LEGISLATIVE COUNCIL

Thursday 8 September 1988

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

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

AUDITOR-GENERAL'S DEPARTMENT

The PRESIDENT laid on the table a report on the operations of the Auditor-General's Department for the year ended 30 June 1988.

QUESTIONS

NOARLUNGA HOSPITAL

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the only Minister of the Upper House a question about the Noarlunga Hospital.

Leave granted.

The Hon. M.B. CAMERON: I read with much interest a news item in the press this week quoting the Minister of Health as saying that construction work on the Noarlunga Hospital is planned to start in February. That was certainly good news (and that is a comment), if not a little belated, as the hospital has been a Bannon Government promise since at least 1985. The article was interesting because it said 'more than $2 million' had been allocated in the State budget this year for a project that would cost at least $26 million. I must say, Madam President, it brought back memories of Modbury Hospital and bulldozers scraping the grapevines out. I noted, too, that 30 of the hospital's 120 beds are to be private beds. What the article did not mention, however, was whether the Government had finally found a joint venturer for the project or had now decided to go it alone.

Members would recall that Mutual Community was once very keen to be joint partners with the Government in the project; however, it has now pulled out. I gather that at one stage Mutual was prepared to build the complex and develop the entire site. It would then have leased it back to the Government. Where negotiations on the joint venture appear to have broken down was when the Government insisted on its running the operating theatres for private and public patients as one.

Since Mutual's withdrawal from the scheme, there has been no announcement on a partner, although as late as 8 July 1988 a senior Health Commission officer was quoted in the *News* as saying discussions with another private company were progressing with a view to jointly developing the hospital.

My questions are: who is the joint venturer that will develop and build the Noarlunga Hospital with the Government? If there is none, has the Government decided to go it alone on this project? If the Government has obtained, or is still seeking, a partner for the hospital, which of the partners will be responsible for control of the hospital's joint services (for example, operating theatres, intensive care, food services, etc.)?

The Hon. BARBARA WIESE: I will refer the questions to the Minister of Health in another place and bring back a reply as soon as possible.

TOURISM STANDARDS

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

Leave granted.

The Hon. L.H. DAVIS: The Minister will be aware that many countries and some Australian States provide for minimum standards in tourist accommodation through regular inspection by Government and/or industry representatives. In the United Kingdom there are five gradings of bed and breakfast accommodation which are inspected annually. In British Columbia, if accommodation is not up to standard, it is not promoted by the tourism authority and, in Australia, Tasmania has been the pacesetter in setting standards for accommodation. In Tasmania, every establishment with four beds or more must be registered and, to be registered, the physical facilities must reach a minimum standard set by Tourism Tasmania.

These facilities are inspected annually by the Licensing Board of Tasmania. In addition, the Royal Automobile Club of Tasmania (RACT) rates hotels, motels and caravan parks by a starring system. While this is not mandatory, it is obviously beneficial both for visitors and for travel agents. Tourism Tasmania and the RACT cooperate closely. In addition, Tourism Tasmania closely monitors standards of service and management. That organisation will not promote substandard accommodation, and will exclude it from official publications and from its marketing subsidy scheme.

I understand that Tourism Tasmania is now looking, within the next 12 months, at grading holiday cottages and colonial accommodation although, again, this will not be a mandatory scheme. I understand that the RAA in South Australia does star accommodation, but there does not seem to be evidence of close cooperation with Tourism South Australia in this respect, nor does Tourism South Australia seem to have taken any action to match what Tasmania has been doing in this very important field.

On more than one occasion, the Minister has emphasised the importance of quality in accommodation facilities in South Australia. Indeed, she will remember that at the time of the last Australian Grand Prix nearly 12 months ago much adverse publicity was given to the quality of accommodation in Adelaide, and discussions were held at that time about grading the accommodation. I have also heard this year regular complaints from visitors to country areas, both from within South Australia and from interstate and overseas, who have been surprised and disappointed at the lack of facilities or inadequate or inappropriate accommodation.

At the time when this matter was first raised publicly during the Grand Prix last year, the Minister said that she believed in a grading system for hotels, motels and other accommodation, but she went on to say that she believed that this could only be carried out at a national level. In view of the success obviously achieved in Tasmania in this area; in view of the fact that Tasmania has been a pacesetter in setting standards in tourism, in quality accommodation and in promoting it very successfully; and in view of the fact that the Minister is on record as saying that it is important for South Australia to find its own niche in the tourism market, to promote the wine State, the mid-North and those other regions where quality accommodation is obviously important, does the Minister stick with her original statement that she believes we can only grade accommodation within a national scheme or would she be prepared to review this as a matter of urgency, perhaps to see South

Australia take the lead from Tasmania in this important area?

The Hon. BARBARA WIESE: I still hold the view that it is very important to encourage the highest possible standards of service in all areas of the tourism and hospitality industry, and have been on record on many occasions saying so and pointing out that, very often, it is those questions of service and standards which stay most firmly in the minds of visitors. In many cases, particularly if the standard of service has been wanting, that is what stays in people's minds over and above the excellent tourism attractions which might exist in a certain location. I believe that those issues are of the utmost importance.

As the honourable member has pointed out, here in South Australia the RAA has a classification system which it applies to accommodation facilities around the State, and the publication the RAA produces is carried by the South Australian Goverment Travel Centre and provided to visitors who are driving through the State to give them some indication of the standard of accommodation facilities.

I have had informal discussions with representatives of the tourism industry and with representatives of the tourism industry peak bodies on the question of standards and whether or not there should be some policing arrangement within South Australia. At this stage, I do not think there is agreement within the industry as to whether or not a policing function should be performed by a Government agency, or whether we should persist for the time being with a voluntary system that is encouraged by the industry organisations themselves.

The South Australian Tourism Industry Council has taken some action during the past few years to encourage organisations to provide high standards of service. It has conducted a campaign whereby stickers can be placed on the window of an establishment if it is found to excel in service and standards, and honourable members would have seen some of those stickers on the walls or windows of various places around Adelaide. Indeed, at one stage the Tourism Industry Council was conducting a blue ribbon award campaign to encourage better standards in the taxi industry.

As I have said, at this stage there is not general agreement within the industry as to how we can best pursue the attainment of higher standards of service. In the State's tourism development plan, which was a joint Government-industry document, the question of industry standards was ascribed as being a responsibility of the industry to pursue initially. Other than the campaign to which I have just referred, I am not aware of any further action that industry organisations have taken in this State since that plan was developed.

I still hold the view that it is preferable for us to take a national approach to the issue of standards, particularly in view of the vast increase in international visitors to Australia in recent times, with an expected increase in future. It is important for people coming to this country to know that the high standards that apply in, say, New South Wales or in Victoria apply equally in other parts of Australia.

This issue must be considered on a national basis. It has been discussed from time to time at national Tourism Ministers' conferences, but at this stage no scheme has been devised to help us pursue this matter in an organised way. At this point this matter is not high on the agenda of issues of high priority for Tourism South Australia. In the past two years we have been very much occupied with working on our tourism development plan and our marketing and development strategies for the organisations that comprise Tourism South Australia, in order to ensure that we are better placed to capitalise on the tourism boom that is now taking place in Australia.

However, this issue must be further addressed in South Australia in the next few years. We need to take some action to develop a classification and standards system which will give visitors some idea of what they can expect from the various organisations in this State. Of course, one must understand that this is a very vexed issue. It is a very different thing to develop a reasonable range of standards. I certainly believe that the most desirable way to go is for me and my State colleagues to jointly find solutions to these issues.

PORNOGRAPHY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Acting Leader of the Government in the Legislative Council and the Minister of Youth Affairs a question on the subject of pornography.

Leave granted.

The Hon. K.T. GRIFFIN: The Ministers meeting on censorship matters met at the end of June this year and decided that the X-rated category of videos presently available from Canberra, described as the porn video mail order capital of Australia, should be prohibited. They also decided that the non-violent erotica category proposed by some persons would not be allowed. The video industry has been bringing great pressure to bear on Federal ALP members to ensure that the decision of the Ministers meeting is not implemented by the Federal Attorney-General, Mr Bowen. Such action would not reflect the majority view of the Australian public that the standards relating to pornography (including excessive violence) should be tightened significantly. Such backdown by the Commonwealth, or failure by the Federal Government to get its legislation through, would have serious ramifications for South Australians. It may mean that Canberra remains a mail order outlet or that the State Government attempts to amend our law here to ensure consistency with Federal law.

There is widespread concern in the community that the standards relating to television and videos are not tight enough, and that a backdown by the Commonwealth could have prejudicial effects on the young people of Australia, and South Australia in particular. As action can be taken by the State Government to put its view and lobby Federal ALP members to ensure that as much as possible the possible backdown is avoided, what steps has the State Government taken in the light of the recent public reports of a possible backdown by the Federal Government on this issue to ensure that it does not occur?

The Hon. BARBARA WIESE: That matter comes under the jurisdiction of the Attorney-General. As the Hon. Mr Griffin has pointed out, the Attorney was one of the Ministers who participated in the decision taken by the national Ministers meeting on this question. I am not aware of moves being made to pressure Federal members of the Government to change the stance taken at that Ministers meeting. I am not sure either whether my colleague the Attorney-General is aware of those steps, but I imagine that he is if it has become a prominent issue. Since I do not have the day-to-day responsibility in this area, it is not something that has been brought to my attention.

I would be very surprised if the State Attorney-General would be advocating any change whatsoever to the position adopted by him and the Government at the national Ministers meeting. I would also be very surprised if the Federal Attorney-General were to have a change of heart on this issue in view of my knowledge of his views on such matters. However, if there is any doubt about that I am certain the

State Government through the Attorney-General would put its views very strongly and clearly to the Commonwealth Government before it made any firm decision on the matter. In view of the matter having been raised with me, I will refer it to the Attorney-General on his return so that he can follow up the matter if he believes action needs to be taken.

STA TENDERING

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Transport, a question about STA tendering.

Leave granted.

The Hon. I. GILFILLAN: On Thursday 19 November 1987 tenders closed for a particular job on the North-East busway. I have been informed that, after tenders closed for tender No. CL307M and No. CL311, one tenderer (C.W. Constructions) asked the Department of Transport for the full list of tenderers. This was duly done and the list was provided by Mr John Hastie from the department to Mr B. Stanfield, representing C.W. Constructions. The full list was provided on both Thursday 19 November and Friday 20 November. That list did not include McMillans, which is a local earth moving company. However, five days later, on the following Tuesday, 24 November, Mr Hibbitt of the Department of Transport informed Mr Stanfield that there was a tender from McMillans. Mr Stanfield was not given any explanation or justification for the late receipt of that tender from McMillans after the time for receiving tenders had closed.

This matter was referred to the Fraud Squad and the detective contacted (Detective Mal Milligan) said to Mr Stanfield, 'You've got them on toast.' He was referring to what appeared to be collusion between officers in the Department of Transport and McMillans. The matter was referred to the Ombudsman, who received advice from officers of the Department of Transport. From that advice he concluded that there was no evidence of misconduct or maladministration. Mr Stanfield is not satisfied with that finding and, on the information provided to me, I am not satisfied either.

Is the Minister aware of the circumstances of the case and is he satisfied that all procedures undertaken in that case were open and above board? Further, is the Minister satisfied that no unacceptable activities were followed during receipt of those tenders? Finally, has there been any decision by the Minister or the department to ensure that compliance with tender closing time is strictly adhered to and that there has been no repeat of that performance where false and misleading information was given in answer to direct questions of the department relating to tenders?

The Hon. BARBARA WIESE: I will refer those questions to my colleague, the Minister of Transport, in another place and bring back a reply.

CITI CENTRE BUILDING

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Community Welfare, a question about the new Citi Centre Building.

Leave granted.

The Hon. DIANA LAIDLAW: As the Minister would know, the new Citi Centre Building located on the corner of Pulteney Street and Rundle Mall is to be occupied within the month by officers of the Department for Community Welfare and the South Australian Health Commission. I was interested to read in the September 1988 edition of the *Public Service Review*, which is the official publication of the Public Service Association of South Australia, the following article under the heading 'High standard office accommodation, or "people silo"?':

> This is the question uppermost in the minds of many PSA members who know something about their proposed new office accommodation. They include, as far as the PSA is aware, around 680 staff from the SA Health Commission and the Department for Community Welfare and up to 40 from the Department of Recreation and Sport.
>
> PSA job reps and officials have inspected the Citi Centre and identified a number of concerns. In preliminary discussions with the Health Commission and DCW, the association has pointed out what would seem to be a lack of compliance with the SA Occupational Health, Safety and Welfare Act, plus a number of other deficiencies which would come under the general heading of 'industrial' issues.

Members would be aware that I have been raising the question of lack of compliance with the South Australian Health, Safety and Welfare Act for at least six months. It appears that the Government has not addressed that issue to date. The article continues:

> Most of these matters will have to be satisfactorily resolved before anyone moves into the new building.

Under the heading 'Some Problems' the article states:

> There is a security problem throughout the building. The association will seek satisfactory guarantees on this before members move in.
>
> Open-space work areas are proposed as the standard work area for most staff. They are unsatisfactory and renowned for causing stress-related illness and other problems (for example, no privacy, confidentiality).

The Hon. L.H. Davis interjecting:

The Hon. DIANA LAIDLAW: It is most interesting to see what is proposed. The article continues:

> It is not acceptable for large numbers of PSA members to be expected to work in such areas. Other issues include amount of space, noise levels, no provision of storage of personal belongings, insufficient interview rooms [and the list goes on].
>
> Discussions are continuing. But, if changes are not made so as to guarantee satisfactory accommodation standards in the new office building, then it is very likely that considerable delays will be encountered before staff move in.

My questions to the Minister are as follows:

1. Will the Government give an undertaking that it will not force the staff of the central offices of the South Australian Health Commission and the Department for Community Welfare to relocate in the new Citi Centre building until the concerns, issues and problems identified by the PSA have been resolved to the satisfaction of the PSA on behalf of its members?

2. In view of the problems identified, and the PSA's reference in the article to considerable delays with respect to the move, can the Minister advise when the move is anticipated?

The Hon. BARBARA WIESE: Obviously, the State Government would be very keen to ensure that all its employees were working in appropriate conditions and would be taking appropriate steps to ensure that that was so. I cannot make a judgment as to whether or not the claims being made by the Public Service Association are appropriate. However, I am sure that my colleague, the Minister of Community Welfare, in consultation with the appropriate authorities, will be able to make that judgment, and that he is addressing those issues. I will be happy to refer the honourable member's questions to my colleague and bring back a report on the matter.

OPPOSITION LEADER

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking a question of the Hon. Barbara Wiese, in her capacity as Acting Head of the Government in this Council, about an article that appeared in the *Farmer and Stockowner* of 7 September 1988 headed 'John Olsen's Losing Struggle'.

Leave granted.

The Hon. T. CROTHERS: The writer of the article, styled himself under the *nom de plume* of 'Consensus'. Bearing in mind the title of the article, namely, 'John Olsen's Losing Struggle' (listening to the Opposition members in this Council it is no wonder that such an article appeared), the writer was constrained to say this of the Hon. Mr Olsen:

His task of winning the Treasury benches has been made harder by Premier John Bannon's 'steady as she goes' balanced budget. It was a good political budget and another nail in the political coffin of John Olsen. It has paved the way for a possible early election—

An honourable member: Did the Labor *Herald* say this?

The Hon. T. CROTHERS: No, the *Farmer and Stockowner*. The article continues:

It has paved the way for a possible early election and, despite the protests of the Opposition that the Government is a high taxing Government, people still see John Bannon as a good manager. John Bannon has put the runs on the board, creating a major obstacle for the Opposition and John Olsen's political dreams. The budget did not hurt the ordinary person in the street and there were no tax rises: indeed, there were more promises to keep Government spending at the inflation rate.

Members interjecting:

The Hon. T. CROTHERS: All you blokes will be able to do is make promises. You will never have the luxury of being able to implement them. No wonder the article is headed 'John Olsen's Losing Struggle'. God, look at them! Does the acting Leader of the Government in this Council agree with the sentiments expressed by Consensus in the article in the *Farmer and Stockowner* of 7 September 1988?

Members interjecting:

The PRESIDENT: Order! The Minister is, as acting Leader of the Government, able to act, I presume, and to take responsibility for such a question.

The Hon. BARBARA WIESE: I am delighted to take responsibility for this question at this juncture, and I thank the honourable member for drawing this excellent article to the attention of the Parliament. We knew that the Government was going well and that it enjoyed pretty extensive support in the community but, to have one of the official organs of the rural community placing on record the fact that the South Australian Government is doing so well, is heartening indeed. It is an indication that the people who are responsible for that journal are very enlightened in their approach and are clearly able to judge a good Government when they see it.

There is no doubt at all that the record of this Government has been excellent and it has been encapsulated by the budget that the Premier brought down a fortnight ago. The very good management that has been exercised by the Government since we have been in office has led to the satisfactory budget outcome this year. It has enabled us to completely do away with the $63 million deficit on the consolidated account that we inherited from the one time Liberal Government—the never to be repeated Liberal Government—and for the first time on record the State's net debt has been reduced. That is a very significant achievement for any Government, and I believe that the people from the rural community who recognise and acknowledge that are to be commended, because the outcome is extraordinary when one considers the financial disaster that this Government inherited following the three disastrous years of Liberal Government.

This year, we have been able to bring down a budget which provides a proper balance between restraint and caring measures for various sectors of our community, as evidenced by the $25 million social justice part of the overall budget. We have not increased taxation rates and, generally speaking, we have been able to keep a very tight rein on Government expenditure. So the outcome is most satisfactory for the Government and for all South Australians and I am delighted that the people in the rural sector also recognise that this Government has been responsible, and that they acknowledge and recognise that the Opposition is never likely to make the Treasury benches because we will continue to manage the State competently, as we have done so far.

HUMAN SERVICES

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about human services.

Leave granted.

The Hon. J.C. IRWIN: The Minister will remember my asking a series of questions following the release of the report of the task force on human services and local government in November 1986, nearly two years ago. The policy statement released by the Premier in November 1986 refers to 'the Government's desire to develop a partnership between State and local government in human services' and 'including support for a more significant role for local government and local government-State relationships based on cooperation'. A lot, no doubt, has happened since November 1986, including the closure of three country hospitals without consultation with local government. This surely is in the human service area of local community responsibilities and concern.

I note that the Government's social justice strategy was first launched in August 1987 and that we received with the budget papers on Tuesday a paper entitled 'The Budget and the Social Justice Strategy'. Responsibility for implementation of the strategy is vested in the Human Services Committee of Cabinet, no doubt severely wounded now by the departure from Cabinet of the former Minister of Health. Having read the budget and the social justice paper, I cannot find any reference whatsoever to local government. No mention is made under the heading 'The Social Justice Strategy'; under the heading of 'Future Directions' or under the heading 'Consultations with the Community'. My questions are:

1. Is it still the Government's intention to have a partnership with local government?

2. Can the Minister say exactly where negotiations stand between the State Government and local government so far as the so-called partnership is concerned—that is, delivery and part funding of services?

3. What committees are set up now to facilitate the cooperative approach? If they are not set up, why not?

The Hon. BARBARA WIESE: Quite some progress has been made by the Government working with local government on the implementation of a strategy to jointly work out the best possible ways of delivering human services to local communities. As the honourable member has indicated, following the release of our policy document on human services and the role of local government, extensive discussions have taken place between the Department of Local Government and numerous councils around this State

to explain the issues that are involved in that policy direction. The State Government agencies have been working on the best possible way, from a State Government perspective, to implement that policy direction and to identify those services which can best be delivered at the local level, either through, or with the assistance of, local government authorities.

A human services planning group has been established and to date it has largely looked at the question of better coordination of Government grants to local communities through local government and they have been sharing important information across the Government sector and exploring some of those funding policy issues. In addition, a decision has been taken to pilot negotiated agreements with councils on particular funding programs this year, and the South Australian Health Commission, under the leadership of the former Minister of Health, was very much in the forefront of that policy direction and the moves that have been taken. The Health Commission has established a working party which is developing an agreement. The Office of Employment and Training, in its area of responsibility, has also begun to look at the question of possible agreements with individual councils.

Quite some work has been done in that area. In addition, two pilot programs have been funded under the local government development program, which is a Commonwealth Government funded program taking place in the Barossa area and the inner eastern metropolitan area. Those projects are designed to test the concepts of a prime role for local government in local human services planning and cooperative arrangements between councils. Those two pilot projects are proceeding satisfactorily, and I hope that they will provide something of a model for councils or groups of councils in other parts of the State in determining the best mechanisms for the delivery of human services programs at the local level.

To some extent, I am disappointed that we have not been able to make more progress than we have during the past 12 months but, as a result of the pretty severe financial constraints under which the Government has been operating during the past two or three years, it has not been possible for me, as Minister of Local Government, for example, to use the grants program for which I have had responsibility to enter into some joint arrangements with particular councils to fund staff or planning research projects which may have assisted in pushing this program further down the track. Nevertheless, I think that considerable progress has been made, particularly by those agencies to which I have already referred, and the work of the Government with councils will proceed this financial year and beyond. I hope that the outcome in the long term will be a much more satisfactory delivery of services to people in local communities; after all, that is the outcome we are looking for.

The Hon. J.C. IRWIN: I have a supplementary question. Is the Minister saying that the Government, through the Department of Local Government, is communicating only with individual councils on a one-off basis? She also mentioned a pilot funding scheme of only two projects: does this approach have the blessing of local government?

The Hon. BARBARA WIESE: I already indicated in the earlier part of my reply that the Department of Local Government had conducted general discussions and negotiations with local government through various regional meetings held throughout the State to communicate the policy paper produced by the Government in 1986. There have been numerous discussions with representatives of the Local Government Association. The LGA has been very helpful in this process and, in fact, has done quite a lot of work of its own on the question of delivery of human services through local government. The LGA is very supportive of the policy direction we are taking. It shares in a very broad sense the role that the State Government is playing, and has cooperated in the various measures which have already been taken in this respect.

Also, the LGA has participated on all of the committees and other groups which have been established to look at these questions. There is, therefore, no doubt that the LGA supports this policy move, is assisting the Government in its implementation, and is encouraging councils to negotiate with the Government as and when it is considered appropriate or desirable for particular local communities to be engaged in that way.

TAFE CHARGES

The Hon. R.I. LUCAS: I direct my question to the Minister of Tourism, as the Acting Leader of the Government in this Chamber. Why did the Bannon Government not proceed with the $263 administration charge for associate diploma students in TAFE colleges?

The Hon. BARBARA WIESE: This is probably a question which should ideally be referred to the Minister of Employment and Further Education, as this is his area of responsibility. It is important that members opposite should acknowledge the decision that has been taken in view of the policy stance which they have taken on this issue in this place in the past, because they have not supported the idea of a graduate tax or administration charge on tertiary students in any institutions in South Australia or Australia as a whole. The decision the Government took initially to include a reference to the imposition of such a charge on TAFE students—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —in the recent budget was a decision which was not taken lightly, because we certainly do not wish to place an unreasonable burden on people undertaking tertiary education of any kind. It was the view of the Government when the budget was being drafted that if the Federal Government proceeded with its plans, it was something which the State Government should also take into consideration with respect to TAFE students.

However, once the Federal budget had been brought down and the Federal Government had not in fact proceeded as originally it had intended, then it seemed inappropriate that the State Government should place an imposition upon one sector of the tertiary education field in isolation from any other section. For that reason, we took the decision that the original plan should not be implemented. In the interests of equity, I think that that was an appropriate decision to take, and I am sure that the Hon. Mr Lucas applauds it.

The Hon. R.I. LUCAS: I have a supplementary question. Will the Minister confirm that it was only the intention of the Bannon Cabinet, of which she is a member, to impose the $263 administration charge on associate diploma students if the Federal Government had proceeded with its plan to impose the graduate tax on the associate diploma students at TAFE colleges?

The Hon. BARBARA WIESE: I am not completely familiar with the issues which were being considered by the Minister of Employment and Further Education as to the implementation of the administration charge. Rather than hazarding a guess on that issue, I prefer to refer that question to my colleague and bring back a reply.

GAMBLING REVENUE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism representing the Minister of Recreation and Sport a question about gambling revenue.

Leave granted.

The Hon. M.J. ELLIOTT: I think it is true to say that there has been support from all parties for the Government's involvement in gambling, particularly with the TAB, and the like, because all parties have seen that it has potential to remove corruption, and such controls have been welcomed. It is to be noted that in the House of Assembly yesterday the Minister of Recreation and Sport was bragging about how successful the TAB has been, and he said that the TAB's record success was due to its imaginative and innovative marketing and its ability to provide excellent betting services to the South Australian community.

The TAB has managed to increase its revenue for the Government by 28 per cent, from something like $12.8 million to $16.5 million. Also, from last year to this year the Lotteries Commission increased its take for the Government from $44 million to $50 million—up by 15 per cent. I understand that the Casino has also had similar success. My questions to the Minister are as follows: should the Government's capacity to promote, as distinct from control, gambling be seen as a success? What money does the Government make available for Gamblers Anonymous and other such groups to help some of the unfortunate victims of the Government's success?

The Hon. BARBARA WIESE: I will have to refer those questions to my colleague in the other place and bring back a reply.

SHOW EXHIBIT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking a question of the Minister of Tourism, representing the Minister of Housing and Construction, on the subject of the Department of Housing and Construction's exhibit at the Royal Show.

Leave granted.

The Hon. J.C. BURDETT: The Liberal Party conducted an exhibit at the Royal Show—

The Hon. R.I. Lucas: A very good one, too.

The Hon. J.C. BURDETT: It was a good one.

The Hon. M.J. Elliott: Very successful—there were no crowds outside it!

The Hon. J.C. BURDETT: Actually, there were crowds outside it. It was diagonally opposite an exhibit of the Department of Housing and Construction, and so from spending several hours on the Liberal Party stand I was able, in between the rush of patrons that we did have, to observe the exhibit of the Department of Housing and Construction. It was a very much larger exhibit than that of the Liberal Party, and it must have cost a great deal more money.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: I do not know what the object of that exhibit was: whether it was to encourage people to get on the end of a four year waiting list, I do not know. It appeared that one person was staffing it for the whole period, and there were very few patrons. One or two people were there for some of the time. I had a look at it, but I could not really see what it was trying to achieve or what its purpose was. As this was obviously at the taxpayers' expense, I ask the Minister how much did that stand cost the taxpayers of South Australia? What was it intended to achieve? What is the total number of people who made inquiries at the stand?

The Hon. BARBARA WIESE: I will refer those questions to the Minister of Housing and Construction and bring back a reply.

ASER PROJECT

The Hon. J.F. STEFANI: I seek leave to make a brief explantion before asking the Minister of Tourism a question about the ASER project.

Leave granted.

The Hon. J.F. STEFANI: The Superannuation Fund Investment Trust informed Parliament last year that it would contribute a further $17 million to the ASER project in 1987-88 in order to complete it. This would have brought the trust's full contribution to the project to just over $127 million, compared to an estimated $58 million at the time the ASER agreement was signed. However, the Auditor-General's latest report to Parliament shows that the trust invested a further $54 million in the project in 1987-88, bringing its total contribution to $165 million, with more to be put in during this financial year.

Although the trust's proportion of the total investment was planned to be slightly less than half at the time when the ASER agreement was signed, these latest figures suggest that the completion cost of the project is now well over $300 million, compared to the original estimate of $180 million. My questions are as follows: what is the present estimate of the Superannuation Fund Investment Trust's full contribution to the ASER project? What is now the estimated completion cost of the project?

The Hon. BARBARA WIESE: As these matters come under the jurisdiction of the Treasurer, I will refer the questions to him and bring back a reply.

ISLAND SEAWAY

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking a question of the only Minister that is here on the matter of the *Island Seaway* and the ability to fund roads on Eyre Peninsula.

Leave granted.

The Hon. PETER DUNN: On 12 November 1987 the *Island Seaway* commenced in service between Adelaide and Kingscote and Port Lincoln. Then, in February 1988 it nearly sank. We all know the saga of what has happened between when the *Island Seaway* came into service and now. Shortly after that incident in February the *Island Seaway* stopped running to Port Lincoln. This has severely disrupted the transport of goods to and from Port Lincoln and Eyre Peninsula. The other day I heard a local fisherman in Port Lincoln saying that the vessel would make a very good snapper drop if it was put into Port Lincoln harbour—purely because that is about as useful to Port Lincoln as it would be. As I have said, the service has stopped running to Port Lincoln. The ship has had a very chequered career now for the past six months. It runs irregularly to Kingscote, but not to Port Lincoln. This is in distinct contrast to the *Troubridge*, which provided a regular and reliable service to Port Lincoln over many years. The *Island Seaway* cannot provide that service—or at least it does not provide that service at this time. The subsidy that is being paid to the operators of the *Island Seaway* to provide a service to Kingscote and Port Lincoln is $33 a tonne—

Members interjecting:

The Hon. Carolyn Pickles: That is your problem.

The Hon. PETER DUNN: It is our problem, is it? Who was responsible for it? Who had it built? Who designed it? We cannot get the plans to find out who is the brilliant designer of this outfit. However, we do not know how much this subsidy of $33 a tonne amounts to in a full year, but up to the end of June it was $2.9 million. Thus, one can assume that it would be $5.5 million for a full year. As the vessel is not running to Port Lincoln, surely the people on Eyre Peninsula and at Port Lincoln are entitled to some of that subsidy to fix up their roads. We now have a mess up because all these goods have to be transported to and from Adelaide by road instead of the *Island Seaway*. My question, therefore, is: will the Minister tell this House whether a proportion of the subsidy of $5.5 million for a year—and that is a very minor estimate—will be paid to local government areas on Eyre Peninsula to upgrade roads now that there is no service by the *Island Seaway* to Port Lincoln?

The Hon. BARBARA WIESE: To whom is the question directed?

The Hon. Peter Dunn: Who else would it be? I directed the question to you.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Ms President, I find the honourable member's logic pretty difficult to follow. On the one hand, he criticises the Government for the alleged incapacity of a ship to function, while the next minute we are sailing down the roads on Eyre Peninsula! I really cannot understand the point that he is making. A couple of points need to be made very clear in this place about the Opposition's opposing the *Island Seaway*. There is absolutely no doubt whatsoever that the Opposition has beat up this issue in such a way that it is seriously jeopardising the future of places like Kangaroo Island.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I have called for order, Mr Davis.

The Hon. BARBARA WIESE: Regional economies in our State rely very much on the service of vessels of this kind and on the attitudes that are generated by people in public life to the types of things that are being done. There is absolutely no doubt that the attitudes expressed by members opposite have seriously jeopardised the future of tourism on Kangaroo Island, and there is absolutely no reason—

Members interjecting:

The PRESIDENT: Order! I call the Council to order. If there are any further interjections—

The Hon. R.I. Lucas: The Minister should sit down when you are speaking.

The PRESIDENT: She has ceased speaking at least, which is more than you have, Mr Lucas. If there are any more interjections in the few seconds remaining of Question Time, I will name the person involved.

The Hon. R.I. LUCAS: On a point of order, Madam President, do you have a parallax problem—it is after 3.15.

The PRESIDENT: I am well aware of that. However, if the Minister wishes she can move for a suspension of Standing Orders to enable her to finish her answer. I thought it would be quicker to allow her to finish her answer.

The Hon. BARBARA WIESE: So did I. However, I move:

That Standing Orders be so far suspended as to enable me to complete my reply.

Motion carried.

The Hon. BARBARA WIESE: The point that needs to be made on this issue is that, as I indicated earlier, it has been a total beat up by members of the Opposition. The sort of problems that they have tried to highlight in Parliament and outside have been found to be quite inaccurate. The vessel has the highest possible rating from Lloyds of London, and recent independent tests have shown that it is quite seaworthy. All of the allegations that have come from the Leader of the Opposition, the member for Alexandra, and various other people in another place and in this place have been found to be quite inaccurate and totally misleading. I am surprised that someone like the Hon. Mr Dunn would raise such issues in this place. As to the questions of road funding, I am sure he will find, if he ploughs through the budget papers, exactly what will be the allocation for roads.

UNAUTHORISED DOCUMENTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 September. Page 597.)

The Hon. BARBARA WIESE: I thank the Hon. Mr Griffin for his contribution to this debate. No doubt he has studied the matter in great depth, as he always does with issues of this kind. Following consideration of some of the issues that he has raised, honourable members will find on file two amendments that I propose to move in Committee to give effect to two of the issues of concern raised by the Hon. Mr Griffin. The first related to ensuring that the emblem to which the Bill refers is clearly stated in the regulations, although I note that the honourable member would prefer that it be included in the Bill. He also acknowledged that other issues dealt with by this piece of legislation are dealt with in regulations. To provide consistency, this matter has been dealt with in a similar way. The Government takes the point he has made that it is important to clearly define exactly to what we are referring in talking about this emblem, and that matter is being included by way of amendment.

The second issue that the Government considered worthy of addressing was the question of whether or not the court should have discretion in the matter where goods have been seized when some suspicion exists that an emblem has been used inappropriately. In the original drafting of this Bill no discretion was provided to the courts in this matter. The Hon. Mr Griffin felt that there should be some discretion as there is in other pieces of legislation, particularly that relating to the Australian Formula One Grand Prix, and provisions therein relating to the logo that applies to that event. For the sake of consistency the Government is prepared to agree to that point as well. I believe that there were no other issues that I should have addressed in summing up this debate. I hope that the amendments I will move in Committee will be agreed to by members opposite, and the Bill be given a hasty passage.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Use of State commercial emblems.'

The Hon. BARBARA WIESE: I move:

Page 2, lines 12 to 21—Leave out subclauses (7) and (8) and insert:

(7) Where—

(a) goods are seized from a person under subsection (6);

but

(b) (i) proceedings for an offence against this section in relation to the goods are not instituted within three months after their seizure; or

(ii) proceedings for such an offence are instituted within that period but the defendant is not convicted of the offence,

the person from whom the goods were seized may, by action in a court of competent jurisdiction, recover from the Minister—

(c) the goods, or if they have been destroyed or deteriorated, compensation equal to the market value of the goods at the time of their seizure;

and

(d) compensation for any loss suffered by reason of the seizure of the goods.

(8) Where—

(a) goods are seized from a person under subsection (6);

and

(b) proceedings for an offence against this section in relation to the goods are instituted within three months after their seizure,

the court may, if it convicts the defendant of the offence, order that the goods be forfeited to the Crown and, in that event, the goods may be disposed of in such manner as the Minister directs.

Line 30—

After 'regulation' insert ', being an emblem the copyright of which is vested in the Crown in right of the State,'.

Lines 34 to 39—

Leave out all words in these lines.

The Hon. K.T. GRIFFIN: I am happy to agree with the amendments, as they pick up all of the issues to which I referred in my second reading speech. I thank the Minister for having pursued them and the Government for accepting my propositions. As the Minister indicated in her reply, the points I made were largely reflected in the Australia Formula One Grand Prix Act, namely, where goods are seized by a police officer, if proceedings are not instituted within three months after seizure or if those proceedings are issued but the defendant is not convicted, the goods are returned and the defendant can recover from the Minister those goods. If they have been destroyed or have deteriorated, compensation equal to the market value and compensation for any loss suffered by reason of the seizure of the goods is applicable. I explained at the second reading stage that perhaps as a result of the seizure, the defendant has deferred further manufacture which may have then resulted in extra costs being incurred and losses suffered. It seems reasonable for any citizen in that position to be able to recover a wider range of compensation from the Crown than merely the value of the goods.

In addition, if there is a conviction, it seemed to me to be unduly harsh for the goods to be automatically forfeited to the Crown and, consistent with the Australian Formula One Grand Prix Act, the amendment now provides a discretion on the part of the court as to whether or not those goods will be forfeited.

The other major area of amendment which I raised is similarly being addressed in a later amendment but, for the sake of convenience, I will address it now. This area deals with copyright. The proposed amendment to line 30 effectively acknowledges that an emblem will be declared by regulation to be a State commercial emblem only if the copyright is vested in the Crown in the right of the State. That puts beyond doubt that the regulation cannot, in effect, expropriate an emblem in which some other person may have copyright, or over which that person may have other rights. I think that this proposed amendment accords with ordinary and reasonable commercial behaviour.

That then means that the further amendments to leave out lines 34 to 39 are consequential. It will no longer be necessary to provide in the Bill some protection for the person who may have some prior rights because, under copyright law, that person who has copyright has it for all purposes and, effectively, no-one has any prior rights. So, in my view, the protection given in proposed subsection (12) *(b)* is not necessary, and for that reason I am able to support that amendment. I support all the amendments arising out of the points which I made. I thank the Minister and the Government for so willingly accepting the points I have made.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 2, line 30—After 'regulation' insert ', being an emblem the copyright of which is vested in the Crown in right of the State,'.

This amendment relates to the emblem and the copyright question.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 2, lines 34 to 39—Leave out all words in those lines.

This amendment is consequential on the one which has just been carried.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

COUNTRY HOSPITALS

Adjourned debate on motion of Hon. M.B. Cameron:

1. That this Council condemns the Premier and the former Minister of Health for their failure to keep a commitment they made to the citizens of Laura, Blyth and Tailem Bend that the Government would not close hospitals in those three towns—or change the hospitals' status—unless such moves had the support of the local community.

2. Further, the Council also condemns the Premier and the former Minister of Health for the failure to attend any public meetings which were called for the purposes of indicating the public's response to the planned changes in country health services.

(Continued from 10 August. Page 108.)

The PRESIDENT: Before calling anyone on this motion, I wish to consider whether or not this item is *sub judice.* As all members are aware, Parliament is master of its own destiny and, in the public interest, it can debate any matter at any time that it wishes. However, it is a long standing tradition of all Parliaments in the Westminster system that they do not debate any matters that are *sub judice* until the matters have been resolved in the courts. Traditionally, this is an imposition which Parliament imposes on itself so as in no way to interfere with the proceedings in courts of law, or in no way to interfere with the system of justice which pertains in the realm.

The question arises as to whether or not this motion as originally moved by the Hon. Mr Cameron is *sub judice.* When the Hon. Mr Cameron first moved the motion, certainly no court cases were involved, threatened or undertaken, and it was perfectly proper and correct for Mr Cameron to move the motion in the manner which he did. Since the honourable member originally moved the motion, an application has been made to a court for an injunction on this matter, which application was refused by the judge on Monday of this week. At that point the matter ceased to be *sub judice.*

Since then appeals have been lodged. An appeal was lodged on Tuesday, and further hearings are expected on this matter. Two grounds of the appeal deal with questions of law and they do not relate to the motion as moved by Mr Cameron. I would certainly not suggest that, because an appeal was outstanding, that in any way made Mr Cameron's motion *sub judice* and thus ineligible for debate. However, this morning I was informed that an application has

been set down for tomorrow morning for the whole matter to be heard before the Full Court of the Supreme Court. When I say 'the whole matter', I mean the whole question on which the original court case was heard. That is very much tied up with the question in the motion moved by the Hon. Mr Cameron.

I have a copy of the original application by the plaintiffs to the Supreme Court and wording in that clearly covers the matters raised in the motion of the Hon. Mr Cameron. In view of the fact that this has been set down for determination by the Supreme Court tomorrow morning, I feel obliged to rule that the matter is *sub judice*, at least until tomorrow morning when that application will be heard by the court. I stress again that Parliament can discuss whatever it wishes, but the *sub judice* rule has long been adhered to, and I feel that, in the circumstances, the appropriate procedure is for me to rule that the matter is *sub judice* and ask that it be adjourned until Parliament next sits, by which time the matter may well have been resolved and the debate can then proceed.

The Hon. K.T. GRIFFIN: Madam President, with respect, I have a different point of view. Therefore, I would want to move disagreement with your ruling that the matters covered by Order of the Day, Private Business, No. 1 are *sub judice*. In accordance with Standing Orders, I have written that out.

The PRESIDENT: Unless the Council decides that the matter requires immediate determination, and it is so resolved, the debate on a motion for disagreement with the President's ruling must be adjourned and made the first Order of the Day for the next sitting day, in accordance with Standing Orders.

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

That a motion disagreeing with your ruling be taken into consideration forthwith.

I think that important questions are involved in determining the extent to which the so-called *sub judice* rule ought to be applied to prevent debate on an issue within the Parliament. It is certainly—

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I am not going to debate that issue.

The PRESIDENT: I must put the motion that the debate proceed forthwith.

The Hon. K.T. GRIFFIN: I was just speaking on the point why it ought to be dealt with immediately, without transgressing the limits. I think that in this instance a motion has been on the Notice Paper for quite some time relating to a matter of public importance and to a ministerial decision which it would be quite proper for either House of the Parliament to consider. For that reason, plus the fact that it will now be some four weeks before we sit again, I believe that we should canvass the issues in the substantive motion of disagreement this afternoon rather than postponing them for some four weeks.

The Council divided on the motion:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin (teller), R.I. Lucas, R.J. Ritson, and J.F. Stefani.

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

Pairs—(Ayes)—The Hons J.C. Irwin and Diana Laidlaw.

Noes—The Hons T.G. Roberts and C.J. Sumner.

Majority of 3 for the Ayes.

Motion thus carried.

The Hon. K.T. GRIFFIN: Madam President, as I said in relation to the procedural motion, I believe the question of *sub judice* is an important one. However, it is a question that is always fraught with difficulty and, on occasion, is controversial. However, that should not prevent us from debating the issue to endeavour to clarify the extent to which it ought to apply in the proceedings of this Council.

We should remember that there is no specific reference in the Standing Orders to matters of *sub judice*. For those matters that are not specifically referred to in our Standing Orders we generally adopt the procedures of the House of Commons. In that House there have been a number of occasions where the question of a matter of *sub judice* has been raised. However, that does not necessarily mean that we are bound, in every case, to follow those rulings. In fact, it would be difficult to do so because, in my view, whilst there is the generally accepted rule about *sub judice*, each case must be examined on its merits. The *sub judice* rule is essentially designed to ensure that the privilege of the Parliament does not override the interests of ordinary citizens in their litigation before the courts.

In the criminal jurisdiction it can probably be more clearly identified than in civil matters. In criminal matters, generally speaking, there is a jury, and that jury of 12 men and women who obviously read the newspapers, listen to the radio and watch television, may be influenced by matters which might be raised in the Parliament but which might canvass the issues in a criminal trial. It is for that reason that with criminal cases it is much more important to examine the issue and constrain debate on questions which might impinge upon the criminal trial and the liberty of the subject arising from the determination of a jury. However, once a matter has been before the jury and a verdict has been given, at least until a notice of appeal to the Court of Criminal Appeal in South Australia has been instituted, the question of *sub judice* does not arise, and members will recall that on many occasions I have raised an issue in this Council, asking the Attorney-General if it is a matter on which he has given consideration to an appeal and what decision he has taken on it. In those circumstances, quite clearly the matter is not one which is *sub judice*.

In the civil area, whilst one must nevertheless respect what is occurring before the courts, it is less likely that judges will be influenced by what occurs in the Parliament. As there are no civil juries in this State, there are no ordinary men and women sitting on civil cases who may be influenced by the questions raised in the Parliament. That is not to say that we should allow, without question, matters before a judge to be canvassed in depth in the Parliament without having some sensitivity towards the public perception that might be created as a result of that matter being canvassed in the Parliament but nevertheless being determined by the courts.

The essence of the decisions that have been followed in the House of Commons and also in the Federal Parliament is that there should not be real and substantial danger of prejudice to the proceedings, and I would suggest that that really is the basis for the *sub judice* rule. If an issue is being debated such that the consequences would be real and substantial danger of prejudice to the proceedings then it is my view that it would be *sub judice* if the proceedings had been listed for hearing for trial or were actually the subject of a trial.

Erskine May does make some points about appeals and says that a particular resolution of the House of Commons passed in July 1963, which set out the *sub judice* rule in detail applies also to the civil courts. That resolution, according to Erskine May, 'bars references in debate as well

as in motions including motions for leave to bring in bills and questions, including supplementary questions in matters awaiting or under adjudication in all courts exercising a criminal jurisdiction from the moment the law is set in motion by a charge being made, to the time when verdict and sentence have been announced and again when notice of appeal is given until the appeal is decided.'

Erskine May refers also to courts martial and the application of the *sub judice* rule when the charge is made, until the sentence of the courts has been confirmed and promulgated. Erskine May refers to the application of that rule to the civil courts and says:

> In general, it bars reference to matters awaiting or under adjudication in a civil court from the time that the case has been set down for trial or otherwise brought before the court as for example by notice of motion for injunction. Such matters may be referred to before such date, unless it appears to the Chair that there is a real and substantial danger of prejudice to the trial of the case. The ban again applies from when notice of appeal is given, until judgment is given.

As you, Madam President, have already indicated, the matter which is on appeal is a limited appeal, relating to the judge, at first instance not ordering an injunction against the Minister of Health. The matter which is listed for hearing tomorrow, as I interpret your intimation to the Council, is an application to the Supreme Court, presumably to a master of the Supreme Court, for the whole matter to be referred to the Full Court of the Supreme Court of South Australia for consideration.

That is not an appeal. That is an application to have the matter taken from one jurisdiction and transferred to another. It happens frequently, whether in the Family Court, the Supreme Court, the District Court, the Federal Court and in some instances in the High Court, where a matter gets to a judge of the High Court and the judge refers it to the Full Court for determination. So technically, the matter which is coming on tomorrow is not an appeal but merely an application that the whole case be referred for hearing to the Full Supreme Court. As I indicated, on the basis of the information which you have given to the Council, the actual appeal is very much a limited proceeding and does not deal specifically with the wide issues canvassed in the motion itself.

The motion, which is to be the subject of further debate in its first paragraph, is of a political nature, seeking the concurrence of the Council in condemning the Premier and the former Minister of Health for their failure to keep a commitment made to the citizens of Laura, Blyth and Tailem Bend that the Government would not close hospitals in those three towns or change the hospitals' status, unless such moves had the support of the local community. That paragraph is directed towards the Premier and the former Minister of Health and is essentially of a political nature.

The second paragraph deals with other aspects of that issue in respect of the failure of the Premier and the former Minister of Health to attend public meetings on these issues. I would suggest that those two paragraphs are issues, which, whilst on the subject of Laura, Blyth and Tailem Bend hospitals, do not relate to the issue, in any event, which is before the court. For that reason I believe that the issue can comfortably be debated here at the parliamentary level and not be constrained by the proceedings in the courts.

Of course, those who debate this issue must be sensitive to the matters before the courts, but I would suggest that, even if they were not sensitive, it would be difficult to persuade me that the three judges of the Supreme Court who might ultimately hear this matter as a Full Court, would be persuaded by the debate which occurs in this Parliament.

Their duty is to determine the law on the facts as presented to the Supreme Court and not on the basis of public comment. If a jury was involved, as I said in respect of criminal proceedings, I would expect there to be some stricter application of the rule and interpretation of it but, even then, we would need to look carefully at the motion proposed and the nature of the proceedings before this Council took the decision that it should defer to the court and not debate the issue. It is for those reasons, Madam President, that I must on this occasion disagree with your ruling.

The Hon. J.C. BURDETT: I support the motion. At the outset of your remarks, Madam President, you accurately stated the basic position, that Parliament is the master of its own destiny and that it can decide to debate anything it wants to debate. You then proceeded to the so-called *sub judice* rule. The basis of that rule, as the Hon. Trevor Griffin has pointed out, is that Parliament should only accept the restriction of its basic right, as outlined by you, in cases where individuals may be prejudiced and where there is a real and substantial danger of their being prejudiced.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: No, that is obviously a fair rule. If there is any real danger of a citizen—and we are all concerned about citizens; that is what we are on about in this Parliament—or the Government, for that matter, or any party being prejudiced, then the rule ought to be exercised and we ought to desist from exercising the basic right that we have to argue anything we want to argue and debate anything we want to debate. As the Hon. Trevor Griffin has pointed out, if one looks through Erskine May or any other records, including the records of the Legislative Council and the House of Assembly in South Australia and the other Parliaments in Australia, one will find that the rule is much more readily exercised in criminal cases. That is understandable, for the reasons which the Hon. Trevor Griffin has pointed out. If there is any danger of the trial of a person being prejudiced, then debate in Parliament ought not to proceed. As the honourable member has also pointed out, there is much more chance of there being prejudice when the deciding body is a jury than when the deciding body is a judge.

In May of this year this question arose in the Senate. There are many examples in all Parliaments in Australia of this matter arising. In the matter to which I refer a Senator had proposed for discussion a matter of public importance relating to the question of abuse by elements of the trade union movement.

Before that discussion proceeded, the President of the Senate informed the Senate that he had been advised that writs had been issued against persons involved in the building industry dispute in Canberra, alleging defamation in relation to the conduct of trade unions in the dispute. The President pointed out that the essence of the *sub judice* convention is that, subject to the right of the Senate to debate matters of public interest, debate in the Senate should not be such as to involve a substantial danger of prejudice to proceedings on foot before the courts. That accords precisely with what you, Madam President, stated at the outset.

The President ruled that the debate could continue but asked Senators to have regard to the indication that the conduct of certain persons may be subject to legal proceedings and, therefore, asked them not to say anything which would clearly prejudice court proceedings as such. With respect, I suggest that that is what ought to happen here. It appears to me, for the reasons which the Hon. Trevor Griffin has stated and which I will touch on in a moment,

that it is very unlikely that anything which we say will prejudice either party, either the Minister or the hospital which has raised the question in the proceedings before the court.

As there is no real and substantial danger of prejudice, the matter ought to proceed and there is no reason why the matters which have been raised by the Hon. Martin Cameron's motion should not be debated. It may well be, Madam President, that, if you eventually come to that conclusion, it would be reasonable for you to take the course adopted by the President of the Senate in Canberra, specifically to ask members that they especially refrain from saying anything which might prejudice the matters before the Supreme Court at the moment.

With regard to the motion, it is very difficult to see how debate on it could influence the Full Court of the Supreme Court (after all, it is not a jury) in the questions which it has to decide. It is being asked to determine whether or not it should issue an injunction to restrain the Health Commission from taking the action which it has taken in regard to the down-grading of three hospitals. That relates to a question of law—whether it has that power in these circumstances—and also whether there are reasons why the injunction ought to be issued. It has nothing to do with the matters in this motion.

The motion calls, first, for the Council to condemn the Premier and the former Minister of Health—as individuals—for their failure to keep a commitment made to citizens of Laura, Blyth and Tailem Bend. That is based on an argument that it is documented that the former Minister of Health said some time ago that he would not take that action unless the people of those towns agreed with it, and there has been no evidence that they have agreed with it. It has nothing whatever to do with the matter before the Supreme Court at present.

The second question has even less to do with it. It condemns the Premier and the former Minister of Health for the failure to attend any public meetings, and that has nothing whatever to do with the matter before the court. So, I support the motion and suggest that there is no reason, having regard to the traditions which have been established, why this matter should not be debated at this time. If you, Madam President, saw fit to adopt the precedent of the President of the Senate in making an indication that members, when speaking to the motion, ought to take care that they do not say anything which might prejudice the proceedings or subject them to real and substantial danger of prejudice, that seems to me to be quite appropriate. I support the motion.

The Hon. M.B. CAMERON (Leader of the Opposition): I support my two colleagues and agree with what they have said. This matter was not brought forward in the first place to influence in any way the proceedings of any court. The fact that there has been an appeal to a court should not in any way cut across what Parliament decides is its proper role in debating this matter. These two motions are based on facts. One of the facts occurred in this Council, being statements made as a result of my questioning of the Minister of Health. It is important that I put this in context, and the words he used were these:

> Unless there is significant community support for these initiatives, I do not believe I could give them my support. That means, in turn, they would not get to Cabinet.

He repeated: 'unless there is significant community support.' That is what my motion is about. It is not in any way about attempting to influence a court of the land. I think the second point is irrelevant to the point that has been made, and I think the honourable member has already indicated that. It is very important that the Council consider its position in relation to the courts. I am a very strong supporter of the role of Parliament and, in the end, the supremacy of Parliament in all matters relating to this State. I do not believe that we can allow ourselves to reach a situation where any matter being considered by the courts cannot be discussed in this House.

I accept the *sub judice* rule where it affects criminal proceedings, where it affects individuals—and I have no problem with that at all, none whatsoever. However, in relation to this matter before us we find that we cannot debate it because it is subject to court proceedings. Goodness knows how long the Supreme Court list is—it could be eight months. That means that this Council would be unable to express an opinion until well after the matter has been resolved in the courts.

I just cannot accept that the Council can allow the matter to be pushed aside. I understand the need for people to be careful in debate—that is absolutely clear. I know that in canvassing issues people have to take account of the fact that certain opinions that they might express might potentially have some influence—although I doubt that they would.

I accept what the Hon. Mr Griffin has said, that it is very unlikely that three Supreme Court judges would be influenced by the statements made in this House by members of Parliament. However, I believe that it is right and proper for this House to maintain its role in being able to debate issues of public importance, issues that I do not believe will in any way affect matters that are now subject to a court decision. I ask the Council to support the motion.

The Hon. BARBARA WIESE (Minister of Tourism): I oppose the motion moved by the Hon. Mr Griffin. I acknowledge the differences, as have been pointed out, in respect of the way that Parliament traditionally has handled issues before the criminal courts as well as civil issues, and the rulings that have been given on those issues. In the past, the practice has been, I understand, that in civil cases the ruling concerning *sub judice* has usually applied from the time that a case is set down for hearing. In this matter a date has been set for hearing of an application that has been lodged by the Crown Solicitor for the whole matter to be referred to the Full Court, which means that we need to refer back to the original application in order to determine what is the whole matter, and in order to seek guidance as to whether or not the matter that is before Parliament should be considered *sub judice.*

I have been advised that sections of the original application should lead this Parliament to determine that the matter should be ruled *sub judice.* I shall quote from the paragraph in the original application which makes it very clear, I think, that this matter should be regarded by this Parliament as *sub judice.* There might be other paragraphs in the original application that relate to this but I do not think we need to go beyond paragraph 12, which indicates:

> An injunction restraining the second named defendant [the State of South Australia] from seeking a variation to the said agreement to delete the Blyth District Hospital Incorporated from section *(c)* to the said agreement or from otherwise excluding the first named plaintiff [Blyth District Hospital] from the provision of funds supplied by the Commonwealth of Australia without ascertaining the requirements of that section of the public presently served by the first named plaintiff [Blyth District Hospital] in the field of health services, and without determining how those requirements should be met to the best advantage of that section of the public.

From reading that paragraph it is very clear that the issues being dealt with relate first to the status of the hospital and also to the question of whether or not consultation has

taken place with the community that is affected by the work of the Blyth District Hospital.

The Hon. Mr Griffin has raised the point that the motion before the Council is in two parts—and that of course is correct, and I agree with the points that have been made by members opposite that the second part of the motion should not be considered as relating to an issue that is before the courts. However, I cannot agree in any way that that view should be taken in relation to the first part of the motion. It is not appropriate to dismiss the first part of the motion as simply being of a political nature, as has been suggested by members opposite. The fact that the council is being asked to condemn the Premier and the former Minister of Health on an issue leads one to examine the issues on which we are being asked to condemn them.

It is therefore not possible to make a judgment on the matter of whether we condemn the Premier and the former Minister of Health without canvassing the issues that are contained in that part of the motion. It is not good enough to say that members should refrain from referring to these things. Unless we do refer to these issues we would not be treating the motion with the seriousness that it deserves and we would be unable to determine by way of debate whether or not those two members should be condemned.

To address the issues that are contained in the first part of the motion, namely, the matter of consultation with the local community and the status of the hospital, would clearly be to address issues that are now before the courts and for which a hearing date has been set. So, it is my view, and I am sure that of my colleagues on this side of the Council that the motion should be opposed. Further, it is my view that for honourable members to support this motion would represent a very serious departure from the long standing convention that has applied in this Parliament and to all Parliaments in the Westminster system. One can only assume that the motives for taking any other course of action are purely political and that convention is being thrown away for politically expedient reasons.

The Hon. R.J. RITSON: I will be brief. I find it difficult to allow the remarks that have been made to pass without making a distinction between politics and law. Certainly, I would not dream of attempting in debate to come to any conclusion as to the legal obligation or otherwise of the Government to have met certain conditions. That is for the courts to determine. It is the sort of judgment that we should rightly refrain from making, but that is distinctly different from the matter of discussing the wisdom of the Government's actions in this matter and the political effects on the community of this matter. Those things are quite distinct from legal questions before the court.

The court is a court of very smart judges who understand that. I do not believe for a moment that they will be distracted from their obligations to determine the law by anything we might say about political wisdom or political policies in this matter or about community wishes as long as we do not attempt to make the legal judgments with which the judges are charged with making. That distinction is quite clear. I am sorry that the Hon. Ms Wiese attempted to muddy the waters in that way.

The Hon. I. GILFILLAN: Ms President, I indicate that we have great respect for your rulings in all matters and it is not an issue that we enter into with any particular relish to debate or disagree with your ruling. I express appreciation for what I thought was a very impartial and informative way in which you presented the matter to the Legislative Council. Maybe wrongly I interpreted it in a way which allowed this Council to debate the ruling without it becoming an emotive political issue, certainly not from your position. Having said that, it is also important to indicate that we will in this case disagree with your ruling, but that is in no way a reflection on our confidence in you as President and the validity and integrity of your rulings.

You, Ms President, outlined what I think was probably the essential issue in this matter, namely, the confrontation, if it does exist, between the parliamentary responsibility and the *sub judice* application of restraint in debate. It is obviously impossible to draw a clear black and white line. Other speakers—the Hons Trevor Griffin and John Burdett in particular—indicated that there are ways in which the debate could be modified if there are areas of sensitivity in your opinion and in the opinion of the Council, but in essence whether the subject be discussed at all in my mind hinges on whether as a parliamentarian I feel obliged to discuss the matter, even if there may be a tenable argument for its being *sub judice.*

It is important also to indicate that my colleague Mike Elliott and I have a role in this debate because, in normal procedures, it would only be a matter of form that the Opposition can challenge your ruling with impugnity, knowing that at best it will not succeed, although it may cause discomfort for some people. In this case, as you would rightly know, Ms President, what we decide to do will be critical. We are conscious of the significance of the way we respond to this issue. I indicate again that we will be voting to disagree with your ruling and several points are involved in that decision. First, an extraordinary time interval will elapse between now and at best the next time the Council can address itself to the motion. I have always had respect for the Hon. Trevor Griffin's opinion and its integrity. I believe that in this matter he has applied himself as objectively as anyone could and is not attempting to lead us down a politically expedient path.

It is no reflection on the Minister in charge, but it is a pity that the Hon. Chris Sumner is not here. The debate would have been livelier and noisier had he been here. Be that as it may, I indicate that I have taken notice of the Hon. Trevor Griffin's comments and respect the points he has made. I agree that the question of the motion appears to be very much a political question. The wording is political and I find the argument in point 1 a legal point or one which could be described as *sub judice.* Although it may be accurate in the finest analysis of fact, it is not a substantial argument that would oversway my inclination that the Council should discuss the question.

It is also important to recognise that the positions of all the parties likely to discuss the matter in this place this afternoon are already known to the media, the public, and ourselves. It is not as though fresh material will suddenly come forward in a reckless way to influence a sensitively balanced court case. It is with regret but with great respect that I indicate that the Democrats will support the motion and disagree with your ruling, Ms President.

The Hon. M.J. ELLIOTT: The Hon. Ian Gilfillan has covered most of the points that I would cover. I also believe that the motion is substantially political. It is not a motion exploring points of law. The case which is claimed to be *sub judice* involves questions on points of law, which we will not be exploring in this motion. As I understand it, the question that the courts were asked to determine and which have now led to an appeal, are not whether or not consultation has occurred (which is what we are talking about here) but whether consultation should have occurred and whether that therefore gives the basis for an injunction. I have no intention of exploring the latter, which is what I believe is the substance of the case.

It is important that this Council look at the question of *sub judice*. It has been raised several times in this place over recent months—possibly three times this year at least that I recall. It may happen with increasing frequency as our society becomes more litigious. I have become aware of a number of cases where persons involved in disagreements with companies have had legal threats made against them. Jubilee Point comes to mind. It would worry me extremely if somebody made a comment and had an injunction taken out against them and, suddenly, talking about the case is seen as impossible in the Parliament. We must look carefully at where we will draw the lines.

I have listened carefully to the arguments put forward. I do not believe that the question before us is a question being looked at by the court. The questions are related but what is being explored is different. After carefully reading Erskine May, I do not believe that anything said in this place creates any real or substantial danger that the ruling of the court would be altered as a consequence of what is said here today. For those reasons I support the motion to disagree with the Chair and echo the sentiments of my colleague in saying that it does not make us feel good to disagree with the Chair. The Chair does an excellent job in this place, but we must disagree in this case.

The Hon. G.L. BRUCE: I support the ruling. I take up the point that the Hon. Mr Elliott made that we have no hard and fast rules laid down in this place on how we deal with *sub judice* matters. In such times as we do, I do not see how we can make fish of one and fowl of another as cases come up. It is all very well for honourable members opposite to say, 'We will steer away from this matter or that matter.' In the heat of debate nobody can say which way the debate will go. In the heat of debate we ought to be able to go anywhere. To think that in this place we have to steer away from a particular matter because we will offend the rules of *sub judice* is quite ludicrous. Until we define where these rules stand and what we do with everything *sub judice* in this place, we should not make one rule for one and one rule for another.

We also have to be conscious of the fact that we have the liberty to say anything in this Council without any redress by anybody. We are not bound by the laws of the court. In this Council, we can tell any untruth and get away with it. Nobody can get back to us.

The Hon. L.H. Davis: That is only your side.

The Hon. G.L. BRUCE: Not necessarily. Any member of this Council has that right and it has been exercised and abused by both sides during its existence.

The Hon. R.I. Lucas: We only ever tell the truth over here.

The Hon. G.L. BRUCE: That is a matter of opinion. You call them untruths, I suppose. There is no such thing as a lie in this Council, but plenty of untruths have floated around since I have been here, anyway.

The Hon. L.H. Davis: What about before you came here?

The Hon. G.L. BRUCE: I do not know. Until such time as this Council decides what is *sub judice* and what is not and how we will handle those cases, we should not make fish of one and fowl of another. I support the President's ruling.

The Hon. K.T. GRIFFIN: In my reply, if I may just briefly repeat what I said at the beginning, the issue is always a difficult one. Frequently, matters of judgment are involved in determing whether or not the rule is offended. However, in this instance, I do not believe that it would be if this matter were allowed to be debated in accordance with the terms of the motion. The Minister's suggestion that, because a date has been set for tomorrow for an application to be heard that the whole matter be referred to the Full Court is sufficient to constitute a trial, with respect, is not right. The proceedings tomorrow are procedural only and do not in any way constitute an actual setting down for trial. In those circumstances, even on a technical basis, I suggest that the *sub judice* rule would not in any event apply.

The PRESIDENT: Before putting the question, I would like to comment that I have never wished to stifle debate in this Council. I am very mindful of the prerogative of Parliament and I uphold this most strongly. I previously gave the reasons for my ruling that the matter was *sub judice* having obtained advice not only from various references which I have piled around me but also from the Crown Law Department, which I took to be a legal consideration of the matter, apart from that which I could glean from parliamentary precedents, of which there are many, including quotations from Speaker Snedden who made many judgments on this topic.

The Council divided on the motion:

Ayes (10)—The Hons M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin (teller), J.C. Irwin, R.I. Lucas, R.J. Ritson, and J.F. Stefani.

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

Pairs—Ayes—The Hons J.C. Burdett and Diana Laidlaw. Noes—The Hons T.G. Roberts and C.J. Sumner.

Majority of 3 for the Ayes.

Motion thus carried.

The Hon. M.J. ELLIOTT: In addressing this motion, I must express by concern over the cynical approach of the Government and, in particular, the previous Minister of Health, Dr Cornwall. For months prior to the announcement of the downgrading of the hospitals of Laura, Blyth, and Tailem Bend, country towns throughout South Australia had been nervously contemplating whether they were on the hit list. So, when the announcement came, the Government had effectively divided the country communities.

While the rumors had abounded, there was no, or very little, effort from the Government or the Health Commission to look to community consultation. Indeed, as has been indicated, reassurances were given by Mr Keneally in the House of Assembly and also Dr Cornwall in this place that the hospitals would not be closed. Previously Dr Cornwall had indicated that 'no hospitals would close without the agreement of local communities'. He made that statement on 12 December 1987. By removing obstetrics and acute care beds, hospitals effectively will be closed and health centres introduced.

The report 'Country Hospitals' by Blandy, Hancock and Tulsi gives evidence of the needs of the country communities around Blyth, Laura and Tailem Bend. In regard to hospital patients, it shows a 25 per cent increase in occupied hospital beds over the past three years. In addition, there is likely to be some population increase. Tailem Bend falls into this category where, with a major recreational development, the population is expected to increase by 1 000 to 1 200 in the future. Of course, the closure of these hospitals could affect the future prospects of these towns.

Further, it is shown that those people are relatively poorer than the rest of the State and rank among the poorest in the State. This is despite a relatively high level of employment. Here, already disadvantaged areas, with a lack of public transport and increased living costs are being discriminated against again. Perhaps the most telling aspect of the report relates to the community's perception of the local hospital. I quote:

> Country hospitals are a focus of community activity and this vital role must not be overlooked.

Hospitals take pride of place in country towns and their establishment and maintenance have been the result of countless hours of voluntary work by members of the local communities. Consequently, fund raising has been an important source of financing for equipment in each of the hospitals involved in this study. A strong sense of attachment to their hospital, and direct involvement in its operation through hospital board members, gives these smaller town hospitals strong 'grass roots' support.

One Adelaide hospital administrator expressed it as follows:

> A country hospital is a symbol of security for its community and any challenge to its existence can only be regarded as threatening to its community's survival.

Is there any wonder at the outcry from the communities at the heavy-handed approach and the lack of community consultation by the Minister about the fate of their hospitals? This lack of awareness in the Government's ability to relate to the grass roots, or the individual, was highlighted in a reply by the current Minister of Health, Mr Blevins, on an ABC program on Thursday, 1 September, when he indicated that metropolitan people were not taking up the option of using close country hospitals for elective surgery. Surely this is indicative of the need people see to have their own support systems of families close by at times of hospitalisation—the very thing that the Government is trying to deny the residents of Blythe, Laura and Tailem Bend.

While it is important that health costs do not soar and effective use needs to be made of the health dollar, we should be aware of costs throughout—administration, high technology programs and the ever increasing degree of specialisation which is becoming accepted practice. Cuts in some of these areas may be more justifiable than the conflict and bitterness that has developed in country communities.

There has been a failure to prove the savings claimed, to weigh alleged savings against benefits for the community by not closing the hospitals, and to consult with communities as promised. On all counts, the Government stands condemned for its action in this matter. The Australian Democrats unreservedly and strongly support the Hon. Mr Cameron's motion condemning the Premier and the Minister of Health for their failure to keep commitments to the residents of Laura, Blythe and Tailem Bend, their failure to consult and their basic gutlessness in not attending public meetings in order to talk to the people face to face.

The Hon. PETER DUNN secured the adjournment of the debate.

ADJOURNMENT

At 4.39 p.m. the Council adjourned until Tuesday 4 October at 2.15 p.m.