Mutual Community's assessment that South Australian premiums can be reduced. Each applicant is involved in the New South Wales scheme and has been approved to undertake CTP insurance in Queensland. They are the major eastern seaboard States with a Liberal and a Labor Government respectively.

Based on this experience and their understanding of the Australian market, each applicant is strongly of the view that SGIC premiums are too high and could be reduced with the benefit of private insurance, diligence and expertise. At present, it appears that motorists are being ripped off purely and simply because the SGIC has monopoly rights over the underwriting of CTP in South Australia. Vehicle owners and the community at large would benefit immeasurably if the SGIC were made more publicly accountable for its operations. That is blatantly obvious to anyone who wishes to read the Government's own commissioned report. There is just no doubt that competition helps to provide such accountability. As I indicated earlier, competition is now a feature of CTP schemes in New South Wales and Queensland.

I was interested to note in the May/July issue of the *Insurance Council of Australia Bulletin*, which I received yesterday an article, headed 'Compulsory Third Party Insurance: NSW motorists benefit from free enterprise', which states:

> New South Wales motorists are being offered a variety of premiums with some as little as $250 for their third party vehicle insurance, compared with $350 two years ago. This follows the State Government's decision to return compulsory third party (CTP) motor insurance to private enterprise on 1 July 1989. From 1 July 1991, 13 licensed insurance companies have been sending out third party renewal notices to motorists in New South Wales in a deregulated and competitive environment. Another insurer was recently granted a licence which raises the total to 14 licenced CTP insurers in New South Wales.
>
> In current inflationary times, there is very little that drops in price but the efficiencies of the private sector insurance industry and the reduction in fraudulent and opportunistic claims have meant that the public has reaped the benefit in costs and efficiency with a fully funded scheme.

After the release of the SGIC review report earlier this month, both the *Advertiser* and the *News* made a number of reflections about the operation of the CTP fund. The editorial of the *News* dated Monday, 5 August 1991, states:

> As it is, while the SGIC is viable, the taxpayer still has a bill to foot in the form of increased third party premium insurance. If private insurers can be found who are willing to provide the stimulus of competition, why cannot this area be deregulated?

Essentially, the *Advertiser* preached the following course in its editorial opinion dated Tuesday, 6 August 1991, as follows:

> The ideal might be that a Government has no business involving itself in such things [as CTP] at all. The payback must be to ensure fair competition with the private sector (including allowing the private sector to compete in the compulsory third party insurance market, which would soon lower in premiums).

That editorial opinion prompted the Minister of Transport, Mr Frank Blevins, to write to the *Advertiser*. His letter, published on 12 August, states:

> In relation to the idea of allowing the private sector to compete in the compulsory third party insurance market (the *Advertiser* 6/8/91), consider this: in NSW, where such a system has been introduced recently, premiums in the State are still $84 a year more than South Australian motorists are paying. Present trends indicate that the longer SGIC is the sole compulsory third-party insurer, the longer SA motorists will enjoy this benefit. Talk of opening up the market and speculation about so-called savings to motorists is yet to be proved. Even the RAA, with its enormous membership, isn't prepared to say a multi-insurer system would mean cheaper premiums.

The Hon. Anne Levy: Hear, hear!

The Hon. DIANA LAIDLAW: The Minister says 'Hear, hear!' I will give the Minister of Transport the benefit of the doubt, and suggest that he may not have had time to read the SGIC report, or to have been aware of circumstances in New South Wales, but his letter is ill-informed and quite misleading. I would point out that there is a difference in the premium levels between New South Wales and South Australia; that cannot be denied.

There are also major differences between the two schemes and it is impossible in that sense to compare the rates. One should also remember that after the Liberal Government came to power it inherited a massive unfunded liability in terms of the compulsory third party insurance records. In fact, I understand that Bob Carr, as Leader of the Opposition in NSW, also endorsed the massive changes that the Liberal Government introduced in that State to encourage the return to full funding of the CTP fund in New South Wales. That meant that insurance premiums had to go up in the short term and competition has now been introduced, with premium levels falling by over $100 within two years.

It is also apparent that the Minister is ill-informed when he suggests in his letter that present trends indicate that the longer the SGIC is the sole compulsory third party insurer the longer South Australian motorists will enjoy this benefit, namely, lower premiums. Had he read the report commissioned by his own Government he would recognise that it is clear that motorists are to be hit in very short measure with much higher premium levels—at least a 10 per cent increase—and that the differential between falling rates in New South Wales and rising rates in South Australia will disappear.

It is also important to recognise that much of the propaganda that SGIC has put out about the merits of a single insurer (it being the single insurer) is exactly that—propaganda, and ill founded. I will quote from an interview on the Keith Conlon show on 7 July with Mr Richard Daniell from the SGIC. Mr Daniell stated:

> The other thing I should point out [is] that by virtue of SGIC being the sole compulsory third party insurer we are putting money back into the community in terms of road safety, in terms of the education of people, in terms of education of our children in high schools.

Mr Conlon added:

> . . . Are you saying that there is a kind of a—we should have a look at the sort of total social cost of third party insurance, and your ploughing some of your profits back into helping keep accidents down?

As it turns out, it was not making profits—we are not sure where the money was coming from. Mr Daniell further stated:

> Indeed, I mean that's something that never existed, and I doubt very much whether it would happen under a multi-insurer scheme.

That is sheer wishful thinking on the part of Mr Daniel and it is certainly most misleading because it is apparent that in New South Wales, where they now enjoy a multi-insurer system, tens of millions of dollars have been ploughed back into the community by the private insurance sector. One notes the following sums:

> In the past two years insurance companies have committed $14.5 million to brain injury rehabilitation and road safety projects; paid $30 million to the Road Traffic Authority (RTA) for the random allocation of third party policies among the licensed insurers and collecting the premium on their behalf; $24 million to the Road Motor Accidents Authority towards monitoring the operations of Road Accident Scheme; and a $59.6 million for medical and ambulance bills under better billing arrangements.

That refers to some of the funds returned from the private sector, including a substantial contribution to road safety and brain injury rehabilitation projects—projects similar to those that SGIC has funded in this State.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I am simply indicating, Minister, that Mr Daniell, in reflecting on a multi-insurer system and suggesting that there would be no return of moneys to the community for projects that SGIC currently funds in South Australia, is being blatantly misleading, when one looks at the experience in New South Wales under a multi-insurer system. Whilst I do not have exact figures for Queensland, I understand that the multi-insurer system that operates under the Labor Government in that State also sees major funds returned to the community. That is as it should be.

The Minister's letter to the *Advertiser*, to which I referred earlier, indicated that the RAA had reservations about the operation of a multi-insurer system. That certainly was the case one year ago. It is not the case today and the Minister is not up with the facts and certainly, before preparing that letter, had not bothered to speak to the RAA, because in its latest announcements on this matter it has indicated that it is now reviewing its earlier reservations about the options to deregulate the third party insurance market in South Australia. Who could blame the RAA when its members will be hit with increases in CTP insurance, essentially because of a blatent use of its monopoly status to manipulate funds and investments. I applaud the RAA for making a reassessment of its stand, and it is important for its members in this State that that is the case.

The Bill that I have introduced is identical to Bills that I have introduced over the past two or three years. The Bill does not insist or require that private insurers operate in this State, although that may be my personal preference. On the facts of the SGIC report, it would be the wish of the public. The Bill facilitates the re-entry by private insurers and helps them in making applications to the Minister, which they can do on an annual basis, by providing the matters which the Minister would consider when assessing their applications and which would help the insurers prepare those applications. The Bill also removes a major flaw in the current legislation where the Wrongs Act defines that the SGIC is the only insurer and yet the Motor Vehicles Act encourages or provides for other insurers to participate. There is a basic contradiction between those two Bills and it is one which I believe should be cleaned up in the public interest, and that is what this Bill seeks to do.

I mention briefly the Hon. Mr Gilfillan's contribution in April this year in responding to an earlier Bill. He said:

> The Democrats believe that the time is not right for the opening up of compulsory third party insurance to other companies. As the Hon. Diana Laidlaw spelt out, the current Minister has the discretion to determine whether other companies will be accepted as underwriters of (compulsory) third party insurance. It is reasonable to expect that at some future time other companies will share the business, but that is a matter for later debate. From conversations I have had with the Minister, I believe he is prepared to look at amendments to the Act further on in the life of this Parliament.

Certainly, that statement by the Hon. Mr Gilfillan about the Minister's intentions reflects statements the Minister made in the *Advertiser* of 14 March this year, when he indicated that the Government was considering actively the re-entry of private insurers into the CTP market. Mr Gilfillan went on to say:

> For the time being, I do not think there is an argument to amend the Act, although the amendments as proposed by this Bill do not automatically open it up for the competitors to enter into this market. They allow contending companies to challenge the Minister's decision if he were to oppose their entry, require the Minister to spell out in detail some of the reasons for such a refusal and allow for the appeal to the Supreme Court. I think such a procedure is acceptable in the fullness of time when this area of insurance can be opened up to other companies. However, the Democrats do not believe that that situation has arisen and, in these circumstances, we oppose the Bill.

It is clear from that statement that the Australian Democrats have kept the options open and that they do not have any basic disagreement with the proposals outlined in the Bill. It is also apparent that since April a great deal has changed in terms of the operation and our knowledge of the operation of SGIC as the monopoly provider of CTP insurance in South Australia.

The Hon. Mr Gilfillan was an enthusiastic supporter of a motion moved by the Liberal Party on the opening day of Parliament and, while that motion was amended, the Democrats did not seek to amend the critical statements earlier in the motion about the SGIC and its operation of the CTP fund. I hope that Mr Gilfillan will take those matters into account and on this occasion reassess his attitude to the Bill.

First, I refer to the mess and mass of conflicting statements that have been forthcoming from SGIC management in recent times. On 24 July, the SGIC's Corporate Affairs Manager, Mr Russell Cowan, said:

> I think criticism could be made of the way in which we have funded some of our new areas of insurance. We have had to fund areas like health funds and life funds from our compulsory third party and general insurance funds.

From that statement it is clear that Mr Cowan is of the belief that there has been cross-subsidisation and that health funds and life funds have been supported by the compulsory third party fund at the expense of that CTP fund. A couple of days later, Mr Gerschwitz, however, flatly refuted that statement by Mr Cowan and said that Mr Cowan had been misquoted. Mr Gerschwitz continued with that line in subsequent days both in the print medium and on radio. However, Mr Gerschwitz has not been convincing in this matter, because the SGIC review, commissioned by the Government, strongly endorses the revelations from Mr Cowan on 24 July about the cross-subsidisation of funds between the CTP fund, the health fund and the life fund.

I think Mr Gerschwitz is quite desperate in his latest move to commission a second, third or fourth opinion, from professional accountants in Victoria on the effect of interfund loans. I also question Mr Gerschwitz's integrity in this matter and his denials about past practices. If the SGIC had stopped such practices in July and had the SGIC not been guilty in this regard, legally and ethically there is no doubt that those practices would have continued and would not have been stopped, as has been the case.

I believe that the SGIC review, ordered by the Government Management Board, is a most damning indictment. It will impose on the SGIC big increases in premiums for motorists in this State at a time when family budgets are being stretched to the limit, not only through housing interest rates but also, as Mr Gilfillan said earlier today, through a penalty-obsessed Government, which is keen, almost at the blink of an eye, to increase taxes and charges in this State.

A limit must be put on this practice by the Government. It is one that will be exacerbated when CTP premiums are increased in the near future, and they have increased, as I stress, not because of the claims record, which is the normal and rational basis for increasing premiums, but on the basis of incompetence and mismanagement.

I would hope that on this the third occasion the Bill will be passed by the Parliament so that private insurers can, with more confidence than they have had in the past, again underwrite third party insurance in this State. I hope that

when they do apply in future we will not find, as the Minister of Transport indicated in his replies to the six insurers in June this year, that their applications will not be accepted because of debt problems within the SGIC. That is just to deny motorists cheaper premiums, to deny competition and accountability. To prop up the SGIC because of its self-induced debt problems is a totally unacceptable practice and reflects a lack of regard and care for motorists and families in general in this State. This Bill is an important measure, particularly at this time, and I trust that it will win the support of the majority of members in this place. 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 various amendments to section 101 of the Motor Vehicles Act 1959. In particular, an application for approval as an insurer under Part IV will need to be accompanied by such information as may be prescribed or determined by the Minister. A new subsection will set out the main criteria that should apply when the Minister assesses an insurer's application for approval. If the Minister refuses an application, the Minister will be required to provide the insurer with a statement of the Minister's reasons for his or her decision. A right of review on application to the Supreme Court is also proposed.

Clause 3 will amend the Wrongs Act 1936 to ensure that any approved insurer under Part IV of the Motor Vehicles Act has the benefit of the operation of section 35a (8). This provision is designed to discourage persons instituting proceedings in other States in respect of motor accidents that occur in this State with a view to obtaining higher awards. The provision does this by allowing the State Government Insurance Commission or the Crown to recover in this State an amount equal to any additional damages that may be awarded by the court in the other State. The provision is to be amended to give such a right of recovery in any insurer approved under Part IV of the Motor Vehicles Act (not just State Government Insurance Commission).

The Hon. T. CROTHERS secured the adjournment of the debate.

GOVERNMENT INSTITUTIONS

The Hon. M.J. ELLIOTT: I move:

That—

1. A select committee be established—
   (a) to examine the financial position of the State Government Insurance Commission, South Australian Superannuation Fund Investment Trust, South Australian Financing Authority and the State Bank of South Australia;
   (b) to determine the cause of any losses, shortfalls, or discrepancies that are found during that examination;
   (c) to examine the interrelationships of those institutions;
   (d) to examine any irregularities, improper, inappropriate or illegal behaviour of those institutions, employees or boards;
   (e) to examine any other related matters.
2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

In moving this motion I am mindful of the fact that a number of inquiries are running in this State at this time. It is not my intention that the select committee should unnecessarily duplicate the work of the royal commission, the Auditor-General or the Government Management Board. I recognise particularly the need for the royal commission to proceed unhindered. Nevertheless, important questions need to be addressed which I believe will best be done by a select committee as I propose.

Since January this year, when the Premier admitted that the State Bank was in serious financial difficulty, I have consistently called for an examination of all Government financial institutions. In fact, I gave notice of a motion on the first sitting day following the Premier's announcement. Unfortunately, that motion was defeated on the final day of the last session.

The purpose of such an inquiry and the purpose of this inquiry is twofold: first, to determine the exact financial position of the Government's financial institutions and,secondly, to determine the reasons for any difficulties that arose.

The myriad of inquiries set up by the Government are addressing only part of these and in a most unsatisfactory manner. Some six months after moving my initial motion to set up a select committee, we still do not know the full financial position of the financial institutions in this State, let alone the reasons for that position. We have been told by the Premier that the State Bank's debt stands at $1 000 million, but there is reliable speculation that it may be closer to $1 500 million, and suggestions perhaps even beyond that. I will not involve myself in speculation at this stage, other than to say that speculation exists and appears to be coming from reliable sources.

The Hon. J.F. Stefani: Nobby Clark says it's times three.

The Hon. M.J. ELLIOTT: It could indeed be. Despite the Government Management Board's inquiry into the SGIC, I am still not satisfied that we know the exact position of that body. As for SASFIT and SAFA, we have little idea.

Important decisions about our State are to be made with the public largely kept in the dark. Decisions have to be made about the size of the Public Service and the level of service that it provides, about the level of State taxation and about the very future of those financial organisations. The public have a right to that basic information so that they can have an input on those vital questions.

There is also the question of the supremacy of Parliament. One would have thought that, with the Government's support for the Parliamentary Committees Act, which has now been introduced in the other place, it would support such a view, and, as such, the setting up of a select committee so that information might be brought to the Parliament rather than relying upon advice from the Executive.

I do not see the task of the select committee as being onerous as much of the work, particularly in relation to the State Bank and the SGIC, will have been done by the Auditor-General and the Government Management Board. South Australians should no longer be required to wait for a full report on the financial health of these institutions.

Paragraph *(b)* of the terms of reference talks about examining 'the cause of any losses, shortfalls, or discrepancies that are found during the examination'. Once again, in relation to the State Bank, I think that the royal commission should be allowed to run its course, as should the Auditor-General's inquiry. However, in relation to the Government Management Board's inquiry, I am not satisfied that the issues under this term of reference have been adequately covered. The report glosses over many of these matters and, of course, in the absence of any form of minutes, we have

no way of knowing the basis for the conclusions that were reached. At the very least, I would like an opportunity to speak to Government Management Board people directly to ascertain exactly whom they have and have not interviewed. I was surprised to find that representatives of neither LIFA nor the other major insurance organisation, the name of which escapes me, were even called as witnesses. Yet, I would have thought they could have given very telling evidence to such a committee. As a witness to that committee, I know that no minutes were kept, so I am not sure on what basis it finally summarised what was happening. In relation to SASFIT and SAFA, once again we are still totally in the dark.

Paragraph *(c)* of the terms of reference—an examination of the interrelationships between those institutions—deserves our very close attention. We have found already before the royal commission the term 'SA Inc.' being used not by politicians but from within the State Bank itself. I do not believe that we in South Australia have anything like WA Inc., where there is corrupt behaviour between politicians and private organisations. I do not believe that there is any evidence of that in South Australia or that we will find any. If there is an SA Inc. it is of quite a different sort. In this respect, one needs only to examine the boards of the various institutions and to see the close relationships that many of them have individually and personally not only with each other but also with the Department of Industry, Trade and Technology and Treasury.

If there is an SA Inc., I think it is a case of helping each other with deals of the kind about which I have speculated before—for example, the SGIC's decision to purchase the Centrepoint building which allowed Myer to shift in, which allowed the Remm development to go ahead and which is being financed by the State Bank. For example, both SASFIT and the State Bank were involved in a project in Brisbane which was also linked with Remm. Therefore, we find a third of our State organisations caught up. It may or may not be sheer coincidence.

When SASFIT decided to purchase 45 Pirie Street, was that decision based on sound financial information? Does the fact that Government departments are considering shifting in mean that they are doing it as a favour to SASFIT or are they doing it for good commercial business reasons? The fact is that the Government underwrites the developments that SASFIT has been involved in, such as the ASER development. Do we or do we not have an SA Inc? At this stage I do not know, but I have very strong suspicions.

I do not mind if institutions are set up with instructions to do particular things, whether to invest in South Australia or to help South Australian institutions. However, when they start doing favours for each other and get into trouble and when the club gets a little too cosy, that deserves closer analysis to ensure that we do not make mistakes that are later regretted.

As regards paragraph *(d)*—

to examine any irregularities, improper, inappropriate or illegal behaviour of those institutions, employees or boards—

again, in relation to the State Bank, that matter is best covered at this stage by the royal commission and by the Auditor-General. However, I believe that again the Government Management Board glossed over that area in relation to SGIC, and matters there may deserve closer attention. Once again, we do not know what evidence was put before the Government Management Board upon which it came to its conclusions or how thoroughly it chased that rabbit down the burrow. Whether or not there have been irregularities in relation to SASFIT and SAFA is speculative at this stage, and I do not wish to pursue that further.

It is not my intention to speak at length on this motion today. I have already spoken to a similar motion on other occasions. I am gravely disappointed that the Opposition chose not to support it before, because it has effectively allowed all the pain to be protracted and it has allowed the picture to come out in dribs and drabs. In fact, there is a very real danger that we may never get the full picture. What we are finding is that we are having set up various inquiries that grab a small part—often not analysing that part of the picture particularly carefully—and I think, as such, we have all suffered.

More important than anything else, it is time that the overall financial position of the institutions of this State is put on the record—and quickly—so that we can make important decisions as to where to go from here. I very much hope that the Opposition did not oppose the motion last time because it wanted the pain to be as protracted as possible, purely for political reasons. I hope that that was not the case. I hope also that the Opposition will support the establishment of the select committee. It is a responsible move, and I certainly seek the Opposition's support.

The Hon. T. CROTHERS secured the adjournment of the debate.

FAIR TRADING (MISCELLANEOUS) AMENDMENT BILL

The Hon. Anne Levy for the Hon. BARBARA WIESE (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Fair Trading Act 1987. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

This Bill introduces a variety of amendments to the Fair Trading Act 1987. The purpose of such amendments is to preserve uniformity with the Commonwealth Trade Practices Act and fair trading legislation in other States and other general purposes relevant to the Office of Fair Trading. The Fair Trading Act was proclaimed in 1987 and since that date has been under the administration of the Commissioner for Consumer Affairs. In her administration of the Act, the Commissioner has become aware of certain difficulties in respect of that legislation which now require amendment.

The proposed amendment to section 22 concerns provisions on door-to-door trading. The present section 22 only allows cooling off where offences have been committed against that section of the Act. The proposed amendments widen the scope of cooling off to allow cooling off in the cases of non-compliance, including procedural non-compliance, which may not be regarded as technical offences under the relevant legislation but still compromise the consumer's position sufficiently that the consumer may wish to cool off.

It is proposed that recent changes to the Western Australian Fair Trading Act be used as a model for these amendments in keeping with the uniform legislation of South Australia, Western Australia and Tasmania. At the meeting of Consumer Affairs Ministers (SOCAM) in July 1989, it was agreed by Ministers that door-to-door legislation be amended to provide consumers with the rights now expressed in this Bill.

It is proposed to repeal section 39 of the Fair Trading Act. Section 39 is intended to prohibit the practices of offering goods for sale only on condition that other goods are first purchased. However, the Commissioner may give

approval to this practice on the application of the trader. Of applications made to the Commissioner for Consumer Affairs, only one has ever been refused in circumstances which were entirely unique to its case. As a precaution, the Commissioner proposes to monitor the effect of the repeal of section 39 once that section has been deleted.

Section 58 of the Fair Trading Act incorporates the provisions of section 53 of the Trade Practices Act (Commonwealth) but applies the duties and obligations therein to persons rather than to corporations. Section 58 of the State legislation is intended to complement the Commonwealth provisions. In 1988 sections 53 *(a)* and 53 *(aa)* of the Commonwealth Act were amended to include the word 'value' after the word 'quality'. This effectively prohibited a corporation from falsely representing that goods and services had a particular value which they did not have. It is now proposed to bring the Fair Trading Act in line with the Trade Practices Act so that these protections may also extend to consumers who are not corporations.

The final amendment affects section 81 of the Fair Trading Act. Section 81 allows the Commissioner or a person authorised by the Commissioner to institute proceedings for breaches of assurances given under the Fair Trading Act. The proposed section 81 allows proceedings to be commenced on the authorisation of the Commissioner and thereby removes the administratively inconvenient situation of requiring either the signature of the Commissioner or that of a particular authorised person before important proceedings can be instituted. I seek leave to have the detailed explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 22 of the Act, which deals with a consumer's right to rescind a contract in specified circumstances. Paragraph *(b)* of subsection (1) is substituted. The effect of the new paragraph is that any contravention of or failure to comply with the provisions controlling door-to-door trading practices (Part III Division III) in the course of or in relation to the negotiations leading to the formation of the contract results in the consumer having a right to rescind the contract within six months of the date of the contract. At present such a right arises only if an offence against those provisions has been committed by a supplier or dealer.

Paragraph *(b)* of subsection (2) is also substituted. The current paragraph provides a consumer with a right to rescind a prescribed contract (defined in section 16 as a contract in respect of which the total consideration is not ascertainable or is above a prescribed limit) within six months of the date of the contract if there has been failure to comply with section 17 (1), which contains various requirements relating to the form of the contract. The new paragraph extends this right to where there has been contravention of, or failure to comply with, section 18—a provision that prohibits a supplier or dealer accepting any money or consideration, or providing any services, before the expiration of the cooling-off period.

Clause 3 repeals section 39 of the Act, which prohibits conditional sales of goods or supply of services. Clause 4 amends section 58 of the Act, which prohibits false or misleading representations in connection with the supply of goods or services. The amendment extends the prohibition to representations relating to the value of goods or services.

Clause 5 amends section 81 of the Act, which makes it an offence for a trader to act contrary to an assurance accepted by the Commissioner. The right to prosecute such an offence is currently limited to the Commissioner or a person authorised by the Commissioner. The amendment requires the commencement of proceedings for an offence against the section (rather than the prosecution) to be authorised by the Commissioner.

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

DISTRICT COURT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to establish the District Court of South Australia; to define its jurisdiction and powers; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

This Bill is the first of several Bills which I will introduce today which will significantly reform the system of justice in South Australia. Significant improvements in the system of justice in South Australia have been made by the courts, the Parliament and the Government in recent years. The Government recognises the important work that the judiciary has done and is continuing to do to improve the administration of justice in this State. The judiciary has introduced significant reforms to enable the courts to meet the demands placed on them. In many instances the courts have had to work within the framework of antiquated legislation. The Government believes that it, and this Parliament, have a responsibility to establish an appropriate legislative framework within which the judiciary can most effectively deliver justice.

The Government believes that the appropriate structure for the court system in South Australia is as follows:

- the jurisdiction of the Supreme Court should remain basically unaltered; that is, it should be the appellate court within the State and the trial court for more serious or complex trials;
- the District Court, constituted by its own Act, should be the main trial court for both civil and criminal matters and should hear appeals from various administrative decisions;
- the Magistrates Court, constituted by its own Act, should deal with committals, summary proceedings and the other jurisdiction presently exercised by the courts of summary jurisdiction and exercise the civil jurisdiction currently exercised by the local courts of limited jurisdiction and the small claims jurisdiction.

The Government believes that this new structure will have several advantages. Each court will be constituted by its own Act of Parliament and able to develop the procedures appropriate for its own jurisdiction. The establishment of the District Court by its own Act of Parliament was recommended by a committee chaired by the Senior Judge in 1984 and this Bill is largely based on the recommendations of that committee.

This Bill constitutes and defines the District Court. The District Court, as it has now become known, was established in 1969 and commenced sitting in 1970. As a matter of expediency the new court was, as it were, grafted on to the existing Local Courts Act. The Local Courts Amendment Act 1969 provided for the appointment of judges and for the creation of new criminal and civil jurisdictions to be exercised by these judges. More recently the small claims jurisdiction has been established under the same Act. There

are now three jurisdictions working within the same parameters.

Experience has shown that it is not conducive to the sound and efficient administration of justice for these three jurisdictions to go hand in hand. Some of the procedures adopted in consequence of the provisions of the Local Courts Act are not appropriate for claims of the magnitude now dealt with in the civil jurisdiction of the District Court. Likewise, some of the procedures that are needed for more substantial matters are not needed and are over-expensive for minor matters. It will be seen that the new Act is relatively short, dealing basically with such matters as the constitution and jurisdiction of the court, with some evidentiary and other powers of the court. The new Act has few sections compared with 342 in the Local and District Criminal Courts Act.

The Act does not deal with matters of court practice and procedure. These matters will be regulated by rules of court. This is the position in most of the other States in Australia. The regulation of the practices and procedures of the court by rules of court means that those primarily charged with the responsibility of ensuring the smooth progress of work through the court should also have the responsibility of setting the rules of practice to ensure that such end is achieved. Parliament, of course, will retain its over-riding control by virtue of its powers with regard to subordinate legislation.

The criminal jurisdiction of the court has been altered to remove a number of anomalies. At present, the jurisdiction is defined in terms of the maximum penalty that may be imposed in respect of an offence. A District Court may deal with any offence where the maximum penalty does not exceed imprisonment for 15 years. This produces some strange anomalies. For example, the District Court may try a person charged with attempted rape, but may not try a person charged with the completed offence.

The Government considers that certain offences should always be tried in the Supreme Court. The offences of murder, attempted murder, treason, and offences which by virtue of any special Act are to be triable in the Supreme Court and all other offences are to be triable in both the Supreme Court and the District Court. The magistrates, upon committing an accused person for trial or sentence, will decide which court would be the more appropriate for the particular case. Magistrates already do this in respect of group II offences under section 136 of the Justice Act 1921.

As to the civil jurisdiction of the courts, no changes are made in the classes of action which may be heard; however, it will be seen that the jurisdiction is no longer defined in monetary terms. The monetary limit to the jurisdiction of the District Court can lead to some very arbitrary results. It can lead, and indeed has led on occasions, to the unfortunate result of persons who have chosen to proceed in the lower court not recovering the full amount to which the court has held they were entitled. To ensure that a matter is tried in the appropriate court, provision is made for a judge of the Supreme Court to order that proceedings commenced in one court be transferred to the other court. This provision also allows for a more flexible use of judicial resources. It will allow the Supreme Court to enlist the aid of a District Court judge if the Supreme Court is in difficulty in meeting its commitments. Likewise, if the position should arise that a Supreme Court judge is left without a case to try, while the District Court is unable to meet its commitments, it will be possible for the Supreme Court judge to hear and determine a District Court matter.

A new Administrative Appeals Division of the District Court is established. There are many appeal tribunals, established under various Acts of Parliament, which are presided over by a District Court judge. Some Acts of Parliament require the nomination of a particular District Court judge while others merely specify a District Court judge. It is the Government's intention that each of these bodies should be examined and, where appropriate, the appellate jurisdiction should be conferred on the Administrative Appeals Division rather than on a separate tribunal. It is recognised that in some instances rights of appeal will be best left to lie to the appellate bodies presently in existence, but it is envisaged that many appeal rights can be transferred to the new division. The creation of this Administrative Appeals Division will allow greater flexibility in the use of judicial resources and greater efficiency by having a common set of procedures for administrative appeals. Provision is made for the court to sit with lay members (called assessors in the Bill) when determining administrative appeals. This will allow the *status quo* to be preserved in those cases where the appellate tribunal presently has lay, that is, non-legal, members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision.

Part II establishes the District Court and sets out its structure and jurisdiction.

Clause 4 establishes the District Court of South Australia.

Clause 5 provides that it is a court of record.

Clause 6 provides for seals of the court and contains an evidentiary aid in relation to documents apparently sealed with a seal of the court.

Clause 7 sets out the structure of the court. It is to have four divisions: the Civil Division, the Criminal Division, the Criminal Injuries Division and the Administrative Appeals Division.

Clause 8 gives the court the same civil jurisdiction as the Supreme Court at first instance except that it has no jurisdiction in probate or admiralty nor to grant relief in the nature of a prerogative writ and it does not have any jurisdiction that is exclusively vested in the Supreme Court by statute.

The Criminal Injuries Division has the jurisdiction conferred on it by the Criminal Injuries Compensation Act 1978.

The Administrative Appeals Division has the jurisdiction conferred on the Administrative Appeals Court by statute.

The court is also given any other civil jurisdiction conferred by statute.

Clause 9 gives the Court jurisdiction to try a charge of any offence except treason or murder, or a conspiracy or attempt to commit, or assault with intent to commit, either of those offences.

The Court is given jurisdiction to convict and sentence, or to sentence, a person found guilty on trial, or on his or her own admission, of such an offence.

The Court is also given any other criminal jurisdiction conferred by statute.

Part III sets out the composition of the Court.

Clause 10 provides that the Court's judiciary consists of the Chief Judge, the other Judges and the Masters.

Clause 11 provides that the Chief Judge is the principal judicial officer of the Court and is responsible for the administration of the Court.

The clause provides that in the absence of the Chief Judge from official duties, responsibility for administration of the

Court devolves on a Judge appointed by the Governor to act in the Chief Judge's absence or, if no such appointment has been made, on the most senior of the other Judges who is available to undertake that responsibility.

Clause 12 provides that appointments to judicial office in the Court are to be made by the Governor.

The clause sets out the following eligibility criteria:

- a person is not eligible for appointment as the Chief Judge unless that person is a legal practitioner of at least 10 years standing;
- a person is not eligible for appointment as a Judge unless that person is a legal practitioner of at least seven years standing;
- a person is not eligible for appointment as a Master unless that person is a legal practitioner of at least five years standing.

The clause enables the Governor to appoint a person who is eligible for appointment to judicial office, or who has held but retired from judicial office, to act in a judicial office (except the office of Chief Judge) for up to one year.

Clause 13 provides that the Remuneration Tribunal is to determine the remuneration of the Chief Judge, the Judges and the Masters.

Clause 14 gives Judges and Masters the same leave entitlements as Judges and Masters of the Supreme Court.

Clause 15 provides that a Judge or Master cannot be removed from office except on an address from both Houses of Parliament praying for his or her removal.

Clause 16 requires a Judge or Master to retire on reaching the age of 70 years.

Clause 17 provides for the following administrative and ancillary public servants:

- the Registrar;
- the Deputy Registrars;
- any other persons appointed to the non-judicial staff of the Court.

Clause 18 provides that the Registrar is the Court's principal administrative officer and that any appointment to or removal from that office is subject to the decision of the Chief Judge.

Clause 19 provides that the administrative and ancillary staff are responsible to the Chief Judge.

Part IV contains provisions pertaining to the sittings and distribution of business of the Court.

Clause 20 provides that the Court may be constituted of a Judge, a Judge and jury in criminal matters where required, or a Master where the court's jurisdiction may be exercised by a Master.

The clause empowers the Governor to determine that the Administrative Appeals Division should sit with assessors in exercising that jurisdiction. If such a determination is made the clause provides that the Court will, subject to exceptions prescribed in the rules, be constituted of a Judge sitting with assessors selected from panels (established by the Governor in consultation with the Chief Judge) in accordance with the rules. Questions of law or procedure are to be determined by the Judge and other questions are to be decided by majority decision of the persons constituting the Court.

Clause 21 allows the Chief Judge to determine the sitting times and places of the Court. It also provides that the Governor may, by proclamation, appoint a place in the State as a District Court Registry. It also enables the Court to sit outside the State and on a Sunday.

Clause 22 gives the Court power to adjourn proceedings and to transfer proceedings from place to place.

Clause 23 requires proceedings to be open to the public unless an Act or rule otherwise requires.

Clause 24 enables a Judge of the Supreme Court to order that civil or criminal proceedings commenced in the District Court be transfered to the Supreme Court or that civil or criminal proceedings commenced in the Supreme Court be transfered to the District Court.

Part V gives the Court certain evidentiary powers.

Clause 25 gives the Court powers to require the attendance of witnesses before the Court and the production of evidentiary material to the Court or to a nominated officer of the Court.

Clause 26 provides for contempt of the Court by persons called to give evidence or to produce evidentiary material.

Clause 27 empowers the Court, or a person authorised by the court, to enter property and to carry out an inspection that the Court considers relevant to a proceeding before the Court. It also provides that it is a contempt of Court to obstruct such entry or inspection.

Clause 28 deals with the attendance before the Court of a person held in custody.

Clause 29 provides for issuing of a summons or notice on behalf of the Court.

Part VI contains special provisions relating to the Court's civil jurisdiction.

Clause 30 enables the Court to grant an injunction or make any other order that may be necessary to preserve the subject-matter of an action intact until the questions arising in the action have been finally determined.

Clause 31 provides for the making of restraining orders by the Court. These are orders preventing or restricting dealing with property of a defendant to an action. A restraining order may be made if the following requirements are satisfied:

- the action appears to have been brought on reasonable grounds;
- the property may be required to satisty a judgment that has been, or may be, given in the action;
- there is a substantial risk that the defendant will dispose of the property before judgment is given, or before it can be enforced.

The clause contains other provisions supporting the making of such orders including a provision making it a contempt of Court to contravene an order.

Clause 32 enables the Court to attempt to achieve a negotiated settlement of an action and facilitates any such attempt.

Clause 33 enables the Court to refer an action or any issues arising in an action for trial by an arbitrator. The arbitrator may be appointed either by the parties to the action or by the Court. The clause provides that the Court must have good reason to depart from the award of the arbitrator.

Clause 34 enables the Court to refer any question of a technical nature arising in an action for investigation and report by an expert in the relevant field. The Court is given a discretion as to the adoption of the whole or any part of such a report.

Clause 35 provides for the merger of law and equity but provides that the rules of equity prevail in the case of any conflict.

Clause 36 empowers the Court to grant forms of relief not sort by the parties.

Clause 37 empowers the Court to make binding declarations of right whether or not any consequential relief is or could be claimed.

Clause 38 enables the Court to give a declaratory judgment as to liability and postpone judgment as to the amount of damages. It contains various provisions in support of the just operation of such a postponement.

Clause 39 provides that the Court will normally include an award of interest in a judgment in relation to a period prior to judgment. It enables the Court to award a lump sum instead of interest. Principles to be applied and limitations on the award are set out in the clause.

Clause 40 provides that a judgment debt bears interest at a rate set out in the rules.

Clause 41 enables the Court to order payment of money to a child who is a party to an action and provides for the giving of a valid receipt by the child.

Clause 42 deals with the award of costs in civil proceedings at the discretion of the Court, including an award against a legal practitioner if proceedings are delayed through the neglect or incompetence of the practitioner. It provides that no order for costs will be made in favour of the plaintiff if, in effect, the action should have been brought in the Magistrates Court. It also allows the Court to order a legal practitioner to pay compensation to the Court for wasting the Court's time.

Part VII deals with appeals and reservation of questions of law.

Clause 43 gives a party to an action a right to appeal, in the case of an interlocutory judgment given by a Master, to a Judge of the Court and, in any other case, to the Full Court.

The appeal lies as of right unless the Supreme Court Rules provide that it is only by leave.

The clause limits the right of appeal in the case of a judgment of the Administrative Appeals Division. An appeal lies as of right on a question of law and by leave of the Supreme Court on a question of fact unless the special Act under which the jurisdiction is conferred provides otherwise.

Clause 44 allows a Master to reserve a question of law arising in an action for determination by a Judge.

It also allows a Judge to reserve any question of law arising in an action for determination by the Full Court of the Supreme Court.

Clause 45 provides that this Part does not apply in respect of appeals and reservations of questions of law in criminal proceedings to which Part XI of the Criminal Law Consolidation Act 1935 is applicable.

Part VIII contains miscellaneous provisions.

Clause 46 provides a Judge or Master with the same privileges and immunities from civil liability as a Judge of the Supreme Court. It also protects non-judicial officers from civil or criminal liability.

Clause 47 provides for contempt in the face of the Court.

Clause 48 provides that the Court may punish a contempt by imposing a fine (without limit) or committing to prison for a specified term (without limit) or until the contempt is purged.

Clause 49 gives the Registrar responsibilities in relation to money paid into the Court and securities delivered to the Court in connection with proceedings in the Court. It provides that the Treasurer guarantees the safe keeping of any such money or security. It enables the money to be invested and provides that the Unclaimed Moneys Act applies to the money in appropriate circumstances.

Clause 50 allows process to be served on a Sunday and provides that the validity of process is not affected by the fact that the person who issued it dies or ceases to hold office.

Clause 51 provides for the making of Rules of Court by the Chief Judge and two or more other Judges.

Clause 52 sets out special rules as to evidence and procedures in the Administrative Appeals Division. It provides that the Court is not bound by the rules of evidence but may inform itself in any matter it thinks fit and that the Court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

Clause 53 provides regulation making power for the imposition of court fees and allows the Court to remit or reduce fees.

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

MAGISTRATES COURT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to establish the Magistrates Court of South Australia; to define its jurisdiction and powers; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

Once the decision was made to constitute the District Court under a separate Act of Parliament, it was evident that extensive amendment would need to be made to the Local and District Criminal Courts Act and that the opportunity should be taken to review the procedures of the local courts of limited jurisdiction and the appropriate structure under which magistrates should exercise both their civil and criminal jurisdiction. The Government believes that the creation of a Magistrates Court with a civil and criminal jurisdiction is the appropriate structure.

This Bill establishes the Magistrates Court, confers jurisdiction on the court, provides for some evidentiary powers common to both the civil and criminal jurisdiction of the new court and sets out some special provisions as to the court's civil jurisdiction (including the small claims jurisdiction). The criminal jurisdiction of the court will continue to be governed by the Justice Act 1921.

As with the District Court Bill which I have just introduced, the Magistrates Court Bill is relatively short. It does not deal with matters of court practice and procedures. Approximately 230 sections of the Local and District Criminal Courts Act deal with procedures that are more appropriately left to rules of court. Simplified procedures in the Magistrates Court will enable the great volume of straightforward court business to be dealt with in the most efficient manner and to restrain the ability of either party to cause increase in cost or delay to suit its own purpose.

Changes are made to the civil jurisdiction exercised by magistrates. The monetary limits are increased. The small claims limit is increased from $2 000 to $5 000. The court is given jurisdiction to determine claims for damages or compensation for injury, damage or loss caused by, or arising out of, the use of a motor vehicle of up to $60 000, and in other cases, up to $30 000. The previous limit was $20 000 in all cases. The court is also given jurisdiction in actions to obtain or recover title to, or possession of real or personal property where the value of the property does not exceed $60 000. It is given jurisdiction in interpleader actions also where the value of the property does not exceed $60 000. More importantly, the court is given an equitable jurisdiction. Hitherto, magistrates have only had an equitable jurisdiction that is incidental or ancillary to, and necessary or expedient for the just determination of, proceedings before them.

There is no justification for maintaining such a state of affairs. Rules of equity have now lost much of their mystique, together with much of the difficulty that was once thought to surround them. Appointments to the magistracy

must be made from legal practitioners of at least five years standing who in the course of their practice will have experienced equitable rules simply as part of the general law applied to the determination of all cases. Provision is made for a judge of the District Court to order civil proceedings commenced in the Magistrates Court to be transferred to the District Court and for proceedings commenced in the District Court to be transferred to the Magistrates Court.

Legal practitioners whose actions delay or contribute to delaying proceedings may be penalised by having costs disallowed or by being ordered to repay costs or indemnify a party. This provision is similar to the existing rule 186A (2). The provisions relating to the small claims jurisdiction have been rewritten to emphasise the role the court should play in arriving at a resolution of small claims. The rules of court will provide for simplified procedures in the small claims jurisdiction. The system is presently excessively complex given the nature of its jurisdiction, and too formal and trial directed.

At present, a claim is not justiciable as a small claim where a plaintiff makes a small claim but also seeks relief in addition to a judgment for a pecuniary sum. This limitation has severely curtailed the usefulness of the jurisdiction for resolving the many minor disputes which occur between, for example, neighbours. A small claim now includes a 'neighbourhood dispute', which the court may grant injunctive or declaratory relief. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision.

A small claim is defined as a monetary claim for $5 000 or less (the current limit is $2 000) or a claim for injunctive or declaratory relief in the case of a neighbourhood dispute. A neighbourhood dispute is in turn defined as a dispute between neighbours or the occupiers of properties in close proximity, based on allegations of trespass or nuisance. A minor civil action is defined as an action founded on a small claim. The action ceases to be a minor civil action if a claim of some other kind is introduced into it unless the Court orders that the subsequent claim be tried separately. Part II deals with the establishment, structure and jurisdiction of the Magistrates Court.

Clause 4 establishes the Magistrates Court of South Australia.

Clause 5 provides that it is a Court of record.

Clause 6 provides for seals of the Court and an evidentiary aid in relation to documents apparently sealed with a seal of the Court.

Clause 7 sets out the structure of the Court. It is to have 3 divisions: the Civil (General Claims) Division, the Civil (Small Claims) Division and the Criminal Division (which is a court of summary jurisdiction).

Clause 8 gives the Court the following civil jurisdiction:

- to hear and determine an action (at law or in equity) for a sum of money where the amount claimed does not exceed $30 000 or, if the claim is for damages or compensation for injury damage or loss caused by, or arising out of, the use of a motor vehicle, $60 000;
- to hear and determine an action to obtain or recover title to, or possession of, real or personal property where the value of the property does not exceed $60 000;
- to hear and determine an interpleader action where the value of the property to which the action relates does not exceed $60 000;
- to grant declaratory or equitable relief that is reasonably incidental to an action of any of the above kinds;
- to grant injunctive or declaratory relief in the case of a neighbourhood dispute.

The clause also provides that parties to an action may waive any monetary limit on the civil jurisdiction of the court, and, in that event, the Court will have jurisdiction to determine the action without regard to that limitation.

Clause 9 gives the Court the following criminal jurisdiction:

- to conduct a preliminary examination of a charge of an indictable offence;
- to hear and determine a charge of a minor indictable offence;
- to hear and determine a charge of a summary offence.

Clause 10 provides that the Court has any other jurisdiction conferred on it by statute and that the rules may assign a particular statutory jurisdiction to a particular Division of the Court.

Part III contains matters pertaining to the administration of the Court.

Clause 11 provides that the Chief Magistrate is the principal judicial officer of the Court and is responsible for the administration of the Court. In the absence of the Chief Magistrate from official duties, responsibility for administration of the Court devolves on the Deputy Chief Magistrate and, if both are absent, on a Magistrate appointed by the Governor to act in the absence of the Chief Magistrate.

Clause 12 provides for the following administrative and ancillary public servants:

- the Principal Registrar;
- the Registrars;
- the Magistrates' clerks;
- the Listing Co-ordinator;
- the Court Orderlies;
- any other persons appointed to the non-judicial staff of the Court.

Clause 13 provides that the Principal Registrar is the Court's chief administrative officer and that any appointment to that office or removal from that office is subject to the decision of the Chief Magistrate.

Clause 14 makes administrative and ancillary staff responsible to the Chief Magistrate.

Clause 15 provides that a Special Justice or two Justices may constitute the Court in relation to matters set out in the Rules, but otherwise the Court, when sitting to adjudicate on any matter, must be constituted of a Magistrate.

The clause further provides that a Registrar may exercise the jurisdiction of the Court in any matter set out in the Rules.

Clause 16 allows the Chief Magistrate to determine the sitting times and places of the Court and the Governor to determine the places at which registries will be maintained. It also enables the Court to sit outside the State and on a Sunday.

Clause 17 gives the Court power to adjourn proceedings and to transfer proceedings from place to place.

Clause 18 requires the Court's proceedings to be open to the public unless the Act or Rules provide otherwise.

Clause 19 enables a Judge of the District Court to order that civil proceedings commenced in the Magistrates Court be transfered to the District Court or that civil proceedings commenced in the District Court (but which lie within the

jurisdiction of the Magistrates Court) be transfered to the Magistrates Court.

Part IV gives the Court certain evidentiary powers.

Clause 20 gives the Court powers to require the attendance of witnesses before the Court and the production of evidentiary material to the Court or to a nominated officer of the Court.

Clause 21 provides for contempt of the Court by persons called to give evidence or to produce evidentiary material.

Clause 22 empowers the Court, or a person authorised by the Court to enter property and to carry out an inspection that the Court considers relevant to a proceeding before the Court. It also provides that it is a contempt of Court to obstruct such entry or inspection.

Clause 23 deals with the attendance before the Court of a person held in custody.

Clause 24 provides for issuing of a summons or notice on behalf of the Court.

Part V contains special provisions relating to the Court's civil jurisdiction.

Clause 25 enables the Court to attempt to achieve a negotiated settlement of an action and facilitates any such attempt.

Clause 26 provides for the merger of law and equity in the exercise of the Court's jurisdiction, but that in the event of a conflict, the rules of equity are to prevail.

Clause 27 empowers the Court to grant forms of relief not sort by the parties.

Clause 28 enables the Court to give a declaratory judgment as to liability and postpone judgment as to the amount of damages. It contains various provisions in support of the just operation of such a postponement.

Clause 29 provides that the Court will normally include an award of interest in a judgment in relation to a period prior to judgment. It enables the Court to award a lump sum instead of interest. Principles to be applied and limitations on the award are set out in the clause.

Clause 30 provides that a judgment debt bears interest at a rate set out in the rules.

Clause 31 enables the Court to order payment of money to a child who is a party to an action and provides for the giving of a valid receipt by the child.

Clause 32 deals with the award of costs in civil proceedings at the discretion of the Court, including an award against a legal practitioner if proceedings are delayed through the neglect or incompetence of the practitioner.

Clause 33 contains provisions relating to minor civil actions (small claims). The Court should attempt a negotiated settlement. If that is not successful, the Court is to conduct an inquiry on a more informal basis. After giving judgment, the Court should give the person in whose favour the judgment is given advice and assistance as to enforcement and should investigate the means to pay of the person against whom the judgment is given and take any further action appropriate in view of the results of that investigation.

The clause provides that representation of a party by a legal practitioner will only be permitted in limited circumstances.

Costs for getting up the case for trial, or by way of counsel fees, will not be awarded unless all parties were represented by counsel, or the Court is of opinion that there are special circumstances justifying the award of such costs.

A party may apply for a review of the proceedings by a single Judge of the District Court. The District Court may give any judgment that should, in the opinion of the District Court, have been given in the first instance or refer the matter back to the Magistrates Court for further hearing, or for rehearing.

Clause 34 allows parties to a minor civil action to litigate any issues arising in that action again in a different action.

Part VI deals with appeals and reservation of questions of law (other than in minor civil actions).

Clause 35 gives parties to a civil action the right to appeal to a single Judge of the Supreme Court. The Supreme Court Rules may provide that appeals from judgments of a particular class can only be brought by leave of the Supreme Court. The single Judge may refer the appeal for hearing and determination by the Full Court.

Clause 36 allows the Court to reserve any question of law arising in a civil action for determination by the Supreme Court.

Clause 37 gives parties to a criminal action relating to an industrial offence the right to appeal to the Industrial Court and to any other criminal action the right to appeal to the Supreme Court. (See the categorisation of offences under the Justices Amendment Bill.) In the case of an appeal related to a minor indictable offence, the appeal will be to the Full Court of the Supreme Court unless the parties agree to refer it to a single Judge.

Clause 38 allows the Court to reserve any question of law arising in a criminal action for determination by a superior court in the case of an action relating to an industrial offence, the Industrial Court and, in any other case, the Supreme Court (the Full Court unless the parties agree to refer it to a single Judge).

Part VIII contains miscellaneous provisions.

Clause 39 provides a Magistrate or other person exercising the jurisdiction of the Court with the same privileges and immunities from civil liability as a Judge of the Supreme Court. Non-judicial officers incur no civil or criminal liability for honest acts in carrying out official functions.

Clause 40 provides for contempt in the face of the Court.

Clause 41 provides that the Court may punish a contempt by imposing a fine (not exceeding a Division 5 fine) or committing to prison for a specified term (not exceeding Division 5 imprisonment) or until the contempt is purged.

Clause 42 gives the Registrar responsibilities in relation to money paid into the Court and securities delivered to the Court in connection with proceedings in the Court. It provides that the Treasurer guarantees the safe keeping of any such money or security. It enables the money to be invested and provides that the Unclaimed Moneys Act applies to the money in appropriate circumstances.

Clause 43 allows process to be served on a Sunday and provides that the validity of process is not affected by the fact that the person who issued it dies or ceases to hold office.

Clause 44 provides for the making of Rules of Court by the Chief Magistrate, the Deputy Chief Magistrate and any two or more other Magistrates

Clause 45 provides regulation making power for the imposition of court fees and allows the Court to remit or reduce fees.

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

STATUTES REPEAL AND AMENDMENT (COURTS) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to make certain repeals and amendments related to restructuring the court

system in the State; to enact transitional provisions; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

This Bill contains amendments consequential on the restructuring of the court system.

I wish to draw attention to clause 5—the repeal of the Debts Repayment Act 1978.

The Debts Repayment Act was one of a package of Acts dealing with the repayment of debts and the enforcement of judgments, enacted in 1978. None of the Acts are in operation.

The Debts Repayment Act provided for a debtor's assistance office. Counsellors attached to this office would provide debt counselling for any member of the public who wanted it. They would negotiate with creditors to try to arrive at satisfactory arrangements for settling debts, and they would help to formulate schemes which would have the backing of the Act for the regular payment of debts. Any such scheme would have been subject to the approval of the (then) Credit Tribunal.

When this package of legislation was being examined in 1979 with a view to bringing it into operation, the cost of the Debts Repayment Act was estimated, in the first full year, to be some $895 000 if administered by the Department of Public and Consumer Affairs. The cost of administration by the then Department for Community Welfare was estimated to be $482 000. An update of the costings in 1986 estimated that, if the Act was administered by the Department of Public and Consumer Affairs, the cost would be $2 400 000 and, if administered by the Department for Community Welfare, the cost would be $1 872 000.

Apart from the cost concerns, consideration of bringing the Acts into operation was deferred when the Commonwealth Government announced it would be implementing the Australian Law Reform Committee Report—Insolvency: The Regular Payment of Debts. This legislation would have covered the area covered by the Debts Repayment Act and obviated the need for State legislation. The Commonwealth Attorney-General in the late 1980s announced that he would not be proceeding with Commonwealth legislation on account of the cost of administering any such legislation.

Commonwealth legislation would have overcome the major problem inherent in the State legislation, that is, the problem that a State law cannot prevent a creditor taking advantage of the Commonwealth law relating to bankruptcy. A carefully crafted repayments of debts scheme under the State law could be undone if one creditor would not go along with the scheme and instituted bankruptcy proceedings.

Over the years there has been a growth in the number of organisations providing debt counselling services. These include the Budget Advice Service offered by the Department for Family and Community Services which commenced in 1976. These Government and non-government services are doing informally much of what the debts repayment legislation would have formalised. Looked at realistically the costs of implementing the 1978 Act are prohibitive and are always likely to be so. The sensible thing to do is to acknowledge this and repeal the Act.

Other provisions which I wish to draw attention to are those which amend the Criminal Law Consolidation Act and the Controlled Substances Act. The amendments to the Criminal Law Consolidation Act make common assault a summary offence, damaging property where the damage does not exceed $25 000 a minor indictable offence and damaging property where the damage does not exceed $2 000 a summary offence.

The Controlled Substances Act amendments make the manufacture, production, sale or supply of limited amounts of cannabis or cannabis resin summary offences. These amounts are amounts less than one-half of the amount prescribed under section 32 (5). The statistics show that, in practice, sentences actually imposed in relation to these offences invariably fall within the range appropriate to a court of summary jurisdiction. The manufacture, production, etc., of prohibited substances of less than half the amount prescribed by the section is made a minor indictable offence. Once again, the statistics show that the penalties imposed invariably fall within the minor indictable range.

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

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 repeals the Local and District Criminal Courts Act 1926 which is replaced by the District Courts Bill and Magistrates Court Bill. Clause 4 repeals the Enforcement of Judgments Act 1978 which is replaced by the Enforcement of Judgments Bill.

Clause 5 repeals the Debts Repayment Act 1978.

Clause 6 amends the Debtors Act 1936 consequential on the Enforcement of Judgments Bill. Paragraphs *(c)* and *(d)* of section 3 are struck out. Those paragraphs allowed arrest and imprisonment for debt in the case of a trustee, auctioneer, bailiff, messenger or person acting in a fiduciary capacity, or legal practitioner ordered to pay an amount by a court. Subparagraph (iii) of the proviso to section 3 is substituted. It ensures that powers of arrest or imprisonment under the Enforcement of Judgments Bill are not affected. Clause 7 amends the Mercantile Law Act 1936 consequential on the Enforcement of Judgments Bill. Section 18 which dealt with the attachment of wages is repealed. The matter is dealt with in the Bill.

Clause 8 provides that certain Imperial Acts have no force or effect in the State (56 Geo III c. 50 and 8 Hume c. 14). This provision continues the negation of those Acts contained in the Enforcement of Judgments Act 1978.

Clause 9 amends the Criminal Law Consolidation Act 1935. The maximum penalty for common assault is reduced from three years imprisonment to two years. The maximum penalty for a more serious offence of damaging property (section 85) is to be imposed where the damage exceeds $25 000, rather than $2 000 as is now the case.

Proceedings for an offence of damaging property are to be able to be disposed of summarily where the damage does not exceed $2 000 rather than $800 as is now the case.

These amendments result from the new categorisation of offences under the Justices Amendment Bill. Section 281 is repealed. The section deals with procedure in criminal matters. These matters are dealt with in the Justices Amendment Bill. Clause 10 amends the Controlled Substances Act 1984. The amendment alters the categorisation of offences involving the sale, supply or production of drugs of dependence or prohibited substances (section 32). If the offence involves an amount of cannabis that is less than half the amount prescribed as the amount that invokes the highest penalties, the offence will be a summary offence (a maximum penalty of $2 000 or two years imprisonment or both). If the offence involves an amount of any other substance that is less than half the amount prescribed, the offence will be a minor indictable offence ($25 000 or five years imprisonment or both). Sections 43 (1) and (2) are consequentially deleted.

Clause 11 amends the Acts Interpretation Act by inserting definitions of major indictable offences and minor indict-

able offences and substituting the definition of a summary offence in line with the new categorisation set out in the Justices Amendment Bill.

Clause 12 amends the Bail Act 1985 by substituting section 23. The current provision classifies offences under the Act as summary offences and allows 12 months for commencement of prosecutions. These matters need not be provided for in the new scheme.

The new section 23 provides that where a person under sentence of imprisonment is released on bail pending the hearing and determination of an appeal, the period of release does not count as part of the sentence.

Clause 13 contains transitional provisions related to the District Courts Bill. It provides for the transfer of judges and masters from local courts and district criminal courts to the District Court and for the transfer of staff of local courts of full jurisdiction and district criminal courts to staff of the District Court.

It also makes provision for the continuance in the new District Court of proceedings commenced before a local court of full jurisdiction or a district criminal court.

Clause 14 contains transitional provisions related to the Magistrates Court Bill. It provides for transfer of staff of local courts of limited and special jurisdiction and of courts of summary jurisdiction to corresponding positions on the staff of the Magistrates Court.

It makes provision for the continuance in the new Magistrates Court of proceedings commenced before a local court of limited or special jurisdiction or a court of summary jurisdiction. It also provides that a preliminary examination commenced before a justice may be continued and completed before the Magistrates Court, but the court will apply the law as in force at the commencement of the proceedings in all respects as if references in that law to a justice were references to the court.

Clause 15 contains transitional provisions related to the Enforcement of Judgments Bill. It provides for the recognition and enforcement of judgments of the current courts under the new legislation.

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

STRATA TITLES (RESOLUTION OF DISPUTES) AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Strata Titles Act 1988. Read a first time.

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

That this Bill be now read a second time.

The principal object of this Bill is to give members of strata corporations access to an efficient method of resolving disputes in a cost effective manner. The Strata Titles Act sets up a scheme wherein persons are able to purchase title to a unit and on doing so become members of the strata corporation for that particular group of units. The main functions of the strata corporation are to administer and maintain common property and to enforce the articles of the corporation. A problem which concerns many strata title unit holders is the difficulty of resolving disputes which occur between the strata corporation and its members or between individual members of the corporation. At present civil proceedings may be taken in the Supreme Court to enforce rights and obligations under the articles of the strata corporation. This type of action is very expensive and out of proportion to the rights that often need to be enforced (for example, a unit holder may be parking a vehicle in the wrong place or keeping an animal contrary to the provisions of the articles). In addition, summary proceedings for breaches of certain provisions of the Strata Titles Act can only be commenced with the approval of the Attorney-General. As many members will be aware disputes in strata units often end up in electorate offices with disputants lamenting the lack of an affordable avenue to resolve the dispute.

In all, a simpler method of resolution of disputes is called for. In 1987 a discussion paper was circulated which canvassed a proposal to establish a Strata Title Commissioner to resolve strata title disputes. It was suggested then that the Commissioner be funded by a levy on new strata developments and on the transfer of titles. While the need for an appropriate dispute resolution mechanism was acknowledged and recognised by most commentators, the proposed method of funding was not supported and so further options have been explored.The States of Western Australia, New South Wales and Queensland each have a Strata Title Commissioner to deal with strata title disputes while in Victoria body corporate disputes under the Subdivision Act are determined by the Magistrates Court.

This Bill proposes that disputes in strata schemes in this State be determined by the Small Claims Court. For this purpose the Small Claims Court is vested with wide jurisdiction to resolve disputes. The court is empowered to attempt to achieve settlement of proceedings by agreement between the parties, require a party to provide reports or other information for the purpose of proceedings, order parties to take action or refrain from taking action to remedy or resolve the dispute, order alteration of the articles, variation or reversal of decisions, give judgment on any monetary claim and make orders as to costs and incidental or ancillary orders. It is considered that this jurisdiction will be sufficient to allow the Small Claims Court to make an appropriate order to resolve most disputes.

It should be noted that the Small Claims Court is a jurisdiction in which parties generally represent themselves. No legal representation is allowed unless all parties agree and the court is satisfied that a party who is not represented will not be unfairly disadvantaged. In certain circumstances the court may allow a party to be assisted in the presentation of his/her case. The cost of instituting proceedings in the Small Claims Court is currently $33. The Small Claims Court is also given the power to make interim orders to preserve the position of any person prior to a final determination of the dispute. The Supreme Court and the Planning Appeal Tribunal will continue to have jurisdiction over matters in Part I of the Act—Division of Land by Strata Plan, to appoint an administrator of a strata corporation's affairs under section 37 and to grant relief when a unanimous resolution is required under section 46.

While it is expected that the bulk of strata title disputes will be suitable for resolution by the Small Claims Court, provision is made for a person to commence an action in the District Court (with leave of that court) or to apply to have proceedings transferred to the District Court. The District Court must consider that the complexity or significance of the matter warrants it dealing with the matter. In addition, a court (either the Small Claims Court or the District Court) may of its own initiative or an application by a party to proceedings transfer the matter to the Supreme Court on the ground that the application raises a matter of general importance or may state a case for the opinion of the Supreme Court.

There are several provisions in the Strata Titles Act which create offences. A corporation is guilty of an offence if an

office of the corporation remains vacant for more than six months, if it makes a payment to its members, if it fails to produce, for inspection by a unit holder, a current insurance policy, if it fails to hold an annual meeting, if it refuses to supply specified information to specified persons and if it fails to keep a letterbox on the site. A person who alters the structure of a unit is guilty of an offence, as is a person who has possession of any property of the corporation and refuses to deliver it to the corporation. A unit holder who enters into a dealing with a part of a unit is also guilty of an offence. Finally, the original proprietor is guilty of an offence if he or she does not convene the first general meeting within a specified time and at that meeting place in the possession of the corporation the documentation relating to the development. These offences basically deal with matters internal to the strata development and it is considered that if an accessible means of resolving disputes is put in place there is no need for these offences. A civil action in the small claims court should suffice to ensure compliance. A penalty of $2 000 or six months imprisonment (a Division 7 fine) is provided for failure to comply with an order of a court. The opportunity has also been taken to make some other minor amendments to the Strata Titles Act.

The definition of 'special resolution' is altered to be two-thirds of the votes cost at the meeting rather than two-thirds of the total number of votes that could be exercised assuming all unit holders attended and exercised their right to vote. The change should make all unit holders take a more active interest in the affairs of their strata corporation. There is a continuing problem in large unit groups of getting enough people to a meeting to get a special resolution passed. For those unable to attend a meeting, proxy or absentee voting is available for the expression of their views, but no longer will non-attendance at a meeting be classed as a vote against a resolution. Section 5 (7) is amended to make clear that a strata plan may on occasion specify that a wall between a unit and a unit subsidiary is in fact part of a unit, not part of common property. This is consistent with the existing wording in section 5 (5).

The provisions relating to service of documents are amended by making provision for a corporation to keep a post office box. For strata schemes in some country areas a post office box is often the only method of postal delivery and strata schemes in such areas have previously been unable to comply with the Act. The new section 49 (2) addresses this problem. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 provides, in effect, for a new definition of special resolution by providing that the resolution must be supported by at least two-thirds of the total number of votes cast at the relevant meeting. The present definition refers to two-thirds of all votes that could be cast at a meeting, whether or not all unit holders attend and vote at the meeting. Clause 4 makes a minor amendment to section 5 (7) of the Act to ensure consistency with section 5 (5) and to ensure that a strata plan can determine that a wall or fence between a unit and a unit subsidiary is not part of common property. Clause 5 removes section 20 (3) of the Act in view of proposed new Part IIIA dealing with 'disputes'. Clauses 6, 7, 8, 9 and 10 all provide for the removal of penalty provisions from the Act.

Clause 11 inserts a new Part IIIA relating to the resolution of disputes within a strata corporation. An application would usually be made to the local court and dealt with by that court within its small claims jurisdiction. (The Bill will permit an application that involves a complex or significant issue to be dealt with by the District Court. If an application raises a matter of general importance, or if a question of law is raised for determination, the application may be transferred to the Supreme Court.) It is proposed that an application be dealt with according to equity, good conscience and the substantial merits of the case, and with the minimum of formality. Parties before the local court would usually not be represented by legal counsel. A strata corporation would be entitled to appoint a member to represent it in the proceedings. The court will be empowered to act to achieve settlement of the proceedings by agreement between the parties. Other powers to resolve the dispute are also prescribed, including the power to alter articles of the corporation or to vary or reverse any decision of the corporation or management committee. The new provision will not limit or derogate from any civil remedy at law or in equity. Clause 12 amends section 49. This section presently requires that a strata corporation must keep a letterbox at the site. The amendment will allow the use of a post office box where there is no postal delivery to the site.

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

SHERIFF'S AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill to amend the Sheriff's Act 1978. Read a first time.

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

That this Bill be now read a second time.

The Sheriff's Act was enacted in 1978 consequential on the new scheme for enforcement of judgments also enacted in that year. The Act has never been brought into operation. This Bill makes minor amendments to the Sheriff's Act 1978. The 1978 Act does not recognise that the sheriff is an officer of the Supreme Court. This is corrected by the amendments and, as with other officers of the court, it is provided that the sheriff may not be appointed as sheriff or dismissed or reduced in status after appointment, except on the recommendation, or with the concurrence, of the Chief Justice.

Under the scheme of the Enforcement of Judgments Bill execution of judgment is the responsibility of the Sheriff. For the time being the sheriff may have to delegate his authority to bailiffs in the District Court and the Magistates Court. This is provided for in the amendments. Other amendments are consequential on the enactment of the District Court Act and Magistrates Court Act. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 strikes out section 3 (2) as a statute law revision exercise. Clause 4 amends the interpretation provision, section 4. The definition of court is substituted, altering the references to local court and district criminal court to the District Court and Magistates Court in the light of the District Courts Bill and the

Magistrates Court Bill. The definition of judge is also substituted as a consequential amendment.

Clause 5 substitutes sections 5 and 6 which deal with the appointment of a sheriff and sheriff's officers. The new section 5 provides that there will be a sheriff who will be a public servant. Appointments to the office of sheriff and removals from that office are subject to the decision of the Chief Justice of the Supreme Court. The new section 6 provides that there will be such deputy sheriffs and sheriff's officers as necessary. These officers are also public servants. In addition, the sheriff may appoint deputy sheriffs or sheriff's officers on a temporary basis. These officers are not public servants and are entitled to the fees set out in the regulations. A deputy sheriff has the powers and duties of the sheriff but is subject to the direction of the sheriff. The new provisions clarify the nature of the appointment of officers by the sheriff and the role of deputy sheriffs and bring the Act into line with the Government Management and Employment Act 1985.

Clause 6 amends section 8 which sets out the duties of the sheriff. Amendments of a statute law revision nature are made to paragraph *(b)*. Clause 7 substitutes section 10 which sets out how arrested persons are to be dealt with. The new section 10 provides that any person arrested by the sheriff, a deputy sheriff or any sheriff's officer must be brought before a court as soon as reasonably practicable and must in the meantime be kept in safe custody. The current provision requires that the person must be brought before the court out of which the process under which the person was arrested was issued. Clause 8 amends section 12 to clearly provide that a deputy sheriff is immune from civil liability to the same extent as the sheriff and sheriff's officers.

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

[*Sitting suspended from 5.50 to 7.45 p.m.*]

ENFORCEMENT OF JUDGMENTS BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to make provision for the enforcement of judgments and for other purposes.

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

That this Bill be now read a second time.

In 1978 Parliament enacted a package of Bills dealing with the repayment of debts and the enforcement of judgments. These Acts were the Debts Repayment Act, the Enforcement of Judgments Act, the Sheriffs Act, the Local and District Criminal Courts Act Amendment Act and the Supreme Court Act Amendment Act. None of these Acts have been brought into operation.

A committee of review completed a review of the Acts in 1986 and recommended several amendments to the Enforcement of Judgments Act 1978. The amendments recommended were mainly of an administrative or machinery nature. This Bill, rather than amending the Act, is a completely new draft, done in today's style. The substance of the Bill is similar to the 1978 Act, but its provisions are somewhat less prescriptive, leaving the detail to be regulated by rules of court.

This Bill, as does the 1978 Act, does away with the unsatisfied judgments summons and all the unsatisfactory features of those proceedings. A judgment debtor's financial position will be investigated by the court, which for these purposes is a judicial officer (not a justice of the peace) or a registrar of a court.

There is no longer any power for the court to make an order for imprisonment for failing to attend a hearing or failing to pay a judgment debt as ordered. It is however recognised that there must be some sanction against those who can afford to pay judgment debts but simply refuse to. Where a court is satisfied that a judgment debtor has wilfully and without proper excuse failed to comply with the order of the court, the court may commit the judgment debtor to prison for up to 40 days. This is similar to section 29 in the 1978 Act.

The Bill provides for garnishee orders, as did the 1978 Act. A garnishee order cannot be made in respect of salary or wages unless the judgment debtor consents to the making of the order. The other methods of enforcing judgments are: sale of property, charging orders, appointment of receiver, warrant of possession and proceedings in contempt. 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 of the measure on a day to be fixed by proclamation.

Clause 3 contains definitions of the following terms which are used in the measure:

- business debt
- court (defined to mean the Supreme Court, the District Court or the Magistrates Court)
- judgment
- judgment creditor
- judgment debtor
- land (defined to include any premises, including residential premises)
- minor consumer debt (defined to mean a debt of $20 000 or less (not being a business debt) incurred by a natural person)
- monetary judgment
- sale.

Clause 4 provides for the examination of judgment debtors by a court. Subclause (1) provides that the court may, on application by the judgment creditor, investigate the judgment debtor's means of satisfying a monetary judgment. Subclause (2) requires the court, on application by the judgment creditor, to issue a summons to require the judgment creditor or any other person who may be able to assist with the investigation to appear for examination or to produce documents relevant to the investigation. Subclause (3) allows such a summons to be served by post. Subclause (4) provides that if a person fails to appear as required by the summons, the court may issue a warrant to have the person arrested and brought before the court.

Clause 5 deals with the making of orders for the payment of instalments of judgment debts. Subclause (1) empowers the court, on application by a judgment creditor, to order the judgment debtor to pay the judgment debt immediately (or within a specified period) or to pay such instalments towards satisfaction of the debt as the court specifies in the order. Subclause (2) provides that such an order can only be made against a natural person if the court has conducted an investigation into the person's means of satisfying the judgment or if the court is satisfied that there are, in the circumstances of the case, proper reasons for dispensing with such an investigation.

Subclause (3) provides that the court should, in making such an order against a natural person, have due regard to

evidence placed before the court as to the person's means of satisfying the judgment debt, the necessary living expenses of the person and his or her dependants and the person's other liabilities. Subclause (4) provides that, if it appears that the judgment creditor and judgment debtor are agreed on a proposal for paying off the judgment debt, the court may make an order in terms of that proposal.

Subclause (5) requires the court to make an order for costs against the judgment creditor where the debtor submits a proposal for payment of the judgment debt to the judgment creditor within a reasonable time before the application comes on for hearing and the creditor unreasonably fails to agree to it. Subclause (6) empowers the court, on application by a judgment creditor or judgment debtor, to rescind, suspend or vary an order under subclause (1).

Subclause (7) provides that, where the court is satisfied that a judgment debtor has, without proper excuse, failed to comply with an order under subclause (1), the court may commit him or her to prison for not more than 40 days (but if the order is for payment by instalments, an order for imprisonment cannot be made unless two or more instalments are in arrears). Subclause (8) provides that, if payment of the judgment debt or instalments is made, the judgment debtor must be discharged from custody even though the period of imprisonment has not expired.

Clause 6 deals with the making of garnishee orders. Subclause (1) empowers the court, on application by a judgment creditor, to order that money owing or accruing to the judgment debtor from a third person or money of the judgment debtor in the hands of a third person (including money in a bank account) be attached to answer the judgment and be paid to the judgment creditor. Subclause (2) provides that such an order cannot be made in respect of salary or wages unless the judgment debtor consents but, once consent is given, the extent to which the salary or wages are attached is in the discretion of the court.

Subclause (3) provides that, if an order is made under this clause on an application without notice to the judgment debtor or the garnishee (or both), then:

- the order operates to restrain the garnishee from dealing with money to which the order relates until both the judgment debtor and the garnishee have had an opportunity to be heard;
- the court must adjourn the proceedings to give the judgment debtor and the garnishee the opportunity to be heard;
- at the adjourned hearing the court must allow the judgment creditor and the garnishee to give evidence or make representations (or both); and
- after consideration of the evidence and any representations, the court must confirm, vary or revoke the order.

Subclause (4) provides that, in deciding whether to make, vary or confirm an order under this clause affecting money of a natural person, the court should have due regard to any evidence placed before it as to the judgment debtor's means of satisfying the judgment, the necessary living expenses of the judgment debtor and his or her dependants and the judgment debtor's other liabilities. Subclause (5) provides that an order under this clause may authorise the garnishee to retain, from the money subject to attachment, a reasonable sum (fixed in the order) as compensation for his or her expenses in complying with the order. Subclause (6) provides that, if a garnishee does not comply with an order under this clause, the garnishee commits a contempt of the court by which the order was made and becomes personally liable for payment to the judgment creditor of the amount subject to attachment.

Clause 7 deals with the sale of property of a judgment debtor. Subclause (1) empowers the court, on application by a judgment creditor, to issue a warrant of sale authorising the seizure and sale of a judgment debtor's real or personal property (or both) to satisfy a monetary judgment. Subclause (2) provides that the seizure and sale of personal property that could not be taken in bankruptcy proceedings against the judgment debtor will only be authorised in exceptional circumstances. Subclause (3) provides that a warrant will not be granted for the recovery of a minor consumer debt unless the court, after conducting an examination into the judgment debtor's means, concludes that the warrant would be appropriate in the circumstances of the case or is satisfied that there are, in the circumstances of the case, proper reasons for granting the warrant without conducting such an investigation.

Subclause (4) empowers the sheriff, in pursuance of such a warrant:

- to enter the land (using such force as may be necessary for the purpose) on which property to which the warrant relates, or documents evidencing title to such property are situated;
- to seize and remove any such property or documents;
- to place and keep such property or documents in safe custody until completion of the sale; and
- to sell any property to which the warrant relates (whether or not the sheriff has first taken steps to obtain possession of the property).

Subclause (5) provides that, subject to any contrary direction by the court, the sale of real property or tangible personal property will be by public auction (unless the sheriff considers there is no acceptable bid, in which case the sheriff can proceed to sell by private treaty for a price not less than the highest bid) and, if there is a reasonable possibility of satisfying the judgment debt out of personal property, the sheriff should sell such property before proceeding to sell real property. Subclause (6) provides that, where any part of the judgment debtor's property consists of intangible property, the sheriff may sign any transfer or do anything else necessary to convert the property into money.

Clause 8 deals with the making of charging orders. Subclause (1) empowers a court to charge property of a judgment debtor with a judgment debt or part of such a debt. Subclause (2) empowers a court that makes an order under subclause (1) to make ancillary or consequential orders requiring registration of the charge, prohibiting or restricting dealings with the property subject to the charge, providing for the sale of the property and the application of the proceeds and relating to any other incidental or consequential matters.

Clause 9 deals with the appointment of receivers. Subclause (1) empowers the court to appoint a receiver for the purpose of enforcing a judgment. Subclause (2) provides that a receiver may be appointed even though no other proceedings for enforcement of the judgment have been taken.

Subclause (3) provides that the court may confer on a receiver powers:

- to take charge of property of the judgment debtor, to dispose of such property;
- to divert income (other than from employment or a pension) towards satisfaction of the debt;
- to take charge of and carry on a business of the judgment debtor and apply the proceeds towards satisfaction of the debt; and
- to do anything reasonably necessary for, incidental to or consequential on, the exercise of these powers.

The court can also make orders providing for accounts to be rendered by the receiver, providing for his or her remuneration and relating to any other incidental or consequential matter.

Subclause (4) provides that a receiver's powers operate to the exclusion of the judgment debtor's powers.

Clause 10 provides that where a court gives a monetary judgment against a vessel or object, the court may authorise its seizure and sale.

Clause 11 deals with the possession of property by the sheriff. Subclause (1) empowers the court, on the application of a person in whose favour a judgment for recovery or delivery up of possession of property has been given, to issue a warrant of possession authorising the sheriff to take possession of the property and deliver it into the applicant's possession.

Subclause (2) provides that where such a warrant has been issued, the sheriff may, if the warrant relates to land, eject any person from the land and, if the warrant relates to personal property, enter land and seize and take possession of the property, using appropriate means and such force as may be reasonably necessary in the circumstances.

Subclause (3) provides that a person who remains in possession of land or other property that is taken from them under this clause commits a contempt of the court by which the warrant was granted.

Clause 12 deals with the enforcement of judgments by proceedings for contempt of court. Subclause (1) provides that where a party is, by judgment of a court, ordered to do an act or to refrain from doing an act and the party contravenes or fails to comply with the judgment, the court may, on application by the party entitled to the benefit of the judgment, issue a warrant to have the person arrested and brought before the court to be dealt with for a contempt of the court. Subclause (2) provides that a person cannot be dealt with under this clause for failure to pay a monetary sum.

Clause 13 provides for the execution of instruments by court order. Subclause (1) provides that, if the execution or endorsement of a document by a party to an action is necessary to give effect to a judgment, the court may order the party to execute or endorse the document or authorise an officer of the court to do so on behalf of that party. Subclause (2) provides that a document executed or endorsed by an officer of the court has effect as if executed or endorsed by the party.

Clause 14 provides that where a body corporate fails, without proper excuse, to obey a judgment, a director or other officer of the body corporate who is responsible for the management or administration of the affairs of the body corporate is liable to be arrested and dealt with for contempt of the court by which the judgment was given and the judgment may be enforced, by leave of the court, against any director or such officer of the body corporate.

Clause 15 provides that where a monetary judgment is against a partnership or unincorporated association, the judgment may be enforced against the partnership property or the common property of the association or against the property of any person who is liable for the debts of the partnership or association.

Clause 16 deals with the rights of purchasers of property sold in execution. Subclause (1) provides that the purchaser of property sold by authority of a court acquires good title subject only to registered interests and interest of which public notice has been given pursuant to statute. Subclause (2) provides that if, before the date of sale of property, a person claims to have an unregistered interest in the property and gives notice of the claim in accordance with the rules of court, the sheriff must, if the claim is not disputed or the court orders the sheriff to recognise the validity of the claim, pay the claimant out of the proceeds of the sale of the property a sum sufficient to satisfy the claim or, where appropriate to do so, withdraw the property from sale and give possession of it to the person.

Clause 17 empowers the court, if satisfied that there is proper cause for granting a stay, grant a stay of execution in relation to a judgment.

Clause 18 empowers a court to delegate, by its rules, any of the court's powers under this measure to officers of a class designated in the delegation. The clause also provides that a person dissatisfied with a decision made by an officer acting in pursuance of such a delegation may, subject to the rules of court, apply to the appropriate court for a review of the decision, and on such a review, the court may confirm, vary or reverse the decision.

Clause 19 provides for the making of rules of court pursuant to the Supreme Court Act 1935, the District Court Act 1991 and the Magistrates Court Act 1991 on subjects contemplated by, or necessary or expedient for, the purposes of this measure.

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

JUSTICES AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Justices Act 1921. Read a first time.

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

That this Bill be now read a second time.

This Bill amends the Justices Act 1921 in several important ways. One lot of amendments follow from the establishment of the Magistrates Court and the conferral on that court of the jurisdiction to hear and determine summary matters and all the other proceedings provided for in the Justices Act. The name of the Act is changed to the Summary Procedure Act to reflect this, and the provisions related to the appointment of Justices of the Peace are removed from the Act and separately enacted.

In an extensive review of the practices and procedures of courts of summary jurisdiction the Chief Magistrate has looked at ways to enhance the efficient operation of the courts to ensure the efficient disposition of matters before the courts. Many of the Chief Magistrate's recommendations are incorporated in these amendments, as are recommendations made in a discussion paper by Matthew Goode, Consultant in Criminal Law, entitled 'Committals, Offence Classification and the Jurisdiction of the Magistrates Court'.

In discussion of the widespread and justifiable concerns expressed by a variety of people and institutions about delays in the criminal justice system, it is common for those critical of the current criminal process to point to the expense and time taken up by the committal or, as it is more formally called, the preliminary hearing. There have been calls for the abolition of committals, in the name of the conservation of resources and the expedition of the prosecution of criminal matters, and their replacement by other means designed to examine the justifiability and strength of the prosecution case and to ensure appropriate discovery of the prosecution case to the accused. These calls for abolition have been backed by general allegations that the preliminary hearing or committal is responsible for a great deal of the delay and backlog in the criminal courts and

notorious specific cases in which a preliminary hearing has run for months and, occasionally, years.

It is true that excessive delay means injustice. It is unjust to the prosecution, because the memory of witnesses will be impaired, or witnesses may die or otherwise become unavailable. It is unjust to accused persons, for justice delayed is justice denied, and that injustice may take the very concrete form of time spent on remand in custody awaiting a trial which exonerates the accused. Delay is inimical to the public interest not only in the expenditure of scarce resources but also in the effects of lengthy delay in meting out deserved punishment to an offender and vindication of the rights and feelings of victims in successful prosecutions.

A related argument for the abolition of committals, apart from their effect in terms of delay, is that they are said to be ineffective filters of inadequate prosecutions, which filtering activity can and should be done more expeditiously and cheaply by an administrative process. Moreover, it is argued committals do not act as a protector of the accused person who may not be able to afford legal representation at the hearing and who may not be given legal aid either. It is also said that the committal process is abused by defence counsel who engage in harassing cross-examination, laborious fishing expeditions or both with the impunity of knowing that whatever goes wrong at the committal cannot be held against them at the ensuing trial and can only be to their advantage. Perhaps a witness can be so intimidated as not to give evidence at the trial—or so it is said.

There is, however, a general consensus among most participants in the criminal justice system that, while the current system of committals or preliminary hearings may be considerably improved, the preliminary hearing is an important part of the criminal justice process, with a vital role to play. First, the committal provides public external review of the decision to prosecute, to determine whether there is sufficient evidence to put the accused to trial, thereby serving the public interest in preventing fruitless trials and the interests of the public and accused in ensuring early discharge should the prosecuting decision be shown to have been made in error.

Secondly, the committal serves the important function of providing an opportunity for the accused to test the strength of the case for the prosecution. This has advantages for the prosecution as well, for it will reveal any weaknesses prior to trial. Thirdly, the committal performs the vital function of giving the accused early and precise information about the nature of the prosecution case. Further, the process will often serve to clarify and refine issues which would otherwise have to happen, at far greater inconvenience and expense, at trial. Importantly, it provides an early opportunity for the guilty plea at great saving of resources and court time further up the system.

It is for these reasons that the practising profession, the High Court, the Court of Criminal Appeal and, most recently, a comprehensive study commissioned by and for the Australian Institute of Judicial Administration have all affirmed the importance of the preliminary hearing for all interests represented in the criminal justice system.

None of this means that the current system of preliminary hearings is perfect, or that it should not be reformed to minimise adverse consequences and to compel concentration of resources to maximise the advantages and defensible functions of the procedure outlined above. This legislation will streamline the committal system to ensure that the resources devoted to it are concentrated on its proper and appropriate functions. The amount of actual court time devoted to the committal will be kept as short as possible consistent with the due administration of justice.

This will be achieved by amending the Justices Act to provide that, where there is to be a preliminary hearing, the prosecutor must at least 14 days prior to the date appointed for the hearing file in the court and give to the accused copies of all the evidence upon which the prosecutor will rely at the preliminary hearing. This full pre-trial disclosure then forms the basis for a presumption that evidence for the prosecution will only be called if the court gives leave to do so, or if the defendant calls for that witness and the court is convinced that cross-examination of the witness for the prosecution by the defence is necessary for the purposes of the committal.

Further, the test for committal for trial will be strengthened so that its function as a filter for weak cases will be promoted. The test will now be whether the evidence is sufficient to support a conviction, as opposed to the current, much weaker test, of whether or not there is a *prima facie* case.

These legislative provisions will be integrated with the innovative and welcome administrative measures being taken under the guiding hand of the Chief Justice to minimise delay in the criminal process. They are consistent with the recommendations of the Australian Institute of Judicial Administration and with reform initiative undertaken interstate.

Delays in the administration of justice have led to an increasingly critical examination of a wide range of factors at play in the court system, including plea bargaining, charging practice, the conduct of a jury trial and the attitudes and practices of all participants in the criminal trial. A major focus has been on the role of the courts of summary jurisdiction, for the very good reason that summary disposition is expeditious, efficient and relatively undemanding on scarce resources, as opposed to the time and expense involved in jury trials.

While it is true that the right to trial by jury should not lightly be removed for serious criminal matters, the devotion of these scarce resources on what can only be described in any person's language as trivial larceny and assault cases is more than questionable. That is more so when it is realised that giving justice in such cases in the form of a right to trial by jury to one accused will inevitably result in injustice to another accused, on a much more serious charge, perhaps languishing on remand on a far more serious charge awaiting the availability of legal aid, or court time. In these circumstances, the presumption of innocence loses a deal of its meaning.

The current classification of offences has over time become less than rational in some respects. Monetary limits have suffered from a lack of inflation indexation, and new offences require classification. Further, it is time that the statutory right to trial by jury in these trivial cases must be put to the question. The days are long gone when it can truly be said that summary offences are not serious offences at all. There has never been an absolute right to trial by jury and that right has always to be balanced against the right of those accused of serious crimes to have their charges heard and determined with reasonable expedition. Further, examination of South Australian criminal statistics shows that in many cases the penalties actually imposed by the higher court are of the order available to a court of summary jurisdiction. Arguments that the quality of justice is inferior in the magistrates courts are difficult, if not impossible, to sustain.

Accordingly, this legislation rationalises the existing classification of offences and reclassifies a number of new and

existing offences to reflect the comparative seriousness of offences and the need to distribute the workload of the criminal courts in a just and equitable manner. However, it retains the tripartite classification of offences into those which require trial by jury (indictable), those which do not (summary) and those which may or may not attract trial by jury (minor indictable.) New criteria for classification are spelt out and the procedure in relation to minor indictable offences is streamlined and made more rational.

Accordingly, the legislation now in force is amended to provide a clearer definition of summary, minor indictable and major indictable offences. Any offence which is punishable with a maximum penalty of two years imprisonment or less is now to be summary. This reflects the current sentencing limit of the Magistrates Court. Further, offences of petty dishonesty which do not involve the use of force or threat of force are to be summary. Offences which are punishable by imprisonment for five years or less are to be minor indictable. Moreover, the monetary limits defining as minor indictable those instances of offences which carry a penalty greater than five years have been increased to take account of inflation and reflect the increased responsibilities of the Magistrates Courts in relation to civil matters. Other offences which attract a theoretically higher maximum but which do not in practice warrant the full panoply of the jury trial in all cases (such as mere breaking and entering, malicious wounding and assault occasioning actual bodily harm) are specified to be minor indictable.

While the right of the accused charged with a minor indictable offence to elect jury trial is to be retained, the election must take place at least three days prior to the first hearing in relation to the offence. This provision eliminates the potential for a great deal of unnecessary delay and expense in the criminal process which can and does occur as a result of the current provisions which allow the election to take place up to the close of the prosecution case on a committal.

Together with the reforms made to the committal or preliminary hearing, it is hoped that these procedural reforms will make a significant impact on the problems of delays and court congestion with substantial concomitant benefits to the administration of justice, the public interest, and the interests of all those in contact with the criminal justice system.

A number of miscellaneous amendments are designed to improve the efficiency of the court. These include the joinder of charges. A person may be charged with any number of offences in the same complaint and information if they arise from the same set of circumstances or from a series of circumstances of the same or a similar character. Where indictable and summary offences are charged together, provision is made for the summary offences to be disposed of at the same time as the indictable offences. Hitherto the disposition of the summary offences had to await the disposition of the indictable offences if a person had been committed on the indictable offences.

The Magistrates Court is given a wide power to set aside a conviction. This will enable convictions to be set aside where, for example, a magistrate has acted outside his or her jurisdiction. This will save the necessity for an appeal. The need for a complaint to be made before a justice of the peace and for proof of service to be sworn before a justice has been done away with. In practice many justices rubber stamp complaints in bulk and unless a warrant is to be issued there is no apparent need for a complaint to be sworn. In doing away with the need for proof of service to be sworn we are following Western Australia. A person who falsely certifies service will be guilty of an offence.

Sections 182 to 187 of the Justices Act, which provides for irregularities and amendments of processes and orders are not only too formal but also unclear. These provisions have been replaced by one simple provision.

Other reforms which will eliminate unnecessary procedures and wasting of court and court staff time are not readily apparent on the face of this Bill. For example, the requirement that a person accused of a minor indictable offence must elect as to how he or she is to be tried before any hearing commences will do away with the need to keep a running transcript in case the accused elects to be tried in a superior court. Equally the repeal of elaborate provisions as to the payment of witness fees will result in the saving of magistrates', magistrates clerks' and police time. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 amends the long title. The new long title reads: An Act to make provision for the procedures of magistrates courts in criminal proceedings; and for other purposes.

Clause 4 alters the short title to the Summary Procedure Act 1921.

The remaining clauses of the Bill, in addition to the amendments set out below, remove provisions that are dealt with in the Magistrates Bill or Justices of the Peace Bill, alter various references to those appropriate to the new scheme and remove provisions that have no further use.

Clause 5 substitutes section 5. The new section 5 sets out a new categorisation of offences. Offences are divided into summary offences and indictable offences. The following are summary offences:

- an offence that is not punishable by imprisonment;
- an offence for which a maximum penalty of, or including, imprisonment for two years or less is prescribed;
- common assault;
- an offence of dishonesty, not involving the use of force or any threat of the use of force against another, where the amount the offender stands to gain through the commission of the offence is $2 000 or less.

All offences apart from summary offences are indictable offences. The following are minor indictable offences:

- those for which the maximum term of imprisonment does not exceed five years;
- those for which the maximum term of imprisonment exceeds five years and which fall into one of the following categories:
  - —an offence of dishonesty, not involving the use of force or any threat of the use of force against another where the amount the offender stands to gain through the commission of the offence is $25 000 or less;
  - —an offence involving interference with, damage to or destruction of property where the loss resulting from commission of the offence does not exceed $25 000;
  - —malicious wounding or assault occasioning actual bodily harm;
  - —indecent assault;
  - —breaking and entering and related offences (but not if the offender is alleged to have been armed with an offensive weapon or in company with another who was so armed);
  - —an offence against the Controlled Substances Act 1984 that is punishable by imprisonment for a maximum of less than five years;

All other indictable offences are major indictable offences.

The clause sets out some further principles to help determine the categorisation of a particular offence and to facilitate criminal proceedings.

The categorisation is subject to any express statement to the contrary in another Act.

Clause 14 strikes out section 22a (4). This amendment, together with the repeal of section 55 in clause 25, ensures that complaints include particulars necessary to give reasonable information with respect to the nature of the charge.

Clause 19, in amending section 28, adds a provision that service may, in addition to being proved by affidavit of service, be proved by tender of a certificate of service signed by the person who effected service. An offence of giving a false certificate is created with a maximum penalty of two years imprisonment.

Clause 22, in replacing section 49, dealing with complaints requires that a complaint made orally must be reduced to writing. The clause also removes the provision in section 49b that a complaint may be made to a justice where the justice has authority by law to make any order for the payment of money or otherwise. This provision is currently necessary because reservations of questions of law for determination by the Supreme Court are limited to matters arising on information or complaint. However, clause 35 of the Magistrates Bill enables the court to reserve a question of law for determination by the Supreme Court in any civil action, including on matters initiated by the court itself (for example, forfeiture orders under section 19 of the Bail Act).

Clause 23 substitutes section 51 and makes some slight alterations to the principles relating to the joinder and separation of charges. A person may be charged with any number of summary offences in the same complaint if the charges arise from a series of circumstances of the same or a similar character in addition to if the charges arise out of the same set of circumstances. A limitation of a technical nature on laying charges in the alternative is also removed. The provision also enables a court to direct that charges contained in separate complaints be dealt with together in the same proceedings. This is in addition to its current power to direct that charges contained in a single complaint be dealt with in separate proceedings.

Clause 24 extends the time for laying a complaint from six months from the time when the matter of the complaint arose to 12 months from that time.

Clause 25—see clause 14.

Clause 26, in substituting section 57, makes it clear that the court is generally required to issue a summons for the appearance of the defendant when a complaint is properly made. It makes it clear that the summons need not be issued where the defendant is already before the court or where a warrant is issued to have the defendant arrested, as well as where the relevant law provides for the matter to be dealt with *ex parte* as expressly stated in the current provision. It also provides that the issue may be deferred if the whereabouts of the defendant is unknown.

Clause 27 simplifies the procedures set out in section 57a (4) and (5) for notifying the complainant and the court of a written plea of guilty. The new provision requires the defendant to return the completed form to the Principal Registrar by delivering it to an office of the court or by sending it by post. The complex provisions about delivering it to the relevant complainant and that complainant delivering it to the court are removed.

Clause 29 substitutes section 59 by refining the way in which the court may deal with an arrested person. The new provision provides that, if it is not practicable to deal immediately with the matter for which the defendant has been brought before the court, then the court may remand the defendant in custody, or on bail, to appear before the court at a time and place fixed in the order for remand.

Clause 35 by replacing section 65 (5) to (10) with a single subsection simplifies the procedure to be followed if the defendant fails to appear at the time and place to which a hearing was adjourned. The new provision allows the court to exercise any of the powers available to it on non-appearance of a defendant in obedience to a summons.

Clause 41 substitutes section 76a giving the court power to set aside a conviction or order. The grounds on which a conviction or order may be set aside are extended to where the court is satisfied that it is otherwise in the interests of justice or the parties consent.

Clause 44 amends section 99 which provides for orders to keep the peace. The amendment extends the right to apply for a variation or revocation of an order to any interested person, thus ensuring that orders made *ex parte* may be varied. It also removes the limitation set out in subsection (10) that it must be the court that issued the order that varies it. It provides that an order may be made on the basis of evidence given in the form of an affidavit.

Clause 45 substitutes Part V governing procedures in relation to indictable offences. The procedures are simplified and rationalised and the provisions brought up to modern standards of drafting. The following is a description of the new provisions.

New section 101 provides for an information to be laid charging a person with an indictable offence. If the information is laid orally, it must be reduced to writing. An information is to be filed in the court as soon as practicable after it is laid.

New section 102 provides for the joinder and separation of charges. Charges for major indictable offences, minor indictable offences and summary offences may be joined in the same information if the charges arise from the same set of circumstances or from a series of circumstances of the same or a similar character. If any charge is of a major indictable offence, then the procedures applicable to such offences apply. The court is given power to split or join proceedings arising from a single information or several informations. The provisions allow greater flexibility than the current provisions in order that matters may proceed expeditiously.

New section 103 governs procedure on an information being filed in the court. If the defendant is in custody, the court may remand the defendant in custody or on bail to appear before the court. If the defendant is not in custody, the court may (if the charge has been substantiated on oath) issue a warrant of arrest and then remand the defendant in custody or on bail or may give the defendant notice to appear to answer the charge. The defendant must be given the appropriate form for electing for trial in a superior court. If the defendant does not so elect the charge will be dealt with in the same way as a charge of a summary offence.

New section 104 imposes certain obligations on the prosecutor relating to notification to the court and the defendant of evidence to be produced at a preliminary examination. Special provisions apply in relation to statements of children. The age of a child in respect of which these provisions apply is altered from 10 to 12 to bring the provisions into line with the Evidence Act.

New section 105 sets out how the court is to proceed with a preliminary examination. If the defendant has returned a written guilty plea, the court will commit the defendant to a superior court for sentence. If the defendant does not appear to answer a charge, the court may issue a summons to appear or a warrant of arrest or, if the defendant has

absconded or there is some other good reason, the court may proceed with the preliminary examination in the absence of the defendant. If the defendant appears to answer the charge, the preliminary examination is to proceed as follows:

- the charge is read and the defendant is asked how he or she pleads to it;
- if the defendant admits the charge, the defendant will be committed to a superior court for sentence;
- if the defendant denies the charge, the court will consider the evidence for the purpose of determining whether it is sufficient to put the defendant on trial for an offence;
- if the defendant asserts previous conviction or acquittal of the offence, the court will reserve the questions raised by the plea for consideration by the court of trial and proceed with the preliminary examination as if the defendant had denied the charge.

The section also gives the court power to adjourn the examination and to exclude the defendant if disruptive or to excuse the defendant from attendance for any proper reason.

New section 106 sets out the procedure for taking evidence at a preliminary examination as follows:

- the prosecutor will call any witness whose statement has been filed for oral examination if the defence requires production of the witness and the court grants leave (leave will only be granted in the limited circumstances set out in subsection (2));
- the prosecutor may by leave of the court call oral evidence;
- the defendant may give or call evidence;
- the prosecutor may call evidence in rebuttal of evidence given for the defence.

New section 107 sets out the principles that govern the evaluation of evidence at a preliminary examination. If evidence has not been tested by cross-examination the court will assume that it is worthy of credit unless it is plainly incredible. The court may reject evidence if it is plainly inadmissible but otherwise matters of admissibility will be left to the court of trial. If the court is of the opinion that the evidence is not sufficient to support a conviction, the court will reject the information and order the release of the defendant if in custody. If the court is of the opinion that the evidence is sufficient, the court will review the charges and make any necessary amendment to the information. Then, if the charges include a major indictable offence, the court will commit the defendant to a superior court for trial. If the charges do not include a major indictable offence but do include a minor indictable offence, the court will allow the defendant an opportunity to elect for trial by a superior court but if the defendant does not so elect will proceed to deal with the charge in the same way as a charge of a summary offence. If the charges are for summary offences only, the court will proceed to deal with the charge in the same way as if the proceedings had been commenced on complaint.

New section 108 determines the forum where a defendant is committed to a superior court for sentence. It will be the Supreme Court in the case of treason or murder (including attempt, conspiracy or assault with intent) or where the court thinks the gravity of the offences justifies that. In other cases it will be the District Court.

New section 109 determines the forum where the defendant is committed to a superior court for trial. It will be the Supreme Court in the case of treason or murder (including conspiracy, attempt or assault with intent), and other major indictable offences where the circumstances of the alleged commission are of unusual gravity or the trial is likely to involve unusually difficult questions of law or fact. In other cases it will be the District Court.

New section 110 allows the Supreme Court to transfer a trial (except for murder or treason) to the District Court where it considers it appropriate. It also enables the Supreme Court to remove a case from the District Court to itself for trial or sentence. Subsection (4) sets out certain factors to guide the Supreme Court in the exercise of its discretion.

New section 111 obliges the Principal Registrar of the Magistrates Court to forward certain information to the Attorney-General.

New section 112 enables rules of court to provide that specified provisions of the Criminal Law Consolidation Act apply, as modified in the rules, to the trial or sentencing by the Magistrates Court of a person charged with a minor indictable offence.

New section 113 limits the Magistrates Court's power to impose a sentence of imprisonment to a term of two years or less. If the court considers such a term inadequate it may refer the case to the District Court.

Clause 47 simplifies the provisions (see sections 181 to 187) relating to the curing of irregularities in any information, complaint, order, summons, warrant or other process of the court. The new provisions provide that a defect of substance or form does not invalidate the document and gives the court power to make appropriate amendments. In the case of an information or complaint the defect may not be rectified if the defendant has been substantially prejudiced and the court may dismiss the information or complaint if the defect cannot be appropriately cured by amendment.

Clause 49, in substituting section 200b with a new section 200, simplifies the procedures for reciprocal enforcement of orders for payment of a fine or other monetary sum made against a body corporate in another State or in a Territory of the Commonwealth. The new provision enables the Principal Registrar to register such orders of courts of summary jurisdiction and provides that, subject to the rules, proceedings may be taken for the enforcement of a registered order.

The clause inserts section 201 which is a provision providing for the award of costs for or against the prosecutor or defendant in proceedings commenced on information or complaint. It provides that costs will not be awarded in relation to a preliminary examination of an indictable offence unless the court is satisfied that the party against whom the costs are awarded has unreasonably obstructed the proceedings.

The clause also replaces the Governor's rule making power in relation to court fees with a power to make regulations for that purpose. The power to make regulations is extended to witness fees and expenses. (See new sections 202 and 203.)

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

JUSTICES OF THE PEACE BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill to provide for the appointment of Justices of the Peace; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

This Bill is consequential on the amendments to the Justices Act 1921 and the change of that Act's name to the Summary

Procedure Act by the amendments in the Justices Act Amendment Bill 1991.

The former Justices Act 1921 now regulates the procedure of the Magistrates Court and it is no longer appropriate for the provisions relating to the appointment of Justices of the Peace to be contained in that Act.

The provisions of this Bill provide for the appointment of justices (and special justices), the grounds for removing a justice from office and the keeping of the Roll of Justices by the Attorney-General. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 is an interpretation provision. It provides that 'justice' means a justice of the peace for South Australia and includes a special justice.

Clause 4 provides for the appointment of Justices by the Governor and requires justices to take the oaths required under the Oaths Act 1936.

Clause 5 provides for the appointment by the Governor of a justice as a special justice. Appointments are to be made on the recommendation of the Attorney-General.

Clause 6 provides that the Governor may remove a Justice from office if the Justice—

(a) is mentally or physically incapable of carrying out official functions satisfactorily;

(b) is convicted of an offence that, in the opinion of the Governor, shows the convicted person to be unfit to hold office as a Justice;

or

(c) is bankrupt, or applies to take the benefit of a law for the relief of bankrupt or insolvent debtors.

Clause 7 provides that the Attorney-General will keep a Roll of Justices.

Clause 8 provides that the letters 'J.P.' appearing after a signature will be taken to signify that the signatory is a Justice.

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

EVIDENCE AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Evidence Act 1929. Read a first time.

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

That this Bill be now read a second time.

Provisions similar to the provisions of this Bill are presently to be found in sections 152, 153 and 154 of the Justices Act 1921. They are more appropriately placed in the Evidence Act than in the Justices Act (or Summary Procedure Act as it is to be called in the future).

The provisions deal with, first, taking statements from persons who are dangerously ill. The statements may be admitted in evidence at a preliminary hearing or trial if the person making the statement is dead or unable to give evidence at the preliminary hearing or trial. The provisions secondly deal with the situation where a statement from a witness has been filed at a preliminary hearing, or the witness has given oral evidence, and has subsequently died or becomes so ill as to be unable to give evidence at the trial. Provision is made for the record of the witness's evidence at the preliminary hearing to be read as evidence at the trial. The court has discretion to admit the evidence and will not allow the prosecutor to present the evidence if, in the circumstances of the case, the defendent would be severely and unfairly prejudiced. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 inserts evidentiary provisions in relation to evidence from witnesses who are seriously ill or who die.

New section 34j establishes a special procedure for obtaining a statement of a witness who is seriously ill and admitting the statement in evidence in a prosecution for an indictable offence. The statement can be taken on the part of the prosecution or the defence. It can only be given by a person who is dangerously ill and, in the opinion of a medical practitioner, unlikely to recover from the illness. The statement is to be taken by a magistrate or justice and must usually be taken under oath. The opposing party must have had reasonable notice of the proposal to obtain the statement and a reasonable opportunity to attend and cross-examine the witness. The statement is admissible in evidence at the preliminary examination or trial of the charge if the person from whom the statement was taken is dead or unable to give evidence.

New section 34k provides that, where a witness at a preliminary examination of a charge of an indictable offence subsequently dies or becomes seriously ill, the court of trial may give leave to admit the record of evidence given at the preliminary examination. A limitation is imposed on the granting of such leave where the evidence is for the prosecution. If the court considers that admission of the evidence without the opportunity of cross-examination would, in the circumstances of the case, cause severe and unfair prejudice to the defendant it must not grant leave.

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

CRIMINAL LAW CONSOLIDATION (ABOLITION OF YEAR-AND-A-DAY RULE) AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney General) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to abolish the rule at common law known as the 'year-and-a-day rule'. That rule states that where one person causes injury to another, or inflicts injury on another, he or she cannot, as a matter of law, be taken to have caused the death of the victim if the victim dies more than a year and a day after the infliction of the injury which is, in fact, the cause of the death. Some say that the rule reflects nineteenth century medical knowledge and represents a judgment that, in 1800, for example, it was not possible to prove the causal link between an injury and death where the death does not occur until a year and a day later. Others see its origin in the thirteenth century procedure of appeal of felony for death.

Whatever its origin, it retains no present rationale. Further, it may cause an injustice where an offender injures a

victim who lies in a coma for a long period, or where the offender, for example, infects the victim with a disease such as AIDS, which involves a long, slow death. The result of repealing this rule will be that the causation of death will now be assessed on the same basis as in any other criminal case. It is true that on the abolition of the rule an offender may be convicted of a lesser offence and then later be charged with murder or manslaughter. However, if he or she did cause the death of the victim, it cannot be denied that the later charge is appropriate. Repeal of the rule was recommended by the Mitchell committee.

Clause 2 of this Bill was included as a section in the Statutes Amendment (Attorney-General's Portfolio) Bill in the last session of Parliament but was struck out during the passage of the Bill because of concerns expressed by the Law Society. Since that time, the Law Society has indicated that it supports the measure. In addition, abolition of the rule has become law in New South Wales and was agreed to by the Standing Committee of Attorneys-General. The reform is clearly warranted and is justified. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 inserts a new section after section 17 of the principal Act in the part dealing with homicide. The new section 18 abolishes the common law 'year-and-a-day' rule by providing that an act or omission that in fact causes death will be regarded in law as the cause of death even though the death occurs more than a year and a day after the act or omission.

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

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 13 August. Page 72.)

The Hon. DIANA LAIDLAW: Last night, when addressing this motion, I referred to the arts and tourism in the context of Her Excellency's speech. Tonight I will refer to a couple of important transport issues. In her speech, at paragraph 31, Her Excellency noted:

> My Government intends to continue the process of reform in the taxi and hire vehicle industry, removing excessive restrictions on day-to-day operations.

I am unsure what the Government means by 'excessive restrictions' in relation to this important industry. To my mind 'excessive' is a very subjective rather than objective term. I have misgivings about the Government's intention in this regard, based on Transport Minister Blevins's earlier excesses in this field.

Members may recall how shamefully he has treated this industry in the past, in particular last April, when he announced, without warning, the decision to rid the industry of 100 regulations. I refer in particular to his allowing open entry for the hire car industry. That was a bombshell released on the industry and which one that galvanised much anger in the community. Mr Blevins was ultimately forced to back down, but a great deal of ill-will was generated in the meantime. Certainly, a great deal of mistrust was created about the Minister's future intentions in the future. That is why I express some caution about the term 'excessive restrictions' as mentioned in Her Excellency's speech.

Members may also recall a subsequent action by the Minister of Transport, when in June he introduced the issue of new licences, which was later debated in August in this place. The Minister released the regulations, in which he indicated that 50 new licences would be issued, solely to existing owners. On behalf of the Liberal Party, and supported by the Democrats, I moved that those regulations be disallowed on the basis that we considered that the first new licences issued in some 17 years in this State should not have been confined to owners only and that drivers and lessees should also have the opportunity to participate in this windfall of new licences.

I read with considerable interest the minutes of the Metropolitan Taxi-Cab Board meeting held on 10 July and I note the following:

> After discussion, it was resolved that the maximum number of taxi-cab licences, excluding special purpose vehicle licences [which relate to access cabs], shall be 895.

I point out that the number of licences, excluding those for special purpose vehicles, is 839. So, at its first meeting for this financial year the board decided that over the course of this financial year there will be an increase of some 50 licences; that is, the board will tolerate an increase of some 50 licences in South Australia. Whether that becomes a reality is, of course, a matter for the Minister to determine. However, we would all appreciate that he did endeavour to introduce those 50 new licences last year, and it is apparent that the board has agreed to such a course of action and that the taxi industry will have such an opportunity during the course of this financial year.

The Minister has also recently released a paper entitled 'The Taxi and Hire Vehicle Industry in Adelaide: a Futures Paper' prepared by the Office of Regulation Review. My assessment of this paper is that it is a poor reflection on the industry, in the sense that it has a very narrow focus. It is riddled with ideological hangups about deregulation for deregulation's sake and it demonstrates very little practical understanding of this important industry.

I would like to address briefly each of these criticisms in order. First, I refer to my criticism that the report is narrow in its focus or perspective. The report canvasses the taxi and hire car industry in the context of community transport and talks about increased opportunity for taxi and hire car drivers, but I believe that both propositions in relation to community transport and increased opportunies for the taxi industry are naive if the Government is not prepared to begin deregulation of the STA, which has a monopoly over routes and services in this State. It is my view, based on the Minister's earlier decision of April last year to allow open entry for hire cars, a view that was then reinforced, that the Government has no objection to reform within the private sector. However, when it comes to the public sector, the Government is far too scared to act so boldly. It appears to me that because the public sector is so unionised the Government will not touch the STA or look for reforms, initiatives or other community transport measures, but when it comes to the taxi and hire car industry it has no such reservations.

I make those strong reflections on the Government's intentions and credibility whilst reflecting further on the matters I raised yesterday in relation to ticket vending machines. Yesterday, I noted that the STA and the unions agreed in 1988 that ticket vending machines could be introduced for the convenience of passengers, but because of the objections of one union the STA, backed by the Government, was far too scared to move in that direction. I have no doubt that the same thing would happen with general deregulation of the STA and relaxation of its monopolies over routes and services in this State if the Government

decided to move. It is because of that, that the Government will not move. Yet, the very fact that it will not make decisions in this area to challenge the STA's monopoly in this field reflects badly on the credibility of this report on the taxi and hire car industry, because many of the future options of the industry will simply not be possible until the STA's monopoly in various areas has been challenged.

I also think that the report is narrow because it contains no reference to Access Cabs. I am not sure whether members know that at present nearly $500 000 is spent by taxpayers each year to subsidise the operational costs of Access Cabs. That figure does not relate to vouchers given to people entitled to use Access Cabs; it is simply $500 000 that we use to subsidise the operations of what is essentially a private sector company.

I believe that the Government should look at this area because the operation of Access Cabs should essentially be incorporated in the operation of the taxi industry as a whole. It has the capacity to do that. The taxi industry also receives great benefit from the system of vouchers. I do not believe that the taxpayers of this State should subsidise the operation of Access Cabs, although, certainly, I have no qualms about people with disabilities receiving a subsidy for the service that they receive through the use of these special vehicles. That point about Access Cabs was deliberately omitted from this report, and I believe that that is another reflection on the very narrow focus of the report and also on its credibility.

I have also indicated that I am critical of the report in terms of ideology. I believe that the report is obsessed with the issue of deregulation. That is not an appropriate focus for the taxi and hire car industry alone because it is an industry in which the issue of safety should not be only the Government's responsibility.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: I did not suggest more regulation; I suggested appropriate regulation. I have never favoured deregulation for deregulation's sake, particularly in an industry such as the taxi industry in which there are a great many other community demands for standards. I nominate the cleanliness of vehicles as one issue in which I believe the community has an interest. Other issues could relate to the performance and age of vehicles, a driver's knowledge of areas, and possibly even a driver's command of English. However, I note that, because of the new computer dial-up system for addresses and confirmation of orders adopted by Suburban Cabs, that will not be such an issue in the future.

In my view, there are a great number of cases in which the community, through the Government, requires a standard—and that means regulation. This point was made by members who sat on the select committee into the taxicab industry some years ago. I recall that the Hon. Mr Davis was a member of that committee. As shadow Minister of Tourism and shadow Minister of Transport I am particularly conscious of the important role that the taxicab industry plays in terms of the tourist industry and our drive not only to increase the number of tourists in this State but to ensure that they have a satisfying and rewarding time here and are keen to return. I believe that taxi drivers are very much up-front in terms of the tourist industry but that that role is one that a lot of people in the taxi industry have yet to accept fully. I believe that the Government has a role in the determination of standards and that that issue is not understood or appreciated in this report by the Government adviser on deregulation.

I also want to refer to the practical nature of the industry, a factor that I do not believe was canvassed adequately in this report. Consequently, it is reflected in the four options for reform. I am very conscious that the taxi industry involves very heavy investment by a number of people. At this time, taxi plates range from approximately $85 000 to $95 000. Over time, I have met many owners of taxi licences, and they are entrepreneurial in spirit; they are very determined small business people; they are family people; and, generally, it is a family investment. Two weeks ago I met a man who had come from Bulgaria, from where he and his family had escaped. They are now living in Adelaide. They have struggled very hard with, at times, two and three jobs, seven days a week, to buy a house. That house is now mortgaged as security for the taxi plate.

I believe that, when we look at this issue of reform in the taxi industry, members of Parliament must be very conscious of that investment and commitment by people whom we have encouraged to come to this country to start a new life. I do not believe that that commitment and perspective of the taxi industry have been taken into account by the Government adviser on deregulation and, consequently, that again brings into question some of the options nominated for reform.

In terms of reform, I reinforce my earlier statement that the Government adviser has little practical knowledge of the industry. That is reflected in model No. 1, where the proposal is as follows:

> To maintain existing controls, but to encourage competition by the injection of new taxi licences. Some modified controls to be introduced to lessen the regulatory impact on some sections of the industry.

The most significant aspects of this model are deemed to be:

- The Metropolitan Taxi Cab Board would remain in its present form, with little or no change to its present mode of operation.
- Any vehicle in the community transport sector which carried a meter would have it checked for accuracy and sealed.
- Fares would be deregulated, provided the fares charged were displayed on the taxi.
- Legislation would ensure competition between radio companies.

It would be my assessment that, if the Government adviser had any practical knowledge of the industry, he would not even be nominating a closed shop arrangement, albeit with the limited number of new taxi licences. Nor would he be suggesting that fares be deregulated because, essentially, that would be encouraging the privileged position which the Government adviser damned in the earlier commentary on the industry. Essentially, that model would maintain the existing closed shop arrangement, which is reflected upon badly in this report, but would allow fares to be deregulated, allow a closed shop industry to charge their own fares, and allow them to escalate at will. I do not believe that this Government would encourage such privilege.

I now turn to the issue of competition in the STA. Professor Fielding was commissioned by the Government in 1988 to develop a plan for our metropolitan transport in the 1990s and concluded in his much acclaimed report:

> The STA's drift away from commercial performance has emphasised social and environmental objectives for transit, resulting in the neglect of operational efficiency and passenger satisfaction. If allowed to continue, the South Australian Government will have to adopt more drastic solutions than the commercialisation path adopted.

Professor Fielding proposed commercialisation of the STA, but indicated, if the Government did not move in that direction, the drastic solutions that he envisaged, including privatisation of transit. Personally, I am not in favour of privatisation of the STA but recognise, as Professor Fielding nominated, that unless the Government acts in terms of the commercial performance of the STA we may have no

other option in this State. I personally favour a competitive approach to the provision of public transport in this State—the approach increasingly adopted around the world as Governments come to recognise that the falling numbers of people using public transport cannot be tolerated at a time of escalating costs for the provision of those services for a smaller number of people.

In his introduction to the 1988 report, Professor Fielding stated that his recommended reforms—those of commercialisation and competition—are moderate considering what is occurring in Europe and North America, and that is so. I would like to name some of the countries where competitive tendering has been practised for a number of years and indicate that in each instance, where competition has been incorporated, the service has been provided at a substantially lower cost. I am referring to operational costs and not to concessions and such like. The operation has been achieved at substantially lower cost for the same or better service.

Various approaches have been tried in relation to competitive tendering. Some public transit authorities have provided a revenue vehicle for use in tendered services whilst others have required private companies to supply their own vehicles, with tendering packages varying in size from a single vehicle to more than 200 vehicles. In some cases public transit authorities participated themselves in the tendering process. Whilst this would raise some complex cost comparison issues, it would not be a problem if, as the Minister of Tourism indicated earlier, Government services were required to operate and sustain the costs that all private sector companies face.

I highlight, however, that in all examples of competitive tendering in public transport services overseas, the public policy control has been retained over the tendered services to ensure that such services are operated in accord with public policy objectives. This is a most critical factor in the design of competitive tendering, because such services are designed to serve a public and not a private purpose.

In the United Kingdom authorities have adopted two different approaches to competitive tendering within and outside London. Currently, 40 per cent of bus services operated by London Transport are competitively tendered. The contracts are held by 17 private companies and 12 subsidiaries of the old public authority. London Buses—the equivalent of the STA—has been a successful competitor after implementing cost saving practices.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: Jobs have been created in the private sector. With a greater number of people using public transport, whether operated by the public or the private sector, they have seen more jobs for the people that the honourable member suggests we would see out of work under my approach. There are now more than 1 500 tender buses operating on 200 routes with operating savings ranging between 15 to 20 per cent for the same standard of service. The routes and frequency are the same, but the simple operating costs have been lowered by 15 to 20 per cent.

In that regard, I note, having had discussions with a number of people in the trade unions involved in the transport industry in this State and with the STA from time to time, there is no doubt that in future unions involved with the STA will have to look at split shifts incorporated in their work practice, as well as permanent part-time work. The general community is having to accept such change and, with high levels of unemployment, the Government and the Opposition have an obligation to ensure that awards are not restrictive in denying people the opportunity to work if they so wish.

In New Zealand, public transport was deregulated on 1 July 1991. The Bill for deregulation of public transport in New Zealand was introduced by the former Labor Government, and I stress that point to the Hon. Mr Roberts. The legislation in New Zealand provides for a strong public planning focus and requires that all publicly subsidised services must be competitively tendered and allows for commercial operations on a deregulated basis.

Members opposite are always very excited about social legislation in Sweden. Perhaps they will equally embrace its enthusiasm for competitive tendering of public transport services. In Sweden, all counties but Stockholm have completed the transition to a competitively tendered system, with costs savings reported to be between 15 to 20 per cent. In Denmark, legislation has been passed requiring Copenhagen to competitively tender 45 per cent of its bus services over a three-year period, which began on 1 April 1991. In Norway, legislation has been introduced into Parliament requiring competitive tendering, and similar legislation is anticipated in Iceland. Iceland, as we all know, is one of the most progressive countries, with perhaps the highest percentage of women politicians in the world.

The Hon. Anne Levy: I think it is Finland.

The Hon. DIANA LAIDLAW: Finland, is it? Iceland would be a close second. Finland also has embraced competitive tendering of services, as have major cities in Germany, France and Portugal. Counties in Canada and South America, with Santiago and the like—

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: Don't worry, Mr Roberts: the unions already have a copy of my speech, I have been up front and they know the background to these discussions. They are also well aware of what is happening around the world in terms of the provision of services. They are also well aware that the only approach that the honourable member and the Government have is the closure of routes. That is quite apparent with the decisions announced just recently, with closure of another 12 bus routes and further railway stations. I think the honourable member should ensure that he is better informed before making too many interjections about the facts I am presenting.

As shadow Minister of Transport I consider it to be a very important part of my responsibilities to discuss various issues with the trade union movement from time to time and, while we have not agreed on a number of issues, it has been interesting to see how much common ground we do have and the principles that we have been able to accept, even though we have not always agreed on how those would be implemented. Any suggestion by the Hon. Ron Roberts of trying to divide and rule in this matter would not be successful.

In relation to the national rail freight initiative, the Liberal Party in this State, and federally, was very pleased to welcome the progress at the Special Premiers' Conference on 31 July. In particular, we were pleased to endorse the national rail freight initiative.

The communique, signed by the Premiers at this conference, indicates that South Australia supports the establishment of the corporation, but that at this stage the State has not signed the agreement because the Government is keen to pursue a range of issues under its rail transfer agreement with the Commonwealth, and it hopes that these will be resolved through bilateral negotiations before the agreement is signed. It is my understanding that those issues include: where the new headquarters of the new corporation should be—and the Liberal Party believes, as does the Govern-

ment, that the headquarters of this corporation should be in Adelaide.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: When the Government deserves acclaim, I shall be the first to give it, Mr Roberts. The Liberal Party endorses the Government's view that the AN workshops should form the basis of the workshops for this new corporation. Certainly, AN has achieved some magnificent productivity and work practice gains and it has installed some excellent machinery and other technologies in the workshops at Islington and Dry Creek. Those should not be lost to the rail network through any suggestion pertaining to the new corporation that the workshops be split up and spread around the country or, worse still, be concentrated in the Eastern States, where one wonders whether efficiency and rail will ever be two terms that will come together.

I understand that the issue of a member on the board is one that the Government is negotiating at the present time, as is the case with the issue of standard gauge between Melbourne and Adelaide. Again, the Liberal Party endorses the Government's efforts to achieve those goals. I note that Queensland, like South Australia, has also indicated that it has no wish at this stage to become an equity participant in the organisation, even though both Governments fully support the establishment. The shareholders agreement signed at the Special Premiers' Conference does provide for South Australia and Queensland to become equity participants at a later stage.

I note those points that the Liberal Party believes in very strongly. My Leader, the member for Victoria (Mr Baker), issued a press statement on 29 July which states:

> Premier Bannon should ensure that South Australia is a shareholder of the proposed National Rail Corporation if he is serious about the Special Premiers' Conference approving a new corporation which is viable, efficient and headquartered in Adelaide.
>
> A South Australian shareholding could be earmarked for rail improvements within the State and is essential if our State objectives are to be seriously addressed.

I note that Queensland has agreed to put in assets to the corporation, but it is determined that those funds be spent on improvements on rail in Queensland. Essentially, I believe that we in South Australia would be able to earmark any equity that we put into the project, as part of a shareholding, to go to the standardisation of the line from Melbourne to Adelaide. I also believe that such a contribution would not be a vast sum up front at this time: it would be something that we could prepare for and accommodate in terms of our budgeting over some years to be expended in perhaps four or five years time.

The Liberal Leader's press release continues:

> One of the key and long overdue aims of the Hawke Government is micro-economic reform in transport and this has now been placed on the agenda for Tuesday's Special Premiers' Conference.
>
> But given the current status of rail freight proposals with the Premiers, there is a huge risk of creating an unworkable, compromise-ridden bureaucratic monster dominated by New South Wales and Victoria.
>
> Australian National is the most efficient rail organisation in the Commonwealth and is a key employer in South Australia. It could be decimated if a new rail organisation is created interstate, which would make its workshops particularly vulnerable.
>
> In addition, high priority rail projects with a big impact on South Australia's economic future, like the standardisation of the line from Adelaide to Melbourne, could be given lower priority if South Australia is not a strong shareholder in the new National Rail Corporation.

I conclude by saying that the Liberal Party does strongly endorse the matters which this State Government is fighting for in terms of the National Rail Corporation and which it is fighting for under the terms of the rail transfer agreement, which I understand this Parliament would have to agree to amend if this National Rail Corporation is to proceed. Perhaps we could withhold our agreement to amend the agreement pending an outcome on issues such as the workshops, the headquarters and the like. I doubt, though, whether we could withhold for too long any decision to amend that rail transfer agreement.

It is for that reason that the Liberal Party believes very strongly that, if in the longer term we are to be successful in maintaining the headquarters in this State, keeping the workshops and ensuring the line between Adelaide and Melbourne is standardised, we must put equity into this corporation and we must be a member of the board from the start to ensure that South Australia's interests are protected. As the Hon. Mr Roberts and all other members in this place will recall, notwithstanding having a rail transport agreement signed some 15 or 16 years ago, and with the varying understandings in relation to the condition of track and what would be retained in South Australia's interest, the Commonwealth Government seems to have a short memory.

Over time South Australia has progressively lost out. We believe that the experiences in South Australia with the rail transfer agreement should sound alarm bells for this Government. We should not allow that to be repeated with the National Rail Freight Corporation. For South Australia's experiences with the rail transfer agreement not to be repeated, essentially we have to agree to be a shareholder at this stage and put in the money to ensure that we are a member of the board, because that is where the decisions will be made in future, not at Premier or officer level. I support the motion.

The Hon. M.S. FELEPPA: First, I thank Her Excellency the Governor, Dame Roma Mitchell, for officially opening this third session of the Parliament, and I congratulate her on her appointment to high office. It is also my pleasure to join my colleagues in endorsing the complimentary comments made yesterday and today. I wish Dame Roma Mitchell very good health and many years as Governor of this State. I also take this opportunity to join Her Excellency in extending my condolences to the relatives of past members: the Hon. Dr Springett, the Hon. Mr Giles and the Hon. Mr Story.

In my contribution this evening I hope I shall be forgiven for choosing to speak about prostitution.

The Hon. Diana Laidlaw interjecting:

The Hon. M.S. FELEPPA: The Hon. Ms Laidlaw seems to be rather disappointed. This issue is with us, and I have decided on this occasion to consider some of the arguments and observations which have been circulated over a long time regarding prostitution. I shall particularly endeavour to look into some aspects of prostitution as it is felt personally by those in the prostitution industry.

I state at the outset that I do not approve of the practice of prostitution, and on this I am sure that I would enjoy the majority support of the people. Nevertheless, prostitution has been practised in our community for generations. There has been and there will continue to be prostitution in our community. We cannot escape this clear reality.

Because prostitution exists in our society and because there is a need to exercise our limited control of it, a Bill was introduced three times in this Parliament: in February 1980 by the Hon. Robin Millhouse, in August 1986 by my colleague the Hon. Ms Pickles and in April of this year by the Hon. Mr Gilfillan, which Bill, of course, lapsed during the closing days of the last session.

At this point it is important for me to make it quite clear that I want to address not the Bill, but only some aspects of prostitution generally. When the Bill was introduced in this place I received numerous letters and many phone calls, perhaps like all other members did.

The Hon. R.I. Lucas: You will get many more, too.

The Hon. M.S. FELEPPA: Yes. Some were urging me to support the Bill and many others were demanding that I strongly oppose it. As a matter of fact, more and more letters are still coming in.

The Hon. R.I. Lucas interjecting:

The Hon. M.S. FELEPPA: I hope that the honourable Leader of the Opposition will listen, and in due course he can reply in his own right. They contain a lot of confusion about prostitution. The confusion stems from the point of view taken and the notions that one has about prostitution. Some arguments are so poorly construed that the conclusions drawn do not follow from the facts and, therefore, they are almost invalid in my humble view.

Other arguments are based on facts which are false, making the arguments almost unsound, or the facts are so distorted that they bias the conclusion. What is needed is a view of prostitution that sees prostitution as objectively as possible, doing one's best to put aside preconceived notions and acknowledged bias. That is why I have chosen to speak about prostitution, endeavouring to show some of the facets of the industry which make prostitution an unhappy way of living.

If an Act of Parliament could eliminate prostitution altogether, I can assure honourable members that I would be the first person to support it and to promote it to the fullest. But the fact is that prostitution has never been legislated away, nor has it ever been eliminated by declaring it immoral or illegal. Making laws to eliminate prostitution merely changes the form that it takes, driving it underground, where it seeks to protect itself by submitting to pimps and promoters, without legislation ever being able to limit the extent of prostitution, much less succeed in eradicating it.

By making laws and enforcing them, it may seem that society is doing something to eradicate prostitution, whereas in reality none of the energy expended touches the real core of the problem.

Prostitution is viewed differently by various sections of the community. There is the humanist perspective and the Christian perspective. There is a perspective, no doubt, in which prostitution is seen differently again. For example, the Islamic and Aboriginal perspectives claim that they have a legitimate perspective, and they most certainly do.

In our pluralist society, which allows and caters for so many different perspectives in sport, business, religion, and so on, we have what can be called a social perspective of prostitution. Each is allowed to take a view of society from his or her understanding of what society is and what society should tolerate. Almost any difference is tolerated, provided that it is not harmful or detrimental to the rest of society.

Quite different views are tolerated with regard to prostitution. Through my research on this matter I came across two reports on prostitution. One, by the Uniting Church, comes down on the side of decriminalising prostitution, but with some qualifications. Nevertheless, it does not approve of prostitution.

The other report, by the Salvation Army, opposes decriminalising prostitution. Both groups have Christian perspectives, but they differ in their conclusions, and both can and should be tolerated.

The Salvation Army report lists some 11 reasons why people enter prostitution and are willing to give themselves to it, either reluctantly or willingly. Several of the reasons seem to have one thing in common, however. Some of the reasons given are survival in a situation of economic necessity, lack of accommodation and, in particular, youth homelessness, drug addiction, the inabiltiy to live off one's pension or benefits, or the breakdown of the family, which is critical in many cases. All these are given as reasons for entering prostitution.

What they have in common is that prostitution seems to be a secondary consideration and a consequence of some other social cause. If poverty, because of pension problems or because of a lack of accommodation, is a cause for entering prostitution, then the solution is not found in attacking prostitution, but will be found in providing the needy with sufficient to live on and shelter for the homeless.

Problems of prostitution would be solved indirectly for those who are willing to accept the solution for avoiding the prostitution trap. The same applies to drugs and prostitution, which are taken as if they always go together, even if they do not necessarily commence together. Drugs of dependence, in the main, precede prostitution. If the drug problem is tackled in time and solved, even in part, then the link with prostitution need not occur; or, if it does occur, in my view it can be broken. Here again, prostitution seems to be a secondary issue.

When the family unit of society breaks down those who move out of the family circle inevitably suffer the culture shock of entering some different way of life and in quite different circumstances. The breakdown of the family is the primary problem and being drawn into prostitution becomes a secondary problem. By solving the problem of the family unit, the prostitution problem may not arise. What is needed here is like preventive medicine: it is no use pretending that something is being done to solve the problem of prostitution unless the remote cause of entering it is tackled in time as the first action. Solve one and you solve the other. However, tackling the problems of prostitution will not begin to solve the other social problems.

One category is singled out in the Salvation Army report that is distinct from most others. It is these who enter prostitution to raise money for a specific purpose. Entering prostitution, whether it be as a business venture or as a temporary arrangement, is no social solution, nor is it a legal solution, which is what is recognised by the decriminalising of prostitution.

One last group that is cited in the Salvation Army's list is those who are disadvantaged as a group and, being disadvantaged, they suffer poverty. Of course, all this renders them powerless to protect themselves from being preyed upon by criminal elements who use them for monetary gain, as the report says.

In my view such a group needs a special kind of social solution that not only solves the poverty but also empowers them to help themselves and protect themselves from those who would impose upon them. For this I believe legislation is needed to protect those who may be coerced into prostitution and those who are too young to make an informed decision to enter prostitution. Children in particular should be protected. While some need prohibitive protection, there are those who make a voluntary choice to enter the prositution profession and do so whether or not it is legal.

From the point of view of a social perspective, we are a pluralistic society, and those who see prositution as morally acceptable should be catered for, along those who see it as morally unacceptable. As members would well imagine, there is a marked division in society. There are those who see prostitution as morally wrong—and it is wrong without any qualification. Of course, because they are a majority they see themselves as strongly supported.

However, there are those who, with some qualification, see prostitution as acceptable because it is profitable and not too psychologically disturbing. Of course, they are a minority. In such a case, there is marked conflict of opinion, and there is pressure on the minority to conform to the views of the majority. Of course, the main pressure is in the present laws, which demand conformity.

The response of the prostitution industry, and especially to the legal and social pressures, is for the prostitution industry to draw a veil of obscurity over its activities wherever it can and maintain anonymity. When anyone in the prostitution industry is interviewed on television, for example, they prefer not to be identified and, if someone in the industry is caught by a TV camera, for instance, they try to hide behind a newspaper or a handbag so that the veil of obscurity is maintained. If such a person does appear on television and can be identified, there is always the lurking attitude of apology for being what they are. Of course, if they show no shame, they appear to be brazen. Most would prefer that the veil of obscurity not be lifted at all, not even a little. They would prefer to remain anonymous.

Those in the industry feel justified in drawing the veil of obscurity over their activities and they would resist intrusion at any cost. This is emphasised in the 1986 discussion paper on the law relating to prostitution. On page 13 it states:

> . . . there is a resistance from prostitutes who consider the option (of the legislation and regulation) inconsistent with human dignity and who would refuse to comply with the imposed regulations.

In the Victorian Act relating to prostitution, sections 15 to 49 were omitted when the Act was proclaimed. This part of the legislation dealt with the regulating of the activities of prostitution by a six member board, with powers to enter and inspect brothels, the licensing of brothel owners, the approval of managers health checks on prostitutes, and so on.

These are the kinds of regulations or that those in the prostitution industry do not wish to have at any cost. They would prefer self-regulation. As I said before, these were the very sections that were left out of the Act when it was proclaimed in Victoria. What has happened in Victoria since is that, even though regulation of the industry is more or less on a par with any other industry which must comply with the planning laws and local government by-laws, prostitution prefers to operate outside those laws as they now stand. The reason is obvious: they want to keep, as I said before, the veil of obscurity so as to maintain anonymity.

How is prostitution seen from within the industry and how does it influence the relationship between those people in or close to prostitution? George Bernard Shaw, the Irish playwright, wrote with keen insight into the social problems of his day. In his play *Mrs Warren's Profession*, the problems of prostitution are little different from the problems we face today. In that play he ripped off the veil of obscurity that covered prostitution, and so revealing was it that the censor of the day, the Lord Chamberlain, would not issue a licence for the play to be performed. It is, first, entertainment and then social comment. Embedded in the entertainment are Shaw's own observations and comments.

Mrs Warren's daughter had almost no contact with her mother as she was growing up. She was well-educated, self-reliant and occupied with a position in law. The mother (the prostitute) admits that prostitution is not work for pleasure, as pious people suppose it to be. For a poor girl who is good looking it is worthwhile and better than other employment. Prostitution is wrong, but conditions can make it right. There should be better opportunities for women and if there are not it would be foolish to refuse what prostitution offers. That is Mrs Warren's reasoning when she says:

> The life suits me. I am fit for it and nothing else. If I did not do it, someone else would. So, I don't do any real harm by it. Then it brings me money and I like making money.

That is Mrs Warren's justification although others may think it a distorted justification. That, no doubt, is the same justification that those who voluntarily enter and remain in prostitution would say of themselves today. One can see that nothing much has changed from that aspect that has been recorded.

In my view, the play has a rather sad conclusion, which also shows something of the nature of prostitution. The daughter goes off to a law practice in London and refuses to have anything more to do with her mother and her mother's friends. The play as a whole, and, in particular, the sentiments expressed in it, objectively show the nature of prostitution from the social perspective.

I now turn to another approach to the nature of prostitution. If poverty drives a person into prostitution, that person is driven into it through powerlessness. The theory is that, being poor, one does not have the means or the opportunity to gather wealth and that, consequently, one lacks the means or the opportunity to exercise even a little power. The struggle out of poverty is a struggle towards power, and the degree of power that one has depends almost on the degree of wealth. The theory is that empowerment is achieved through wealth. Empowerment is what, in fact, Mrs Warren was looking for and what Shaw was suggesting.

On the empowerment of women, Marcia Neave, in a report entitled 'The Failure of Prostitution Law Reform', at page 207 has this to say:

> Prostitution is not the only woman's job which includes a sexual component. Models, barmaids, waitresses, air hostesses, receptionists and secretaries are often selected for their attractiveness. Apart from modelling, prostitution is the only occupation where a woman can earn more than a man for comparable work.

There is a flaw in the conclusion that empowerment follows from accumulated wealth from prostitution. The theory of empowerment through wealth is that by accumulating wealth there is a rise in social acceptance and social status giving access to those in power and leading ultimately to the exercise of economic, social and political power; that is, the power to demand, the power to command and the power to influence. This might be so for an ambitious man and more so for an ambitious woman, but it can never come about from a base of prostitution, no matter how wealthy the person becomes. No degree of status can come from prostitution. What might look like status, if the veil of obscurity were withdrawn, would only be notoriety. Power from prostitution would be power amongst prostitutes, pimps and bludgers or power to extort and blackmail. By its very nature, unfortunately, prostitution cannot lead to acceptance and respectability.

I return now to the Salvation Army report on prostitution. I have so far avoided debating the Bill on prostitution of the Hon. Mr Gilfillan, and I hope, Mr President, that you will guide me in case I breach Standing Orders. I will touch upon it in my following comments relating to the Salvation Army report. It is obvious from that report and an article on page 11 of the *News* of 22 April 1991 that the Salvation Army is opposed to any changes in the laws of prostitution. What it sees as the correct approach to the control of brothels is that the law remain as it is. Brothels are illegal and should feel the full force of the law and the punishment of the courts.

The Salvation Army itself is genuinely and humanely concerned about young people being encouraged into pros-

titution and then being trapped in it. On page 7 of its report, the Salvation Army says:

> We would want that under-age youth trapped in prostitution not be penalised or treated as criminals.

Those under 18 years of age are under-aged and it is these people that the Salvation Army is focusing on rehabilitating. Its intentions are excellent sentiments and the rescuing of youth is excellent work, but on page 6 of the report it observes that 18 years of age is a time when a young person is most vulnerable to temptations such as prostitution.

Those who argue that those under the age of 18 years should not be treated as criminals, should be arguing that those just over the age of 18 should not be treated differently. But, at 18 years of age, people are not suddenly given a new depth of judgment. If they, too, are to be rescued from prostitution and rehabilitated, then they, too, should not be treated as criminals. We should then ask: what of those who are 20 or 25 years of age? At what age do you draw the line? If a person has a genuine and sincere, desire to quit prostitution, should the line be drawn at any particular age? In fact, does concern and compassion for these people stop at the 18 year age limit?

One of the effects of the proposed decriminalising of prostitution is that it will allow anyone who wishes to escape from the prostitution trap so to escape. If a person has been detained in prostitution against their will then, under the Hon. Ian Gilfillan's proposed Bill, a complaint can be made, escape is quite possible, and the Salvation Army may then be called in to render its invaluable help. In my view, if prostitution is decriminalised, age will not be a problem in giving help.

The Bill introduced by the Hon. Mr Gilfillan in the last session did not, however, spell out that an under-age person is guilty of a crime by being in a brothel for whatever purpose. However, in my view, it still remains a crime for both the under-aged and adults to solicit in the street. Should that Bill be introduced again and, consequently, become law, the Salvation Army and other agencies would, in my view, be able to carry out their work without the hindrance of the present legal problem. It is inherent in the Salvation Army's approach that prostitution be legalised rather than decriminalised.

In my interpretation, and in that of many people in our community, the words 'legalised' and 'decriminalised' are taken to mean the same thing, and those words are mostly used in ordinary speech. But a distinction can be drawn between those two words. Let me give members a very simple example: if some activities are legal, they are not only allowed and encouraged to go on, but they also have some respectability. If prostitution was legalised, it would be on a par with other accepted business activities, subject to self regulation or Government regulation and, as such, it implies acceptance by and a respectability in the community.

However, the decriminalising of prostitution is quite different. Prostitution is still unacceptable in the community, and would carry no respectability if it was decriminalised. In this context, the words 'decriminalise' and 'legalise' do not mean the same thing. In its report, the Uniting Church recognised the difference that I have just outlined and have therefore given qualified support for the decriminalisation, but not the legalisation, of prostitution. In the light of the distinction I have outlined, the measures proposed by the Hon. Mr Gilfillan could, in fact, receive some support.

In conclusion, let me make some observations about what I have omitted, and summarise what I have said. As you, Sir, would readily realise, I have not proposed any solution to the social problems associated with prostitution or which lead to prostitution. It was not my intention to do so. I believe that the social problems that lead to prostitution may be better addressed in other legislation, and be tackled by agencies and welfare efforts other than those concerned with prostitution.

Social problems are certainly not solved, nor checked, by police raids on brothels. What occurs as a result of conscientious policing of illegal brothels is that prostitution is driven out of brothels and into escort agencies, where prostitution is less visible, and where it is more difficult to enforce the law as it now stands.

It seems to the community that, when there are laws against prostitution, something is being done to eliminate it, and the community can somehow feel relatively content with itself. It seems to the community that, when prostitution is rendered less visible, efforts to eliminate it are successful whereas, in fact, it could be flourishing all the more beyond a safe veil of obscurity and a telephone in an escort agency.

In speaking about prostitution this evening, I have not considered the aspect of rehabilitation of those who have escaped from prostitution. I believe that such rehabilitation would best be separated from any reference to prostitution, and treated along with rehabilitation from other social problems. It would make rehabilitation more normal and less discriminatory. Nor have I discussed health, child prostitution, morality, and local government involvement, if any. These are matters best reserved for the debate on the Bill, should it be reintroduced.

In summary, let me illustrate, in economic terms, what I have been saying. An economist will tell you that, where there is a demand, that demand will call forth a supply to satisfy it. The demand and supply will meet in a going price at that time. From the social perspective of the economics of prostitution, whether or not the prostitute is a criminal, the demand is made under a veil of secrecy; the supply is provided under a veil of obscurity; and the price is priced in the coin of perversion and shame. I commend the motion to the Council.

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

ADJOURNMENT

At 9.30 p.m. the Council adjourned until Thursday 15 August at 2.15 p.m.