LEGISLATIVE COUNCIL

Wednesday 2 November 1988

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

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

QUESTIONS

ROYAL ADELAIDE HOSPITAL

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister representing the Minister of Health a question on the subject of the operating theatres at the Royal Adelaide Hospital.

Leave granted.

The Hon. M.B. CAMERON: From information I have received it would appear that a rush job has been done in the final planning for the new operating theatres complex at the Royal Adelaide Hospital. The proposed plans for the theatre upgrading have been around since at least September 1985. (Certainly the concept has been around since that time.) However, there has not been the detailed discussion with that most important group who will use the complex—the surgeons—to the degree that they consider necessary in order to iron out any bugs.

I understand there was a hastily convened but poorly attended meeting—because of insufficient notice—with surgeons last Saturday, with a person described to me as a junior architect. I have no way of knowing whether or not that description of that person is correct. Whatever his status, I am told he certainly did not give the surgeons the impression of knowing much about the requirements of surgical theatres. The surgeons were presented with a final plan, and told this was their last chance to have any input into the project. The whole episode has been described to me as 'proceeding with undue haste'. I understand there is a proposal that a flash sterilisation unit be included in the theatres but that has been on again, off again, at least twice that I know of. That at least was one measure that the surgeons wanted some input into, but they did not get that opportunity until Saturday.

It has become clear to surgeons that, rather than have the best possible theatre complex for patients, there is a more important agenda—the agenda of having the project well under way before the next State election. The hospital's administration has been told that the money for the upgrading will have to be spent quickly, and staff are now struggling to select the best possible X-ray equipment in as short a time as possible.

I am told that the central sterilisation facility which will be put into the hospital has not been fully discussed with surgeons. That will be separate from the theatres by at least one or two floors. They are not at all certain that this system will work satisfactorily. But, more importantly, from a taxpayers' point of view, because this system will involve the shifting of sterilising equipment out of the operating theatre area, and the on again, off again plans for flash sterilisation—which means single instruments can be resterilised within three minutes *in situ* (that is, in the theatre)—at least $1.1 million (and perhaps a little more) of taxpayers' money will have to be spent on additional instruments. That is an additional $1.1 million for instruments alone, purely because of the decision not to have the sterilisation procedures conducted as they have always been at the Royal Adelaide—within the theatre complex.

This concept of central sterilisation away from the theatres—in which instruments are brought up in groups on sealed trays—means that, if one instrument becomes contaminated, a new tray must be opened, unless single instruments are available in packages, and that is not always the case. This is the main reason for the huge increase in expenditure on surgical instruments. A report of the Parliamentary Standing Committee on Public Works says that five extra trays of instruments will be required for each procedure. Of course, the central sterilising facility will have to be expanded because it is the opinion of doctors that the present system is inadequate.

I am also informed that the plans to shift the dedicated theatres in the ophthalmology department at the Royal Adelaide from their present site in the East Wing (that is, dedicated theatres) are being strongly resisted by ophthalmologists who can see no need for moving. I have been told that ophthalmologists have threatened to resign *en bloc* if they are forced to relocate. My questions are:

1. What justification was there for the planned expenditure of $1.1 million of taxpayers' money for additional surgical instruments at the Royal Adelaide, when there was little or no consultation with surgeons about the efficacy of, or necessity for, the central sterilisation concept which will mean sterilising procedures are no longer conducted close to theatres, and has therefore led to the requirement for these additional instruments?

2. What completion date has been set for the theatre upgrading?

3. Will the Minister and the Health Commission insist on closing and shifting the dedicated ophthalmology theatres from the RAH to the central facility despite the fact that that action could result in mass resignations by ophthalmologists, the present situation in the East Wing being perfectly satisfactory?

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

MINISTERIAL STATEMENT: CHILD ABUSE

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: Child abuse in all its forms is an appalling crime, and the fact that adults sexually abuse young children is totally abhorrent both to the community and to this Government. Child protection is one of the Government's highest priorities and the Minister of Community Welfare and her department will continue to liaise with other agencies to protect children from all forms of abuse and bring abusers to justice. The Government's five point plan is as follows:

1. As from 1 November 1988 a paediatrician, Dr Terry Donald, leads the specialist child abuse assessment team at the Adelaide Children's Hospital. Flinders Medical Centre will also provide specialist services, and sensitive guidelines for interviewing children have been developed.

2. The Child Protection Council, chaired by Dame Roma Mitchell, is responsible for monitoring training, research and education programs which are being established.

3. Non-offending parents of child victims will get expert help and counselling. A funded training package through the Southern Women's Health and Community Centre has been piloted in seven centres across the State.

4. Protective behaviour programs have been introduced in schools and they are proving to be extremely successful.

5. The Department for Community Welfare is working with the police to develop joint interviewing procedures of child victims and with the legal profession to improve court facilities for child witnesses. In addition, extra staff have been allocated, counselling services have been expanded, and funds have been provided to community-based support groups.

The Government's commitment to confront this extremely serious issue is clear. This blue print continues our 10 year history of being at the forefront of tackling the problem of child sexual abuse.

A great deal of dedicated work remains to be done on child protection, and the Minister of Community Welfare will not be intimidated by ill-informed reactionary responses to such a major social problem. Child sexual abusers are criminals of the lowest form. This Government will continue to improve its services to families who suffer abuse and will continue to do all it can to prevent violence in all its forms towards children in our society.

ASH WEDNESDAY BUSHFIRE

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Local Government a question about the Ash Wednesday bushfire of 1980.

Leave granted.

The Hon. K.T. GRIFFIN: I understand that tomorrow a decision is expected on a claim by persons who suffered loss and damage in the 1980 Ash Wednesday bushfire in an action against the Stirling Council. As I understand it, the council defended the claim on the basis that it did not regard itself, its servants, agents or contractors as being negligent. That followed an earlier case where a decision had been made by the court that the council had been negligent, but subsequent to that there was new material which, I understand, the council decided to put to the Supreme Court in this current case.

There is a long line of claimants, some of whom ultimately are banks, including the State Bank of South Australia, the Electricity Trust of South Australia and insurance companies which have either suffered loss themselves or have indemnified their insured persons and have already paid out. They are waiting in the wings to make a claim against the council, depending on the outcome of tomorrow's case.

As everyone will know, this matter has also been the subject of much public discussion, with some defamatory statements being made in the local area. The focus of the controversy has been an increase in rates levied by the council for 1988-89 which some ratepayers are not paying by way of protest. In that event the Local Government Act imposes a 5 per cent fine automatically on those unpaid rates and thereafter 1 per cent per month until the rates are paid. As I understand it there is no power other than in very limited circumstances for that to be subsequently waived by a local council.

I want to raise with the Minister what the consequences may be for ratepayers if the claim against the council is ultimately successful or if the council had not defended the claim against it. In both cases it exposes the council to millions of dollars of liability, some of it to Government agencies. On the other hand, if the council is successful, that liability is avoided and the ratepayers benefit but individuals who have suffered loss and damage as a result of the fire suffer. My questions to the Minister are:

1. Has the Minister addressed the question of the consequences for the council and the ratepayers if the council loses the current case? If she has, what principles are to be applied in resolving the question of liability and the meeting of that liability?

2. In this event, would the council have to sell all or some of its assets, its council chambers, land, vehicles and other assets?

3. Will the council have to raise a special levy on ratepayers to meet any deficiency, or will the Government assist with meeting the liability in the same way that it would assist the victims of other natural disasters?

4. Are not these consequences the same as those that would follow if the first case which determined that the council had been negligent was relied on as a precedent and all claims subsequently had to be paid?

The Hon. BARBARA WIESE: My public statements on this issue have been fairly clear. Certainly, at this stage the Government's position on the Stirling council situation has not changed. Of course, when the judgment is brought down in court tomorrow, as I understand it will be, we will be assessing that judgment and making our own assessment of the implications. Until that occurs there is nothing further that I can add to what the Government has already indicated, that this is a matter that the Stirling council must address itself. It must take its own legal advice and make decisions about whether or not it takes the matter to court, based on the advice of its own lawyers.

Until we have some indication of the outcome of this court case I have little more to add. As to the question of the Government's position in this matter, it is quite clear that the Government has no legal liability in the matter, as was determined by the former Liberal Government at the time of the Ash Wednesday bushfires. As I understand it, the Tonkin Government at that time indicated that there was no legal liability on the State Government, which led to the pursuit of this matter through the courts. That is the process through which the council is currently going. Until decisions are made by the court as to the council's liability or otherwise, the Government has nothing further to add to previous statements.

MUSIC EDUCATION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for the Arts a question about music education in schools.

Leave granted.

The Hon. L.H. DAVIS: For many years, South Australia has enjoyed an enviable reputation in arts education in schools, including music education. However, I have received a letter from Dr Warren Bourne, the National President of the Australian Society for Music Education, a copy of a letter which has been sent to both the Hon. Greg Crafter (Minister of Education), and Mr Garth Boomer, Associate Director-General of Education Curriculum in South Australia. It is a letter which gives me great concern, and I want to quote briefly from it as follows:

> The Australian Society for Music Education is most concerned to observe the steady erosion of senior advisory and administrative staff in music within the central directorate of the Education Department of South Australia . . . The quality of music education in the classroom is severely threatened by the actions of the department, which one must assume is operating with the cognizance of your Government.
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> The absence of any persons at the most senior levels of the department with a commitment to music and a deep understanding of music education is a grave and impoverishing inadequacy within the curriculum profile of education management . . . We are equally disturbed to note that advisory posts in music and project officers working in the field are not being replaced or, in

some cases, have not been allowed to continue their vital task. On-going curriculum initiatives, not to mention attempts to keep abreast of new developments in music education, urgently need the presence of senior, experienced music educators to complement classroom teachers as part of the educational team.

Dr Bourne goes on to make the point that 'music education is vitally important because it challenges and extends human experience and provides children and adults with a unique creative means of expression. A study of music is basic to general education, starting at pre-school and extending throughout all years of the secondary school curriculum'. Dr Bourne concludes by saying:

The deleterious effect of recent staffing developments at senior levels in South Australia on music in schools can hardly be over estimated. By reducing the number of senior support staff, a subject area like music will be so seriously damaged that teaching programs in music will suffer inevitable loss. Music departments in our schools will be so isolated and over stretched that they will be unable to cope with the demands of a full music education program. In these circumstances it is certain that our students will be unable to undertake music studies beyond the most token levels, if at all.

That is a stinging attack on the state of music education in South Australia and it came as some disappointment to me to receive a copy of that letter from Dr Bourne, who is a South Australian. As shadow Minister for the Arts I view that matter with alarm. Will the Minister advise whether she is aware of that problem which has emerged in music education, and what steps the Government intends to take to rectify this situation?

The Hon. BARBARA WIESE: First, in South Australia we have the very best relationship of any State in Australia between the Department for the Arts and the Education Department in the development of music education programs and other arts activities. That was acknowledged by both State Ministers and by officers of the State Education and Arts Departments who attended a cultural Ministers council meeting some months ago at which I was present.

Most States in Australia look to South Australia for guidance and leadership in music education and other areas of arts education. It is important to place on record the position that the South Australian education system enjoys with respect to these matters. It is still the case that South Australia is viewed in that way. With the pressures that are on all State Governments, particularly on the education system with the numerous changes and rationalisation taking place within it, it is not to be expected that any one area of the system will not be touched by them. I have no doubt that the Minister of Education is very well aware of the need to maintain our reputation in this area and to maintain the very high standards that have been achieved in this State in music education. I am sure that he will do all in his power to see that we maintain that pre-eminent position.

As to the specific shifts that have occurred in recent times in respect of the placement of education staff, I will seek a report from the Minister of Education to ascertain to what extent the points that have been raised by the writer of that letter are accurate or whether there is something of an overstatement of the case by the writer. I am sure we will find that the area covered through the Education Department with the cooperation of the Department for the Arts is still very well catered for and has the respect of all other institutions around the country.

ETSA TREE LOPPING

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about ETSA tree lopping.

Leave granted.

The Hon. I. GILFILLAN: A former General Manager of ETSA (Mr Bruce Dinham) has stated to me that he believes that the current ETSA practice and regulations which have come into effect relating to tree lopping are totally inappropriate and unnecessary. He raised with me that one of the major reasons given by ETSA for tree lopping—that the 11 000 volt lines could be knocked down onto lower voltage lines—has always been an excuse put up by ETSA. However, in the 30 years of his experience, no accident ever occurred because of trees. He believes that ETSA is guilty of shooting itself in the foot over this issue. The only cause of accidents of this type has been due to cars striking stobie poles, which are not affected by whether or not trees are lopped. As Mr Dinham pointed out, it accentuates the argument for removing stobie poles as an effective long-term measure.

Mr Dinham also indicated that, 12 years ago, when he held a position in ETSA, it instituted what was called a community benefit scheme that was aimed at undergrounding considerable distances of power cables and generally improving the amenity and aesthetics of ETSA power distribution in the metropolitan area. It was estimated that, at that time, ETSA would spend approximately $2 million a year.

Allowing for adjusted dollar values, and bearing in mind Mr Dinham's statements that in the past few years ETSA has spent only $400 000 per year, it is easy to see, as he pointed out, that the original benefit scheme has certainly not been honoured. Indeed, compared with the total income of $750 million, and the $50 million that the Government takes in tax—

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: —half a per cent of that total income would equal $3.5 million per year. Mr Dinham advised that were that amount to be put to undergrounding there would be a really constructive process in train to get rid of the stobie poles.

I assume that the Minister of Local Government has been involved in the development of the regulations. I know that the Minister for Environment and Planning is obliged to be consulted and to concur in the regulations. I also believe that the Minister of Local Government certainly should have been consulted. In the light of that, will the Minister of Local Government say why she believes there is such outrage in the local government community over ETSA's current tree lopping practice and the regulations which have been introduced? Does the Minister believe that the current ETSA practice of tree lopping is conducive to making Adelaide attractive to tourists? Does the Minister believe that the regulations recently introduced are satisfactory from the perspective of local governments' concern for the environment and her concern about tourism?

The Hon. BARBARA WIESE: There is no requirement for the Minister of Mines and Energy to consult with the Minister of Local Government in the preparation of regulations of this kind. In fact, I was not consulted about this matter in any way, other than through the Cabinet process where Ministers are consulted. However, it is, of course, a matter to which I have paid some attention because, as the honourable member has indicated, certain sections of the local government community have expressed their concern about the framing of the regulations. However, it is my belief that the latest draft of the regulations should be satisfactory to local government in the metropolitan area when the workings of these regulations are fully explained to individual councils.

I am assured by the Minister concerned that these latest regulations are designed to preserve the existing situation, that is, that no trees in the metropolitan area will be touched by ETSA without consultation with the council concerned and without consultation on the amount of trimming, or whatever, that is required. In relation to the concern expressed by some councils that some additional cost may be involved as a result of these new regulations, the Minister has advised me that that is untrue and that there is no provision for such cost to be passed on to councils. In view of those assurances from the Minister of Mines and Energy about the application of these regulations, it seems to me that councils will be satisfied when they have had these matters clearly explained to them.

It is of concern to me, as Minister of Tourism, that we should preserve our green environment in the metropolitan area. There are some very fine areas, particularly in the City of Adelaide and in certain suburban areas, that are very much enhanced by the existing trees. The amenity for tourist and residents alike would be restricted should there be some problem with tree cutting in those areas. As I indicated earlier, however, it is my understanding that the situation which has existed in the past will be maintained and that problems envisaged by some people in the local government community should not come to pass.

The Hon. I. GILFILLAN: As a supplementary question, I ask the Minister, as Minister of Tourism and Local Government, whether she believes that she should be consulted in the development of regulations applying to tree lopping by ETSA.

The Hon. BARBARA WIESE: No.

CORRUPTION ALLEGATIONS

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Attorney-General a question about corruption.

Leave granted.

The Hon. T. CROTHERS: I draw the Attorney-General's attention to remarks made by the Premier of Queensland, Mr Ahern, on 19 October of this year, concerning corruption in South Australia, in which he is reported as saying that Mr Bannon had before him daily allegations of corruption of exactly the type that were made in Queensland. Mr Ahern is also reported as saying, 'And what is the Premier of South Australia doing? Nothing. He is not even cooperating with the National Crime Authority—he is resisting that.' Is the Attorney-General, aware of the remarks made by Mr Ahern and, if so, is there any substance to them?

The Hon. C.J. SUMNER: The first thing that needs to be said is that there are no daily allegations in this State as have occurred in Queensland, as anyone who has made even a cursory examination of the daily newspapers would realise. On that point the Premier of Queensland was wrong. Secondly, he apparently said that Mr Bannon was not cooperating with the NCA. While Mr Ahern was making this statement in the Queensland Parliament, he was apparently unaware that I had indicated in this House that the Government was seeking the establishment of an NCA office in South Australia. Far from not cooperating with the NCA, we were in fact having detailed discussions with it to the extent that I was able to announce yesterday that the NCA and the Commonwealth Government, at least, have agreed to establish an office here and that the South Australian Government has made funds available for this purpose. Frankly, what Mr Ahern is doing answering questions of this kind in the Queensland Parliament has me a little bemused. I would have thought the National Party Premier of Queensland had enough problems on his plate as it was, without answering what was obviously a ridiculous question, and responding with even more ridiculous replies.

It is interesting that Mr Ahern further said that Mr Greiner (the new Liberal Premier in New South Wales) 'had sent a senior officer to Queensland for consultations with Fitzgerald staff and every assistance was given towards the establishment of the New South Wales anti-corruption body'. He went on to say, 'But there have been no requests from South Australia', nor did he expect one. There are two points to be made about that. First, the Commissioner of Police and, furthermore, the Deputy Crown Solicitor had had discussions with Mr Fitzgerald, and those dicussions were taken into account by the ministerial committee in considering what further action the Government should take in this matter.

I can tell Mr Ahern that we certainly did not contact the Queensland Government about allegations of corruption, and neither would we. The reality is that Mr Ahern and the Queensland Government are the last people that the South Australian Government would wish to contact about corruption allegations, and I am sure that members would be fully aware of the reasons why. So, one can only assume that Mr Ahern does not have enough to do with his time if he is able to answer questions such as this in the Queensland Parliament and make what has turned out to be quite ludicrous and ill-founded statements about the South Australian position.

PARLIAMENT HOUSE SAFETY PROCEDURES

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking questions of you, Ms President, about the gas leak and fire safety procedures in Parliament House.

Leave granted.

The Hon. R.I. LUCAS: Members who are here I am sure are aware that today Parliament House was evacuated on two separate occasions, the first occasion lasting almost 1½ hours. I note that when the aroma was first smelt around the Hon. Mr Cameron's room he was blaming it on the pigeons. As well as the evacuation being inconvenient for members, it is clearly a dangerous situation for them, the staff of the Parliament and also any visitors to Parliament House.

In discussions I had with some fire officers during the evacuation I was told that special detection gas valves were used at the Hilton, the MFS headquarters, and a number of other buildings. These valves operate on the basis that, as soon as a small amount of gas is released and detected, they close off all the gas supply in the building. Clearly, that would remove the problem, in a large part, that we experienced today in Parliament House. The second part of the question concerns fire safety procedures in Parliament House. I have been told that the evacuation of Parliament House today on the first occasion was somewhat chaotic. I am advised by some of the fire safety officers in Parliament House that some persons in Parliament House refused to leave, even when advised to do so by the appointed fire safety officers. I am also advised that other members, staff or visitors were not aware of the nearest exit which they were all meant to go out during a fire safety drill or procedure at Parliament House, and that some members and staff exited from Parliament House through the wrong exits.

I am also advised that a review was undertaken by a group of people in Parliament House about fire safety procedures in it because of concerns about the lack of training

and education—exactly the same sort of problems that we experienced today. I am advised that the report has been with the Joint Services Committee (of which you, Ms President, are a member) for almost 12 months and that no action has been taken by it on what I am sure you would agree is a most important or perhaps life saving or life threatening matter. My questions are:

1. Will you, Ms President, explain why Parliament House does not have the gas safety valve protection system as I previously explained?

2. Will you take urgent action with the appropriate Government agencies to install such a system in Parliament House to provide that extra protection for staff, visitors and members?

3. Why has the Joint Services Committee taken no action on the report of fire safety procedures which was prepared by officers of the Parliament?

4. In the light of what occurred today, will you, Ms President, take urgent action in relation to the education and training procedures that were recommended in that report?

The PRESIDENT: A thorough examination of safety procedures in Parliament House was conducted a number of years ago, before I became President. I believe that this occurred under the previous President. There were many recommendations regarding safety procedures in Parliament House at that time, and certain alterations were recommended which, as far as I am aware, were all implemented. Whether there are newer valves or safety devices that were not available at that time, I do not know. Certainly, all the procedures, equipment and safety measures which were recommended during the time of my predecessor have been implemented. I shall be happy to seek further advice about whether or not there is newer equipment which could be installed at this stage, but its absence is certainly not due to a lack of willingness on the part of the then officers of the Parliament, who implemented all that was recommended to them at that time, and it was not done that long ago.

With regard to fire safety procedures, to my recollection a report was prepared which was authorised by the Joint Services Committee. It was sent to the Management Committee for implementation and, as far as I am aware, all members have been circulated with information on such matters as fire safety procedures, the fire signal alarm, and the nearest exits which they can use. I certainly received such a document. I know that it is in my filing cabinet, and I am sure that it was sent to me not as President but as a member of Parliament. I presume that it was sent to all other members as well. However, I will check with the management committee regarding the procedures that were prepared and approved by the Joint Parliamentary Service Committee.

CHILD ABUSE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Community Welfare, a question about child sexual abuse.

Leave granted.

The Hon. CAROLYN PICKLES: In recent weeks there have been several media reports about child sexual abuse. Also, the Hon. Ms Laidlaw yesterday asked a question in this Council regarding the Department for Community Welfare's procedures in dealing with this horrific crime against children. It has been brought to my attention that adverse publicity and carping by the Opposition has raised considerable concern in the electorate. Will the Minister advise whether or not there is any evidence to support media claims that Adelaide is the child abuse centre of Australia?

The Hon. BARBARA WIESE: Far from being the child abuse capital of Australia, this Government is very proud of its record of caring for and protecting children and their families in this State. The rather unfortunate bout of publicity in recent times was first mooted, as I understand it, in the British press and has since been picked up by sections of the interstate media in Australia.

We certainly do not have the sort of problem in this State that the media would like us to believe exists. In fact, the number of notifications of all forms of child abuse in South Australia over the past 12 months involved approximately 3 900 children, which equates to 8.5 notifications per 1 000 children in this State. This figure is slightly below that of New South Wales, Queensland and the Northern Territory.

The Department for Community Welfare has a statutory responsibility to investigate all notifications of suspected abuse, and a primary goal of the department is to support families wherever possible. The care and protection of a child is paramount in their considerations; however, the department aims to ensure continuity in the child's relationships, and to cause minimum disruption to the child's family. Any plan to remove a child from his or her family is considered in depth before such action in taken. Court action is used as a last resort except where the child is in immediate and grave danger. Court proceedings follow extensive and thorough investigation of alternative solutions.

Evidence of this is shown by the fact that of the 8 750 notifications of abuse since January 1986, only 385 in need of care and protection orders have been lodged with the Children's Court involving 503 children—6 per cent of the children notified during that period. Of those cases taken to court, only two cases involving four children have been dismissed by the Children's Court. This surely is evidence enough that the police, medical experts and the Department for Community Welfare are most thorough in their investigations and preparation of evidence for court.

No procedural system is absolutely infallible and no administrative system will entirely eliminate the possibility of human error. However, some sections of the interstate media supported by some members of the Opposition continue to attempt to make political mileage by focusing on biased media reports, highlighting one or two cases and taking up the cause of small minority groups. This approach not only distorts but seeks to discredit the excellent work being done by the Department for Community Welfare in conjunction with other Government agencies.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Further, Ms President, this destructive criticism only serves to protect child sexual abusers from detection and punishment. It is the Government's firm intention to detect all abusers and take all necessary measures to protect all children in our community.

STIRLING COUNCIL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Local Government a question on the subject of the Stirling council.

Leave granted.

The Hon. DIANA LAIDLAW: The matters referred to by the Hon. Mr Griffin earlier in relation to the conduct of councils raises other important issues. For instance, if a claim against a council is not successful, that would be the end of the matter. But, if a claim is successful or a council in effect admits liability for claims, and the liability exceeds the assets, that would represent insolvency or bankruptcy if it occurred in the private sector. If a company had more liabilities than assets, it could be liquidated. If an individual had more liabilities than assets and income that he or she could service, he or she would be insolvent and ultimately be bankrupted. In both cases, the creditors would get less than 100 cents in the dollar.

In the area of local government, however, the situation in this instance is obviously rather different. In the circumstances of local government being unable to meet its liabilities, the question arises whether the individual ratepayers have a liability for any deficiency on the basis that the only source of funds of a council would be ratepayers or the State Government which created it. If the individual ratepayers are required to pay, that may create an intolerable burden and a disproportionate penalty compared with other South Australians. There also arises the interesting scenario upon which I would welcome the Minister's comments, whether a council can be dissolved and its assets liquidated to meet liabilities in consequence of a natural disaster. What then happens to the system of local government in that council area? Is it re-established? Is a levy made on ratepayers to fund it to acquire new infrastructure, to provide services? One could then reasonably ask: what good purpose is served by going around in what would appear to be a vicious circle? Has the Minister or her department addressed these issues—and they are raised in a general nature and not directed towards one specific council—and, if so, what solution has been reached?

The Hon. BARBARA WIESE: There is no need to reach a solution or a conclusion about these issues. We have not reached a point in the situation that is currently being experienced by the Stirling council or any other council in South Australia where such decisions need to be taken. It is certainly the case that if a council has debt—in fact, I have said these things in this place before in response to previous questions, and I might actually refer the Hon. Ms Laidlaw to previous *Hansard* reports when I have run through the stages that theoretically could be the situation in a case where a council is in a position of not being able to meet its debts. The fact would be that should the creditors of a council choose, they could seek the liquidation of assets, etc., in order for debts to be met, but that is not a matter that faces the Stirling council or any other council at this time. I can see very little point in canvassing the hypothetical situation that the honourable member has outlined. I think it would be much more productive for the honourable member—

The PRESIDENT: Order! My attention was distracted and I did not hear the question. If it referred to a hypothetical situation, it is out of order. A question cannot pose a hypothetical situation.

The Hon. DIANA LAIDLAW: No, it involved general questions about liabilities and councils.

The PRESIDENT: I am sorry, I did not hear the question, because my attention was distracted.

An honourable member interjecting:

The PRESIDENT: That is not to say that hypothetical situations cannot be accepted in answers only in questions.

The Hon. BARBARA WIESE: I believe that our time could be much more productively spent waiting for the judgment that is about to be delivered in the case of the Stirling council as to whether or not it is found liable for the Ash Wednesday fires and then, based on that judgment, decisions and assumptions can be made on the circumstances at the time. There is very little to be gained at all from speculating at this time about possible outcomes.

IMMIGRATION

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question on the subject of immigration.

Leave granted.

The Hon. M.S. FELEPPA: Members will be aware of my continued concern for the Heer family of Mypolonga, near Mannum. Also, members would remember that the Heers have had the threat of deportation hanging over their heads since December 1986. I, along with other members, have made representations on this matter to the previous Minister for Immigration, Mr Young, and more recently to the current Minister, Senator Robert Ray. My latest representation to the Minister for Immigration, dated 9 September, reads in part:

> Dear Minister,
> I believe Mr Ranjit Heer is again under threat of deportation because he is considered an illegal immigrant. While I strongly support the principles of immigration policy—this case needs to be considered within a wide range of circumstances and with an element of leniency, in particular to his two young children who were born in Australia. Our family law in this country is proudly strong in support of decisions which seek 'what is always best for children first and foremost'.

My letter goes on to request that the Minister intervene on behalf of the Heers. As yet, Madam President, I have received no response from the Minister for Immigration: however, it was reported in Tuesday's *Advertiser* that the Immigration Department had sent two of its officers to Mannum to serve deportation orders on the family again. The reasons for the decision were explained in a press release from the Department of Immigration, Local Government and Ethnic Affairs, dated 31 October 1983, which quotes the State Director of the department as saying:

> . . . as a delegate of the Minister, I have signed fresh deportation orders requiring them to leave Australia. Before reaching that decision, I gave particular consideration to the interests of the Heer children . . . The Heer children are Australian citizens by birth because they were born before citizenship law was changed in 1986 so as to withdraw the birthright of a citizen from children born to prohibited non-citizens. While the interests of the Heer children are crucial, they are not necessarily paramount. In my view, they do not present sufficient grounds for waiving all migration policy requirements and exercising discretion in favour of either or both parents.

This last statement is at total variance with the accepted principle of family law which seeks what is always best for children first and foremost. By late Monday afternoon Mr Heer's solicitor had won him and his wife yet another reprieve. However, the deportation orders have simply been held over, not withdrawn. The threat of deportation still hangs over the Heers. If the Heers are finally deported, their children who are after all Australian citizens will be forced into foster care with the cost being borne by the South Australian taxpayers. In a response to my question to him on 11 March 1987, the former Minister for Community Welfare, the Hon. Dr Cornwall, estimated that it would cost $5 000 a year (in 1987 dollars) for the two children to be kept in foster care until they reach the age of 16 years.

At present these two young Australian children are provided for by their hard working parents at no cost to the taxpayer. This endless legal and bureaucratic nightmare would have cost so far thousands of dollars to those who support the Heers, and it will continue to cost thousands

of dollars to Australian taxpayers until the matter is solved one way or the other. Madam President, despite initial wrong-doing in entering Australia illegally, the Heers have exhibited qualities that indicate that they are model citizens, and this is reflected in the high esteem in which they are held within their local community, and also by the overwhelming public support that exists for their cause.

This public support exhibited itself in a telephone poll held last year by a local Adelaide television station which resulted in over 7 500 people registering their support for the Heers remaining in Australia, with only 3 140 supporting their deportation. Despite this level of public support, despite the numerous representations from myself and other members of this Parliament and the Federal Parliament, despite the fact that the Heers have been allowed to work whilst in Australia, despite the fact that their two children are Australian citizens by birth, and despite the fact that the Heers have shown themselves to be model citizens, the Department of Immigration insists that they must be deported. Therefore, I ask my question of the Minister—

The PRESIDENT: Will you be quick, because time is expiring.

The Hon. M.S. FELEPPA: Will the Minister make urgent representations to the Minister for Immigration, Senator Robert Ray, requesting that he use his ministerial discretion to allow the Heers to remain in Australia on humanitarian grounds so that they can remain a family unit and continue to contribute to the building of this great nation?

The Hon. C.J. SUMNER: These deportation matters are notoriously difficult. They are obviously subject to serious consideration by the Federal Minister. The question really is whether humanitarian considerations should override the fact that people can come to Australia illegally and give birth to children in Australia who, because of birth in our country, are Australian citizens, and then use that as an argument, in effect, to have the illegality of their entry waived so that they are able to stay in Australia. As I understand it, that is the situation with respect to the Heers, that they were illegal immigrants, although they have been working here satisfactorily for some considerable time and have had their children who were born here and who therefore are Australian citizens.

The problem from the point of view of the Federal Minister is the extent to which granting these people permission to stay in Australia would create a precedent for the future. If it became known that illegal entry to Australia and subsequently having children would enable people to circumvent the immigration laws, it would create possible problems for our controlled entry system. That is the critical issue, Madam President. The question is whether that initial act of illegality should be waived in the light of the humanitarian considerations which the honourable member has brought before the Council.

As the Hon. Mr Feleppa has said, representations have been made to me on this topic previously and to the Federal Minister. I understand at present that the matter may be before the Federal Court on the question of whether the deportation order should be upheld or enforced. However, I will refer the honourable member's question and his representations to the Federal Minister and bring back a reply.

REPLIES TO QUESTIONS

The Hon. BARBARA WIESE: I seek leave to have the following replies to questions inserted in *Hansard.*

Leave granted.

ARID LANDS BOTANIC GARDEN

In reply to the **Hon. M.J. ELLIOTT** (16 August).

The Hon. BARBARA WIESE: In addition to the information I have already provided I raised this issue with my colleague the Minister for Environment and Planning and the following details are provided:

1. The Bicentennial Conservatory and the Queensland rainforest have more than just tourist value. Both have educational significance, and the latter represents a unique national scientific heritage. The Bicentennial Conservatory was not constructed primarily as a tourist feature, rather it is a replacement for a century old conservatory which has facilitated the statutory obligation for the botanic gardens to display tropical plants for the people of South Australia. The Adelaide Botanic Garden has approximately 700 000 visitors a year, but tourism is only one of a number of services carried out by the organisation. It is important to recognise the educational and scientific use of the Bicentennial Conservatory and its replacement function for an existing role.

2. The Bicentennial Conservatory and Arid Land Botanic Garden are both significant tourist destinations, but difficult to compare owing to their respective locations in Adelaide and Port Augusta. The Bicentennial Conservatory will attract large numbers of people, including many not normally interested in plants. The building is an architectural and technological feature as well as a place in which tropical plants grow. Overseas experience demonstrates that major new conservatories enhance visitor numbers to botanic gardens. A proposed Arid Land Botanic Garden would be unique in Australia as there are only a few such gardens in the world. It would need to be developed and marketed in new ways to overcome the difficulties which overseas and local visitors may experience with arid land displays. Arid lands are taken for granted both in Australia and overseas—that is why they are in crisis through desertification throughout the world. It is essential to inform and re-educate the public on arid lands in an entertaining and memorable way and this is what the Port Augusta facility would do.

3. The State Government has expended $50 000 on a feasibility study for the Arid Land Botanic Garden. The Commonwealth Government has expended $176 654 on the project through the CEP program.

SCHOOL GROUNDS MAINTENANCE

In reply to the **Hon. M.J. ELLIOTT** (23 August).

The Hon. BARBARA WIESE: The Minister of Education has advised that the assumption made in the letter to the Editor in the *Barossa & Light Herald* on 13 July 1988 is not based on fact. However, cooperation with local government already exists in many forms. For example, there are many instances of joint schemes with a school council, local government authority, and the Minister of Education with respect to the construction and operation of gymnasia on school sites; school/community libraries have been developed in conjunction with local government and the Libraries Board of South Australia in 44 locations; and some school councils have entered into contractual arrangements with the local government authority to maintain grassed areas on the school grounds. Each of these are splendid examples of State/local government cooperation which may very well be extended in the future. There is no intention that ownership of primary schools should pass to local government.

GAMBLING REVENUE

In reply to the **Hon. M.J. ELLIOTT** (8 September).

The Hon. BARBARA WIESE: The Minister of Recreation and Sport has advised that the South Australian TAB is a success in terms of providing a service to the South Australian public and its profitability. No funds generated by the TAB are made directly available to Gambler's Anonymous or other such groups.

WASTE DISPOSAL

In reply to the **Hon. M.J. ELLIOTT** (5 October).

The Hon. BARBARA WIESE: Further to my comments in response to this question, I wish to inform the honourable member that the National Waste Company Ltd has approval to establish a 'medium' temperature incinerator at Wingfield. The incinerator proposed is a fluidised bed unit which provides highly efficient combustion conditions within a compact design. The incinerator is not licensed to dispose of the so-called intractable wastes. The material to be fed into the incinerator will consist of dry commercial waste, infectious waste from the health system, organic sludges generated from the liquid waste treatment facility and hydrocarbon based solvents. An incinerator has recently been installed at Cavan by Waste Management Services for the destruction of confidential documents and infectious wastes. It also has limited capacity to burn hydrocarbon based solvents.

CADMIUM CONTAMINATION

In reply to the **Hon. M.J. ELLIOTT** (6 October).

The Hon. BARBARA WIESE: The following information has been provided by my colleague the Minister of Health in response to the honourable member's questions:

1. The Government has established a joint working group between agriculture and health to review the current state of knowledge and information on cadium levels; to report to the Minister of Health and the Minister of Agriculture on further action which needs to be taken to address the cadmium issue; and to discuss new developments on cadmium and update both Ministers on a regular basis.

2. The intention is to regulate, legislate or obtain voluntary agreements as appropriate.

3. A voluntary agreement not to sell kidneys from older animals for human consumption on the local market has been established with industry from 24 October.

4. Work has commenced on a cattle survey on cadmium levels in offal and muscle throughout the State.

LYELL McEWIN HEALTH SERVICE

In reply to the **Hon. M.B. CAMERON** (16 August).

The Hon. BARBARA WIESE: In response to the honourable member's five questions regarding the Lyell McEwin Health Service, my colleague the Minister of Health has provided the following information:

1. The High Dependency Unit is one of the services that has had to be closed at Lyell McEwin Health Service. The reason for the closure was the unavailability of sufficient Trainee Medical Officers to staff the unit. There is also a significant shortage of nursing staff. The unit will remain closed until it can be effectively staffed. Every effort is being made to minimise the closure.

2. A medical ward has been closed and there are restrictions on some admissions of an elective nature for surgical procedure. The ward will be reopened immediately sufficient doctors become available.

3. The shortages of medical staff have not only occurred due to recent resignations. Because of a shortage of trainees there have been unfilled positions from the start of the year. Advertising both locally and interstate has been placed for all teaching hospitals throughout the year. The advertising has been stepped up nationally in the past few weeks. Local medical practitioners have been approached to assist with whatever hours they can give. Further advertising was recently placed in the *Medical Review*. The review reaches every registered medical practitioner in South Australia.

4. Extensive negotiations have taken place with other hospitals but the doctors at those hospitals have refused to accept transfer voluntarily. All teaching hospitals in Adelaide have vacancies but not to the same relative extent as Lyell McEwin Health Service. Trainees have not been prepared to accept secondment. Family Medicine Program trainees have been asked to forgo some of their attachments to general practice to assist in relieving the situation. Negotiations are continuing is this area.

5. The cause of the current problem is not financial, but due in the main to the unavailability of medical staff despite South Australia having the highest number of medical practitioners to population of any State in Australia. The Lyell McEwin Health Service has sufficient funds to employ the doctors. It is simply a problem of not having sufficient doctors available.

MENTAL HEALTH SERVICES

In reply to the **Hon. M.B. CAMERON** (11 August).

The Hon. BARBARA WIESE: In response to the honourable member's questions, my colleague, the Minister of Health has provided the following information:

1. There is no intention to proceed with the amalgamation of Hillcrest and Glenside Hospitals in the foreseeable future.

2. The report of the Mental Health Steering Committee makes quite clear that the development of future Mental Health Services should be undertaken on the basis of strategic planning directions, and in response to identified consumer needs.

3. The report draws attention to demographic information in relation to both northern and southern areas. The type of Mental Health Services which are needed in these areas, requires more detailed consideration. It will be the task of the Strategic Planning Authority to identify and respond to these needs.

4. No formal decision has been taken on the committee's recommendation, but it is likely that the comments on Child and Adolescent Mental Health Services will be accepted.

5. The report recommends the establishment of a Strategic Planning Authority, which would report to the South Australian Health Commission (through the appropriate Divisional Director).

6. The development of regional Program Development Groups will be referred to the Strategic Planning Authority for consideration in the development of a strategy for Mental Health Services for South Australia.

7. The Health Commission will be responsible for the administration of the Act. The commission is currently considering proposals for amendments to the Mental Health Act to remove the position of Director of Mental Health

from the Act. The issue of the position of Chief Specialist in Psychiatry is also being considered.

8. The commission has begun preliminary discussions on this matter.

9. This matter will be referred to the Strategic Planning Authority for advice in the development of a general strategy for Mental Health Services.

10. This recommendation will be considered by the Strategic Planning Authority in developing the strategy for Mental Health Services.

11. The development of the recommendations outlined in the report will fall within the purview of SPA and should be addressed in the strategic plan.

12. No formal decision has been taken on this, but it is likely that the recommendation will be accepted.

NOARLUNGA HOSPITAL

In reply to the **Hon. M.B. CAMERON** (8 September).

The Hon. BARBARA WIESE: The Minister of Health has advised that a public announcement will be made when the Government and the joint developers suggest that the time is appropriate.

EXHIBITION HALL

In reply to the **Hon. L.H. DAVIS** (17 August).

The Hon. BARBARA WIESE: The ASER Project Coordinating Committee has been in close contact with a number of professional organisations concerned with the exhibition hall, particularly the Association of Conference Executives (ACE), and the Adelaide Convention and Visitors Bureau. Arrangements have been made for the ACE to examine the plans of the exhibition hall and to make any suggestions about design improvement.

It has been determined that provision cannot easily be made in the design of the exhibition hall for future expansion. The lateral limitations are imposed by the Morphett Street Bridge to the west, the railway lines to the north, the Office Tower to the east, and the alignment to North Terrace to the south.

In absolute terms it is structurally possible to extend the exhibition hall over the railway lines, however, the cost of construction would be prohibitive, and would cause unacceptable interference with passenger train services. It would also exacerbate ventilation difficulties in the railway station area.

An extension over the northern car park has also been examined. This option also has unacceptable cost limitations as well as configuration problems as it would become separate from the main exhibition hall. It is also impractical to make provision for additional levels for the exhibition hall, due not only to the added expense for footings, but also the practicality of staging exhibitions on split levels.

In all of this one factor must be kept in mind, and that is that the exhibition hall is being built as an adjunct to the Convention Centre. The objective is to add to the viability of that centre, and not to construct an exhibition centre in its own right to cater for exhibitions on a huge scale. That consideration is a different issue altogether, and the exhibition hall must not be seen as a replacement for the facilities that exist at Wayville Showgrounds, or in providing any expanded needs for exhibition space in Adelaide.

The proposed exhibition hall will provide 3 000 square metres of exhibition space which, in the view of the Government's consultants, Peat Marwick Hungerfords, will cater for the greater majority of exhibitions held in conjunction with conventions. Where stand-alone exhibitions are proposed, the Adelaide Convention Centre will cater for an additional 2 000 square metres, giving a total space of 5 000 square metres of available exhibition space in the precinct.

TAFE CHARGES

In reply to the **Hon. R.I. LUCAS** (8 September).

The Hon. BARBARA WIESE: The Minister of Employment and Further Education has advised that the associate diploma courses were the only courses in TAFE being considered for the $263 administrative charge.

WHEAT

In reply to the **Hon. G.L. BRUCE** (23 August).

The Hon. BARBARA WIESE: My colleague the Minister of Agriculture has assured me that consultation will take place with grain growers before the Government determines its position on the deregulation of the domestic wheat market.

COMMUNITY DEVELOPMENT BOARDS

In reply to the **Hon. J.C. BURDETT** (16 August).

The Hon. BARBARA WIESE: The Minister of Community Welfare has provided the following answers to the honourable member's questions:

1. Yes.
2. No to both questions.
3. No.
4. No. Department for Community Welfare staff at the Tea Tree Gully office presently participate in the Tea Tree Gully Community Services Forum.
5. No.

PENSION INCOME TEST

In reply to the **Hon. DIANA LAIDLAW** (6 September).

The Hon. BARBARA WIESE: I am advised by the Minister of Community Welfare that on 8 September 1988 the Minister for Social Security announced the elimination of the retrospectivity provisions of budget decisions in respect of asset testing of managed market-linked investments. Asset testing of these investments will apply only to those investments taken out on or after 9 September 1988. The intent of asset testing is to ensure equitable distribution of funds available for pensions and benefits.

RIVERLAND TOURISM

In reply to the **Hon. J.F. STEFANI** (17 August).

The Hon. BARBARA WIESE: The organisers of the Fourth International Micro Irrigation Congress considered the Riverland as a potential venue but rejected it because approximately 1 000 to 1 500 delegates were expected to attend and a facility of suitable size was not available in the South Australian Riverland to seat this number of people in plenary session. There were also moves to hold the congress in Mildura, however no suitable facilities were available in that area either. Due to the nature of the congress, a Murray River town was considered essential.

Albury-Wodonga is the only town on the Murray with International Conference facilities for a group of this size. At no time was an approach made to Tourism South Australia, or to the Adelaide Convention and Visitors Bureau. The honourable member may be interested to learn that the Riverland Development Council in conjunction with the Riverland Tourist Association has recently developed an on-line conference planner and booking facility. This innovation has been established with the full support of Tourism South Australia and it is hoped that this will lead to the development of a lucrative conference market in the Riverland. One international conference has already been booked through this facility, but until a venue larger than the Chaffey Theatre is built, a congress of 1 000 to 1 500 people cannot be catered for.

VEGETATION CLEARANCE

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

That the regulations under the Electricity Trust of South Australia Act 1946 *re* vegetation clearance, made on 27 October 1988 and laid on the table of this Council on 1 November 1988, be disallowed.

The regulations under the Electricity Trust of South Australia Act which were laid on the table of this Council on 1 November represent the actions of a Government that has failed to communicate with the whole of local government in South Australia on the most fundamental of matters. Let us look at the chronology of this grand farce. On 25 October of this year, just a week ago, there was a press release to indicate that State Cabinet had approved new vegetation clearance regulations to govern the rate at which trees under powerlines would be trimmed, and the Minister of Mines and Energy (Hon. John Klunder) said that the regulations would be gazetted on 27 October and come into operation on 1 November, and indeed that has occurred.

The response of the Secretary-General of the Local Government Association (Mr Jim Hullick) was rather less than flattering when he was advised of the gazetting of the regulations. He said that the new regulations had been drawn up in only two days by Parliamentary Counsel; that the Local Government Association, the umbrella organisation governing 125 councils throughout South Australia, had only had two working days in which to examine these important regulations; and that they had five or six major and at least 10 minor concerns with those regulations. He went on to be quoted as saying:

There has been no consultation with councils or the community.

That was 25 October. A week later, in the face of united opposition from people from metropolitan and outer metropolitan councils, from people of both the Liberal and Labor persuasion, the Government has given way on this important matter, because only this morning we read in the *Advertiser* that the Government is now going to review the new vegetation clearance regulations—which came into force only yesterday. If one wants a definition of professionalism in government or a demonstration of communication between the Government and affected parties, this is it—look no further. This is a wonderful example of professionalism and communication: a Government on top of a most important subject. The regulations were gazetted on 27 October and laid on the table of the Council on 1 November, and on 2 November the Government has said 'We will think again.' Of course, that underlines the gravity of the charge made by the Secretary-General of the Local Government Association. There was no consultation whatsoever.

An honourable member: Arrogant and out of touch.

The Hon. L.H. DAVIS: It is indeed arrogance. It is indeed a Government out of touch. In fact, the Minister of Local Government less than 30 minutes ago was asked whether she believed that local government should be consulted on matters—

The Hon. Barbara Wiese: That was not the question. It was whether I should be.

The Hon. L.H. DAVIS: That is right—the Minister of Local Government. That is exactly what I am saying: whether the Minister of Local Government should be consulted on matters like this. She did not seem to care at all. The answer was 'No'. There has been no exchange of views between the newly appointed Minister of Mines and Energy (Hon. John Klunder), already making electricity on his own—quite a few sparks out in the community with this effort! It is indeed a major Klunder blunder. There has been little, if any, communication, it would appear, between the Minister of Mines and Energy and the Minister of Local Government on this matter—not that the Minister of Local Government wanted to be involved, anyway; she told us that. However, the Local Government Association was certainly concerned. It was concerned enough to write a letter to the shadow Minister of Local Government for the parliamentary Liberal Party; and concerned enough to go public. Indeed, many other councils have gone public on this matter.

Let me reflect on some of the public comments that have been made about these vegetation clearance regulations under the Electricity Trust of South Australia Act. First, let me talk about the Local Government Association and its concern about the matter. I mentioned Mr Jim Hullick, who has expressed his concern quite vehemently. That has been matched by the Chairman of the Local Government Association ETSA Vegetation Clearance Committee, Mr David McCarthy, who said:

The drafted proposals for cutting trees in non-bushfire areas 2.1 metres below and 2.1 metres each side of power lines is an absolutely ridiculous overkill. No-one disagrees with the fact that there must be rationalisation in bushfire-prone areas—we certainly do not want to burn out the heart of South Australia again—but there is a huge difference between bushfire areas and the urban environment. The regulations make lopping obligatory every three years so, in effect, they will create a buffer zone and cut trees mid-span to about 4.5 metres and at the poles to about 6 metres. There is not a tree in creation that grows this way, and by topping them so brutally it is giving them an 80 per cent chance of dying.

Mr McCarthy is a man with some expertise in this important area as he is the Works Manager for the Unley council. He cites Unley council as an example to emphasise his point, and says:

In Unley alone we are looking at the decimation of more than 7 500 trees and reducing the value of the 'stumps' by more than $10 million.

I am beginning to understand why the Minister of Local Government (Hon. Barbara Wiese) does not want to know about it. It is just too horrific to know about.

The Hon. Barbara Wiese: What a beat-up!

The Hon. L.H. DAVIS: I am quoting from an article by Christabel Hirst in the *Sunday Mail* of 2 October 1988—and I am sure that Mr McCarthy will be interested to hear that the Minister of Local Government believes that he, the Chairman of the Local Government Association ETSA Vegetation Clearance Committee, is involved in a beat-up on this matter. I am sure he will really be flattered to see the Minister of Local Government casting snide reflection on his status and the concern which he is expressing on this important matter.

The Hon. Barbara Wiese: Pity it's all ancient history, isn't it.

The Hon. L.H. DAVIS: The Minister, as she leaves this Chamber—and one would have thought that she would have stayed in the Chamber to listen to this important debate—says that it is a pity that it is ancient history. That just shows the contempt and arrogance of this Government which has grown tired after six years in power: she storms out of the Chamber, leaving no Ministers in the Chamber, and is indifferent to the truth of this important matter. Mr McCarthy says:

> In addition, the new regulations give ETSA the power to remove tens of thousands of trees from houses in the metropolitan area and then to bill the owner for the cost of removal. It also gives ETSA the power to totally remove almost every street tree more than six metres tall in the Adelaide metropolitan area, and if the council actively assists in the growth or nurturing of the tree—and that includes getting rid of bugs, white ants, and the watering or pruning of the tree—the council concerned can be billed.

I have quoted at length from Mr McCarthy because he is a man of some standing in this matter. I do not hold myself out as an expert in the matter of trees but I have certainly learnt a lot in the past few weeks, having followed this matter with some interest. Coming closer to home, I live on Norwood Parade and I am proud of it. I was born in a hospital on Osmond Terrace, Norwood, although it is used for other purposes these days. The Keep South Australia Beautiful group attacked as environmental vandalism ETSA's lopping of about 40 plane trees along Osmond Terrace at Norwood. I went along there last night and I was outraged at what I saw. These trees, which are 100 years old, were trimmed by ETSA contractors, who had been given permission by the council to trim them. The City Manager of the Kensington and Norwood council (Mr Nolan) said that the council had been shocked by the severity of the work and that it could have been worse if the council had not caught them in time. The City Manager commented:

> They trimmed the trees about two or three years ago and we expected them to do a reasonable job but they got a bit carried away. They have turned the trees into big mushrooms.

The Project Officer for KESAB (Mr Eric Zesers) joined in that concern, and said that ETSA had destroyed the streetscape of Osmond Terrace. He was in turn joined by the General Manager of KESAB (Mr John Phillips), who urged South Australians to publicly oppose the proposed changes.

I turn now to the Adelaide City Council. The Acting Director of Parks and Recreation (Mr Graham Jones) said in a report to the Adelaide City Council that the ETSA proposals were draconian and totally inappropriate for the city. He made mention of several inappropriate regulations, but one of the points which he highlighted and to which I will come back later is that the regulations prohibit the nurturing of large existing trees, and he said that the types of trees that could be planted under power lines would be limited to low growing species. These are listed in the schedule attached to the regulations.

Mr Jones makes the very telling point that this would make it illegal to plant plane trees, which are planted outside Parliament House. It would also make it illegal to plant celtis, sophora or pyrus trees, which are the species of trees planted in the Adelaide city area. The Lord Mayor (Mr Condous) who has been very active and aggressive in planting trees in Adelaide and greening the city in his nearly two years as Lord Mayor said that he would not allow 20 years of work and thousands of dollars spent greening Adelaide to be wasted. He said publicly that he would write to ETSA, telling it to keep its hands off our trees.

Local government in metropolitan Adelaide and in the city is pretty united in its approach. Mr Roger Goldsworthy, the Opposition spokesman on Mines and Energy in another place, said that ETSA's tree trimming program had been a gross misinterpretation of what had been agreed to in the parliamentary select committee. There was certainly a lot of consultation in that committee. Evidence was taken and many interested groups were represented at the meetings held earlier this year. What was tabled in this Chamber yesterday from which, ironically, the Government has backpedalled today, are regulations which are grossly at variance with what was agreed to in the select committee and are inappropriate in many respects for local councils in metropolitan Adelaide.

Mr Goldsworthy said that it was made quite clear in the select committee that ETSA would bear the full cost of keeping its supply lines clear where the lines were defined as public supply lines. He said that the proposal that ETSA would only do the work every five years was a ruse to try to force councils to do the work more often so that pruning would be less severe.

Letters have come in to all members of Parliament, I would imagine, from councils outlining some of their concerns, and I will conclude by referring to some of the particular concerns that councils have expressed about these regulations under the Electricity Trust of South Australia Act. In a letter dated 31 October and signed by Mr K.R. Adams, the Town Clerk of the City of Unley, it is stated:

> My council is extremely concerned about the nature and content of the regulations under the Electricity Trust of South Australia Act . . . The council's concerns are not limited to the specific items set out below.

The letter details several matters to which the council has objection. The first matter is one that I have just mentioned that, despite the debate, the select committee hearing and consultation some months ago, provisions relating to cost sharing between local authorities and the Electricity Trust of South Australia have been removed from the original Bill and have been excluded from the amendments to the Electricity Trust of South Australia Act Amendment Act 1988 which passed through this Chamber. The notion of cost sharing has been reintroduced in regulation 7 (3) *(b)* (iii), regulation 11 (3) *(e)* and regulation 16 (4) *(b)*.

Existing street trees in the city of Unley could be subject to removal pursuant to section 39 (7) of the Act if the council nurtures the trees in any way. I have also mentioned that point. There is no distinction between past practice and established practice. Concern is expressed there and in other quarters that that could also be open to abuse. I have already mentioned the point that was made by the Works Manager of Unley (Mr McCarthy) that the species of vegetation set out in schedules 3 and 4 are poorly conceived and generally will not enhance the streetscapes of the city of Unley. Very few of the species in the schedules would provide a consistent, matching or suitable streetscape in the city. Myrtle Bank is included in the bush fire risk area, despite being totally surrounded by urban development.

The Hon. J.C. Irwin: Did you know that the schedule includes some weeds?

The Hon. L.H. DAVIS: I was not aware of that. My colleague the Hon. Jamie Irwin draws my attention to the fact that schedules 3 and 4, setting out the species of vegetation suitable for streetscaping, actually include weeds. The city of Unley, in the final paragraph of this letter, makes a plea which is reflected in everything that I have said today and also reflects the concern that people have that there has been no consultation:

> The council stands ready to consult with you or any other parties in relation to the regulations and to assist in the preparation of suitable regulations.

The Local Government Association, which is the umbrella association, has just had its annual general meeting. It is

reeling from the fact that it had only two days to respond to this set of regulations which, quite clearly, have been drafted in some haste. The Local Government Association makes the blistering point that it has had no input into the current form of regulations as they relate to non-bushfire areas. I can understand its concern and, indeed, its anger that, as one of the three arms of democratic government, it has not been consulted in any way. The implemention of these regulations will affect local government more than any other arm of government.

One of the points that the Local Government Association makes is that, under the regulations, the arbitrator could be appointed at the sole discretion of the Minister, without any consultation with the Local Government Association or other bodies. That could mean that councils in a non-bushfire risk area are not given the benefits of the consultative committee process which was recommended by the parliamentary select committee or the Electricity Trust amending Act. The reason why we are standing here debating this most important measure is that the consultative process has failed. This is not a storm in a teacup: it is an important matter. The Government has created a bushfire about these regulations because of its failure to consult.

In relation to established practices, regulation 14 provides for ETSA to trim vegetation in accordance with established practice. Local government has the same concerns about the term 'established practices' as it has about the term 'past practices'. There is simply no mechanism to review or appeal against proposed Electricity Trust actions. It could well mean that the Minister might be vetting clearance proposals in non-bushfire risk areas to determine what is inappropriate and what is not. Therefore, all in all, there are some serious defects in these regulations as they now stand. Because community concern has been expressed by councils, KESAB and the Local Government Association, the Liberal Party feels obliged to move that these regulations be disallowed.

The Hon. I. GILFILLAN: No doubt honourable members are aware that I have on the Notice Paper an identical motion to the motion moved by the Hon. Legh Davis. I will comment briefly about some of the recent events relating to this issue. The Australian Democrats are concerned about what has transpired as far as the tree lopping procedures in the non-bushfire prone areas are concerned. With that concern in mind I sought, and was granted, a discussion with the Minister, Mr John Klunder, and the General Manager of ETSA, Mr Robin Marrett, at 10.30 on Monday morning. At that meeting the Minister gave me an undertaking to reopen the working party, to increase the local government representation on that working party and to draw up references for the working party to address the outstanding problems that exist and the dissatisfaction about the current practices and the regulations as they have been gazetted.

The Minister did this because he and the Government do not wish these regulations to be disallowed. The Democrats believe that there is advantage in having meaningful and constructive discussion take place. Therefore, I gave the Minister an undertaking that, provided we were satisfied that the discussion and the structures for the discussion were satisfactory, and that local government interests were recognised, we would not pursue this motion to a vote. However, if it appears that the working party and this procedure are a sham and that there is no serious intention on the part of the Minister and the Government to revise the regulations and to listen intently to the problems that are in the mind of local government, we would have no hesitation in urging that the motion be put to the vote.

We would vote against the regulations. However, I feel that the Minister has shown good faith and it is my opinion that he is receptive to the criticisms and is prepared to take notice of them and to seek amendments to regulations where he can be persuaded that they are justified. I feel that the new Minister is, at the moment, very much influenced by the messages from ETSA and for that reason I sought the Minister's permission to speak to him without the General Manager present so that we could discuss it on a political level.

The Hon. L.H. Davis: Would the new Minister be more careful and consult more closely—

The Hon. I. GILFILLAN: In fairness to the Minister, with the timing for the proclamation of the Act it is reasonable—especially with the undertakings of the Minister's predecessor—that regulations were to be gazetted and in place by 1 November, for the bushfire prone areas. I do not think that anybody can criticise the urgency and the requirement for those regulations to be in place and operative as soon as possible. However, I believe that we want a structure that brings out the best cooperation between all parties involved, particularly the councils. If need be, the Minister can use his authority—his legal authority now under the amended Act—to instruct ETSA to take whatever steps he believes are appropriate.

The Democrats believe that the reason, and the only reason, that the working party has been reinstituted is my discussion with the Minister and the undertaking given on Monday morning. We put the Minister on notice and he accepts that if the structure and conduct of this working party are not satisfactory then we will not hesitate to move for a vote on this motion, and we will vote for the disallowance of the regulations.

I do not believe that we will need to come to a confrontationist situation. I am optimistic that the Minister is sincere and I look forward to seeing him setting these procedures in place. By February next year, I hope there will be substantial amendments which will, to a large extent, satisfy the parties involved. In light of the ongoing nature of the debate, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SELECT COMMITTEE ON THE AVAILABILITY OF HOUSING FOR LOW INCOME GROUPS IN SOUTH AUSTRALIA

Adjourned debate on motion of Hon. Carolyn Pickles:

That the report of the Select Committee on the Availability of Housing for Low Income Groups in South Australia be noted.

(Continued from 12 October. Page 942.)

The Hon. M.J. ELLIOTT: I support the motion that the report be noted. In fact, the select committee was set up on a motion of mine quite some time ago. I believe that the problems associated with housing for those on low incomes in South Australia is probably one of the most serious socio-economic problems that this State must face. Following the evidence that was brought before the committee I am even more convinced that that is the case.

Before I proceed to talk about the report I will make a few observations about my experience on the committee, which also apply to other select committees. I am greatly concerned that the committees of this Council are gravely limited by a lack of resources, particularly human resources. In this and many other committees the officers seconded

to them have other duties to perform and this is not fair to them, nor is it fair to the committees themselves.

Many people in this Council believe that this committee work should increase. I cannot see how it can increase and be efficient unless adequate resources are made available to committees. As a member of a committee, I know that it is very difficult to do all the work associated with a committee when one is under-resourced as an individual member. If one is required to read the various drafts and wants to examine the evidence in some detail afterwards, one is pressured for time. That pressure is a result of our many other responsibilities, many of which are day-to-day tasks which could be done by assistants if only they were available. For the work of committees and this place to be efficient, resourcing must improve. This resourcing has implications for this committee. The committee has had some achievements but it has also failed in a number of cases. That is not a reflection on members themselves, but on the problems I have already addressed.

The committee was something of a Housing Trust benefit. Much of the information came indirectly or directly from the Housing Trust or bodies closely associated with it. This is not a reflection on the Housing Trust but is to be expected, since it has been the primary supplier of low income housing in South Australia. However, information could possibly have come from wider sources if only we had had the time to follow it through. We did bring together a great deal of information, not all of which went into the report, but it may be found in the evidence.

For people who wish to pursue this matter further there is a great deal of useful information about low income housing in a number of extremely good reports that were brought to the committee by way of evidence. Unfortunately, the committee compiled information but did not spend a great deal of time analysing it. I believe that the constraint of time was responsible; unfortunately some members felt that they had other priorities at the time.

I was concerned that the Housing Trust was incapable of answering a number of basic questions and, as I look at the report itself, I will deal with a number of those. It was difficult to get a full measure of the problem. The measures we do have are largely only indicators. For instance, we know that the Housing Trust waiting list at 30 June 1987 was 45 000 households. I suspect that that may have increased by another 10 000, but that information was not brought to us. This is an extremely large waiting list, one which has doubled since June 1982, so it is clear that the demand for low income housing is escalating rapidly. Over 17 000 households—95 per cent of applicants—who had joined the waiting list up to June 1987 had incomes of less than 85 per cent of the then average male weekly earnings. In other words, 95 per cent of applicants were in financial difficulty.

These people had to wait anywhere between three or four years for a house, and that is a grave situation. When people wring their hands about many of the other social ills in our society we have to ask ourselves, 'How much does the availability of housing indirectly cause many of the other problems that we see?'

The Emergency Housing Office assisted 33 000 households with bond/rent assistance and information during the 12 months to June 1987—something like a fourfold increase on the level of assistance that occurred to June 1983. This is, once again, an indication of a rapidly escalating need. There were 8 720 private renters in receipt of rent relief as at 30 June 1987. What we were not able to measure, and unfortunately the Housing Trust could not tell us, were the answers to questions such as: 'How many people are living on the streets at the moment?' There was no accurate answer to that. Also, there was no answer to questions like: 'How many people are sharing houses in unsatisfactory conditions, for example, a young married couple being forced to live with parents because of inadequate affordable housing?' There was no measure of that whatsoever. Without these figures we do not know the full extent of the problem.

In relation to home purchase, it is of concern that in 1980 the average house price was $39 475 and that the average weekly repayment was $69.56, which made up 28 per cent of the average weekly earnings. By 1987 the average house price was up to $84 339 and the weekly repayments had escalated to $170.43, which was 36 per cent of average weekly earnings. Members can plainly see that the average house price has become less affordable in terms of the average weekly earnings, but I think there is a further hidden problem.

What has happened between 1980 and 1987 is that there has been a widening gap between low and high incomes in this country. Average weekly earnings are not a good measure whereby to judge housing affordability. Quite simply, house prices have been going up while many people on the lower income level have had their real incomes decreased quite dramatically. Therefore, houses have become unaffordable, so many people who would have once been in the market to buy a house now have little choice but to rent.

It is also worthwhile looking at land prices which have an impact on house prices. The most obvious trend during this decade has been a very rapid escalation in land prices in the inner city areas. Clearly, there is little land left, but if we look at the indicators they show that in an inner city area such as Adelaide the average land price increased from $92 000 in 1984 to $197 000 in 1988—a threefold increase. The Burnside council area had almost a doubling of land prices in those four years and in the Enfield area prices escalated by about 80 per cent. Going to the outer extremes of the metropolitan area, by comparison block prices at Salisbury increased from $17 000 to $20 000. This means that land which was affordable even for a middle income earner is now not available in the city.

Some people say, 'That is life; that is the way things are going', but what it means is that at the lower income scale more and more people are being forced to the outer parts of the city where the services are much poorer. Problems of housing not only relate to the house itself but also relate to location, and we have serious problems there. This not only concerns people on lower incomes; it is far more complex than that. For instance, people with disabilities more often than not are in the low income categories. They have even greater problems than other low income people and they are increasingly being forced to the outer suburban areas—a highly undesirable occurrence. That is happening not only with the purchase of housing, but if the cost of housing and land is doing that we also see the same thing occurring with rents, with the inner city rents escalating far more rapidly than those in the outer city.

Suburbs quite close to central Adelaide, where low income people were living (and still are to some extent), are changing very dramatically. If members need evidence of this they need to look no further than places like the Bowden/Brompton area which is now going through an urban renewal stage. The Housing Trust did a wonderful job erecting a large number of trust homes and units. One of the consequences of its actions is that with the increasing number of new houses in that area it became increasingly attractive. Now, the private developers are moving in and land and house prices have gone up so much that the Housing Trust can no longer afford to build in the area. The trust caused

the urban renewal and, as a consequence of that, it can no longer afford to build there.

We will find that these inner suburbs will increasingly become up-market and more and more low income people will be pushed out to the urban extremes. That is a matter of great concern. When looking at housing it is worthwhile looking at what is called 'housing-related poverty'. A person is not in poverty only on the basis of their salary or wage; it depends on their costs. It is obvious that a person who already owns his or her home and has no mortgage or rent payments will not have the same difficulties as a person who is paying rent or mortgage repayments.

I draw members' attention to table 3 in the report. It looks at before-housing costs and after-housing costs, and the number of people in poverty. We find that amongst home owners, while 12 per cent are considered to be in poverty before housing costs are considered, it gets to 5 per cent after housing costs are considered. In comparison, if one looks at private tenants, while 15 per cent are in poverty before housing costs are considered, 21 per cent are deemed to be in poverty after housing costs are considered. In other words, housing is a direct contributor to increasing the number of people in poverty, particularly amongst private tenants.

In comparison, the work of the Housing Trust in relation to public tenants means that there is a dramatic reduction in the number of people considered to be living in poverty. The trust in South Australia plays a very important role in this. It is important that affordable housing be available for all. I now turn members' attention to table 4, which makes comparisons between Australia and South Australia. The important role played by the trust in this State, relative to the other States, clearly shows what a good job has been done in South Australia under successive Liberal and Labor Governments over a long period of time. Unfortunately, that good work is now being undermined for reasons I will come to later.

It is instructive for people also to look at table 5, which looks at the relative position of Housing Trust tenants in South Australia versus private tenants. It takes as an example a single parent with two children under the age of 13 years and assumes that the person is on a basic pension. It looks at the disposable income of a Housing Trust tenant after receiving a rebate or a private tenant after receiving rent assistance (available from both Federal and State Governments).

The difference in disposable income is quite amazing. Where that person is in a Housing Trust home, the disposable income after housing costs is $140. That same person in private rental has an after-housing cost disposable income of $95, a difference of $45 a week, and illustrates the very real problems that are created by a reliance on the private market as a supplier of homes for low income people. The simple fact is that most people who do have homes that they rent out generally speaking do not aim their house at that section of the market anyway. They would prefer not to have those people living in them, and you tend to find that housing available through rental is aimed at middle income earners, or else it is a very old, run down place which is aimed for demolition and is largely substandard but becomes available for low income earners.

I believe that that table is most instructive and it is worth examining. People enter into arguments about encouraging more private rental housing, as the Treasurer (Mr Keating) did by changing some of the tax laws recently. I do not believe that he has done anything to help those who most need housing. He has only helped those who are the landlords, and they have had a wonderful gift. They will dispute that, but let them do that if they like.

On the edge of these problems, we can look at various groups. Certainly one of the largest groups of people who are looking for housing in the low income area are women and, most often, with children, frequently reliant upon Government benefits. They make up a significant sector of those needing housing. One group I would like to dwell on just briefly is the disabled group. The State Government now has a policy of deinstitutionalisation—an interesting policy to be running when, at the same time, we have problems providing housing. We have a waiting list, as at the middle of last year, as I said of 45 000. I expect that now it is probably closer to 55 000. Now people with disabilities are also being pushed into the public sector, and the Housing Trust is being asked to accommodate those as well. I have no problems with that, but I think when we do things such as this, we should be making extra resources available.

The Hon. Diana Laidlaw: Also to help them in the home.

The Hon. M.J. ELLIOTT: That is right. The issue is a much larger one than that which I am looking at today. We not only have the people who are coming out of institutions such as Ru Rua and those for the mentally disabled, but also we have other institutions such as Strathmont that are increasingly trying to get people out into the community. I applaud that, but it cannot be done without added facilities and assistance. It appears to me that the Government is not willing to give enough assistance to help that to proceed. Corresponding with that, we have large numbers of particularly mentally disabled children who are living at home. Years ago they would have been placed in institutions, but a change in society has meant that many people have now kept their children at home and we are reaching the stage where the parents are quite elderly and frail, no longer able to look after their now grown up children. When they go looking for assistance from the Government, the Government says, 'I am sorry, we are closing down our institutions at the moment. We have no places there.' As far as the Housing Trust market is concerned, people coming out of the institutions have first priority, and we have a rapidly growing problem with this disabled sector of the community.

The prime sources of our problems are the current policies of the Federal Government. It is worthwhile looking at the sources of trust funding and, attached to our report as appendix E, we look at where money is coming from. The Commonwealth Government quite clearly undercut the public sector of housing quite dramatically. It has done it in two ways. The Commonwealth-State Housing Agreement funds have remained level since 1984-85. There have been no increases, which means in real terms there has been quite a dramatic cut. While that has happened, the Housing Trust waiting list has doubled. While we have increasing demand, the Housing Trust assistance by way of Commonwealth-State Housing Agreement funds in real terms is dropping quite dramatically—I suggest about 20 per cent. It has also reduced quite dramatically what are known as the nominated loan funds. Those were funds available to the States at a very low interest, about 4 per cent. South Australia and, later, Western Australia, decided to use those funds for public housing. They saw that as a prime area of need. The other States used those funds for other purposes. The Federal Government has now cut the nominated loan funds by about 80 per cent on what they were at their peak, and intends to cut them out entirely in the next couple of years.

In an attempt to keep up the building program for the Housing Trust, the Government then had to rely on SAFA

funds which have been at market rates. The implication is that the Housing Trust has an increasing debt servicing to do and the money is now going in interest payments rather than into additional housing. That is causing very grave problems, so we have a dramatic cut in Commonwealth assistance to housing. That is the prime cause of problems with public housing in South Australia.

Perhaps in tandem with that we should look at the other problem, and that is the increasing number of people on very low incomes—quite often pensions and the like—going into public housing. They make up an increasing percentage of those going into trust homes, so the Housing Trust has an increasing number of people in very dire need in its accommodation. The Housing Trust offers rent rebates such that we can ensure that those people on low incomes do not find themselves in poverty due to housing costs. Of course, the impact is that a significant portion of trust funds now are also going by way of rent rebates. Rent rebate in many ways is really income assistance. It is guaranteeing that people are not living in poverty. It is the sort of cost which should rightly be picked up once again by the Federal Government. That Government has the responsibility for income security. The State Government has picked it up for no other reason than a refusal of the Federal Government to meet what are its moral obligations. While the State Government has done that to help those in the Housing Trust, that reduces the amount of funds to help those who are on the waiting lists, those who have been waiting for three to five years to get into a house.

Strangely enough, while they are in private rental awaiting Housing Trust accommodation, they are receiving rent assistance to enable them to survive in the private rental market, but that is essentially dead money. The money is not going into bricks and mortar that will eventually accommodate people but it is disappearing into the landlords' pockets never to be seen again. That is unhealthy for the public sector as a whole. So, we see the viability of Housing Trust programs decreased quite markedly and they are continuing to decrease.

The trust capital works program has quite obviously been cut back severely. In desperation, the trust is looking for other ways to get around the problem. It has looked at selling off existing Housing Trust stock to raise funds to build more houses. Part of the argument is: if there are people in Housing Trust accommodation who can afford to buy a house, what are they doing renting? That is fine so far as it goes. What houses will we sell? In general, people will not buy a house which is old and dilapidated, or in need of repair.

They will buy the good part of the housing stock. In other words, the trust will sell off its good stock and keep the more run down stock and have a big repair bill. I do not see that that is a real gain and then the trust has to recover the money from the sale and put another house on the ground. In many cases the replacement house will cost more than the cost of the house sold. The replacement house will more likely be in more distance suburbs, which does not solve some of the other problems that occur.

I was keen for the select committee to pursue a particular issue but for reasons that I do not fully understand there was not much enthusiasm for it. I refer to the question of land cost. What contribution does land cost make to eventual housing costs? The Government has a policy now of urban consolidation, whereby it is seeking to reduce as far as practicable the release of new land. In the longer run that may have consequences which the Government does not seem to have contemplated thus far. It was only a week ago when the Minister of Housing claimed that the urban consolidation policy would reduce land costs by $7 000 a block. I am not sure how he arrived at that figure, and I would like the calculations to be written down so that they could be examined. It is highly dubious.

The Hon. R.I. Lucas: Which Minister?

The Hon. M.J. ELLIOTT: The Minister of Housing.

Members interjecting:

The Hon. M.J. ELLIOTT: I did not say that I believed it—I just said that he said it. I was questioning whether or not what he was claiming was a reality. What we have seen happen in Bowden and Brompton in respect of urban renewal leading to the eventual squeezing out of the trust will happen in more of our inner city suburbs. We have already seen the nearby suburbs of Parkside, Norwood and Prospect increasingly go up market, with lower income families being squeezed out. That is now spreading into the nearby western suburbs.

Urban consolidation can only accelerate that process. At present we have blocks of land with a house in reasonable condition and it is not worthwhile bulldozing the house to build a new house. To some extent that suppresses the value of the house and, in so doing, it keeps it within the reach of people on moderate incomes or people who purchase the house to rent it out. If urban consolidation allows that house to be bulldozed and the land subdivided to allow more than one house to be built on it, the consequence is that the land value increases. It will be worthwhile bulldozing such houses and in the longer run the cost of housing in the inner suburbs will escalate even more as a result of urban consolidation.

In the short run urban consolidation may work but eventually supply will dwindle and the pressure will be ever upwards in respect of increasing prices. Although the Government may have the best of intent, I believe that this scheme will backfire badly. The Government should look at alternative strategies. There are alternative strategies to tackle some of the problems that we now have in Adelaide besides the simple strategy of consolidation. That is not to suggest that there are not benefits from urban consolidation, but it is not the panacea claimed by many.

Also, there seems to be some reluctance in South Australia to look at other means of tackling the question of housing affordability. There is much reluctance at local government level to use building materials other than standard bricks and mortar. In some circumstances earth architecture can be a cheap form of construction, but it is frowned upon by many councils. In some areas they frown upon the use of timber as a construction material, yet it is more easily used by ordinary citizens than bricks and mortar.

We need to look at the concept of sweat equity arrangements as used in Victoria. In respect of houses owned by the Government in the first instance people can build up equity in those houses by working on them. They make the alterations to the house and perhaps even additions. Of course, people need to be monitored closely to ensure that they do not fail to comply with adequate standards, particularly safety standards, but by working on their houses over a long period people build up an equity in them. This arrangement should be pursued in South Australia.

There are also some suggestions in the report at looking at different forms of housing finance arrangements such as capital indexed loans, deferred interest loans and low start loans. The committee noted that the State Government is currently investigating means to extend affordable housing financial arrangements. At this stage the State Government has realised that the old concept of the three bedroom home is not the ideal for many of the people now going into low income housing.

We have an increasing number of aged people who do not need the old suburban standard. We have many singles now looking at the trust as their only real opportunity to go into a house, and of course a single parent with one child is a classic example where the old standard housing is a costly way of providing housing. It has been recognised that we do need to build smaller units. I only hope that we do not over-react and assume that, just because a person is old, the person wants to live in a one bedroom, one kitchen and lounge house. I had a neighbour shift in recently who had lived in something like that. It drove her crazy and she had to move to an old standard three bedroom house.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: They shifted in next door. We have to be careful about assumptions in respect of what people want. Sometimes grandparents want a larger house because they want grandchildren to visit them. Certainly, speaking as a parent, there are parents who want children to visit grandparents as well! In summary, I wish to refer to a few of the major recommendations of the committee.

First, the committee believes that the primary focus of both Federal and State Government housing policies is to continue towards the expansion of supply of long-term affordable housing for the community. The Federal Government must maintain funding for public rental housing/concession housing finance at 1982-83 levels. If it had continued to do that the problems we are now facing would be much smaller. The failure of the Federal Government in this area has contributed to our problems today.

The Federal Government must also assume funding responsibility for all income security payments, including rent rebates for all low income public tenants and rental relief for private tenants. The committee saw a need for improved research to be initiated by the State Government. I commented earlier that the trust could not answer a number of what I thought were important questions. Its research needs to look at the extent of housing needs within the South Australian community. It needs to look at an evaluation of housing assistance strategies and make an evaluation to consider recurrent support and housing supply strategies, and examine equity of assistance provided to low income households in all tenures.

I believe there is a need for the State Government to look at which is the most valuable in the long term: money which is going directly into public housing or money which goes into private housing by way of rental rebates and negative gearing. If the concessions that were made, particularly the negative gearing concessions, by the Federal Government had been put into public housing, we would not be looking at the problems that we now face. Finally, the South Australian Urban Land Trust must have a continuing role as a banker and developer of land in separate and joint ventures.

I believe that the Government needs to release more land. Certainly, I do not see Golden Grove as being a model development in some respects. It was a financial gift to Delfin and the ANZ Bank, yet the trust has obligations to build there and its blocks of land cost about $7 000 extra per block than elsewhere.

That is money which otherwise could have gone into public housing. It is going into public housing, but it is very expensive. It is an obligation under the Act and under the agreement. I believe it is wrong, and I hope that those sorts of gifts and mistakes are not made again. I urge all members to consider the problem of low income housing. I believe that the report has pointed out that there are serious problems and where some of the solutions lie. I hope that those matters are pursued further in this place.

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

EXOTIC FISH

The Hon. PETER DUNN: I move:

That regulations under the Fisheries Act 1982 concerning exotic fish, fish farming and fish diseases (undesirable species), made on 30 June 1988, and laid on the table of this Council on 4 August 1988, be disallowed.

In moving to disallow these regulations, I believe that the Government has made a fundamental mistake. It has not looked at what the rest of the Commonwealth is doing in regard to these regulations. The regulations restrict the sale of, in effect, cichlid fish which, as we know, are fish which survive mostly in tropical areas, and that is the crux of the matter. I must say that there are some fairly undesirable little fish which live in that area, and that includes the family of piranha, which we all know are not terribly pleasant. However, there are a number of other fish within that cichlid family which are most attractive and most sought after by some people.

If those fish do not cause harm in this area, I believe that they ought to be allowed to be kept, traded, bred and enjoyed by those people who own them. However, if we go back to about 1987 we find that the Government brought in a regulation which, in effect, permitted pet traders to keep these fish. I will read the relevant section from regulations under the Fisheries Act 1982 which were gazetted on 28 June 1984. The Regulation 6a (1), relating to the introduction of exotic fish into the State, provides:

The Director must determine an application for a permit under section 49 of the Act in favour of the applicant unless satisfied—

(a) that the introduction into the State of the exotic fish of the species to which the application relates would create a risk or harm to the indigenous fish, or the living resources, of the waters to which the Act applies.

That is important. It goes on to state several other requirements. However, the Director, in his wisdom, decided to change that regulation and introduce a new regulation because the pet owners or those who traded in fish wanted to introduce into South Australia some extra fish which were already bred and living in Australia, and they applied for a permit, which application was rejected. The Director, in his wisdom, then introduced new regulations which, in effect, stop *in toto* the trade of cichlid fish. The regulation, introduced on 30 June 1988 and entitled 'Revocation of regulation 6a', provides:

Regulation 6a of the principal regulation is revoked and the following regulation is substituted:

The Director may not grant or permit for the purposes of section 49 of the Act in respect of any fish other than fish of the species set out in schedule 5.

He then sets out a very small schedule of families of fish in which traders may deal. Of course, in that group of fish the name of the cichlid family does not appear. The effect of that regulation has been absolutely dramatic. Let me read to you what the lawyers acting on behalf of the traders said about that regulation. This letter, from Finlaysons to the Secretary of the Joint Committee on Subordinate Legislation, states:

The effect of the recent amendment of the fisheries (exotic fish, fish farming, fish diseases) regulations is that all species of fish other than those on a defined list of permitted fish are banned, and there is no power in the Director of Fisheries to issue a permit with regard to the same.

So, he cannot issue a permit to those people who wish to purchase those fish, even if he thinks that those fish will not do any harm. I could prove from the evidence I have

that a number of the cichlid fish would cause absolutely no harm to this area. The letter goes on:

> This contrasts with the position under the previous regulations, under which a permit could be applied for with regard to any species, but the Director of Fisheries could refuse to issue the permit if he was of the view that the species would create a risk or harm to indigenous fish or living resources of South Australian waters, or if there was insufficient scientific accredited information available in Australia concerning the species to enable him to be satisfied that it would not create such a risk of harm. A determination of the Director as to a permit was subject to judicial review by a District Court judge pursuant to section 58 of the Fisheries Act.

In other words, that describes the new regulations exactly. It has stopped dead the sale of those fish. For the pet traders who have a case before the courts, it also has another effect. The letter continued:

> The effect of the new regulations may well be to frustrate the court case and prevent our client from ever obtaining a judicial ruling as to whether the fish in question were harmful or not.

That appears to be the case because, later, the Crown Solicitor wrote to Finlaysons from whom I have been quoting, and stated:

> Dear Sirs, *re Miller v. Director of Fisheries.* Could you please advise me of your client's attitude to his appeal, in the light of the amendment to the regulations, which would mean that even if he were completely successful he would be unable to sell fish of the relevant species, as to do so would necessarily involve the purchaser committing an offence and your client being criminally liable?

In effect, the regulations are absolute. They have stopped the trading of those fish, which has occurred for 50 years in South Australia. There has not been one recorded case in this State of those fish escaping, becoming exotic or polluting any of the waters. On what grounds did the Director stop the trade in those fish? In pursuing his argument, I point out that there is no evidence in this State or overseas which suggests that those fish could invade the waters of South Australia. The only river in this State of any consequence which runs all year is the Murray River and its temperature is below 18 degrees Celsius for most of the year. It is well known that cichlid fish will not breed or reproduce—in fact, they become very sluggish—below 20 degrees Celsius. If that is the case, the fish would not become feral or exotic in this State.

The Director's argument in banning these fish is petty and vindictive. From the correspondence that I have received, it is obvious that there is a difference of opinion between the Director, the Pet Traders Association and the people who sell fish in this State. What should be done? The Director should go back to the former regulations, which give him the discretion to determine whether exotic fish can or cannot be sold. That gives the traders the opportunity to challenge in the court the Director's ability to determine whether those fish are harmful to these waters. From the information that I have, the Director himself said that he cannot make such a determination, and no-one in this State has a great deal of knowledge of cichlid fish as to whether they are harmful to the waters here.

The other point that should be made clear is that, if the fish are banned in South Australia, they can be bought in every other State. No other State has this regulation. Given that South Australia has a colder climate, we are being foolish in banning a fish which is really a tropical fish. I could understand if these regulations were introduced in Queensland, particularly in the waters off Cape York Peninsula and above Townsville. Below that there is no great risk. These regulations are of little consequence to the waters of South Australia but they are important to the people who wish to collect these fish, keep them in heated glass bowls, watch them, breed them and enjoy them, as a number of people do.

It is my opinion that the regulations represent a test case and the Federal Government or the State Government has decided that this would be a good place to challenge the pet traders on the sale of these fish because they are relatively weak in terms of money and numbers. However, the pet traders have put together a very good, cogent case to retain what they believe is their right to sell these fish. These are jackboot tactics. A host of regulations are permeating South Australia at the moment. I know that Labor Governments like to do that: they love to regulate everyone, and free market forces are never used. I am not saying that harmful fish should be introduced, but there does not appear to be any evidence that these fish are harmful to South Australian waters. The regulations are wrong and they should be rejected. The Director should reintroduce the old regulations and use the permit system to allow trade in exotic fish. It is for those reasons that I have moved this motion.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

EQUAL OPPORTUNITY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 October. Page 948.)

The Hon. CAROLYN PICKLES: I oppose this amendment to the Equal Opportunity Act. Such an amendment is not only unnecessary and unwarranted but is also contrary to the aims and the spirit of the Act, the purpose of which is to ensure social justice for all. It is widely recognised, and the Opposition agrees, that in the past girls have been disadvantaged in access to and participation in recreation, sport and fitness activities. The Equal Opportunity Act is based on redressing this imbalance, on helping girls improve their fitness and remain in physical activities longer, and also on giving boys and girls the opportunity to be involved in activities from which they have previously been excluded.

There appears to be an apparent contradiction in the Opposition's argument. Whilst it has acknowledged past discrimination, it is intent on introducing an amendment to the law that would, in effect, create a situation which allowed for the entrenchment of this discrimination.

Further, in criticising SAPSASA's interim policy in regard to primary school sport, they are attempting not to bring about a change to the policy itself, but to the law on which it is based, thus limiting its potential for change. Such an amendment is superfluous. The law, as it stands, allows for a range of options for achieving equal opportunity in sport for our primary schoolchildren. The South Australian Primary School Amateur Sports Association (SAPSASA) interim policy, which is on trial for a 12-month period this year, is only one of the possible means of achieving this aim. The policy, which focuses on providing real choices for girls and boys about the sport and recreation activities they participate in, which are not determined merely on the basis of gender, was not embarked upon lightly. It was put into practice only after extensive consultation with educational and sporting bodies. Submissions from a special sport and equal opportunity conference of representatives from the various SAPSASA sports were also incorporated into the formulation of the policy.

The Hon. Diana Laidlaw claims that the policy is not working. Such a statement is premature. The policy is to be reviewed after this year's trial, and even before the trial period is over, the Opposition is attempting to sabotage it.

Surely, the appropriate time for change—if change is necessary—is after the evidence gathered during the trial period is made known.

Further, one can only question the Opposition's motives for attempting to implement a change in the law, rather than the policy. Perhaps they would like to further reduce and undermine the capacity of the Equal Opportunity Act to bring about fairness for all. The Hon. Mr Lucas has already indicated in his speech that he feels some discomfort with other areas of the legislation. In introducing the Bill, the Hon. Mr Lucas made the claim that:

> The view espoused by the Commissioner for Equal Opportunity has been, and continues to be, that equal opportunity in primary school sport means that girls must compete and be forced to compete with boys in all sport.

The Hon. Mr Lucas appears to have either misunderstood or deliberately distorted the Commissioner's ruling. The Act provides that, if a school offers a sport and there is a demand, it should offer that sport to both boys and girls. It does not require that girls be forced to compete with boys in all sports. Under the legislation, no-one is forced to compete at all but, if boys or girls choose to compete, they should be given the opportunity of equal competition which is appropriate to their level. This level should not be determined merely by gender.

The SAPSASA policy, which has been formulated in accordance with the Equal Opportunity Act, does not have a blanket approach to all sports; each sport is considered separately. There is already provision in the Act for the exclusion of one sex from competition where strength, stamina and physique is deemed relevant. Under section 47 of the Act, special temporary measures are also allowed, according to the needs of each sport. Programs can be implemented to redress any recognised imbalance of previously disadvantaged groups, including girls. Special measures may take the form of extra coaching sessions and separate competitions, such as expos and lightning carnivals for girls in traditionally male sports, such as football, cricket and soccer, and for boys in traditionally female sports, such as netball and softball. Girls are not forced into predominantly male teams in order to compete in a particular sport of their choice, but they do have the right to play on the basis of merit in boys' competition. The same situation applies for boys in relation to girls' competition.

The Bill introduced by the Hon. Mr Lucas, is not about providing children with a choice, as claimed by the Hon. Diana Laidlaw, nor does it give effect to what is already allowed for in the legislation. In reality, it goes much further. The Bill seeks to circumvent the proper assessment of what is equal by allowing separate competition whenever a school chooses. This would make lawful a situation whereby a school could say that there are insufficient resources for both boys' and girls' competitions, so boys' competitions will take priority, or that there are insufficient resources for a similar level of competition for girls in a particular sport. In effect, the Bill would make it lawful to conduct separate competitions at the whim of a particular individual who can decide what kind of competition can be offered with no obligation on that individual (as is currently the case) to ensure that neither boys nor girls are disadvantaged in the process. It would make it lawful to entrench separate competition in all sports, thus obviating the need to assess the kind of sport which can be enjoyed by both boys and girls and the level of competition which may be required for boys and girls, so that they are able to achieve equality of opportunity in sport.

The Bill would make separate competition likely at an early age of development and thus deprive girls and boys of the opportunity to compete at the most appropriate level for them, by forcing them to compete only against their own sex. If the Bill were to be put into effect, it would encourage a return to the days where girls played only traditional girls' sports, and boys played traditional boys' sports. Both girls and boys will undoubtedly be disadvantaged as in the past. In focusing on the impact of equal opportunity legislation on competitive sport, we must not overlook another area for which the legislation has major benefits. Competitive sport is just one extension of the range of sport, recreation and fitness activities offered in our primary schools.

The physical education program actively involved all primary schoolchildren. When carried out in the spirit of equal opportunity legislation, it enables both girls and boys to develop skills and experience in a wide range of activities at a level which is appropriate to their physical, emotional and social development, thus enhancing their self-esteem. It is important that such programs are not jeopardised. While the debate continues, primary schools are quietly getting on with the job, developing new sporting opportunities and new approaches which are enabling all children to have a go. We should be offering them our support, not turning our backs on the gains which have already been made.

Change is not easy. Any change in policy also requires a concomitant change in attitudes, and this takes time. There is little dispute that girls were disadvantaged under the past system, so why return to that system, for that is what the amendment would bring into effect? Now that a program has been initiated to attempt to improve opportunities in the area of sport for primary schoolchildren, we should give it a chance. The proper time for review is after the 12-month interim period is over. That there is a need for an amendment to the Equal Opportunity Act is not substantiated, and is an over-reaction to the situation. Therefore, I oppose the Bill.

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

BUILDERS LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 October. Page 950.)

The Hon. J.C. BURDETT: I rise to speak briefly to this Bill. I do not support it, although I appreciate the motives of the Hon. Ian Gilfillan in introducing it. This action was, of course, prompted by the recent failure of a builder. However, consumers did not suffer. It did not cost homeowners any money to have their houses completed. That work was undertaken under the supervision of the Housing Industry Association. In fact, as I understand it, the contractors also received payment.

The Bill seeks to cover such a situation and, as I understand the Hon. Mr Gilfillan's second reading explanation, he is looking particularly at the subcontractors. The strategy of the Bill is to have the moneys paid to a builder under a domestic building contract paid into a special account. In my view, the Bill is totally unworkable. It is similar to the Building Contracts (Deposits) Act 1953. That Act was repealed by the Builders Licensing Act of 1986. That former Act, the Building Contracts (Deposits) Act 1953, was designed to cover the same sort of situation. It, too, was unworkable. That Act went one step further than this Bill in that it required joint signatures on withdrawals from the special account. Indeed, that possibility was canvassed by the Hon.

Mr Gilfillan in his second reading speech although, as he said, he did not go that far and the Bill does not provide for it.

I have had some connection in this field, both as a former Minister administering the Builders Licensing Act, and as a legal practitioner and, to the best of my knowledge, the Building Contracts (Deposits) Act 1953 was rarely observed. I am not aware of any prosecutions launched under that Act. In other words, it was honoured in the breach rather than in the observance, and no-one took any notice of it. This present Bill is quite unworkable and would lead to the same sort of thing happening.

I noted in particular that in the course of his second reading speech for the Builders Licensing Act 1986 the Minister did not even refer to the reasons for the repeal of the Building Contracts (Deposits) Act. That, I suggest, was because it was not worth referring to. It was a nothing. We should not be enacting fairly draconian legislation which will not be observed.

In the case of the recent failures the situation in regard to home owners was completely handled, at no cost to the home owners, by the Housing Industry Association. A probable and undesirable consequence of the passage of this Bill would be that no building contracts would be entered into at all, but that all houses built by builders would be on a spec building basis. They would build houses and then sell them. It would be most undesirable to do away with the present natural situation where a home owner can contract for a person to build him a home, and for the contract to be carried out.

The Hon. C.J. Sumner: There would be no contract.

The Hon. J.C. BURDETT: There would be no contract, and that is most undesirable. The present natural situation is far better, where a contract may be carried out and be subject to indemnity back-up.

The Hon. C.J. Sumner: Are you saying they'd just build spec houses and sell them as houses—

The Hon. J.C. BURDETT: In my view that is what they would do and I think it is undesirable. I am not suggesting that all spec building is undesirable; there is a place for it. However, I think it would be most undesirable to carry out all home building on that basis.

The Hon. C.J. Sumner: Builders would say, 'If you enter into a contract to build the house it will cost this amount, but if you let me build it for you without a contract you can buy a spec house later and it will cost you this much less.'

The Hon. J.C. BURDETT: Exactly. It is most undesirable to make such unrealistic and fictitious sorts of arrangements the norm. The Housing Industry Association is totally opposed to the Bill, and I guess that is understandable. It has let this be known, and it has a scheme which is capable of covering the contractors. It is a voluntary scheme, which is not unduly expensive to enter into and is capable of making sure that the contractors are paid. In regard to that last failure, the problem was with the contractors rather than with the home owners. It was probably the relevant union which influenced the Hon. Mr Gilfillan in introducing this Bill.

It seems to me that the scheme which the Housing Industry Association has now finalised to provide an indemnity for the contractors covers the situation. If in future it is proved not to be covered, perhaps there is a place for legislation to provide for such a cover. In the meantime, if a voluntary scheme is to work (and I see no reason why it should not) there is no need for legislation at all. I am therefore opposed to this particular piece of legislation.

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

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 12 October. Page 952.)

The Hon. R.I. LUCAS: When last I addressed this matter I remarked on this trailblazing freedom of information legislation, in South Australia at least. I again indicate, as I have done on a number of occasions previously in this Chamber, my wholehearted support for it and my concern and disappointment at the attitude of the Attorney-General, in particular, and the reluctance of other members of the Bannon Government to support this legislation which, over the years, has consistently been part of their platform documents and policy statements.

The last time I spoke I indicated that when the Attorney-General debated the Freedom of Information Bill he gave two principal reasons why his previous support for the legislation could not be translated into support for the Bill that is presently before us. His two principal reasons were, first, his concern about the cost and, secondly, that this Bill was premature because of reviews that were being conducted in Victoria in relation to its legislation and reviews that were being conducted by a Senate committee in relation to Commonwealth legislation.

I have before me (and have only had it in recent days, I admit) a copy of a document entitled 'Freedom of Information Act 1982' which is a report on the operation and administration of freedom of information legislation by the Senate Standing Committee on Legal and Constitutional Affairs, dated December 1987. Indeed, this is one of the reviews that the Attorney-General indicated when last he spoke that we should take heed of before we, as a Parliament, form a view as to whether we should support freedom of information legislation.

A very good friend and colleague of the Attorney-General's, Senator Nick Bolkus, is the Chairman of that Senate Standing Committee. Other prominent members include Senators Robert Hill, Richard Alston, Barney Cooney, Patricia Giles, Janet Powell, another friend of the Hon. Mr Sumner, Christopher Schacht (a former State Labor Party Secretary and now a Labor Senator from South Australia), and John Stone from Queensland. So, it is not a lightweight committee; it has very strong representation from the Hon. Mr Sumner's colleagues in South Australia, in particular Senators Nick Bolkus and Christopher Schacht, as well as containing other prominent members of the Senate.

For the sake of the Attorney-General (perhaps he has not had a chance to read this report yet) I will take him bit by bit through the report's recommendations and comments to help him make up his mind on this freedom of information legislation. I will also highlight some of the statements in the report in relation to the two excuses that the Attorney-General gave for not supporting this legislation.

His first excuse concerned the cost of the legislation. Page 15 of that report, under the heading 'Benefits and Costs of Freedom of Information Legislation and Overview', contains a reference that there has been much public debate and criticism about the operation of freedom of information legislation and discusses some of the wild suggestions (I suppose that that is one way of putting it) in relation to the possible costs. The report states:

> However, many of the costs which are attached to the operation of the FOI Act would have been incurred even in the absence of the legislation.

Further, it states:

> It is not possible to determine what access any particular agency would have allowed had the Act not been passed. Nevertheless, the cost of freedom of information would be dramatically reduced if it were to be discounted to allow for the fact that access to a significant proportion of freedom of information material would have been disclosed even in the absence of any freedom of information legislation. There is no way of estimating what should be the discount factor.

The bipartisan report is saying that in relation to costs we need to be very wary of the figures that are trotted out by those who seek to conceal, restrict or oppose freedom of information legislation.

The Hon. M.B. Cameron: Hear, hear! Particularly the heads of departments.

The Hon. R.I. LUCAS: Exactly, and Attorneys-General. We need to be very wary of the figures that are trotted out because, as the Senate committee reports, many of the figures that are included in the estimated total cost of the legislation are figures which otherwise would have been incurred by Government departments. The Attorney-General's second excuse for not supporting the legislation—

The Hon. M.J. Elliott: He is not in Opposition any more.

The Hon. R.I. LUCAS: He made the promise in Government as well. You cannot even accuse him of that, actually. The Attorney-General has been relatively consistent; he has made this commitment to support freedom of information legislation in Opposition as well as in Government. We sometimes say very foolish things in Opposition, and we sometimes regret them when we are in Government (and I am saying 'we' collectively as meaning members of Parliament generally). The Attorney-General, having supported freedom of information in Opposition, sought publicity for the fact that he would introduce such legislation when he was in the office of Attorney-General as a member of the Bannon Cabinet, and he did that on a number of occasions, as I have previously indicated.

The Attorney's other excuse was that we needed to wait for the Commonwealth review to see whether freedom of information legislation was working, whether it was of benefit to the community, and to learn from the experiences of the operation of the legislation in the Commonwealth jurisdiction, and we have that report presently before us. Page 7 of the report states:

> The committee remains committed to the concept of freedom of information.

Page 10 of the report, under the heading 'Attitude towards the FOI Act', states:

> The inquiry revealed that there is widespread support for the FOI Act, and little criticism of its object to make available information about the operation of, and in the possession of, the Commonwealth Government, and to increase Government accountability and public participation in the process of Government.

Indeed, it notes that only one submission to the review (which came from the Queensland Government) recommended the repeal of the legislation. So, the Attorney-General in this State and the Bannon Government are in pretty good company in opposing this legislation. The Attorney-General is supporting the attitude of the Queensland Government in opposing this legislation, whether that be in the Commonwealth or in this State. Indeed, politics makes strange bedfellows, when we see the Hon. Mr Sumner and the Hon. Joh Bjelke-Petersen arm in arm, hand in hand, on an issue such as freedom of information legislation.

The Hon. J.C. Burdett interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Burdett chuckles at that thought and I join him. Clearly when one has learnt what has now come out of the Administration in Queensland, not necessarily just through the guise of freedom of information but through other inquiries, one knows why Governments and Cabinet Ministers are very loath to support freedom of information legislation. It is only those who have something to conceal. It is only those who do not wish the truth to get out. It is only the Attorney-General and, indeed, the Bannon Cabinet that does not want freedom of information legislation in South Australia, and the public ought to be asking why. Why does the Attorney join with the Queensland Government in opposing freedom of information legislation?

Let me return to the views of Senator Nick Bolkus and Senator Chris Schacht on freedom of information legislation. The Senate report states:

> Nothing which emerged during the committee's inquiry caused it to doubt the overall value of the FOI Act.

Further on, it states:

> The committee wishes to emphasis that it is firmly of the view that the operation of the FOI Act has proven to be a net benefit to the Australian community. In the committee's view, much information has been released as a result of the FOI Act which would otherwise never have reached the public.

There is the crux of the matter, 'never have reached the public', only as a result of freedom of information legislation. It is interesting to note that in the submission to the Senate inquiry from a Ms Kate Harrison representing the Public Interest Advocacy Centre, she referred to the importance of agency attitudes and said there was still an unhealthy level of disclosure phobia amongst bureaucrats in Commonwealth Government departments. Referring to page 15 of the committee's report, under the heading 'Benefits and Costs of FOI—An Overview', and then on page 19 under the further heading 'Benefits' it is stated:

> As part of the Attorney-General's Department data collection for the 1985-86 FOI Annual Report, agencies were asked to indicate whether they had experienced particular benefits arising from FOI during the year. The range of acknowledged benefits was indicated by the following replies:

Then follows very interesting disclosures. A total of 46 agencies felt that some benefit was a greater awareness of the need for objectivity and accountability in dealing with the public. A total of 38 agencies felt that improved quality of decision making was another benefit, while 33 felt that improved communications and understanding between the agency and clients was a benefit. A total of 27 agencies felt there had been improved efficiency of records management (a matter which would be near and dear to my colleague the Hon. Legh Davis), and 25 agencies felt a benefit to be a greater public awareness of the role of the agency involved. To be fair, on the other side of the ledger, when asked as to what had been the detriments of freedom of information legislation, they were included under the following general headings.

The most common detriment felt by agencies, reported by 55 of them, was that there had been a disproportionate allocation of resources in response to requests from individuals. Secondly, 47 agencies felt that the Act was used as a research tool by journalists and others. If I might be permitted a comment, that seems a very strange detriment of legislation, where journalists and others used the legislation as a research tool but, nevertheless, that was the attitude of 47 agencies. Finally, 42 agencies felt that it had been used by litigants in the course of other legal proceedings—again, a fairly broad area but nevertheless listed as a detriment of FOI legislation. I will finish my remarks by quoting from the conclusions on pages 32 and 33 of the Senate Standing Committee. It states:

> The committee finds that the operation and administration of FOI has brought benefits to individuals, agencies and the Australian community. These benefits are significant even though they are of a kind which cannot be measured precisely.

That summarises in a nutshell freedom of information legislation in Australia. That is the conclusion of a report from Labor Party members, Liberal Party members, Democrat Party members and National Party members. They have concluded that the legislation is of a net benefit to the Australian community. They have concluded that it does provide tangible benefits, not only to the Parliament and the media but to the Australian community at large. Indeed, if we ever see this legislation from the Hon. Mr Cameron pass not only this Chamber but also another Chamber, I am sure that a similar committee in South Australia at some time in the future will indeed have the opportunity to report likewise on freedom of information legislation in South Australia.

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

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.

to which the Hon. C.A. Pickles has moved the following amendment:

Leave out '1.' and all words after 'That this Council' and insert the following in lieu thereof:

1. Recognises that there is a need for people living in country regions of South Australia to have access to an improved range of health services.

2. Further, the Council supports the reallocation of resources, based on the principle of social justice, to provide country people in South Australia with improved specialist health care and services in the area of primary health care including domiciliary nursing services, rehabilitation programs, child adolescent and family health services and adult mental health services.

(Continued from 12 October. Page 954.)

The Hon. PETER DUNN: When I last spoke to this Bill, I sought leave to conclude my remarks, mainly to have a look at what the Hon. Ms Pickles had to say on her amendment to this motion. I happen to agree that she has done a very good job in putting forward exactly the case that rural people are supporting. They recognise there is a need for people living in country regions of South Australia to have access to an improved range of health services and so on, but what they are not asking for is a very ornate service. All they want is a no-frills service and acute care, but they do not want a great deal of interference from outside people.

They are aware that they need to deal with the Health Commission. They are aware that they need to deal with authority, but many of them feel there is too much intrusion into country hospitals from people such as those in the Health Commission. For instance, it has been said to me that the same question is asked three months in a row by different sections of the Health Commission. It appears that they do not talk amongst themselves within that organisation.

The commission needs to look carefully at that. Either the commission should put it on computer or file the information in a better way than it has been doing. Perhaps it has the view that it is easier to write to hospitals to get the necessary information, even if the hospital has spent hours in the past gathering information and sending it off to the commission. Certainly, there is strong criticism within country hospitals about this matter at present.

Country hospitals are running carefully, doing the best that they can. There is no fat left in those hospitals to pare off, and in some cases the demands placed on such hospitals cannot be met. We have seen people get irritated and agitated at the thought of losing the general practitioner from the area. You, Mr Acting Chairman, as a general practitioner, would understand that people rely heavily on their local GP, particularly in the country, where there is such a strong bond between residents and their GP, who usually stays in the area for a long time.

People rely on their general practitioner through their various life stages, with their children and in their old age, and they learn to use their GP perhaps better than city people use their doctors. Often they approach their doctor in respect of weight and dietary problems or other matters of advice. Certainly, they want access to their general practitioner, and that is the crux of the country hospitals problem.

The Health Commission has attempted to close three country hospitals, and the arguments that I distil from the information circulated is that country people want to retain their general practitioners. People know that if they break an arm, get something in their eye or fall over or skin and cut themselves, the general practitioner is the best person to solve the problem. What is being provided is only second best: it is not what people require, as a result of which burdens are imposed on other parts of the community.

I emphasise that, if general practitioners are removed from an area, patients must be transported elsewhere. And who must do that? It is the St John Ambulance Service, and in most areas the service is comprised of volunteers, not professional officers. They are shopowners and local people such as school teachers or others who may have any sort of profession in the town. Under this scheme they are being asked to take up the cudgels and carry patients to other areas. Certainly that is an impediment that they do not need. These people are willing to help out when necessary, but they do not want to be involved on a regular basis.

Certainly, that is a strong reason to retain general practitioners in these areas. Further, there are two or three other matters which should be mentioned. Country people want to retain local birthing. They want to have their children born locally. Overall, general practitioners can determine accurately those cases which are safe to stay and the others that should be shunted off for more specialised treatment.

The Hon. J.R. Cornwall interjecting:

The Hon. PETER DUNN: The general practitioner makes that choice. Certainly, I defend the role of the general practitioner in making the choice to move some people on. Sometimes that is unavoidable. Local people should have the choice of being able to have their children at the local hospital, with the general practitioner deciding whether or not a birth would be too difficult for him to handle, in which case he would have the right to refer cases to a specialist.

I have clearly referred to St John, which is the crux of what is happening. If country areas lose that volunteer St John component, it will have to be replaced by professional officers, and then communities will be looking at big money, not just involving the general practitioner with an income of $50 000, $60 000 or $70 000, or whatever money they make in the country (I have no idea what the figure is). If

we provide professional people we know that for each officer employed by the Government it costs about $50 000. That would add to the cost of the change.

I refer also to the training of nurses. Certainly, it is important that unemployment be taken up by the nursing profession in country areas. Many people are employed in country hospitals. On average, 30 to 50 people are employed in every country hospital, and a number of those are nurses. Certainly, I am not sure that the present nurse training system is generally agreed upon by everyone in the profession as being the best. Certainly, hospital based training has some great advantages, and perhaps down the track we can change the present system to accommodate such training. There is a real need for country people who often do not reach matriculation standard and who will be unable to undertake tertiary education to obtain training to enter the nursing profession. Perhaps there is a case for such people to train over a longer period in country hospitals.

Certainly, for those reasons I support the motion moved by the Hon. Mr Cameron, and I support the amendment moved by the Hon. Carolyn Pickles who, I believe, has put the position succinctly. The present Government—

The Hon. M.B. Cameron interjecting:

The Hon. PETER DUNN: I know. However, I believe that the Government has been remiss. The Hon. Ms Pickles has picked up fairly well the matters that people require and are demanding.

The Hon. J.C. IRWIN: I, too, support the motion and the remarks made earlier by the Hon. Mr Cameron when he moved the motion, and the remarks of the Hon. Mr Dunn who has just spoken. However, I reject the amendment moved by the Hon. Carolyn Pickles because it has nothing to do with the original motion. The motion seeks to condemn the Premier and the former Minister of Health for their failure to keep a commitment to consult with the communities of Laura, Blyth and Tailem Bend and that any move to close or modify the functions of the hospitals in those three towns would not proceed without the support of the local community. I emphasise 'the support of the local community'.

The Hon. Dr Cornwall was too smart by half with his con trick of including Port Pirie as part of the community of Laura, of including Murray Bridge as part of the community of Tailem Bend and including Clare as part of the community of Blyth. This was a patently silly scenario and it was exposed as such. It is as silly as trying to link the communities of Elizabeth and Salisbury with Walkerville or the city of Adelaide.

The motion further seeks to condemn the Premier and the former Minister of Health for their failure to attend any public meetings called to give a public response to the planned changes. I submit that the amendment has nothing to do with the motion. There are two parts to the amendment, which asks this Council to recognise the need for people living in country regions of South Australia to have access to an improved range of health services. Further, the amendment asks the Council to support the reallocation of resources to provide country people in South Australia with improved specialist health care and primary health care.

Clearly, the amendment does not add, subtract, support or reject the condemnations of the Minister and the invisible Premier for their failure to keep a commitment based on the support of local communities. Neither does it address the failure of the Premier or his former Minister to attend any of the public meetings called to discuss a response to the planned changes. As I know public meetings in rural areas, they are genuinely called to give the community an opportunity to discuss matters of mutual interest, to listen to expert advice on both sides of an argument and finally to decide by democratic means what is the best course for the community to follow.

It is important for this Council to understand this process, because there is nothing that will upset a rural community more than being dictated to or having policies from just anywhere being thrust on them. I can assure the Council that rural communities in this situation show no fear or favour. I know this from my own experience. Their anger can be directed at their own local councillors, the local council, the Government of the day or the Opposition.

So, in a rather long winded way, I have shown that the amendment does not, in my view, comply with Standing Order 132, which states that the amendment must be relevant to the question. While I reject the amendment, however, in this debate I do not reject the matters contained therein and respectfully suggest that the Hon. Carolyn Pickles should now make that amendment subject to a further motion. Better than that, I move:

After paragraph II insert the following:

III. Recognises that there is a need for people living in country regions of South Australia to have access to an improved range of health services.

IV. Further, the Council supports the extension of existing services to provide country people in South Australia with improved specialist health care and services in the area of primary health care, including domiciliary nursing services, rehabilitation programs, child adolescent and family health services and adult mental health services.

Members will notice (and the Hon. Carolyn Pickles would notice if she were here) substantially the same wording in my amendment as that moved by the Hon. Carolyn Pickles to the motion moved by the Hon. Mr Cameron.

I now address some of the remarks made by the Hon. Ms Pickles in her speech. I listened when she made her remarks, and understand that they were directed towards the content of her amendment and did not relate to the motion. The honourable member's remarks, I am sorry to say, showed a distinct lack of knowledge and understanding of the functioning of rural communities. This highlights once again the abysmal lack of Government representation outside the greater metropolitan area of Adelaide that could otherwise understand what it was like to live in those areas. I acknowledge that the Hon. Terry Roberts does live in a rural community, and I hope that he will make some contribution to this debate. The Hon. Peter Dunn highlighted this point, which I underline again, namely, that, historically, the great move towards building country hospitals was based on the building subsidy scheme provided and promoted by the Playford Government and administered by the late Sir Lyell McEwin.

The hospitals were built on a needs basis and a local community's ability to pay. By no means was every local demand met. In the main, the scheme petered out in the late 1950s and 1960s, although a subsidy was still available for upgrading and enlarging country hospitals. The 70-odd country hospitals of varying sizes which exist now are scattered around rural South Australia and service the communities and combined communities that wanted them in the first place and, in fact, built them with their own efforts with, I acknowledge, some Government subsidy help. This is no different from the many community assets which have been built by community effort—most without Government help at all.

I doubt if there is a need for any more country hospitals in South Australia except in places such as Roxby Downs, which has only recently come into being. As the Health Commission and the Government have found out, there is

a fierce determination to maintain a community asset, and there is also fierce pride in assets that they have built. The argument that one hospital is only 15 or 20 minutes away from another falls down for a number of reasons, one being that those who live 30 or 40 kilometres on the other side of a town will take 40 or 50 minutes to get to a hospital once their hospital is removed. Although roads have greatly improved, they have not improved sufficently to enable everyone to have the luxury of a smooth bitumen road.

The Hon. M.B. Cameron: Where is the next one after Tailem Bend?

The Hon. J.C. IRWIN: The next hospital after Tailem Bend is Meningie or Keith—in that direction, that is a very long way, as the Hon. Mr Cameron points out. There was a story in my area which I guess can be said of most country areas, that when patients had to travel from Keith to Bordertown on a pretty rough road, if they were not crook when they set out, they were certainly crook when they arrived. If we were to succumb to the logic used to reduce services at the three target hospitals, we could forgive country communities around South Australia for smelling a great big rat. It is simply not true that the Opposition attempts to inflame the issue by suggesting that Blyth, Laura and Tailem Bend are just the first dominoes to fall, because the same logic used to close those three hospitals can be applied to justify closing five or six regional hospitals around rural South Australia, reducing services in all other small country communities.

After all, since the days of the Whitlam Government we have been tested over and over again with the notion of regionalisation in local government, health, education, welfare, and so on. The planners always conveniently forget not just about the extended trip required to go past the closed hospital to another one, but also that the same distance applies to a patient's family who have all the cost of travel and accommodation piled mercilessly onto them. I think that that point was also made by the Hon. Mr Dunn.

The Hon. Carolyn Pickles referred to the findings of the Health Commission, which has identified two major community concerns: fear of losing the local doctor and of losing a significant employment base. That is certainly true, but it goes much further than that to include in many cases the loss of the local chemist and many other facilities that go with a hospital containing acute care beds. The point was made that rural people account for 27 per cent of the State's population who consume 35 per cent of hospital expenditure.

I am not sure what figures were used to arrive at that calculation, but I accept it at face value only and make a couple of points. The State Transport Authority runs at an annual loss well in excess of $100 million, a point well made by the Hon. Mr Dunn, and very few people from the country use that system. In fact, they help to subsidise it. Further, something like $99 million has been wasted by the Bannon Government over the past five years, involving mistakes made in its purchase and application of computer technology. We have $2.2 billion unfunded debt from State public sector superannuation. Most country people do not even have superannuation but rely on saving assets, asset sales and family help for their retirement, or anything that may be left after massive Government tax and charge rip-offs.

With the ASER development, $100 million-odd was overspent, much due to union muscle tactics. There is also the *Island Seaway* debacle, involving millions of dollars spent over budget. The New Zealand timber venture shows $13 million wasted. There are also the sick leave rip-offs in the Public Service. Certainly, most rural producers do not have the luxury of sick leave. The list can go on and on. Is it any wonder that country communities are cynical about some little pipsqueak trying to justify cutting back acute bed care because more health service dollars are used on rural people than their population deserves.?

The Hon. Diana Laidlaw: Whom are you talking about?

The Hon. J.C. IRWIN: I will have to leave that to your imagination. The Hon. Mr Cameron put paid to the argument that the savings from the three hospitals in question would provide all sorts of marvellous benefits around the State. A small article in the *Advertiser* today regarding the Murray Bridge hospital is illuminating in the light of what the Hon. Martin Cameron and others have said. Under the heading 'Funding Cuts Hit Hospital', the article states:

> A cut in funds from the Health Commission has forced the district's hospital to reduce its level of services. The hospital board Chairman, Mr Don Coles, said the cutbacks had resulted in the cancellation of elective surgery and lengthened the waiting list by up to 15 months.

This is a regional country hospital. I continue:

> Not enough staff could be employed to fully service the hospital, and there was a shortage of respite and geriatric assessment beds for the elderly. Mr Coles said the cuts in funds was inconsistent with the Health Commission's plans for the hospital to assume a larger regional work load.
>
> Mr Ray Blight, the Health Commission's Country Health Services Executive Director, said he had previously told the hospital board he was looking at ways to provide extra funds.

I guess he thought he would get that from Tailem Bend.

The Hon. M.B. Cameron: He's looking for funds at Port Pirie.

The Hon. J.C. IRWIN: He is looking for funds everywhere and, when he finds them, they will no doubt end up at Noarlunga. The Hon. Peter Dunn and I visited Murray Bridge last week. I hope no-one tries to say that this has all been brought about by the Tailem Bend Hospital still being in existence. The expanded services that the Hon. Carolyn Pickles referred to in her amendment would soon gobble up any savings from stopping acute care at Tailem Bend, and no-one has mentioned the increasing population at Murray Bridge due to the Government's relocating a gaol and the Housing Trust's increased activity attracting, amongst others, single parents, all of whom have a call on health services.

Acute care beds which are part of a small general hospital can be very efficiently run in country areas. As a former board member of the Keith Community Hospital, I have seen that happen. If proper cost comparisons are made using items such as general running costs, provision for employee liabilities, depreciation and proper accounting for interest paid on capital expenditure, it is clear that the Keith Hospital has a daily bed cost way below the likes of other similar hospitals. Although the Keith Hospital has a low daily bed average—and I acknowledge that the community wants that—no points can be scored by filling up the hospital, and that is not the purpose of having a hospital.

Further, it is inexplicable that there is such a hang-up about collecting fees from privately insured patients. Every effort should be made to make it easy for patients to process their private insurance claims for hospitalisation. If the Government, through the Health Commission, were fair dinkum in trying to cut costs in recognised so-called free hospitals, no private rooms would be available or used, except for the most seriously ill patients. It is far cheaper to supervise four-bed or five-bed wards than maintain a whole string of single rooms. Once again there is a facade of giving the best for nothing in competition with the private sector while the whole system grinds to a halt and waiting lists grow. The Government will not stop this until it rids itself of the giant philosophic blockage in its system.

The Hon. L.H. Davis: That's socialist constipation.

The Hon. J.C. IRWIN: Is it? The Hon. Carolyn Pickles suggested that 25 per cent of country people needing hospital services travel all the way to Adelaide to get them because specialist services are not widely available in the country. I have already mentioned that Tailem Bend wants to provide those services and has a great list of specialists, but it cannot. With the Hon. Peter Dunn, I visited every hospital in the South-East and almost without exception they have visiting specialists. Indeed, three of the larger hospitals have resident specialists, with the rest attracting visiting specialists either from Adelaide or the larger country centres not far from them.

The Hon. M.B. Cameron: Most of them don't have waiting lists, either.

The Hon. J.C. IRWIN: No, they run them through efficiently. I do not expect that the position is much different in other areas of the State: the Riverland, the Mid North, the West Coast and Yorke Peninsula. Of course, in the very far flung areas of the State such as Ceduna and the Far North the same situation would not apply. If local hospitals were able to make their own arrangements, including not having to pay penalty rates on Saturdays, I am sure that specialists would travel to country areas more readily. It is worth reiterating that country hospitals are run by boards which represent the community. They are the people sensitive to local needs, not the people who reside in and direct from Adelaide.

As I have said before in this place, rural communities are very identifiable. Their great pride is that, as far as possible, they look after their own community needs. Even now, with a big brother supplying all of the cash for recognised hospitals, there is ample evidence that millions of dollars are raised by local communities to improve their hospitals and upgrade machinery and facilities. When I joined my home community 25 years ago, there was only a small hospital, one doctor and a chemist, as was the case in many rural communities. I do not recall the community being unhealthy or suffering any great disadvantage. Now there is a retirement village, including owned or rented accommodation of more than 40 units. The town also boasts a St John's centre, a Commonwealth-built welfare centre, a recently built senior citizens hall, a 60-bed hospital with some of the best facilities outside of Adelaide—paid for entirely by the community with no Government help—Meals on Wheels, domiciliary care, and two physiotherapists who are wives of local farmers.

The Hon. M.B. Cameron: This is Keith?

The Hon. J.C. IRWIN: Yes, this is just my community, but I assume it is the same in many other communities. Like many others, my community is trying to prevent illness of any sort. Again like many others, the community is fiercely proud of its independence. It wants to get on with its own job of being a productive and healthy community. It does not and will not condone the cynical moves of a centralist Government, which wants to tell it what it must do, especially when it sees waste and bad management in such large doses in the city. By any test, the move to alter the function of the Blyth, Tailem Bend and Laura hospitals does not have the support of the local communities. The Shadow Minister of Health (Hon. Mr Cameron) has provided much more first-hand evidence than I have to support this fact.

The Premier and the former Minister of Health, who gave commitments to these three towns that their hospital would not close or have a change of status unless it was supported by those communities, stand condemned for not honouring those commitments. For their failure to attend public meetings and the large rally on the steps of Parliament House, they also stand condemned by this Chamber, which should support the motion moved by the Hon. Mr Cameron and my amendment to it.

The Hon. M.B. CAMERON (Leader of the Opposition): Because not enough time is available before the dinner adjournment for me to complete my remarks on this motion, I seek leave to conclude them later.

Leave granted; debate adjourned.

[*Sitting suspended from 5.48 to 7.45 p.m.*]

The Hon. M.B. CAMERON: It is with some sadness that I rise to conclude the debate on what is a very important issue, because this is not a simple motion; it is a motion that, in fact, condemns the Premier and the former Minister of Health. That is not something that I take, or any other member of this Chamber takes, lightly. However, the motion is moved for a very good reason. There are some very decent, hardworking, honest South Australian country citizens who have been placed in a position of having to, first, try to persuade the Government of the day—the organisation that is supposed to run the State for the betterment of the people of South Australia—to change its mind about the closure of country hospitals. Secondly, they have had to take the Government on in the courts of the land. It is sad when a group of people, acting on behalf of their community and on behalf of the unanimous views of that community, must go to court to try to obtain justice and democratic principles for that community.

I was also very sad to hear the Hon. Ms Pickles speak on this matter. It was very interesting to hear her conduct a debate on behalf of the Government. I guess that one of the problems was that she was clearly handed a speech by the Government which she did not prepare—I say that quite sincerely because I understand how these things work.

The Hon. Peter Dunn interjecting:

The Hon. M.B. CAMERON: It would be very interesting to know who wrote the article. I would suggest the Hon. Ms Pickles has not been to the areas concerned since the problems have arisen. Yet she stands up and condemns the Liberal Party for the role that it was supposed to have played as the Opposition in these areas.

The Hon. Diana Laidlaw: You would not think that she was that uncaring, would you?

The Hon. M.B. CAMERON: That is the point. There are people on the other side who talk about social justice and democratic socialist principles, people such as the Hon. Mr Roberts who pretend to represent the working class. I would suggest that he, on his next trip down to the South-East, accompany me and stand in the main street of Tailem Bend, amongst the ordinary citizens, most of whom are people who work for the railways, are single parents or people with minimal capital, and listen to what they have to say about the loss of a facility which their community has established and which the Government is saying, 'Thou shalt change it to an old folks home.' It is wonderful for young mothers in that area, and the people of that area, to have people saying that sort of thing to them!

The Hon. R.J. Ritson: That's just to get Federal funding for the nursing home.

The Hon. M.B. CAMERON: It is all about accountancy; that is the sad thing. It is all about how you shift the burden from the State Government to the Federal Government. It does not matter a continental to the members of the Bannon Government what happens to the people in the process. The Hon. Ms Pickles talked about the longstanding deficiencies in health services in South Australia for people

living in country areas. The strategy is supposed to be designed to redress that deficiency within budgetary restraint. What happens is that these so-called deficiences are redressed by closing the hospitals, taking away the acute care services and replacing them with some airy-fairy establishment that is not required, nor wanted, by the local community, if it is a replacement for the local hospital.

The Hon. Ms Pickles talked about shifting the whole process to Murray Bridge. She said that Murray Bridge Hospital is only 10 to 15 minutes drive away. I am glad she has nothing to do with my car. She certainly would not be driving to Murray Bridge in 10 minutes if I had anything to do with the car. The honourable member said that it is a district hospital with 80 beds and that its regional role will be expanded to provide more specialist services for the district. The pressure on booking lists in city hospitals will be relieved because people will go to Murray Bridge Hospital and not to the metropolitan hospitals. The Hon. Mr Irwin referred to an article in the *Advertiser* today—not yesterday, not a week ago, but today—and it is worth repeating. The article states:

A cut in funds from the Health Commission has forced the district's hospital to reduce its level of service.

That hospital is in Murray Bridge, the very place at which the Hon. Ms Pickles said we would have these people from Tailem Bend fixed. In fact, there has been no increase in funds; there has been a decrease in funds for Murray Bridge. Therefore, how on earth are these people to go to Murray Bridge? Yet this is the place that is going to solve the problems of the waiting lists at the metropolitan hospitals.

The Chairman of the board said that cutbacks had resulted in the cancellation—and I emphasise 'cancellation'—of elective surgery and lengthened the waiting list by up to 15 months. This is the place to which Tailem Bend people should go to have their problems fixed. This is the replacement for the hospital that will be closed. That makes an absolute nonsense of all the claims being made about the reasons for the closure of the Tailem Bend Hospital. In fact, it leads me to believe that the Hon. Ms Pickles has unwittingly told an untruth in this Chamber, because she was indicating that Murray Bridge Hospital would lessen the waiting lists at metropolitan hospitals. In fact, people are better off going to the metropolitan hospitals because they have shorter waiting lists than Murray Bridge Hospital.

The Hon. Ms Pickles also stated that only Health Commission officers were invited to the public meetings at Tailem Bend, Laura and Blyth. That is an absolute untruth. There were quite deliberate invitations sent to the Minister of Health and to the Premier because they wanted representatives of the Government. The Government decided to whimp out of the invitation and send Health Commission officers. It was inevitable that, if the Government decided to send Health Commission officers to what was a political occasion, they would be attacked not only by the people of the district but by people like myself. Who else am I going to refer to? Am I just to ignore the Government's representatives at that meeting? Am I going to say, 'Well, they are not really here and I am speaking to the Government when I make a statement at the meeting.' Of course, I cannot. Therefore, these people, either willingly or unwillingly, are put in a situation where they are answering for the Government.

That is why public servants put themselves in a position to be attacked. They are placed in that situation, either willingly or unwillingly, where they are playing a political role. In fact, one public servant in Cummins, whom I will not name, made a political statement about me, and from that point on that person was open to the very attack that I am supposedly making. When a public servant does that, he or she must answer for their political role and not their public servant role. If the Hon. Ms Pickles wants to know more about this matter, I am certainly willing to talk to her in the corridor—I will not give the details here. Everybody at the meeting saw what that person did. If those people want to go there and do that, that is fine. From that point on, they are politicians: they are no longer public servants. That person I am referring to will know exactly what I am referring to when he reads the *Hansard*.

The Hon. Carolyn Pickles: Name him!

The Hon. M.B. CAMERON: No, I won't name him, because I do not believe that is proper on this occasion.

The Hon. L.H. Davis interjecting:

The Hon. M.B. CAMERON: Yes, immediately.

The Hon. Carolyn Pickles interjecting:

The Hon. M.B. CAMERON: I do not mind at all. Regarding the Health Commission, more and more I notice that Ministers and politicians are not answering for the health problems of the State. It is the public servants who are making the statements. When I make a statement, it is the public servants who answer me. If they do that, from that point on, of course I have to answer them. I cannot refer to some mythical figure. It is the person whose name is in the paper and who answers the comments that I make who is the politician from that point on. If the Hon. Ms Pickles does not agree with that, I think she is pretty naive in politics.

They are replacing hospitals in country areas with nursing home facilities. That is a great help! Ms Pickles talked about having registered nurses available in those areas. I do not think she understands the role—

The Hon. R.J. Ritson: They have those facilities there now. All they are talking about is shutting out the general practice fees and getting the Commonwealth money back.

The Hon. M.B. CAMERON: Of course. I just happen to know a bit about registered nurses. They are not in a position to take on the sort of role that Ms Pickles is talking about. If they do, they place themselves in total conflict with the medical ethics of this State. They just do not understand that, and she said, 'They will ring the doctor if there is a big problem.' Well, how do they diagnose that problem when they are not trained to do so? How on earth will they ring a doctor when the doctor has already left the town?

The Hon. R.J. Ritson: When the patient dies, there is a big problem.

The Hon. M.B. CAMERON: Yes. The doctor will no longer be there. A doctor will not stay there for a nursing home and there will be no chemist shop, but we will have a registered nurse with a first aid facility—that is all it will be. Of course, it is always said that each of those hospitals is only 15 minutes from a hospital in the next town, but what they never say is that Tailem Bend is a long way from Keith, and somewhere half way between is a point of no return. That hospital can be absolutely vital in providing the facilities needed.

I know there is criticism of the way the Tailem Bend hospital is now operating because of the inability of the hospital at the moment to attract a young GP. How on earth could you get a young doctor there when you are talking about closing the damn place? You cannot! You will not get somebody there while the hospital is under threat. So, we have a situation where things will never improve because the Government has put this institution under threat of closure. It is not only under threat of closure, but they have given final notice. I will read out the last letter from these people of great heart, the Health Commission that

operates on behalf of this great Government, the Bannon Government, the Government with the big heart! It states:

Chairman of the Board
Dear Mr Wellman,

As you are aware, the current funding to your hospital was to be reconsidered on 30 November 1988 or when the judgment of the Supreme Court was handed down, which ever occurred first. Given that the court has handed down its judgment—

The court, mind you. This is where the citizens have gone to try to get justice from the Government of this State. It continues:

the commission will now provide funding for a primary care and nursing home function as follows:

1. The current level of indebtedness of your hospital, which has not been funded to date by the commission, will remain the responsibility of your hospital.

2. The commission will continue to fund your hospital for the salaries and wages of all staff employed at your hospital as at 30 June 1988, up to and including the night duty shift for 30 November 1988. Thereafter, funding for salaries and wages will be at the level outlined in the attachment to the Deputy Chairman's letter of 22 July 1988.

That is about half what they are getting now. The letter continues:

I enclose a further copy of that attachment for your information.

3. The Country Health Services Division will provide assistance to the hospital to deploy surplus staff, in the period up to 30 November. This assistance will take the form of equivalent job offers at nearby hospitals for appropriate surplus staff.

I wonder if that is Murray Bridge where they already have a budget cut, where they have a 15 month waiting list. It continues:

Staff who do not accept any such offer by 30 November 1988 will then be the financial responsibility of the hospital.

4. All revenue received shall be brought to account with each funding advance, in accordance with commission accounting policies.

If your hospital does admit public patients, you are advised that it is a condition of future funding that no fee may be charged to such patients for accommodation, maintenance, care and treatment. If a charge is levied for such services, the commission will cease funding the primary care and nursing home functions of your hospital.

In other words, this is blackmail—sheer, unadulterated blackmail. If you admit one public patient and you charge for them, then thou shalt get no money whatsoever from this magnificent institution called the Bannon Government. Further:

As you are aware, the charging of such a fee by a recognised hospital may place the State in breach of the grant agreement with the Commonwealth.

'May', not 'shall'—they are not even sure about it, but nevertheless they will blackmail them. The letter continues:

I have directed Mr Jeremy Syme, Chief Project Officer, Country Health Services Division to contact your Chief Executive Officer on Monday 31 October, to commence implementation of the role change at your hospital.

This is the nice bit on the end:

On many previous occasions, I have said to you that the commission wishes to work with the hospital so that a constructive plan can be agreed and implemented. I make that offer again and would be happy to meet with you at any time should you agree.

'Should you agree.' What choice do they leave these people? What choice do they give these ordinary citizens? Anyone who drives through the town of Tailem Bend, for instance, would not consider those people to be wealthy citizens of the State. They are just ordinary, normal citizens who fought valiantly for the retention of a facility that they have built—not the Government—but they have built. The same goes for Blyth and Laura, but this heartless Government does not give a continental because they do not happen to be in a marginal seat. They do not happen to live in an area of South Australia that is of any perceived benefit to this heartless Bannon Government. The Government talks about consultation, and the Hon. Ms Pickles had the audacity to talk about consultation with the people. What consultation took place with these people?

Four years before this decision was made, it sent out a questionnaire to people asking, 'Do you want these additional facilities in your area?' They included psychiatric treatment and all sorts of things. The questionnaires came back and, of course, the people wanted the extra bits. Nowhere in that questionnaire, nor in any document since, was it ever stated: if you get these, you will lose your hospital. The Government has never said that, and it has never gone back to the people and did not have the gumption to attend any public meeting with these people to find out what they thought of that proposition.

The Hon. L.H. Davis: It was never consultation: it was a con.

The Hon. M.B. CAMERON: It was. It was never intended that they would give additional facilities, I believe. Since then, for some reason known only to the former Minister, the Premier or somebody, they decided to close these hospitals. It was a feeling of strength that they got. Their muscles suddenly felt flexed because they could defeat the citizens of Tailem Bend, Laura and Blyth. What a brave mob of people they are, this Government! What an incredible bunch of people to think that they could actually defeat these citizens in what they wanted.

The Hon. J.F. Stefani: It meant no vote for them.

The Hon. M.B. CAMERON: Exactly. Mr Acting President, do you think the people fighting this Government really want to do that? Do you think they really want to have to go to court? Do you think they have enjoyed getting their money together to fight court cases?

The Hon. Carolyn Pickles interjecting:

The Hon. M.B. CAMERON: What did you say—they don't have to go to court? Of course they do, to try to get justice, to try to get what their community wants. They have paid their levy under Medicare. Why should they not have some rights under that agreement? Why has the Government the total right to dictate to people what they shall or shall not have in the way of medical services?

The Hon. T. Crothers interjecting:

The Hon. M.B. CAMERON: Why did not the Hon. Mr Crothers, if he wants to talk now, appear at each of those country meetings? People would have been delighted to see someone from the Government with a bit of gumption. They would have been delighted to see someone prepared to front up and answer the questions of the people, yet not a single member of the Government was willing to turn up. The Hon. Ms Pickles gets up in this Council and gives a speech on behalf of the Bannon Government and the Health Commission. Did she turn up at the meeting to find out what the people wanted? No! Did she in any way find out what the people were saying? No! Has she spoken to any person in that district? No!

However, on behalf of the Government, the Hon. Ms Pickles knows exactly what the people want. She is a bit like the Chairman of the Health Commission, and I repeat for his benefit and that of everyone else who wants to listen, what he said. He got to his feet and said, 'Everyone in the district knows that you need more psychiatric services, more drug and alcohol facilities, and more rehabilitation facilities in the district.' I cannot tell the Council the reaction of those people. Certainly, if any message was passed back to the Government by the commission officers present at the meetings that the people were happy with the proposition—because the Government said it would get the message back

about what people were concerned about—then those officers misled the Government.

I do not know how they could have done that, because there were plenty of tapes available of those meetings. I refer to what happened in that meeting where people arrived to be greeted by 12 police officers at the wild town of Tailem Bend. The police were called from Meningie, Victor Harbor and everywhere because, by gosh, people were in real strife in Tailem Bend. There were two Health Commission officers to present the views of the Government. Clearly, the citizens of Blyth were a little quieter, because only eight police were required there. However, in Laura and Gladstone they needed 10 police, presumably because people are wilder up that way.

When Health Commission officers came to Tailem Bend to deliver the bad news, there was a paddy wagon and two plain clothes detectives. There was a paddy wagon full of police officers and the two plain clothes detectives came into the meeting to make sure that the wild members of the board of Tailem Bend hospital did not kill the commission officers! The real McCoy! It is an amazing situation involving a Government that has been in office too long becoming so arrogant that it believes that it knows best for the people, and to hell with the people's views. Certainly, that is what the Government is saying. The people have spoken, but the Government is ignoring them totally.

Let me give an assurance to the Council and to the Hon. Ms Pickles who became the spokesman for the Government on this matter for some reason that when we win the next election those three hospitals will be reinstated forthwith—because that is the desire of the people. In Government, we will not attempt to blackmail local GPs into giving in. We will not do as the Government did to Dr Holmes, the local doctor, offering cars and a half salary and rooms in the community centre, and a half salary for a partner to try to get him to drop his opposition.

This was after the Government provided money for him to go and upgrade his expertise so that he could operate in Blyth hospital. The whole thing has been absolutely crazy and the Government must be mad to believe that it can get away with such action in respect of country people. My counterpart in New South Wales got into Government recently and the first thing he did was attempt to close a country hospital. He has retracted. He met the sort of resistance that this stupid Government has met and immediately stopped. He reversed his decision, which is a sign of the wisdom of Government.

It is the wisdom of a new Government, the wisdom of a Government that is still in touch with the people. The problem of this Government is that it has not the brains to know that it has to be in touch with the people. This is only a small matter to the Government, but it is the sort of decision that will lead to its demise. I should be pleased, but I am sad because, in the process, these country people will be deprived of a hospital facility for 12 months. That is sad indeed. It is an absolute indictment of the former Minister and of that invisible man, Mr Bannon. Certainly, I urge members to support not only the amendment moved by the Hon. Mr Irwin, but the motion also.

The Council divided on the Hon. Carolyn Pickles' amendment:

Ayes (9)—The Hons G.L. Bruce, J.R. Cornwall, T. Crothers, M.S. Feleppa, Carolyn Pickles (teller), T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Noes (12)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson, and J.F. Stefani.

Majority of 3 for the Noes.

Amendment thus negatived.

The Hon. J.C. Irwin's amendment carried; motion as amended carried.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to supplement and achieve efficiencies in the deployment of the State's judiciary; to amend the Supreme Court Act 1935, the Local and District Criminal Courts Act 1926 and the Magistrates Act 1983; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

It aims to supplement and achieve efficiencies in the deployment of the State's judiciary. The Bill provides a scheme which is designed to achieve and maintain greater efficiency and effectiveness in the disposition of work of the courts by the better use of judicial resources.

The movement of cases through the courts necessarily involves a period of time which is utilised by the parties to prepare for trial. This is regarded as an integral part of the process and is monitored by the courts in order to ensure that undue delay does not occur. Circumstances do arise from time to time where undue delay does occur, but this is largely outside of the control of the courts and, often, beyond the anticipation and control of the parties and counsel. Examples of this are the last minute unavailability of witnesses and sickness.

With the exception of the foregoing, any delay in excess of what might be termed normal processing or waiting time is regarded as undue delay which is unacceptable and to be avoided if at all possible. Problems arising from undue delay occur from time to time in all jurisdictions for a variety of reasons, including increased workloads, lengthy and time-consuming trials and poor procedures. A good deal of work is being done and has been done within the courts and the Court Services Department to improve practices, procedures and techniques and to embrace more firmly principles of sound management.

One aspect of courts administration which is deficient and which seriously inhibits efficiency and effectiveness is the absence of a flexible system for the use of judicial resources. It is essential that this deficiency should be remedied in order to obtain the best use of the judiciary in attempts to reduce delays to an absolute minimum. While South Australia generally compares favourably with the other States, some undue delays are present in the system. Waiting times at the end of June 1988 were as follows:

(a) Supreme Court—	
criminal	3-4 months
civil	9-10 months
(b) District Court—	
criminal	6 months
civil	20 months
appeal tribunals—	
(i) Full Bench hearing	18 weeks
(ii) Single Bench hearing	10 weeks

(c) Magistrates Courts—waiting times fluctuate continuously but presently vary from six weeks to 28 weeks, with an average of about 12 to 13 weeks.

Apart from the civil jurisdiction of the District Court, that is not a bad position. Over the last few years funding has been approved by Cabinet for the appointment of temporary judges and magistrates to assist in the more speedy

disposition of the work of the courts with a view to overtaking arrears and reducing delay. Since 1985 something in the order of $500 000 has been allocated for this purpose. However, this *ad hoc* approach is unsatisfactory in that it is difficult to plan and monitor; it cannot always be undertaken within the normal budgetary process; the administrative and paper work is unduly onerous and time-consuming; and, generally, it is inefficient and uncertain. Furthermore, difficulties have been experienced in obtaining the services of suitable persons at reasonably short notice and lack of continuity in many cases detracts from the benefits which are sought.

Existing judicial resources are used to a limited extent across jurisdictions. For example, masters of the Supreme Court and magistrates have acted as judges of the District Court; a master of the Supreme Court has acted as a judge of that court, and a master of the Supreme Court has acted as the judge of the Licensing Court. However, appointments can only be made for short periods of time under the existing legislation and reappointments are necessary in order to maintain continuity.

The system provided for by the Bill allows for a transfer of judicial officers between jurisdictions. In cases where assistance must be sought outside the existing judicial complement, a pool of suitably qualified persons will be established from which selection can be made at short notice.

Clause 3 of the Bill provides for the appointment of judicial officers on an auxillary basis. Judicial officers appointed on an auxiliary basis will comprise a judicial pool. The pool will be established without regard to the age of its members so that highly experienced retired judges and magistrates may be eligible as well as retired members of the legal profession. A general commission will be held for up to 12 months. The commission will be renewable by the Governor.

Clause 5 provides for judicial officers to act in a co-ordinate of less senior officers without the need for a specific appointment or separate commission. This will make it a relatively simple matter to deploy judicial resources more efficiently and effectively. The deployment of a judicial officer will be subject to the agreement of the judicial head of the court in which the judicial officer holds office. This clause does not extend to allowing judicial officers to exercise the jurisdiction of the Industrial Court. This takes account of the specialist nature of the industrial jurisdiction.

The amendments to the Supreme Court Act 1935 in schedule 1 provide for masters of the Supreme Court to be paid at the same salary and allowances at the rates applicable to a District Court judge. The amendments to the Supreme Court Act 1935, the Local and District Courts Act and the Magistrates Act in the schedule allow for legal or judicial practice outside the State to be taken into account for the purposes of determining whether a person has the standing necessary for appointment as a judge, master or magistrate. This will ensure that suitable persons and particularly those with outstanding claims for appointment are not excluded on substantially technical grounds.

The amendments in the schedules also provide greater flexibility in regard to acting appointments to the judiciary. As a result of the amendments, acting appointments will be able to be made for periods up to 12 months. In addition, the current age restriction on acting appointments will be removed. I commend this Bill to members and seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 sets out the definitions required for the purposes of the Act. Clause 3 provides for the appointment of judicial officers, by the Governor with the concurrence of the Chief Justice, on an auxiliary basis. A person will not be able to be appointed to act in a judicial office on an auxiliary basis unless the person is eligible for appointment to the relevant office on a permanent basis, or would be so eligible but for the fact that the person is over the age of retirement. A person who already holds a judicial office may be appointed to another office on an auxiliary basis. An appointment under the Act will be for an initial period of up to 12 months, and will be able to be extended for further periods (of up to 12 months).

Clause 4 provides that a person appointed to act in a judicial office under the Act will have the same jurisdiction and powers that would apply if the person were appointed on a permanent basis. Clause 5 will allow a judicial officer holding or acting in a particular judicial office to exercise the jurisdiction and power attaching to any other judicial office of a co-ordinate or lesser level of seniority (as defined in clause 2). However, this clause will not operate so as to allow a judicial officer appointed to a court other than the Industrial Court to exercise the jurisdiction or powers of the Industrial Court.

Schedule 1 sets out various amendments to the Supreme Court Act 1935. New subsection (4) of section 8 will provide that, for the purposes of determining whether a practitioner has the standing necessary for appointment to judicial office, periods of legal practice and judicial service, both within and outside the State, will be taken into account. New subsections (1a) and (1b) of section 11 will allow a former judge or master who has retired from office to be appointed as an acting judge or acting master. The term of appointment will be for a term of up to 12 months. New section 12 will provide that a master is entitled to salary and allowances at the rates applicable to a District Court Judge.

Schedule 2 sets out various amendments to the Local and District Criminal Courts Act 1926. New subsection (3a) of section 5b is similar to section 8 (4) proposed to be inserted in the Supreme Court Act 1935. New subsection (1) of section 5c will allow a former judge who has retired from office to be appointed to acting judicial office. The term of appointment will be for a period of up to 12 months. Schedule 3 makes various amendments to the Magistrates Act 1983, that are similar to those proposed for the Supreme Court Act 1935 and the Local and District Criminal Courts Act 1926.

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

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT AMENDMENT BILL

In Committee.

(Continued from 1 November. Page 1061.)

Clauses 2 and 3 passed.

Clause 4—'Delegation.'

The Hon. K.T. GRIFFIN: This clause relates to questions of delegation and, whilst I understand the need for delegation, can the Attorney-General confirm the nature of the delegations which are to be made and, in particular, say whether those functions which require the exercise of a discretion are likely to be delegated and, if so, to whom?

The Hon. C.J. SUMNER: I answered this question in the second reading reply. The delegations will be by instrument in writing to those people to whom the Registrar of Births, Deaths and Marriages feels it is appropriate to delegate. The powers to be delegated will be those that will allow for the registration and recording of births, deaths and marriages. It is not proposed to delegate those powers which provide for the registration of persons dying at sea and the registration of persons dying outside the State on war service. In any event, these are extremely rare. I am advised that there is no intention to delegate any powers which require the exercise of a discretion.

Clause passed.

Clause 5 passed.

Clause 6—'Entry of child's surname in register.'

The Hon. K.T. GRIFFIN: This is the clause which causes most concern to the Opposition and relates to changes to section 21 of the principal Act, which deals with the entry of a child's surname in the register. The provision was amended in 1980 to make some fairly significant changes, and now the principal Act provides that the name to be entered into the register of births as the surname of the child shall be *(a)* the surname of the father, the surname of the mother, or a combined form of the surnames of both parents, whichever is nominated by the parents; or, *(b)* in default of any such nomination by the parents (i) in the case of a child born within lawful marriage, the surname of the father and, (ii), in the case of a child born out of lawful marriage, the surname of the mother.

The amendment seeks to provide that, whilst both mother and father can agree on a surname to be registered for the child, if there is no nomination by the parents, the surname will be determined no longer according to principles established by legislation but by reference to a local court of limited jurisdiction upon application by a parent of the child or the Principal Registrar of Births, Deaths and Marriages. In making its decision, the only direction which is given to the court by statute or Parliament, in effect, is that the welfare and interests of the child must be the paramount consideration of the court. That is all well and good, but it really tells us nothing about the principles that are to govern the court's decision as to the surname which it will order to be registered in respect of a child. This may be a mere baby and there may not be any clear indication as to what may be in the best interests of the child.

By making the sort of change proposed by the Attorney-General, it opens up Pandora's box, in a sense, and allows the court rather than Parliament to set the principles. I am concerned about the court's being given the power to determine the principles that will apply, particularly if it is considered that, if a parent makes an application to the court, it may be disputed and, in those circumstances, the decision of the magistrate may go to the Supreme Court, to a judge at first instance, maybe to the Full Court for further appeal or, if the case is of such significance and in special circumstances, to the High Court of Australia. This allows the courts to make decisions without any guidance at all from Parliament. That creates concern.

The Attorney-General suggested that it might involve only two or three cases a year. It does not matter whether it is one, 100 or 1 000 cases. The fact is that Parliament will abdicate from this area, remove the principles which provide certainty for the name of a child, and hand them over to the courts without any direction, except that the court must treat the welfare and interests of the child as the paramount consideration. That sort of direction may be appropriate for a five year old or a 10 year old, but not for a five week old or a five month old child in respect of a surname that will remain with that child for such period as the Act allows, which is up to 16 years. Thereafter, some changes can be made although, on the application of a parent before that time, other amendments may be made. That is peripheral to the principal concern that I express.

This amendment comes to us on the basis of what the Commissioner for Equal Opportunity has proposed to the Attorney-General. What surprised me about the Attorney-General's response yesterday to clause 2, when he indicated the availability of the decision of the New South Wales Equal Opportunity Tribunal, was that the Crown Solicitor had said that the present provision in the Act is not in breach of or in conflict with the State Equal Opportunity Act, nor is it in breach of the Commonwealth Sex Discrimination Act. The Attorney-General said:

> The Crown Solicitor is therefore of the opinion that the Registrar is not providing a service to either the mother or father of the child.

In respect of the State Act, he went on to say:

> The Crown Solicitor considers that section 21 is not in breach of the Equal Opportunity Act.

Later, he said:

> The Crown Solicitor further considers that section 21 of the Births, Deaths and Marriages Act is not in breach of the Commonwealth Sex Discrimination Act.

He went on to say:

> However, the Crown Solicitor clearly indicates that the matter must be regarded as uncertain in the light of the decision in the case of *Ms L v Registrar of Births, Deaths and Marriages* (1985) in New South Wales.

It is clear, however, that without the New South Wales case the Crown Solicitor is unequivocally of the view that section 21 as it stands is not in breach of either State or Federal law.

Now that I have looked at the New South Wales decision I suggest that there are some marked differences. In New South Wales, the tribunal was considering a totally different set of circumstances. There was nothing in the New South Wales Registration of Births, Deaths and Marriages Act which set out the criteria for determining whose surname would be used. The New South Wales Act in fact deals only with procedures. That was the issue. The Registrar had sought to follow long established practice, or what was common law, according to the tribunal: to put into practice in this case a long established practice where the father's surname was the surname by which a child would be registered. It was not law; it was practice.

What the Registrar did in that case was, first, to receive an application from the mother to have the child registered with her surname. Later an application was received from the father to have the child's surname registered as his. When, having previously accepted the mother's application, the Registrar received the father's, he removed the first application, giving priority to the father's. He did not act on the basis of any law, but merely on long-established practice. There is nothing in the New South Wales Act which deals with this in the same way and with the same certainty as does the South Australian Act. That is quite a significant distinction, in my view. The other distinction is that, because of the fact that there was no statutory provision which required a particular surname to be registered by the Registrar, the tribunal in those circumstances regarded the Registrar as providing a service in a general sense, rather than following a legal requirement.

Whilst there may be some debate about the applicability to South Australia of the decision of the New South Wales Equal Opportunity Tribunal, we must remember that it was a two-to-one decision, not a unanimous decision, based on different facts from those which apply in respect of the Bill

which is now before us. My argument, as I am sure must have been the argument of the State Crown Solicitor, is that there is no service provided and that there is no discrimination with respect to the child, as it is the child's surname which is at issue, not whether the mother or the father is being denied a right.

There is no reason for amendment in the circumstances of South Australian law. There may be arguments about which of the father's or the mother's surnames ought to be recorded, but what is important is that there be certainty about the surname of the child. If the Parliament wants to do something different and provide that the mother's surname should be used in every case then that is a different matter. We can debate that proposed change to the law.

A decision having been made by a majority of both Houses, that will then be the law of South Australia and it will provide certainty. It will not get us into the very grey areas that clause 6 of the Bill will get us into, where it is up to the court and where no-one knows what the princples will be. I would have thought that for the sake of a child there should be certainty. The child, the family and everyone else should know how the child will be named and what the principles are.

The Hon. C.J. Sumner: There will be certainty after it goes to—

The Hon. K.T. GRIFFIN: There will be no certainty. You go to court and one magistrate will have one point of view, while another magistrate will have another point of view. It will go to the High Court.

The Hon. C.J. Sumner: What's different?

The Hon. K.T. GRIFFIN: At least with this one does not have the problem of determining what principles will apply. My colleague, the Hon. Mr Stefani, has interjected about delays. I do not know how this will be dealt with if it passes by a majority but there are already delays in the courts. Only a few minutes ago, the Attorney-General, in introducing the Judicial Adminstration Auxilliary Appointments and Powers Bill 1988, said that for magistrates courts times fluctuate continuously (I assume that 'magistrates courts' refers to courts of summary jurisdiction), varying from six weeks to 28 weeks with an average of about 12 to 13 weeks. Of course, in the district courts the periods are longer.

It seems unreasonable to have the surname of a child left to the exingencies of, perhaps, heated litigation. It may be that the matter is dealt with in six weeks, but it may also be that it takes 28 weeks, which is well over six months. Even then there is no guarantee that the matter will be resolved. It may be that the case being defended will not come on for a bit longer and, if it is, the magistrate will adjourn his or her decision. It is not uncommon for magistrates to take two or three months, or even longer, to deliver a judgment. We will have a child nameless, possibly for a year, or maybe longer. That is totally unsatisfactory.

I know that there may be criticisms of the present provision in the legislation but, apart from throwing it to the courts, no better basis has been suggested to resolve this issue. Notwithstanding the connotations which the Attorney has put on this, my preference, and that of the Opposition, is for certainty to put it beyond doubt by legislation enacted by the Parliament and not throw it over to the courts. That is why the Opposition opposes this clause.

The Hon. C.J. SUMNER: In the light of the legal debate on this topic there must be some doubt whether this section in the Births, Deaths and Marriages Act is, in fact, contrary to the State Equal Opportunity Act or the Commonwealth Sex Discrimination Act. That being the case, it seems to me that we are dealing with that matter on the basis of what ought to be the situation. We are not necessarily trying to put the law in this Act in accordance with what is necessary at the Commonwealth level, although I point out that in relation to that issue, the Crown Solicitor has indicated that the question of whether the Births, Deaths and Marriages Act in South Australia is in conflict with the Commonwealth Sex Discrimination Act, is open to some doubt. Presumably this section could be challenged as contrary to the Commonwealth Sex Discrimination Act and the court would then have to deal with the matter.

However, whether or not there is a legal problem is a matter that is, obviously, open to some dispute in light of the opinions that I have outlined to the Committee. That being the case we must deal with the matter as a matter of principle. Should the legislation define specifically how a child should be named, and define it by relation to the sex of the parent—in one case, within wedlock, the name of the father; in the case of children born out of wedlock, the name of the mother? Therefore, essentially, it comes back to that policy issue. The Committee must determine whether it will have that particular formulation that is in the legislation—which has been there for eight years—or whether it should be a more open situation where the parents should agree but, if they do not agree, then it should be a matter for the court to determine.

Where it is contemplated that a child's name will be changed, under section 53 of the Act the other spouse must have consented, or not be surviving, or the person wanting to change the name must have obtained a court order. Therefore, with respect—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: We are still talking about naming—albeit a change of name—a child. The current situation provides recourse to the court to determine any dispute that might arise.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Section 53 deals with the question of a change of name of a child, that is, a child already named and registered under that name. If a parent wanted to have that name changed, they must get the permission of the spouse to do so—that is, provided that the parent is alive—or the person must obtain a court order. Therefore, if there is no agreement between the parents about the change of name, then there is recourse to a court dealing with the situation. That is not exactly the same situation, but there is a position where names are changed, or contemplated to be changed, that matters can go to a court. I mention that because there is already a court procedure for dealing with a similar, but not identical, situation.

Basically it comes back to a question of principle whether the Parliament believes it is better to have the situation of an automatic naming according to the marital status of the parent, or whether it is better for the matter to be dealt with by the courts. In effect, in a situation where there is no predetermined decision in the legislation based on the marital status of the parent, the Government believes that it is appropriate that the matter be dealt with by the court if the parents cannot agree.

The Hon. K.T. GRIFFIN: I refer particularly to section 53. The reality is that there are two quite different situations. The Bill is talking about the name by which a child will be known soon after birth. Section 53 deals with a change of name of a child. I concede that that change of name might be within a matter of months of the child being given its surname under the fixed provisions of section 21. It is unlikely to be.

It is more likely that any dispute over the change of name will occur if the parties separate and, in those circumstances, there are a whole range of issues which the court can con-

sider, and it can determine what is in the best interests of the child living within a particular environment. I suggest that that is quite a different set of circumstances from the ones we are talking about in respect of clause 6 which affects section 21.

The Hon. I. GILFILLAN: As I understand the current situation, the child born to a couple in wedlock will assume the patronym (the father's name) if there is a dispute, and if a child is born to a couple out of wedlock it assumes the matronym (the mother's name) if there is a dispute. Is a *de facto* couple classified as 'out of wedlock' in this context?

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: That is as I understood it to be. The Government's proposal is the preferable course and I will make a few comments about the way I came to my opinion about it. I do not think the issue is how many per year and I do not think it is a question of logistics. Although they are reasonable debating points, I do not think it is a question of abrogation of responsibility by Parliament. This debate is and should be directed at what is one of the subclauses in the Bill—the best interests of the child or the children concerned. I am not mightily persuaded by how it lines up with sex discrimination or equal opportunity legislation. To me, that may be a matter of academic interest but it appears that we have a prime concern for what is the best procedure to provide the best name choice for a particular baby at a particular time.

In our current society, without making a judgment on the matter, there is a considerable proportion of *de facto* marriages. It seems to me, first, that it is ludicrous to carry on as if that large number of couples who often live together for life in just as permanent a relationship as the so-called legally married should be exposed to discrimination. If they do have a domestic argument about the name, then the name is automatically attributed to the female of that couple. In the situation where a couple cannot come to a compromise on the name for a baby, it is quite a serious disruption of the relationship between the two people. It is possible that from time to time it may be just an argument that becomes incapable of resolution on account of the stubbornness of one or both parties, the same as there may be with the choice of shrub to be planted in the front or back garden. Couples can be quite obdurate in these matters and it seems to me that there is no sustainable argument that a formula by rote should be the answer to those dilemmas.

Because I can see that there may well be as many reasons why a child should, for its best interests, have a matronym or a patronym, depending on the circumstances which have no relationship as to whether or not the parents who produced the child are in legal wedlock, I believe that the Government's proposal is the fairest in light of the child's point of view. There may be problems that the Hon. Trevor Griffin outlined as far as prolonged litigation is concerned but, once again, I do not think that is the issue that we should be deciding this evening. The Democrats will support the Bill.

The Hon. K.T. GRIFFIN: I do not know what we are doing if we are not looking at the interests of the child and everybody associated with the child.

The Hon. I. Gilfillan: You may be. I am just saying that that is my opinion.

The Hon. K.T. GRIFFIN: And you are entitled to it, and I am entitled to mine. It is all humbug to start to refer it to a court and let the court decide. The honourable member does not have any principles by which the court will determine the surname. He is leaving it up to the court, the High Court or whatever.

The Hon. I. Gilfillan: We are doing it in the interests of the child.

The Hon. K.T. GRIFFIN: What are the interests of a five-week-old baby? Perhaps it will be one year and five weeks before the matter gets to court because of the delays. In the meantime, it is nameless. It seems quite incredible that the Hon. Mr Gilfillan should equate a dispute over the naming of a child with a dispute over where a shrub will be planted in the garden. That matter is not referred to a court, but he will refer the name of a child to a court. If we get to the point of litigation over the name of a child, then the relationship is gone, whether the couple are either lawfully married or in a *de facto* relationship. It seems to me to be quite a nonsense to be going down this track and saying to the citizens of the State who might have a dispute that the Parliament is abrogating its responsibility to make a decision and will pass it on to the courts to legislate.

I cannot accept what either the Attorney-General or the Hon. Mr Gilfillan are putting by way of justification for this. It replaces certainty with considerable uncertainty and possibly costly litigation and certainly prejudice to the child, particularly in that longer period for which it will be nameless.

The Hon. J.F. Stefani: What if the child dies?

The Hon. K.T. GRIFFIN: It might not even be baptised at that stage, and if the parties are not married, one may not know where that will lead us. If it is nameless when it dies, I suppose it might be described on the headstone as the son of X or the son of Y, or the daughter of X or the daughter of Y. Anyway, Madam Chair, the Opposition is strongly opposed to this clause and we will certainly be dividing on it.

The Committee divided on the clause:

Ayes (11)—The Hons G.L. Bruce, J.R. Cornwall, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

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

Majority of 1 for the Ayes.

Clause thus passed.

Remaining clauses (7 to 14) and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (CRIMINAL LAW CONSOLIDATION AND SUMMARY OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 1 November. Page 1063.)

The Hon. K.T. GRIFFIN: When debating this Bill previously I sought leave to conclude my remarks later and I left at the point of referring to the question of what is a public place and what is a lawful excuse. I indicated to the Council that I have not, as I had intended, been able to undertake the necessary research on those questions. The question of a public place is secondary to the question of what is a lawful excuse, remembering that the new offence created under the Summary Offences Act is where a person who in a public place and without lawful excuse carries or has control of a loaded firearm or a firearm with a loaded magazine that can be attached to or used in conjunction with the firearm.

I raised the question of the farmer driving along a country road adjoining his property with a firearm either loaded or

with a loaded magazine next to it on the back shelf of the utility for the purpose of dealing with any vermin or dogs that may be attacking the farmer's sheep. There is no doubt in my view that that is a public place, and then the question is whether or not the farmer is carrying or has control of that loaded firearm with a loaded magazine with lawful excuse.

Although I do not have the grand research resources of the Attorney, I have been able to undertake some research. One of the principal authorities in South Australia on this question is the judgment of Mr Justice Wells in the case of *Holmes v Hatton* (delivered in 1978 in 18 *South Australian State Reports* at page 412). That case related to section 15 of the Police Offences Act. The judge made some observations and stated:

> It seems to me that the expression 'without lawful excuse' obliges a court to examine all the circumstances that characterise the purposes and reasons for which the weapon is carried, and to determine, as a matter of fact and degree whether, reasonably appraised, those purposes and reasons constitute lawful excuse or not.

Then the judge goes on to cite one or two hypothetical cases. Later on he summarises his views, as follows:

> Where an offensive weapon is carried knowingly, lawful excuse or its absence is ordinarily to be judged by a consideration of the purpose or purposes, or the reason or reasons, for which the weapon is being carried. (If it should be—and I leave this point for consideration when it directly arises—that a man may "carry" a weapon within the meaning of the section even where he is unaware that he is carrying it—for example, where he is helping to carry another's luggage which, unknown to him contains a gun—absence of purpose or reason and an inadvertent carrying may amount to lawful excuse.)
>
> The purposes or reasons for which an alleged offender was carrying a weapon are to be examined and assessed having regard to the united force of all the circumstances put together. If the sole purpose or reason for which the weapon is carried is plainly unlawful or is otherwise contrary to the section, the carrier cannot claim lawful excuse. Where the sole purpose or reason is lawful, there will be lawful excuse. Where there is a duality of purpose or reason, no hard and fast rule can provide a solution. The court, in determining the issue, must, in my opinion, decide a question of fact and degree, and must, in particular, ask whether that which, *ex facie* and taken in isolation, may be regarded as an unlawful purpose or reason, was, in the circumstances, so transient, so remotely related to the defendant's conduct, so speculative, so unlikely to become translated into action, so subsidiary—in short, so unimportant or insignificant, as to leave the alleged offender with lawful excuse.

The judge then goes on to talk about the onus of proof and states:

> Plainly, given that all other elements are proved, if only a single purpose or reason is in issue, and if the defendant proves on the balance of probabilities primary facts that, in law, amount to lawful excuse, he will be acquitted. If proof falls short of that, he must be convicted. If the evidence as a whole raises a question of dual purpose or reason, the matter will, to my mind, stand thus. Where the evidence as a whole includes evidence suggesting an unlawful purpose or reason for carrying as well as of a lawful purpose or reason, in order to acquit the defendant the court must find itself persuaded that, having regard to the cogency with which the relevant facts and circumstances are proved by the evidence as a whole, the unlawful purpose or reason was so unimportant and insignificant that there probably was lawful excuse.

This case tends to sum up what I can understand of the law relating to lawful excuse. The difficulty is how to apply it. Some cases suggest that even carrying a loaded weapon or firearm with a loaded magazine, perhaps in the circumstances of the farmer, may not be able to prove on the balance of probabilities that it was being carried for a lawful purpose.

I ask the Attorney-General to address the issue to which I have referred and to give his view of the way in which this section may be applied in the circumstances of the hypothetical farmer to whom I have referred and, if some amendment is necessary, to proceed to follow that course. It may not be necessary, on the basis of what I have been able to read on the subject, but it is a difficult area of the law. So far as the farming communities and others with legitimate reasons to carry firearms are concerned, I would prefer to err on the side of caution than run the risk that they will be in difficulty with the law in respect of their activities.

I note that there is now on file an amendment to which I referred earlier as what I would see as a sensible course of action, namely, to define specifically the description of 'firearm' rather than incorporating the definition by reference to the Firearms Act. I indicate that in Committee I will be supporting those amendments. Apart from the matters to which I have referred, the Opposition supports the second reading of the Bill.

The Hon. DIANA LAIDLAW: I had earlier proposed to ask questions in Committee, but I raise one point now following the hypothetical case outlined by the Hon. Mr Griffin. I raise an actual case in the context of the replies that the Hon. Mr Griffin is seeking. I refer to a farmer who has hill country, not a large property. The principal thoroughfare through that property is a Government road. That farmer travels along that road with a loaded firearm for the purpose of shooting any foxes there at a time when sheep are lambing. Would that road be deemed to be a public place? Secondly, would it be deemed to be a lawful excuse to have a firearm for the purpose of killing foxes?

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Griffin has raised two aspects of amendments to the Summary Offences Act which create, in essence, an offence of carrying a loaded firearm in a public place without lawful excuse. He has asked for clarification of the definition of 'public place'. It is defined in section 4 (1) of the Summary Offences Act as:

> *(a)* a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place;
>
> *(b)* a place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and
>
> *(c)* a road, street, footway, court, alley or thoroughfare which the public are allowed to use, notwithstanding that the road, street, footway, court, alley or thoroughfare is on private property.

So, in answer to the Hon. Ms Laidlaw, if there was a Government road running through the farmer's property, to which the public had free access, then that would be considered to be a public place.

The second question related to the meaning of 'without lawful excuse'. This expression recurs throughout section 15 of the Summary Offences Act, for example, where it deals with the carrying of an offensive weapon, the possession of an implement of housebreaking or the manufacture, sale, distribution, supply, possession or use of a dangerous article. The test of lawful excuse was the subject of a detailed and learned judgment of Mr Justice Wells in the case of *Holmes v Hatton* (1978) 18 SASR 412, in particular pages 418 to 420. The Hon. Mr Griffin has referred to that case himself, and I am not sure that there is very much more that I can add. In essence, the situation is that, if the purpose for which the individual has the possession of the firearm is an innocent one, that is essentially sufficient to constitute a lawful excuse. If the honourable member wants me to refer to any particular sections of the judgment, I can do so.

The Hon. K.T. Griffin: I have done some of it.

The Hon. C.J. SUMNER: I can do some more if you would like me to. The relevant sections seem to be as follows, and this is the judgment of Wells J:

> The purposes or reasons for which an alleged offender was carrying a weapon are to be examined and assessed having regard to the united force of all the circumstances put together. If the sole purpose or reason for which the weapon is carried is plainly unlawful or is otherwise contrary to the section, the carrier cannot claim lawful excuse.
>
> Where the sole purpose or reason is lawful, there will be lawful excuse. Where there is a duality of purpose of reason, no hard and fast rule can provide a solution. The court, in determining the issue, must, in my opinion, decide a question of fact and degree, and must, in particular ask whether that which, *ex facie* and taken in isolation, may be regarded as an unlawful purpose or reason, was, in the circumstance, so transient, so remotely related to the defendant's conduct, so speculative, so unlikely to become translated into action, so subsidiary—in short, so unimportant or insignificant, as to leave the alleged offender with lawful excuse.

Further on he states:

> Plainly, given that all other elements are proved, if only a single purpose or reason is in issue, and if the defendant proves on the balance of probabilities primary facts that, in law, amount to lawful excuse, he will be acquitted. If proof falls short of that, he must be convicted. If the evidence as a whole raises a question of dual purpose or reason, the matter will, to my mind, stand thus. Where the evidence as a whole includes evidence suggesting an unlawful purpose or reason for carrying as well as of a lawful purpose or reason, in order to acquit the defendant the court must find itself persuaded that, having regard to the cogency with which the relevant facts and circumstances are proved by the evidence as a whole, the unlawful purpose or reason was so unimportant and insignificant that there probably was lawful excuse.

All I can say is that that decision has stood since 1978. It is generally considered to be the test of lawful excuse in South Australia. In answer to the honourable member's question in respect of the hypothetical farmer, if the farmer could establish the facts as outlined by the honourable member, there would be lawful excuse for carrying the weapon.

Similarly, with the case referred to by the Hon. Ms Laidlaw, if the farmer could establish that he was carrying the loaded firearm with a view to shooting foxes, there would be no problem, as I understand the position.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Amendment of Criminal Law Consolidation Act 1935.'

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

Page 1, line 19—Leave out the definition of 'firearm' and insert the following definition:

'firearm' means—

(a) a device designed to be carried by hand and to fire shot, bullets or other projectiles by means of burning propellant or by means of compressed air or other compressed gas;

(b) a device of a kind declared by regulation under the Firearms Act 1977 to be a firearm for the purposes of that Act,

but does not include a device of a kind excluded by regulation under the Firearms Act 1977 from the provisions of that Act.

This provides for the insertion of the actual definition of 'firearm' as it appears in the Firearms Act 1977.

The Hon. K.T. GRIFFIN: This follows from what I was suggesting earlier and thus I am pleased that the Attorney-General is accepting my suggestion.

The Hon. PETER DUNN: I agree with what this amendment endeavours to do, but I wonder why the Attorney has included compressed air, because that then involves all air rifles. Unless there is something more sinister about air rifles than I believe is the case, why are they included here? I understand that some air pistols operate with compressed carbon dioxide in the little cylinders, but this involves ordinary air rifles, and I would not have thought that they are that dangerous.

The Hon. C.J. SUMNER: It does include air rifles. The amendment provides for the insertion of the definition of 'firearm' as is now contained in the Firearms Act 1977, as amended by the Firearms Act Amendment Bill (No. 2) currently before the House of Assembly and shortly to be introduced in the Council. The Government intends to hold this Bill in the Assembly until the Firearms Act Amendment Bill (No. 2) passes the Council and then, if by chance there is any change to the definition of 'firearm' following debate of the Firearms Act Amendment Bill (No. 2) in this place, we would change, in the Lower House, the definition of 'firearm' in the Bill now before us. However, this definition does include air rifles. If the honourable member wants to debate the substance of the definition of 'firearm', I suggest that he do that when the Firearms Act Amendment Bill (No. 2) is before the Council for debate. If by chance Parliament passes a revised or different definition of 'firearm' than the one that I am now inserting in this Bill, the Government will amend this provision in the Lower House.

Amendment carried; clause as amended passed.

Clause 4—'Amendment of Summary Offences Act 1953.'

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

Page 2, line 22—Leave out the definition of 'firearm' and insert the following definition:

'firearm' means—

(a) a device designed to be carried by hand and to fire shot, bullets or other projectiles by means of burning propellant or by means of compressed air or other compressed gas;

(b) a device of a kind declared by regulation under the Firearms Act 1977, to be a firearm for the purposes of that Act,

but does not include a device of a kind excluded by regulation under the Firearms Act 1977, from the provisions of that Act.

The Hon. K.T. GRIFFIN: Is there any way in which the sort of problems to which I have referred can be put beyond doubt? I am fairly comfortable with the Attorney-General's reply and my own research. The difficulty is informing members of the public about the change in the law because the circumstance will occur, for example, in which a farmer might drive down to the city in his or her ute with an unloaded firearm but with a loaded magazine in the pocket of the vehicle. The firearm is just there, it is not being used for any purpose, but the farmer may feel that he has it there for self defence.

When referring to one hypothetical case, Justice Wells spoke about particular items which have common use but which are carried specifically for the purpose of self defence and, in those circumstances, he concluded that the court could convict a person for carrying an offensive weapon without lawful excuse. Can the Attorney-General indicate how these sorts of uncertainties can be reasonably resolved without putting at risk all the farmers, with firearms in the back of the truck or a magazine in the door, who come down for a march through the city or for a farmers blockade, and who are there for peaceful purposes, but with designs of picketing or protesting? How can the problems that could result from questioning by police in those circumstances be resolved?

The Hon. C.J. SUMNER: I do not think that the matter can be resolved with any greater specificity than has been achieved so far. The question of lawful excuse occurs throughout section 15, as I have indicated, in relation to a number of circumstances. If an attempt is made to put a gloss on lawful excuse, that will apply to that phrase in all of section 15. We must rely on the judgment that has been outlined in the case of *Holmes v Hatton*. There is a reason-

ably definite exposition of the law as to what lawful excuse means. It is not contested at present and, provided there is no suggestion that the farmer has an intention to be involved in an unlawful act and has a *bona fide* reason for having the firearm and the magazine in the utility at the same time, he should be able to establish to the satisfaction of the police that he has lawful excuse. Commonsense will dictate when a farmer would have cause to use a firearm, unless there are other circumstances to indicate otherwise, such as the case of a farmer who is still living in the country, but who is separated from his wife (who is living in the city) and who, having made threats previously to his wife, drives to the city with a firearm in that condition.

If that situation arose, the farmer would obviously have a bit of explaining to do. On the other hand, if the farmer had been shooting rabbits the night before and drove to town for a Royal Show, then I would think that there would not be a problem. Frankly, I think it would be prudent for the farmer to leave his rifle and magazine at home in those circumstances. After all, that is what this amendment is designed to ensure—that people take greater care with firearms. That is the rationale of this amendment.

Farmers, like everyone else, have to be more careful about the circumstances in which they carry firearms. Provided that a farmer is acting *bona fide* and there are no circumstances surrounding the possession of the firearm and the magazine which tend to indicate an unlawful purpose or for which it could be said that that farmer had no lawful excuse for carrying it, he would be all right; he should be able to establish lawful excuse. As I said, the prudent thing, if one was coming to the city, would be to leave the rifle at home.

The Hon. I. Gilfillan: Take the bullets out of the magazine.

The Hon. C.J. SUMNER: Yes, or take the bullets out of the magazine, leave the magazine home, or whatever. This legislation places obligations on people to take more care of their firearms. I make no apology about that; that is the policy behind it. That will mean that all people, whether or not they are farmers, will have to take more care. If a farmer genuinely has a rifle for a lawful purpose—shooting foxes, vermin, rabbits, kangaroos, or whatever—then there would be a lawful excuse, unless there was some circumstance or fact surrounding the matter that gave rise to concerns that he had it for some other purpose.

The Hon. PETER DUNN: I assume that the Attorney's definition in relation to 'lawful excuse' covers kangaroo shooters who negotiate roads in the Mid North, because that is their job?

The Hon. C.J. Sumner: Yes.

The Hon. PETER DUNN: In relation to new subsection (1a) *(b)*, in the case of a single shot rifle the Attorney is allowing shells to be in glove boxes, and so on. Would a loaded magazine in a glove box or in a person's pocket come under this paragraph?

The Hon. C.J. Sumner: Yes, if the magazine was loaded.

The Hon. PETER DUNN: Then a single shot rifle with the shells being in the glove box would not come under this definition?

The Hon. C.J. SUMNER: No, the bullet would need to be in the breech or the barrel, if it was a single shot rifle. I draw the honourable member's attention to new subsection (4), which states:

> For the purposes of subsection (1a) a firearm will be taken to be loaded if a round is in the breech or barrel of the firearm or in a magazine comprising part of or attached to the firearm.

The honourable member refers to a single shot rifle, but the rifle would have to be loaded.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

POWERS OF ATTORNEY AND AGENCY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 October. Page 850.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill. The principal Act provides that the power of attorney can be expressed by the grantor to be an enduring power of attorney notwithstanding the subsequent legal incapacity of the grantor. That Act was passed because prior to that Act a power of attorney could not be relied upon by an attorney acting for the grantor of the power when the grantor ceased to have the necessary legal capacity to make his or her own decisions. It is a fact not recognised by a lot of attorneys that, when the grantor of a power of attorney ceases to have the necessary legal capacity to make his or her own decisions, the authority to the attorney to act under the power ceases.

The principal Act has proved to be of assistance, particularly to older people who desire to make provision for the conduct of their affairs in the event that later they may not be able to look after themselves. Many of them—and I have dealt with a lot of them professionally—do not want the Public Trustee or the Guardianship Board interfering in their affairs. We have had a couple of occasions where there have been some significant problems of intervention by the Guardianship Board in the appointment of Public Trustee as a manager of a protected person's affairs intestate against the wishes of the other party to the marriage where previously there had been a very happy relationship and between the couple and where they had trusted each other and, without consultation with the other partner, the Guardianship Board had interposed Public Trustee.

Whilst I said that there are a couple of instances, that is being very generous—it is probably closer to 10 or more of these cases which have been drawn to my attention in recent years. This Bill clarifies some technical difficulties with the principal Act. One amendment protects the interests of beneficiaries in an estate where an attorney acting under an enduring power of attorney has created a disproportionate advantage or disadvantage for a particular beneficiary under the will and enables the Supreme Court to intervene after a grant of probate has been made when an application is made by any person with an interest for the Supreme Court to review the conduct of the attorney. There was some doubt as to whether that could occur under the principal Act, but I think it is important to give the Supreme Court the sort of supervisory responsibility which it has in relation to trustees and which I believe it should have in this instance.

I gather that some difficulty has arisen where a protection order has been made under the Mental Health Act, and Public Trustee has been appointed administrator. Where the protected person has executed an enduring power of attorney in favour of the third party an amendment clarifies that relationship. I have had discussions with the various trustee companies, which all support the Bill. I have also had some correspondence from the Law Society. I do not know whether the Attorney-General has received a letter from the Law Society, but in the event that he has not I will read it into *Hansard* for his consideration. The Law Society says that it has no objection to the Bill. The President (Mr Burr) goes on to say:

> We do, however, make the following comments:

1. Section 6 (3) contains the provision validating acts done under an enduring power of attorney. It is submitted that section 11a should use the same terms. For this purpose section 11a (1) should be amended by deleting—

'in consequence of any exercise of power by the donee of the enduring power of attorney' and 'in consequence of the exercise of the donee's powers'

and substituting, in each case—

'in consequence of any act done by the donee of the enduring power of attorney in pursuance of the power'.

2. The Act authorises the creation of—

(a) general powers of attorney; and

(b) enduring powers of attorney.

The Registrar-General's Office has queried whether the Act authorises the creation of enduring general powers of attorney. It is submitted that the Act should expressly state that an enduring general power of attorney may be created in accordance with sections 3 and 6. A form of enduring general power could be set out in a schedule to the Act.

Whilst those matters are not directly related to the Bill before us, it does seem appropriate for the comments of the Law Society to be included in the context of the consideration of this Bill and, if as a result of further consideration the Attorney-General is of a view that some consequential amendments could be included in this Bill to tidy up the matters to which they refer, it would be a good opportunity to do that.

The other point is I have had drawn to my attention recently by a legal practitioner a situation where a grantor of a power grants an enduring power to a person as attorney and, if that person is unable to act, then a substituted attorney. That lawyer has indicated that he has received advice from another lawyer that such alternative appointment is not permitted under the Act. I must say that I have had some difficulty accepting that view, but I thought it would be appropriate in the context of the consideration of this Bill to raise it, and it may be that, after further consideration by the Attorney-General and his advisers, they will see that there is some substance in that which, again, could be the subject of amendment whilst this Bill is before us.

It seems to me that it is a convenient way to deal with the issues which have been referred to rather than the drawn-out process of approval for another Bill and considering another one later in the session. As I say, we support the second reading of the Bill but I would hope at least before we finish the Committee stage that the Attorney-General would be prepared to consider those issues to which I have referred.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

CO-OPERATIVES ACT AMENDMENT BILL

(Second reading debate adjourned on 1 November. Page 1061.)

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Members of co-operative entitled to balance sheet, etc.'

The Hon. K.T. GRIFFIN: The question I raise indirectly relates to this clause, but the discussions I have had with various cooperatives indicate that another Bill has been suggested to amend the Cooperatives Act to deal with membership and voting. There has also been another suggestion that the question of cooperatives trading beyond State borders is being considered. Is any other Bill to amend the Cooperatives Act in the pipeline, in respect of either those issues or others? If the Attorney-General does not have an immediate answer, I would be perfectly happy if he provided that information in a few days.

The Hon. C.J. SUMNER: The Cooperatives Advisory Committee may have some matters under consideration, but I am not aware of any immediate intention to amend the legislation. I will obtain a reply which I will convey by letter to the honourable member.

Clause passed.

Clause 3 and title passed.

Bill read a third time and passed.

BUILDING ACT AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: In her second reading speech the Minister indicated that it was the wish of the coordinating council that the new code be in operation by 1 January 1989. Is it the Government's intention to do that and, if so, when will the administrative regulations be brought before the Subordinate Legislation Committee? The Minister indicated that Victoria had already introduced such legislation. If we pass this Bill, can South Australia proceed with the code, or must it wait for all other States to pass similar legislation and regulations?

The Hon. BARBARA WIESE: Realistically, although we were aiming for the introduction of the new Building Code of Australia to occur by the beginning of 1989, it now appears that a more realistic timetable would see us introducing it in late 1989 because the drafts of the building code are still being worked on by AUBRCC. Late 1989 appears to be a more realistic time for its introduction. As to the question whether we would be able to introduce the building code provisions in South Australia in the absence of other States doing so, it would not be necessary for us to wait for other States to introduce complementary legislation. We could proceed in the absence of legislation being passed in other States.

The Hon. DIANA LAIDLAW: As to the transition provisions, the Minister's second reading speech noted that there would be a period of at least 12 months during which the existing regulations could be used or, alternatively, a builder could seek to comply with the new code. There is no reference in the Bill to that transition period. Is that merely a commitment on behalf of the Minister, because I was concerned that a builder who undertook to comply with either the code or the existing regulations and put an enormous amount of money into a project would be able to proceed with confidence on a statement by the Minister that it was the intention to have a transition period of 12 months?

The Hon. BARBARA WIESE: I draw the honourable member's attention to clause 16, in particular to new subsection (3), which provides:

Any regulations adopting a code, or an amendment to a code, may contain such incidential, supplementary and transitional provisions as appear to the Governor to be necessary.

Our intention there would be to include in the regulations, at the time of the adoption of the code, the appropriate information relating to the transitional period during which a builder would either comply with the Building Code of Australia provisions or the current provisions, so that it would be made clear at the time of the adoption of the Building Code of Australia that the transitional period would be for a certain period of time, and the arrangements under which they would have the option to operate.

The Hon. DIANA LAIDLAW: To clarify the point, the regulation that will go to the Subordinate Legislation Committee will not only have a defined transition period, although the Minister has an indefinite period of at least 12 months in her speech. It will have a defined period but it will also note specifically that a builder will have that choice and that choice will remain unaltered until the completion of his project notwithstanding the fact that it may be a major project and, take some years to complete.

The Hon. BARBARA WIESE: The honourable member's understanding is correct.

Clause passed.

Clauses 3 to 15 passed.

Clause 16—'Regulations.'

The Hon. J.C. BURDETT: I wish to raise a matter in regard to the code rather than a set of regulations, as was raised by the Hon. Ms Laidlaw and me, yesterday. That was largely clarified in the second reading debate, by interjections, and in discussion between the Hon. Ms Laidlaw and myself and the Minister and her officers afterwards. I am grateful for that discussion during which I was promised a copy of the code which I received very promptly. There is nothing in the code (not that I have had a chance to peruse it in detail) with which I have any quarrel.

It does not necessarily follow that that copy of the code will be eventually adopted by regulation, and I have no worry about that either. This concept was rather new to us whereby instead of having regulations to provide for the provisions, the code is adopted by regulation. It took some discussion to get used to that. I do not think that the second reading explanation or the Bill made the concept entirely clear, but I am clear about it now. The question needed to be raised in order to make it clear to everyone and have it on the record. Yesterday by way of interjection I asked whether the regulations adopting the code could be disallowed, thereby disallowing the code. In response I was told that that could happen. The Minister also commented that, because it is a uniform code, she very much hoped that that would not happen, and I agree with that.

I want to get the actual procedure quite clear. Obviously, if it is to be effective, the code will have to be clear when the regulation to adopt the code is made. I expect therefore that the code would be either attached to the regulations or tabled at the same time. If that happens, I am perfectly happy. I want an assurance that we would not be buying a pig in a poke when the regulation is made and that Parliament will be perfectly clear with respect to the code that it adopts by regulation.

The Hon. BARBARA WIESE: I am very happy to provide the Hon. Mr Burdett with the assurance that, at the time the regulation is proposed to adopt the code, a copy of the code will be attached to the proposed regulation. I certainly accept the concern that the honourable member has about the right of Parliament to scrutinise these matters and to satisfy itself that any proposed code is acceptable. I share his concern about the supremacy of Parliament in these matters, and I assure him that the code will be attached to the proposed regulation. He and other honourable members will have an opportunity to peruse it prior to their being asked to adopt the regulation.

The Hon. DIANA LAIDLAW: I endorse the remarks made by my colleague the Hon. Mr Burdett. We are happier with this clause, having spoken with the Minister and her advisers following the adjournment of the second reading debate last night. I agree that the second reading explanation did not help in coming to grips with what is envisaged by this Bill. Looking back at the time that I worked with the Hon. Murray Hill, I do not think that things have changed much. In fact, the Building Code in the Building Act is difficult to come to grips with at any time. I am not necessarily taking issue with it, but I highlight this point, particularly in this reference to regulations, because I was certainly unclear as to whether not only the code is to be called up by this system of regulation without going through the normal regulatory process but also whether that same system is to apply to the administrative regulations which are to follow the passage of this Bill and later any modifications to the code.

I understand that that assurance was given by the Minister last night, but I seek to put it on the record that the administrative regulations and subsequent modifications to the code will be in the style of the normal regulatory process. Therefore, all the regulations will be before the Joint Committee on Subordinate Legislation. It will not be done by regulation unaccompanied by all the detail of the regulation, which is the system proposed for the adoption of this code.

The Hon. BARBARA WIESE: The assurance that I gave the honourable member in private discussion last evening I now place on record. Once the regulation to adopt the code has been adopted by Parliament, the procedure with respect to any future proposed changes to the regulations, whether they be proposed changes to the code itself or, more particularly, to the regulations that apply specifically to South Australia, would be as for any other regulation which comes before Parliament, and they would proceed through the Joint Committee on Subordinate Legislation in the normal way.

The Hon. DIANA LAIDLAW: My final question concerns modification to the code to accommodate local conditions. The Housing Industry Association, when contacted by the Shadow Minister in the other place, said that it was satisfied with the code, as I noted earlier, but that it was concerned that the modifications to the code would deal with matters such as particular soils, bushfire susceptibility and catchment area variations. I seek clarification from the Minister on those matters, and perhaps she could outline some of the other matters where the code may be modified to take account of special local conditions.

The Hon. BARBARA WIESE: The areas outlined by the honourable member as perhaps requiring attention, such as special provisions for bushfire-prone areas and soil requirements, would certainly be included in the proposed minor variations for South Australia. They might also take account of such things as salt damp provisions and possibly minor variations for toilets in employee areas, for example, which would bring the regulations into line with the requirements of the Department of Labour in this area which, apparently, are slightly different from those applying in other areas.

It is expected that the sorts of modification to be brought in for South Australia would be relatively minor and in line with the policy which is being pursued nationally that largely we should have a uniform approach to this matter. So, there are very few areas in which South Australian regulations would differ from the major building code.

Clause passed.

Title passed.

Bill read a third time and passed.

CULTURAL TRUSTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 November. Page 1055.)

The Hon. J.C. IRWIN: I will not keep the Council for very long. I just wish to make a few comments on this

matter. I support the Bill and I support the remarks that were made by my colleague the Hon. Legh Davis yesterday, or perhaps it was late last week. My remarks are based on my experience as a trustee for three very enjoyable years on the South-East Cultural Trust, which is based in Mount Gambier. I say again now, as I said at my first trust meeting, that I have no artistic talent whatsoever, although I do say that I have an increasing appreciation of art in all its forms, with a strong leaning towards popular art. Otherwise I am, fairly obviously quite a square. I cannot even blow the bagpipes like the Hon. Mr Cameron can! I saw my trust involvement as a community representative, living in the Upper South-East—and of all the trustees I happened to be the farthest away from the trust building headquarters in Mount Gambier—and as someone who could bring a whole range of experience to the evolving work and deliberations of the South-East Cultural Trust.

My early trust involvement concerned mainly trying to resolve building problems associated with the new building, housing both the Mount Gambier City Council and the trust, with its theatre, now named after Sir Robert Helpmann, who, of course, was born near Mount Gambier. Certainly, we also spent considerable time planning regional arts matters. As I recall, community arts officers were first funded by the Australian Arts Council for a three year period. After that, the funding responsibility reverted to the State, and then to the regional cultural trusts.

When the Hon. Murray Hill was Minister of Local Government and Minister of Arts, he wrote to local councils throughout South Australia asking them to consider helping to fund community arts officers after the expiration of the Australian Arts Council three-year funding arrangements. This request was not treated very kindly at the time. However, I was able to persuade my council to help fund an officer and this was duly done when the trust was able to appoint a second community arts officer resident in the Upper South-East. It never ceases to amaze me what talent there is in the art and craft world in rural areas across the State. Rural communities and their local councils are slowly awakening to the enormous community and individual benefits that can be derived from art and craft. Quite apart from its income earning capacity, it is occupational and therapeutic for all sorts of people who practise all manner of art and craft.

My replacement as an appointee of the Minister for the Arts is, like me, a farmer, but he brings with him exceptional art appreciation and is a practising writer and painter. His involvement and his contacts in the art world are of significant benefit to the local community and to the South-East Cultural Trust. Trustees of cultural centres can be and should be made up of people with varying backgrounds and beliefs. They need not be entirely from one section or another of the community and there should be a balance and a spread of experience and expertise. Notwithstanding that the Chief Executive Officer has an accounting and management background, trustees are called upon to understand and make many financially based decisions and spend many hours at trust meetings talking about trust finances and how funds can be best utilised.

I make two other comments about trusts, their running and their viability. There is no question about the ability and design of the 500-seat theatres run by the trusts. As former Premier Don Dunstan said, they are better than their equivalent at the Adelaide Festival Centre. They were designed and built later, taking out many of the problems associated with the earlier theatre. However, 500 seats is a very awkward number to deal with when considering efficiency and viability. In other words, it is difficult for the trusts to stand on their own feet financially. As I understand it, the early philosophy laid down by the Dunstan Government, agreed to by the Opposition and taken on by the Opposition when in Government in the early 1980s, was that the new theatres should not compete with local cinemas and halls. That has gone much by the wayside, because local communities have accepted that the trust theatre is the centre for performing arts excellence and it would be silly to try to duplicate that. I imagine that is the case in Mount Gambier, Berri, Port Lincoln and Whyalla. I do not mean that communities that are further away have not tried to upgrade their local theatres: I know that they have.

However, a 500 seat theatre is fine for intimate performing arts and perhaps a reasonably long film run but it is not big enough to attract major touring companies or popular performers without large subsidies. I am talking not about the need for entertainment centres in rural areas but about the logistics of a popular artist who would not stay three or four nights in one centre if he or she could earn the same return or more for a one night stand in other areas around Australia.

Although there is a genuine desire to be profitable and viable without the continued need for Government subsidy, it will be a difficult task to achieve this with 500 seat capacity theatres. Further, and linked to that, is my second comment relating to trust management. It appears to me from the South-East experience—and I imagine that this experience would be similar for the three other trusts—that the staffing and space allowed to house staff are not adequate.

I make my point by using the Chief Executive Officer and the Stage Manager as examples. These people, who must have holidays, sick leave, long service leave, and so on, are experts at their jobs and cannot easily be replaced. When they leave their positions for any length of time the work of the trust and the theatre can virtually be brought to a standstill. Obviously, this will affect the viability and continuity of the trust (and I have experienced exactly what I am enlarging on now).

Secondly, with the expanding role of the trusts and the officers needed to perform that role, office space is found wanting, so much so that officers are based all over the host towns or cities. This does not make for good communication or efficiency. Again, I am talking not about community arts officers and others who are based quite some distance from the host theatre complex but about those whose work emanates from the theatre itself.

The situation in relation to staff and office space is not good enough. The original roles and the potential to expand were either not thought through well enough or the cheaper alternative was deliberately taken with the expectation that a future funding source would make good the deficit in the original plan. This is a common fault with Governments which plan for today and let tomorrow take care of itself.

I understand that the local government representative on the trust in each region will come from the council in which the trust resides. For example, the Mount Gambier City Council will have one nominee, and there will be no representative from a local South-East council which the trust services. That is as I understand the situation now.

The Hon. L.H. Davis interjecting:

The Hon. J.C. IRWIN: I understand what the Hon. Mr Davis is saying. Perhaps we could follow that through and clear it up during the Committee stage. I am not sure of the position in relation to the proposed central regional cultural trust, or authority (as it will be called), or where that authority will operate. If I had one main concern about this Bill, it would be to ensure that the bodies that will elect

delegates to the regional body of subscribers, who in turn will elect a list of names to be submitted to the Minister for final trustee positions, must follow common rules set out in properly formed constitutions.

Subscriber lists must be properly kept with subscriptions updated as required. If this is not done properly, I predict that there will be a shambles and much bickering in a few years time as people jostle for trustee positions. We should not forget that with this job goes a payment for the time spent on it, that some expenses are met, prestige, and a regional responsibility. I hope that this matter is properly supervised from the beginning. I hope further that the Minister for the Arts is fair in using his discretion to ensure that a trust membership broadly based in experience, with trustees who represent the whole of their respective areas as well as the trust as a whole, is appointed.

In the past the Minister has, in my experience, been tardy in selecting trustee replacements. There have been occasions where trusts could not meet at all because such appointments had not been made; in other words, there were no quorums and these bodies were not able to meet because of a lack of haste by the Minister for the Arts in making appointments to trusts. That situation may not arise today because corrective action may have been taken to prevent it. I hope so, but I admit that I have not checked that recently.

Regional arts will continue evolving. That can only be positive and healthy. Good healthy public debate will also be productive in stimulating community arts and communities generally. I hope that the new arrangements will work well for the trusts and the communities that they serve. I wish them well as they get on with their job of administering and directing community arts. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Membership of trust.'

The Hon. L.H. DAVIS: This clause refers to the membership of the trust, which is to consist of eight trustees appointed by the Governor, one of whom will be nominated by the council or councils in the part of the State in relation to which the trust is established. There has been some confusion about what that means, and the Hon. Mr Irwin referred to the possible ambiguity that may be contained in this clause.

Formerly the trust was restricted to the physical location of the theatre. Now, we are talking about the trust in a broader sense of covering a region. I take it that the words 'one is to be nominated by the council or councils in the part of the State in relation to which the trust is established' refer to any council or councils which may be within that region.

The Hon. BARBARA WIESE: The honourable member's understanding of the intention of this clause is correct. It is intended that in future the local government regional body will nominate a local government representative to serve on the trust. That need not be a representative of the city or host town in which a theatre is located; it could be a representative of a council anywhere in the region that this body was serving.

The exception to that in the short term would be in the area served by the Port Pirie council. In that instance the circumstances are different for at least a short space of time during the period covered by the purchase of the theatre building that is located there because the council is a participant in the purchase of that building. For the period during which the appropriate loans, etc., are being paid off a representative of the Port Pirie council would serve in the area. Following the expiration of that arrangement, anybody within that location serving a council would be able to nominate and be chosen to represent the district in that region.

The Hon. J.C. IRWIN: I do recall now that the argument in the South-East was resolved by the Local Government Association in the South-East nominating some person: I had forgotten that. I probably should know this, but I do not: what is the position with the South-East Cultural Trust, because it is a joint owner of the building with the city council? Is that not the same as with Port Pirie?

The Hon. BARBARA WIESE: The situation in the South-East is in fact a different one in that Mount Gambier council is a tenant in common in the theatre but it was never a financial participant in the purchase of the theatre. So, the arrangement that I referred to previously would not be one that applies there.

The Hon. L.H. DAVIS: Clause 6 (2) *(a)* refers to the trustees nominated by the Minister, and four must be chosen by the Minister from persons elected in accordance with the regulations by the subscribers. I have not yet seen the regulations, but I have had the advantage of seeing the agenda for the annual meeting of the Northern Regional Cultural Trust, as I mentioned in my second reading contribution. The meeting was invited to nominate eight members, and four would then be chosen by the Minister to fulfil that requirement for trust membership. Are there any regulations in existence or will what happened in the Northern Regional Cultural Trust be the norm for other regional cultural trusts around the State?

The Hon. BARBARA WIESE: The situation that the honourable member has referred to in the northern region would apply in other areas as well. That is because the Minister would like to receive the names of the eight nominees from a particular locality so that, in choosing the four people who would represent a particular region, he would be able to ensure not only that the arts wishes of a local community could be served but also that a reasonable geographic and perhaps social interest or ethnic composition range of interests could be served as well within a particular region so that a regional body is relatively representative of the community that it serves.

The Hon. L.H. DAVIS: I have no doubt that the Minister of the Government of the day would do everything possible to ensure regional balance. My colleague the Hon. Jamie Irwin, who has had some experience in these matters in the South-East, and my colleague the Hon. Peter Dunn, who comes from the Eyre Peninsula where distance is a problem for people involved in the arts, have expressed concern about the difficulty that could exist with this clause. Is there any intention in the regulation which is to be promulgated to ensure that there is regional balance? I hypothesised in my second reading contribution of the case in Whyalla where a meeting of the western or Eyre Peninsula region was held recently and, as I understand it, nearly a majority of the membership at that meeting came from Whyalla.

If, for instance, there was tension in the arts community in the region, there is a very real possibility that a meeting could provide the Premier with, say, six names from the city centre and only two from the regional areas. I know that that is an hypothesis and, as I said in the second reading debate, I have confidence that the arts community is sensible, that it exchanges information and appreciates the interdependence and the sense of community which necessarily must exist if the arts are to work successfully in the region. However, without overregulation, we have to provide for that situation. I wonder whether a regulation will provide, for example, that a maximum of four from the

centre can be involved. I do not think that it is necessarily a good idea, because the theatre may not always be in that one place. I am quite conscious that this Bill to amend the Cultural Trust Act has been fairly thin in terms of specific information, because it wants to provide maximum flexibility to ensure a successful structure in the future.

The Hon. BARBARA WIESE: It is not proposed that the regulations specifically refer to a geographical spread of membership for the trust, but the current Minister for the Arts has a strong commitment to ensuring that the trust is representative of the regions that it serves and he would seek to ensure a distribution of that kind. For some reason or another, should that not come forward in the nominations from the particular regions, the Minister would seek to provide that balance in representations through the three remaining appointments which he has the capacity to make. It is envisaged that, by using those provisions, a reasonable balance will be achieved.

Clause passed.

Clause 5—'Powers of trust.'

The Hon. L.H. DAVIS: Clause 5 (1) *(a)* provides:

Subject to this Act, a trust may provide, manage and control premises and facilities for the arts;

I am conscious that this Bill represents the merging of the Arts Council of South Australia and the regional cultural trusts. The headquarters of the Arts Council was located at 97 South Terrace. What has happened to that South Terrace property? Am I correct in surmising that that will become the headquarters of the Central Regional Cultural Authority?

The Hon. BARBARA WIESE: In November 1987 the Arts Council Board resolved to accept the new structure which this Bill seeks to establish and it also resolved to transfer its assets to the Regional Cultural Council, when it is formed. That decision was endorsed by an extraordinary general meeting of its members held on 7 May this year. All Arts Council branches are now members of both the relevant regional trust or authority and the Arts Council. As a result, a group identity and a common interest liaison network are provided.

The Hon. L.H. DAVIS: Will the 97 South Terrace property be used by the Central Regional Cultural Authority?

The Hon. BARBARA WIESE: The central authority will use the Arts Council as its headquarters, but for the time being it will be concentrating its energies on the Barossa area of the State.

The Hon. L.H. DAVIS: Will the Regional Cultural Council use 97 South Terrace as its meeting place?

The Hon. BARBARA WIESE: Yes, it will be using 97 South Terrace as its meeting place.

The Hon. L.H. DAVIS: Clause 5 inserts new subsection (1) and refers specifically to management and control of premises and facilities for the arts. For the record, will the Minister advise what is the total staffing of the new structure, divided region by region, so that we can have an estimate of what benefit has been derived from this merger? I seek information about staffing in each region, with the Arts Council and the cultural trusts both before and after the merger.

The Hon. BARBARA WIESE: I cannot give the figures that the honourable member is seeking, and I will take the question on notice and provide the information later. The staffing level is roughly the same as it was under the previous Arts Council structure. It may have increased by about one person. The people employed by the old Arts Council have been redeployed into the regions. The numbers are roughly as they were previously but, as to the total number and the regional breakdown, I will have to provide those figures later.

The Hon. L.H. DAVIS: Can the Minister provide the classifications of the employees, whether they are community arts officers, managers, and so on?

The Hon. BARBARA WIESE: I shall be happy to provide that information as well.

The Hon. L.H. DAVIS: Can the Minister explain why the Regional Cultural Council and the other elements of the new structure have not been specifically incorporated in the Act? I gather that it is to maintain flexibility, that they will be included in the regulations.

The Hon. BARBARA WIESE: The real reason is simply that this Bill to amend the Cultural Trusts Act, which established the four existing Regional Cultural Trusts, cannot deal specifically with the Arts Council, the Regional Cultural Council or any other bodies that are not statutory bodies under that Act. For that reason they are not included.

The Hon. L.H. DAVIS: The advisory bodies established under clause 5 (1) *(b)*, to provide advice on funding and policy matters in each area will report directly to the trust in the region. I understand that some of those advisory bodies are already in the course of being established. To what extent will control of funding actually devolve to the regions themselves? Clause 5 (1) *(b)* (iii) provides that one of the powers of the trust is to encourage the development and appreciation of the arts by the provision of financial assistance for arts programs and projects approved by the trust. Can the Minister say to what extent there will be autonomy in making recommendations on grants within the region by the trust acting on the advice, presumably, of the advisory body?

The Hon. BARBARA WIESE: For projects up to $1 000, individual trusts will be able to make their own decisions about allocation of resources and that will come from a lump sum of money provided to those bodies by the trust. For projects over $1 000, the Regional Cultural Council will provide the necessary approvals but I should add that the council comprises representatives of all the trusts and advisory bodies so that they have the opportunity of providing an overview on issues relating to the development of arts across the State.

The Hon. L.H. DAVIS: Reference was made earlier to the fact that clause 4 provides that one of the eight trustees must be a person, representative of business in the part of the State in relation to which the trust is established. That is obviously a conscious decision made to not only ensure that there is someone with financial acumen on the trust, which is always important in the arts as the Minister would well know, but also hopefully to build a bridge between the arts and business and the broader community for sponsorship. Sponsorship, of course, is a rare jewel in the arts crown in the country, one would imagine. To what extent has there been success in sponsorship by the regional cultural trusts or have there been any early indications that this new structure will attract sponsorship at a greater level?

The Hon. BARBARA WIESE: As the honourable member has indicated, it is certainly the intention of the Government in providing for a business representative to be included on these trusts that not only should people with business acumen be introduced to the work of the trust but that people in the arts communities in the various regions of the State should also come into contact with people in business circles. Having people on those trusts who come from business will mean that the trusts have a greater opportunity of having a more commercial approach to the work that they undertake.

There has already been some success on the part of some of these regions in attracting sponsorship from the private sector. The Harvest Theatre Company, for example, through the Eyre Peninsula Trust, has received sponsorship of several thousand dollars from companies in the private sector. In the South-East of the State the Main Street Theatre Company has also been successful in gaining sponsorship from the local timber industry, timber mills and other private sector organisations. So, there has been an indication that companies are prepared to support the work of these trusts, and certainly the trusts will be encouraged to seek out the private sector and encourage greater financial participation in arts activities in the regions. This is one of the matters that the Minister for the Arts has raised with the arts community generally in many instances during the past two or three years, in particular since the State Government and all Governments have been under increasing financial pressure.

The Minister has encouraged arts bodies of all kinds to spend much more of their time and energy finding ways of attracting financial resources from outside the traditional Government sources on which they have tended to rely. I cannot see that the financial climate will change significantly in the near future, and this policy direction will certainly be encouraged by the Government. There also is an increasing realisation by people in the arts community that it is a desirable way to go and that they are willing to pursue it.

The Hon. L.H. DAVIS: A brochure entitled *Country Arts in South Australia* recently came into my possession. I am not sure whether the cover depicts a sunrise or a sunset—I rather hope it is a sunrise. It promotes country arts in South Australia and invites persons to become members of the regional cultural trusts. I am interested to know whether this merger, which has given Arts Council members and members of the trust an opportunity to join at the regional level, has been successful in any way. What has been the response to date?

The Hon. BARBARA WIESE: It is certainly the case that Arts Council branch members have become members of their local trusts, and the target these trusts are pursuing is to achieve a minimum membership of approximately 1 per cent of their local communities. At the moment, the largest membership resides in the Riverland trust area where there are now over 800 members. The lowest membership is currently in the South-East where there are fewer than 300 members. The reason for that is that that region got off to a slow start in the membership race, and it is anticipated that over time the membership will grow. The signs are very encouraging and each organisation is working diligently to increase membership as quickly as possible.

The Hon. L.H. DAVIS: On the question of finance, in each of the years 1987-88 and 1988-89 there has been a marginal increase. This takes into account, of course, the Arts Council amalgamation. I am correct in assuming that about $600 000 was spent with the Arts Council through the State Government, so if one aggregated the Arts Council and cultural trusts expenditure for 1987-88 and then matched it with the aggregate expenditure for 1988-89 there would still be a marginal decrease in money terms. That is a question which the Minister may like to take on notice to provide an accurate breakdown.

The Hon. BARBARA WIESE: It is, in fact, a bit more complicated than the honourable member indicated, since for regional art activities there is a 1 per cent increase this year for operating funds. Overall there is a decrease, but that reflects the diminished cost of debt servicing on loans to build various theatres. It is anticipated that the decentralisation of activity will generate some savings across the State which will effectively increase flexibility and usable funds for country arts activities. So, it is a bit of a swings and roundabouts situation in that some regional bodies will be better off and others slightly worse off. Certainly, with the increased flexibility it is expected that some savings and the capacity to distribute funds in a different way will be generated.

Clause passed.

Clause 6—'Regulations.'

The Hon. L.H. DAVIS: In relation to regulations, earlier today we witnessed the problem which occurs when proper consultation does not take place with interested parties—and I refer, of course, to the regulations under the Electricity Trust of South Australia Act re vegetation clearance. Because the regulations to this Act will probably be as important as the Act itself, indeed even more important, will the Minister undertake to circularise all interested parties with the proposed regulations to ensure adequate consultation and to ensure that on this occasion the Government gets it right in the first instance?

The Hon. BARBARA WIESE: As is usually the practice of this Government, and particularly the Minister responsible for this area, there will be consultation on the framing of these regulations, as there has been in the past.

The Hon. J.C. IRWIN: In relation to the regulations I refer to proposed new section 17 (2) *(d)*. I must admit to some ignorance here because I have not seen any details yet. However, as paragraph *(d)* provides that the regulations may 'prescribe the manner in which persons become, and cease to be, subscribers to a Trust' and if nominations have already gone forward from some of the trust areas, having had meetings, I assume that the trusts are already working under prescribed rules and regulations. I imagine that they have already been sent out and that in fact they have already been published, even though the regulations have not been published. Am I correct in that assumption—which might help answer the Hon. Mr Davis's question?

The Hon. BARBARA WIESE: In fact, draft regulations have been circulated to the numerous bodies involved.

The Hon. L.H. Davis: You have just discovered that?

The Hon. BARBARA WIESE: No, I knew that.

The Hon. L.H. Davis: Why didn't you tell me?

The Hon. BARBARA WIESE: The honourable member did not ask that question.

The Hon. L.H. Davis: I asked whether they would be, and the Minister said that she would make sure that they were.

The Hon. BARBARA WIESE: No, I didn't—I said that, as has been the case in the past, there would be consultation on this issue, and on all other issues relating to regulations. On this question, the fact is that the trusts have had the opportunity to view draft regulations and they are acting in anticipation of such regulations coming into force. The reason for that, of course, is so that the process of establishing the trusts will not be delayed.

The Hon. J.C. IRWIN: Pursuing this matter further, in my speech I alluded to the fact that I was uneasy about the manner in which the subscription area would work. Will it be prescribed that annual general meetings will be at different places around the region serviced by the trust or will they be in one set area, and is there a provision for proxy voting? I suppose that, had I seen the draft regulations, I would not have to ask these questions, but as I have not had that opportunity I take this opportunity to obtain this information.

The Hon. BARBARA WIESE: In answer to the last question about the provision for proxy voting, the answer

is, yes, there will be such a provision. As for the location for annual general meetings, that will not be prescribed by regulation. It will be left to the discretion of the trusts to decide.

The Hon. J.C. IRWIN: Paragraph *(e)* refers to the prescribing of fees to be paid by subscribers, and from material that the Hon. Mr Davis has I have now seen details of the prescribed fees. Will it be prescribed how those subscription fees of the trust will be used, or are they earmarked for some specific use by the subscribers?

The Hon. BARBARA WIESE: The situation that will apply under the new structure will be as it was for the Arts Council; that is, membership fees that are collected will be used solely for membership services, such as attendance at seminars, newsletters and other such purposes.

Clause passed.

Title passed.

Bill read a third time and passed.

FIREARMS ACT AMENDMENT BILL (No. 2)

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

In 1987 the violent and tragic use of firearms in Victoria and the top end of Australia focused public scrutiny on firearms legislation throughout Australia. Here in South Australia, the Minister of Emergency Services, as Minister responsible for the administration of the Firearms Act, undertook to review the effectiveness of controls. As a first step the Commissioner of Police (as Registrar of Firearms) was asked to prepare a report on the matter. The Commissioner reported in November 1987 and made a number of recommendations for change. Also in November 1987 recommendations came before the Australian Police Ministers' Council for the adoption of national uniform minimum standards for firearms controls. A majority of States and Territories have endorsed those minimum standards.

This Bill seeks to bring into effect the recommendations of the Commissioner of Police and to adopt those minimum standards endorsed by the Police Ministers' Council and not yet embodied in this State's firearms controls. Honourable members should clearly understand that the changes are not an emotional response or a knee jerk reaction to the multiple murders which occurred last year. The changes were first announced on 21 December 1987 when the Premier issued a paper entitled 'Proposed Changes to Firearms Laws'. In the words of the paper itself the proposals were developed after an objective analysis of the requirements for control. Since the release of the proposals there has been extensive consultation about implementation with a broad range of firearms users. A number of organisations and individuals have approached the process of consultation constructively. With their assistance the broad proposals have been distilled into a workable system of controls. Others have not been so constructive and instead have misrepresented the proposal in an effort to alarm legitimate firearms users.

Consultation occurred in what can be seen as broadly three phases. First, comments and submissions were received on the document issued on 21 December 1987. These submissions were considered in the preparation of the first draft of the Bill. Secondly, a draft Bill and proposed Regulations were made available to interested parties on 4 March 1988. The Government accepted some important aspects of submissions made by representatives of firearms users, and the Bill was amended accordingly. Finally, after its introduction in another place, the Bill was referred to a select committee for consideration and report. In the course of its deliberations the select committee received evidence from a substantial number of individuals and organisations.

The report of the select committee was tabled on 23 August 1988 and is publicly available. I do not intend to canvass all the matters raised in the select committee. Honourable members may, if they have not already done so, peruse the committee's report for themselves. I will say, however, that because of the nature of the matters that the Parliament is attempting to address, and because of often contradictory expectations in the community about these matters, legislation of this type is never simple. The select committee itself found that:

> [there is] a community expectation that access to and use of firearms be controlled. Such controls must be balanced against the interests of legitimate occupational and sporting firearms users. In the course of striking a balance, a relatively and necessarily complex piece of legislation has evolved which is characterised by control measures, a multiplicity of exemptions and review procedures.

While the Bill strives to achieve a reasonable balance, it would be almost impossible for any legislative scheme for firearms control to achieve universal support. This Bill does not attempt to do that. There will always be those individuals who will remain dissatisfied by any scheme of legislation—either because, no matter how hard it is in its effects, they argue that it does not go far enough, or because, no matter how liberal it is in its philosophy, they argue that it goes too far. It also bears saying that no legislation, firearms legislation or criminal legislation can of itself eliminate crime.

The objective of this legislation is to prevent, so far as is possible, death and injury as a result of firearms misuse. Honourable members and the community generally should not suffer under the illusion that this legislation will eliminate firearms misuse. It cannot prevent every incident of unpredictable psychopathic violence. The Government makes no such exaggerated claims for this legislation. The Government does not regard this legislation as a panacea. Nevertheless, it is imperative that appropriate controls exist over access to and use of firearms. This Bill embodies such controls and has the support of the Commissioner of Police and senior officers within the Firearms Division.

The legislation will assist authorities in screening people before they are given the right to own firearms. The legislation will ensure that only mature responsible adults with a legitimate reason to possess firearms will be granted a licence. This measure will modify the licensing system so that all licences will be endorsed with the purpose or purposes for which the relevant firearms may be used. It will be an offence to use a firearm in a manner not authorised by the licence. In prosecuting such an offence it will be necessary for the prosecution to establish a reasonable inference that the possession or use of the firearm was not authorised by the licence before the obligation falls on the defendant to justify their actions.

The Bill raises the minimum age for obtaining a firearms licence from 15 to 18 years, but exemptions from licensing requirements will be expanded to ensure that junior shooters have every possible opportunity to participate in legitimate shooting activities, including hunting under the supervision of a parent, guardian or coach. Of course, the exemptions for primary producers that were a feature of the earlier Bill remain. Minimum training standards will be introduced and a permit will be required for each firearm purchased.

Gun shop owners will not be required to keep a record of ammunition transactions including details of the purchaser's firearms licence or permit, as outlined in the original Bill. However, persons purchasing ammunition must have a firearms licence or permit. It will be an offence to purchase or possess ammunition without a licence or permit.

Minimum security standards for the storage of firearms will be introduced. Penalties for firearms licensing offences will be increased. The courts will be given the power to review firearms licences and possession. This will enable the courts to move much more quickly in revoking the firearms licences of unfit persons. Controls over self-loading rifles and shotguns outlined in the original Bill are to be modified. Some self-loading rifles and shotguns will now be available in certain circumstances for recreational hunting as well as other recognised purposes already provided for in the original Bill.

Members will be aware of complementary legislation establishing specific offences for firearms misuse and the use of firearms in the commission of a criminal offence: that complementary legislation will now be considered in another place. Together the two measures will redress weaknesses in the existing law. I commend the Bill to members and the South Australian community.

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

ADOPTION BILL

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

ADJOURNMENT

At 11.10 p.m. the Council adjourned until Thursday 3 November at 2.15 p.m.