LEGISLATIVE COUNCIL

Wednesday 16 November 1988

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

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

QUESTIONS

LEGIONNAIRE'S DISEASE

The Hon. M.B. CAMERON: I seek leave to make an explanation before asking the Minister of Tourism, representing the Minister of Health, a question about legionnaire's disease.

Leave granted.

The Hon. M.B. CAMERON: I have been greatly concerned about the problem of legionnaire's disease for some time, and members may recall that this matter was the subject of some discussion at an earlier stage about two years ago. I understand that it has now been indicated that legionnaire's disease has been discovered in certain southern areas and that three people have been identified as having the disease and eight people have been treated at Flinders Medical Centre.

Legionnaire's disease was a very serious problem at Woollongong in New South Wales recently when it spread throughout the community from an air-conditioning plant in a shopping centre and led to some very serious problems including, I think, some deaths. Some people in the community are more susceptible to the disease than others, namely, the aged, smokers or others with health difficulties. It has been clearly identified that the problems associated with Legionnaire's disease mostly stem from air-conditioning units or hot water systems, although they are not the only areas.

I have a copy of a technical information mechanical branch document from the Commonwealth headed 'Measures to control Legionnaire's disease hazard in buildings' and dated April 1987. It gives some considerable information on the problem of Legionnaire's disease. I will not go through the whole document as it would not be appropriate in the explanation to a question, but it indicates that some groups of the population appear to be at greater risk than others. They include the elderly, smokers, heavy drinkers and those with underlying health problems, especially, if immunosuppressed. This directly relates to hospitals and to people passing through shopping centres. Many of the outbreaks overseas have occurred amongst hospitalised patients and elderly tourists in hotels. There are no records of children contracting the disease. It indicates that cooling tower design is absolutely vital and that due consideration must also be given to reticulated tepid water systems, central hot water systems, storage calorifiers and other warm water systems, particularly if they serve aerosol producing devices such as showers, spas and decorative fountains.

The document also indicates that the disease is caused by bacteria and not by a virus and that it is a rare form of pneumonia. Few antibiotics are suitable for its treatment, penicillin and the like have no effect, and there is no vaccine. The document also indicates that tower suppliers in the case of air-conditioning units should provide a cleaning service on a regular contract basis and before a tower is established that should be part of the requirements.

It also states that periodic inspection of mechanical equipment, fill, and both hot and cold water basins (sumps) should be carried out to ensure that they are maintained in a good state of repair. Towers should be individually inspected to monitor their condition, trends and needs for corrective action. It states that storage hot water systems are not to be provided in a system where they use warm water. Existing systems should also be identified and clients advised of the need for retrofit. Warm water for existing and new warm water systems is to be produced by the use of mixing systems which distribute cold water at 15 to 20 degrees and hot water at 60 to 65 degrees separately from mixing valves located close to the point of use. That is an important factor when one thinks of the number of showers around that have a direct mix at the point of shower, where the two mix before the shower nozzle.

The document also says that overcrowded spas have been implicated in several outbreaks, and that correct chlorine dosage to match the population of bathers and frequent cleaning are important control measures. Evaporative coolers, room humidifiers, safety showers, decorative fountains, and drip trays at air-conditioning plant are all potential sources of legionnella growth. The frequency of the inspection and cleaning operations is dependent upon local factors but, once implemented, must be followed systematically. The document contains considerable information in relation to warm/tepid hot water systems in many hospitals for the elderly and for the intellectually handicapped where the water for bathing and showering has been provided in the past from a reticulated warm water system as opposed to an instantaneous hot/cold mixing water system. All water stored is held in a thermostatically controlled tank at 41 to 44 degrees—just higher than body temperature—in order to prevent any chance of scalding. This temperature has been found to be highly favourable to the growth of legionnella, given the presence of other suitable environmental factors.

It is obvious that potential problems exist in a large number of institutions in the city of Adelaide. It is also becoming clear that the city of Adelaide for some reason has become susceptible to outbreaks of Legionnaire's disease.

Is there a permanent checking system now of air-conditioning units for all major shopping centres and other places where a large number of people pass through, to ensure that there are adequate treatment programs in place and that there is no legionnaire's disease present in numbers that would lead to difficulties for people innocently passing by? Is there a checking system in place for major public and other hospitals and aged persons homes where the majority of people are clearly in the high risk group? In particular, is there a checking system in our major public hospitals where people are present in large numbers who are immunosuppressed and, therefore, in the most delicate situation in relation to the potential for them to catch this most disastrous disease?

The Hon. BARBARA WIESE: They are questions that I will have to refer to my colleague in another place and bring back replies.

STIRLING COUNCIL

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the Stirling council.

Leave granted.

The Hon. K.T. GRIFFIN: In her ministerial statement yesterday on the 1980 Ash Wednesday bushfire at Stirling, the Minister said in relation to the scheme to resolve the matter:

We intend to monitor closely the process of settlement of all outstanding claims. If undue delays or intolerable legal costs arising out of the settlement process occur, the Government will consider any separate procedure required to meet the circumstances.

My questions to the Minister are:

1. Recognising that liability for the Ash Wednesday bushfire at Stirling in 1980 has now been resolved, over what period of time would the Minister expect the claims to be finalised?

2. What period of time would be regarded as representing undue delay?

3. What amount would be regarded as 'intolerable' legal costs?

The Hon. BARBARA WIESE: All those questions are very difficult to answer, but as far as the settlement of claims is concerned in some instances with claims that have been made upon the Stirling council there already has been agreement reached as to quantum between the council's solicitors and claimants. There are a number of other claims upon which there is significant disagreement as to quantum, and those matters will have to be resolved, probably through the courts. As I understand it, some late claims have come forward, and it will have to be determined whether or not those claims should be allowed. So, there are still a number of issues outstanding.

As to how long it might take to resolve those issues, particularly as they relate to the claims which must come before the court, I am not in a position to say. It depends, obviously, on the extent of the claim, the extent of disagreement, the scheduling of court hearings and a range of other things. I understand that hearings have already been scheduled to start that process. The reference in my statement yesterday to the Government's preparedness to consider ways of shortening the process is simply there to indicate that there may be other ways of dealing with these matters if parties agree and should the legal process seem to be prolonged. Clearly, now that the council has accepted the court's judgment and is not planning to appeal, everybody who has been involved with the matter—the Stirling council, its ratepayers, the claimants and the State Government—are very keen to see the matter resolved as quickly as possible.

If the parties involved requested action to be taken that might shorten the processes, a number of available options could be considered. For example, I believe there have been instances in the past where parties have agreed that in such circumstances matters not be placed before the court but, rather, an arbitrator, a judge, or someone else has been appointed to look at both sides of a case and make a judgment about the damages involved in particular cases. I do not know whether or not that is something which would be desirable or desired by the parties involved, but I believe that, if the court process seems to be dragging this settlement of Ash Wednesday bushfire claims beyond a number of months, then some people may feel that another process might be desirable. I am not making a judgment about that one way or the other; neither do I advocate that such an alternative process be set in train. I simply signal that it may be something which arises and, if it does, then the Government would consider it.

TOURISM BROCHURE

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

Leave granted.

The Hon. L.H. DAVIS: Recently, I was provided with a copy of the major tourism brochure which was produced this year to promote South Australia both interstate and overseas, either through travel agents or through Tourism South Australia offices. The Minister would be familiar with the brochure which is called '1988: Time to Discover the Pleasures of South Australia. Surprise Yourself'. I was given this brochure by somebody who said that they had been surprised and they wanted me to look at it. In this brochure passing reference—three lines—is made to the fact that every year Adelaide stages one of the world's most acclaimed arts festivals, but there is no reference in this 56 page document to Adelaide's unique North Terrace cultural precinct which stretches from the Botanic Gardens to Old Parliament House. There is not even a photograph of North Terrace.

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: I am talking about the current major brochure which promotes South Australia interstate and overseas. Not only are there omissions such as that one but also there are some very basic errors. For example, there is half a column on the Lakes Resort Hotel, which is described as being a 'modern resort hotel at West Beach'. The only trouble is that the hotel is located at West Lakes. There are inconsistencies as between the accommodation map and the description of the venues. Some venues which are described do not appear on the accommodation map and in some parts the grammar is poor.

My questions to the Minister are as follows. Given that tourism is all about excellence, did the Minister of Tourism, who is also the Minister Assisting the Minister for the Arts, examine this major brochure before it was published? Does she make it her business to look at such publications? Does she agree with the glaring omission of any reference to North Terrace, given that Adelaide is the Festival State and that it is much more than the Festival of Arts every two years? Has there been a closer check of new publications and those in the course of production to ensure that basic errors such as those I have mentioned will not be made?

The Hon. BARBARA WIESE: I am almost speechless at the range of issues that the Hon. Mr Davis raises in this place on tourism questions when—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —there are so many very big and important issues to be determined and resolved in the tourism area and in the tourism industry in order for South Australia to succeed and to improve and increase its market share. I must say that I find it very wearying that the Hon. Mr Davis seems to spend most of his days going through brochures, looking at signposts and trying to pick—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —on every small instance of failure or mistake that might have been made by one organisation or another, instead of concentrating, as one would expect a parliamentarian to do, on the broad policy issues and directions of the Government and the tourism industry in South Australia in what is now Australia's fastest growing industry. I would hope that the Hon. Mr Davis could confine his contributions to things of much greater substance which might provide some constructive assistance and encouragement to people who spend an enormous amount of time and energy attempting to improve the industry in this State and to lift the game of the organisation of Tourism South Australia and the various industry bodies and individual operators in the tourism sector in this State. I would hope—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Have I said that? Why don't you wait and hear my replies before you interject? Very many pieces of literature are produced by Tourism South Australia to promote South Australia within the State, more widely across Australia and also internationally, and the quality of the literature that has been produced in the past 12 months or so is a significant improvement upon the information and literature that has been produced in the past.

At my direction, strenuous efforts are now being made by officers of Tourism South Australia to ensure that all literature that is produced by the organisation is accurate, because there have been instances in the past where particular maps or information which have been included in literature has not been accurate. That is a source of enormous concern to people in the industry, and it is of great concern to me as well, because it is important that the material we produce is accurate. If there are mistakes in the brochure that the honourable member has identified—

The Hon. L.H. Davis: It's a major brochure.

The PRESIDENT: Order, Mr Davis!

The Hon. BARBARA WIESE: —then I will be happy to take up those matters with my officers and, at the first available opportunity, when a reprint is to be made, those mistakes will be corrected. But I must say that, even though that brochure may contain two or three mistakes, as outlined by the honourable member, it is a very significant piece of material which is being used extensively and successfully to promote the State. I do not believe that the mistakes that may be contained in it will have any significant impact whatsoever on our capacity to promote South Australia as a tourism destination.

Indeed, the literature itself is important in achieving that, as is the national television campaign which was launched a couple of weeks ago and to which the Hon. Dr Cornwall, who recently viewed one of these advertisements interstate, has just referred. That campaign has been an outstanding success, even in the short time that has already elasped since it was launched. We have had a much better response from the advertising campaigns in the interstate market and also in South Australia than we might have anticipated. This is very much a good news story for tourism.

However, the Hon. Mr Davis would not be interested in hearing about that because he is interested only in knocking tourism and Tourism South Australia. He is interested only in trying to degrade and denigrate the efforts of some very fine people in the industry and within Tourism South Australia who are doing something very constructive to promote this State. They are not knocking and picking the State, and carrying on in the petty way that the Hon. Mr Davis does on almost every occasion that he can find, both in this place, in the press and as he moves around the State to denigrate the State our tourism effort. I really wish that the honourable member would either concentrate on the things that he knows something about or do something about encouraging those people who are trying to make a positive effort in this area.

ABORTION CLINIC

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Attorney-General, a question about abortion clinics.

Leave granted.

The Hon. J.C. BURDETT: On Thursday of last week the Hon. Mr Cameron asked a question in which he referred to a recent article in the new newspaper the *City Messenger* relating to plans to set up a free standing abortion clinic in the existing Child and Family Centre in Melbourne Street, North Adelaide.

Section 82a of the Criminal Law Consolidation Act, requires that any treatment for the termination of a pregnancy be carried out in a hospital or a hospital of a class declared by regulation to be a prescribed hospital, or a hospital of a prescribed class for the purpose of the section. There is no definition of 'hospital' in the Criminal Law Consolidation Act. If a free standing abortion clinic is not a hospital within the meaning of the Criminal Law Consolidation Act, legislation will need to be introduced to enable the clinic to be established. If such a clinic is a hospital within the meaning of the Act, regulations will need to be made.

Does the Minister consider that a free standing abortion clinic is a hospital within the meaning of the Criminal Law Consolidation Act? If so, when will the appropriate regulations be made in relation to any suggested free standing abortion clinic? If that is not the case, when will appropriate legislation be introduced?

The PRESIDENT: I point out to the honourable member that I believe the first question was a request for a legal opinion and that that is not permitted under Standing Orders.

The Hon. J.C. BURDETT: On a point of order, Madam President, it was not a request for a legal opinion. The Attorney-General is the Minister who administers the Criminal Law Consolidation Act, and he will have to act in one direction or the other to introduce either legislation or a regulation. It was not a request for a legal opinion but a question whether he considers that a free standing abortion clinic is a hospital within the meaning of the Criminal Law Consolidation Act so that we know which way he will go: whether he will introduce legislation or a regulation.

The PRESIDENT: I hesitate to argue with lawyers, but it seems to me that to ask whether something fits a definition is to ask for a legal opinion.

The Hon. BARBARA WIESE: I will refer all questions to my colleague in another place and I am sure he will be able to decide whether or not the first question is asking for a legal opinion, and will also provide replies to subsequent questions.

SACAE

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Employment and Further Education a question about the South Australian College of Advanced Education.

Leave granted.

The Hon. R.I. LUCAS: Members will know that in recent months a lot of criticism has been made about some senior management decisions at the South Australian College of Advanced Education. For the first time that I can recall, a retired senior academic of the South Australian College has gone public with quite detailed criticisms of its administration. In a recent edition of *Crow Magnus*—a magazine which circulates within the South Australian College—a letter appeared signed by Mr Neville Ford, who described himself as a retired academic. Indeed, I am advised that he is a former senior academic from the college who has spent most of the 20 years of his service to the college serving on staffing committees or their early equivalents, as well as doing his own normal teaching duties. Mr Ford makes some

very damning allegations about recent decision-making in a number of areas in the college. I will quote from a number of sections of this letter. First, Mr Ford talks about the appointment of four new deans of the South Australian College, with an annual cost to the college for these unnecessary appointments of about $250 000. He talks about:

> ... the unnecessary promotion/s of staff who are part of what I can only describe as a senior administration 'clique' or 'coterie'. The majority of these promotions not only involve a considerable and unnecessary drain on annual college funding, but they are awarded without going through the 'due process', that is, staffing committee (now resources committee) and full College Council, as is the normal case in appointments and promotions, are not asked to approve these salary changes.

I am also advised that a recent example is that of a senior appointment to the South Australian College, where the wife of the successful applicant was on the selection committee for that position, and was indeed the person to whom all job applications for this senior appointment had to be forwarded.

I return to Mr Ford's criticisms. He said, in relation to planning bungles and the waste of money:

> The provision of an expensive underground sprinkler system on Underdale Campus oval and surrounds. Approximately two months later, this new and operable watering system was rendered, except for a single line on its periphery, non-functional, being covered by a large transportable for nurses and a permanent child-care centre. While the child-care centre building was Commonwealth funded its siting, like the sprinkler system, was in the province of senior college 'planners'. I hope you forgive me for expecting the most vaunted aspect of resource managers—'forward planning'—to have a bad time in excess of two months!

Finally, I quote from the letter in relation to further examples of what are, in Mr Ford's view, planning bungles:

> The 'Glenelg Tram' sized transportables for nurses at Underdale. These transportables were placed on foundation blocks, fully serviced with power, light, water and air-conditioning, only to be condemned on completion by nurse educators for being too narrow for any teaching function. One has to ask why the nurse educators were not consulted about their size needs, before the buildings were ever considered in the first place. As a result, the Glenelg trams—

that is his description for the transportables—

> were then unserviced and carted away to be replaced with a large white transportable from Darwin.

Also, photos accompany the letter. I am sure all members would agree that, certainly, some very serious claims are being made by Mr Ford, someone who, as I have said, has had a long history of experience in senior administration in the South Australian College of Advanced Education, and in particular in relation to staffing committees. Will the Minister of Employment and Further Education urgently investigate these claims that have been made by Mr Ford, and others, and bring back an immediate report to Parliament?

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

DOMESTIC VIOLENCE

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

Leave granted.

The Hon. DIANA LAIDLAW: One of the main recommendations of the Domestic Violence Council report, which was released last year, related to the development of an information campaign, preferably on a national basis, to influence community attitudes on domestic violence, with a focus on the effect of domestic violence on women and children. Understandably, the Director of the Domestic Violence Prevention Unit, Ms O'Loughlin, is working closely with the Federal women's status office to plan the implementation of a national campaign, to be launched possibly in March 1989. I understand also that it is proposed that South Australia's contribution to that national campaign will be some $70 000.

Members would be aware that information campaigns conducted in the past, whether on the subject of domestic violence—and they certainly have been held in the past on this subject—or on child abuse and protection, have precipitated calls for help and assistance which, generally, have been well beyond the capacity of community services to handle. It is with this background that I highlight the concerns recorded by the Acting Director of the emergency women's shelter at North Adelaide at that shelter's recent annual general meeting. I quote from her report as follows:

> In June 1987 a mere $2 000 media campaign was organised by South Australian women's shelters and the result was overwhelming. Shelters became over-full and telephone inquiries increased tenfold. The implications and expectations of a $70 000 media campaign are devastating ... The stress that the intended media campaign will cause must be counteracted with the provision of extra resources and extra funding for agencies dealing with victims of domestic violence. There is no extra funding available for women's shelters which are already seriously under-funded. The campaign will cause more hardship and pain as women leave violent situations to be met by inadequate back-up services.

Those comments have been made by an experienced worker in women's shelters, and members will recall that the women's emergency shelter at North Adelaide was the first to be established in South Australia and it has a sound reputation for quality of service and concern in this field. Does the Minister of Community Welfare believe that the adequacy of back-up services for victims of domestic violence is an important consideration in planning the implementation and timing of any proposed national campaign on domestic violence? Further, is the Minister confident that the women's shelters in South Australia are in a sound position to cope with the anticipated demand for their services arising from the forthcoming national campaign?

The Hon. BARBARA WIESE: As the honourable member would know, a previous Labor Government began the women's shelters movement in South Australia in the first place, and over the years it has been responsible for the provision of quite extensive services throughout the State and also for the various back-up supports that have been necessary. As with many other services in our community, the Government would like to see more being done by way of support and assistance for women's shelters and the people who are involved in the very serious situation pertaining to domestic violence. I know that the Minister of Community Welfare has taken a very keen interest in this area over many years and that she is doing as much as she can to see that the services provided to the women's shelters movement in South Australia are as good as they possibly can be. In respect of the particular issues that the honourable member has raised, I know that they relate to matters that the Minister has been examining. I will refer the Hon. Miss Laidlaw's question to the Minister and bring back a reply to the matters that she has raised as quickly as possible.

FOSTER CARE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Community Welfare, a question about foster care.

Leave granted.

The Hon. M.J. ELLIOTT: An article in Monday's *Advertiser* quoted comments made by Brian Burdekin, the Human Rights Commissioner, in relation to the inquiry that he worked on. The article stated:

> The State ward system in most States is guilty of neglect amounting to manslaughter, an Australia-wide inquiry into child homelessness has found.

This has encouraged me to ask a few questions, as I have had some lingering doubts for quite some time about this matter. I want to bring the following matters to the attention of the Minister. There has been a known shortage of foster parents in South Australia for some time.

The Hon. Diana Laidlaw: For some years.

The Hon. M.J. ELLIOTT: Yes, for some years. Advertising campaigns have been conducted from time to time to try to get more foster parents. As a teacher living in a country area I was aware of what was happening in relation to fostering—perhaps more so than other teachers had been. It was common talk around the staffroom table about how certain children came to be placed with certain families. Often children were placed with a family who could not look after their own children properly. That is not a reflection on the fostering procedures, but that sort of thing was occurring from time to time.

Since I have been in Parliament I have received a number of complaints in my office. Those complaints have included the matter of multiple placements of children, often over a short timespan and children being left in emergency foster care as though it was long-term foster care—often because other foster care was not available. Also complaints have been made about the frequent changes in schools attended by foster children, about the failure of Department for Community Welfare workers to provide information to natural parents, to teachers and to foster parents, and about a failure of DCW workers to monitor placements. Also, foster parents have complained about difficulties in obtaining assistance from DCW workers, and I have heard from angry and disillusioned foster parents in general.

A study was carried out in 1986 by Sue Ellen Carey, who was looking particularly at education, and that study reveals and confirms the concerns that I have mentioned. Over 50 per cent of children in that study had been moved from two to over six times as foster children. The breakdown was as follows: 31 per cent of children experienced two to three placements; 15 per cent were placed at four to six different placements; and 8 per cent in more than six placements. Another study, an extensive one, carried out between 1951 and 1973, concluded that a history of more than three placements was indicative of neglect and detrimental to a child. Effectively, this would suggest that close to a quarter of the children in foster care were being neglected.

The United States has recently experienced a rash of litigation, where children who had been placed in foster care were now suing the Government for Government neglect in relation to those placements. At this stage I might add that I am not being critical of either DCW staff or foster parents. The complaints that have been made to me quite simply relate to the fact that the Department for Community Welfare is inadequately resourced for its job and that departmental personnel cannot work on anything more than the most serious of problems, as they are just too thinly spread on the ground. I ask the Minister the following questions:

1. What is the current situation in terms of availability of foster parents?

2. How many full-time equivalent workers are allocated specifically to foster care and how many families are fostering children?

3. Has the Government considered the ramifications of court actions and the possibility of whether or not DCW workers or the Minister could be considered culpable? Has it also considered where in the courts recourse might be taken?

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

ASH WEDNESDAY BUSHFIRES

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question on Ash Wednesday bushfires.

Leave granted.

The Hon. K.T. GRIFFIN: I was interested to hear the response by the Minister to my first question and her indication that perhaps a matter of months might be regarded as the point at which some alternative procedures might be established by the Government at the request of parties with a view to resolving outstanding claims. In light of that answer, I refer the Minister to the fact that some claims arising out of the Ash Wednesday 1983 bushfire at McLaren Flat (remembering that the Supreme Court in August 1985—over three years ago—decided that the Electricity Trust of South Australia was liable), still remain unsettled after three or more years. Some look as though they will not be settled even next year. In the light of her earlier answer and the period of over three years since liability was determined against ETSA in relation to the McLaren Flat bushfires in 1983, does the Minister regard three years as representing undue delay? If translated to the Stirling situation, would she regard that as undue delay sufficient for the Government to intervene if the claims against the Stirling council were not resolved within that time?

The Hon. BARBARA WIESE: It is certainly a long time for those waiting for settlement of claims. Everyone who would take an interest in that matter I am sure would, at the very least, sympathise with the people involved for having to wait such a long time to receive satisfactory settlement after such fires. I am not in a position to make judgments about the processes that have been adopted with respect to the Electricity Trust fires because it is not something with which I have been closely involved. However, I have had some contact with issues relating to the Stirling claims.

In view of the fact that the people who have been involved in these fires have waited eight years already for the matter to be established as to whether or not the council is liable, many people are becoming very impatient, to say the least, with the legal processes and I am sure would want a speedy resolution of the situation, if that is at all possible. I am not sufficiently familiar with the legal processes involved in these matters, but I would be willing on behalf of parties involved to take up the question of alternative means of settling claims if that is desirable and advocated by the parties involved. If I were requested to take that action I would consult appropriate legal advice on how these things could be achieved. I cannot say more than that. I would want action taken before three years if that is at all achievable. These people have already waited eight years for some satisfaction. The matter has now been determined legally and it is important to do whatever is possible to bring the matter to a close and provide appropriate financial settlements for victims of the bushfires.

GOVERNMENT FACILITIES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister, representing the Minister for Emergency Services, a question on the sale of Government facilities.

Leave granted.

The Hon. J.F. STEFANI: The Metropolitan Fire Service has training facilities at Wakefield Street, Adelaide and Brookway Park, Campbelltown. The Brookway Park complex is located on a large area of land and the centre provides training to Metropolitan Fire Service cadets and personnel as well as to volunteers attached to the Country Fire Services. In addition, the grounds are jointly utilised by TAFE, which provides horticultural courses for approximately 15 young people at any one time and fire prevention courses are also conducted for private industry. Suggestions have been made that the Minister is considering the sale of the land and the relocation of training facilities to Fort Largs. My questions to the Minister are as follows:

1. Will the Minister confirm or deny any plan to sell the training complex at Brookway Park?

2. Will the Minister advise whether, if the land is sold, arrangements will be made for future training of students undertaking horticultural courses?

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

CHLORINE BLEACHING

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister for Environment and Planning, a question on chlorine bleaching of wood pulp.

Leave granted.

The Hon. M.J. ELLIOTT: Most wood pulp, and certainly wood pulp in paper mills in the South-East of South Australia, is currently being bleached through a chlorine process. That is the way that we achieve the very white papers. Recent evidence has been accumulating in both Scandinavia and the United States which indicates that, whilst the pulp is being bleached, some of the chlorine interacts with elements in the pulp and produces dioxins. It creates them in extremely small quantities, but it is worth noting what Professor Boekelheide of the Organic Chemistry Division of the University of Oregon testified in a recent court case. He stated that dioxins are fantastically toxic and are commonly quoted as being the most toxic simple organic molecule known to man. Its acute oral lethal toxicity in guinea pigs is 0.0000006g/kg. Apparently one ounce of pure dioxin would amount to 800 000 lethal doses for humans. There is no suggestion that anyone is receiving lethal doses of the substance.

There has been such serious concern that Sweden has taken very strong steps. I will read a very brief release put out by the Swedish Environment Minister, as follows:

Reuter—Sweden said on Monday it has ordered an inquiry into the amount of potentially dangerous chemicals used in domestic paper products as a step towards reducing them and then banning them completely. Environment Minister Birgitta Dahl said she wanted household paper products such as toilet rolls, kitchen paper and baby nappies to be completely free of toxic bleaching agents such as chlorine and dioxins within a year. Scientists say bleaching products pose a threat to nature once they are used and then discarded by the consumer, while factories producing the substances also pollute the environment. 'If we get chlorine-bleached paper out of consumer products we will also lose huge amounts of chlorine from the industrial process,' Dahl told an environmental conference in the central Swedish town of Falun.

The argument she put forward was that bleaching was purely for cosmetic purposes and was unnecessary. In fact, there are alternative processes using oxygen, which do not create the problems. I received a letter concerning the mill in the South-East, first relating to the level of dioxins which would be going into Lake Bonney and eventually out to sea. Although Lake Bonney has been something of a sacrificial area in recent years, it still caused concern; possibly, concern about occupational health and safety of workers at the mill and, finally, concern about what level of dioxins could be in the paper. The dioxins can be a danger if they occur in parts per quadrillion and, as I understand it, Australia does not have a device which can even detect them at that sort of level.

Will the Minister look into the question whether or not dioxins are finding their way into the environment and also into paper products here in South Australia, and will she also look at whether or not it is necessary to use the chlorine bleaching process or whether alternatives such as not bleaching at all or using oxygen could be considered?

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

LEAVE OF ABSENCE: HON. C.J. SUMNER

The Hon. G.L. BRUCE: I move:

That leave of absence until 31 December 1988 be granted to the Hon. C.J. Sumner on account of ill health.

Motion carried.

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 of Low Income Groups in South Australia be noted.

(Continued from 9 November. Page 1354.)

The Hon. PETER DUNN: This report was brought down approximately one month ago and I do not wish to expand on it, other than to comment on some things that have happened. The housing industry in South Australia has been well developed, and got off to a very good start when, during the Playford era, it was deemed that it was necessary to have housing for the people and that that housing be made reasonably priced for the very rapid increase in workers, because this State was being industrialised, particularly with the development of Elizabeth.

It was under the management of Mr Alec Ramsay, a man who was born in the area I came from, that the Housing Trust really got away to a very good start. It proved to be very successful and proved that it could do the job. It provided good, cheap housing to those people who needed it, and it was so good that we were able to attract many people from interstate and overseas, because it was at that time that the Australian migration program was in full flight. We were able to take on a lot of people who were migrants from Europe and, particularly, England, and the development of Elizabeth was quite dramatic.

At the time, I was a student at Roseworthy College, and I recall driving through that area. It was just paddocks then, grazed by sheep and cattle, and nothing more than that. Every now and again on the horizon one saw a train go

past. I suggest that people drive up there now, because Elizabeth is a beautiful town, made that way by the planning that went into it. We should acknowledge that the Housing Trust had the foresight to develop the area and plant many trees there.

Since we have had a change of government, it appears that there has not been the emphasis on that cheap housing and it has wound down, particularly since we have had a Federal Labor Government which has repeatedly cut back the input into housing across Australia. We in South Australia have been hit particularly hard because we had developed a system whereby we could use a lot of Federal funding for the provision of housing for low income people, but the Federal Government, in its wisdom, has seen fit to cut those funds quite dramatically.

So, we have got ourselves into a situation where we have had this very dramatic rise in the number of people requiring Housing Trust homes. The number has risen at an alarming rate since the early 1980s—since 1982, in fact, since the present Labor Government took office. I guess that this select committee was appointed in response to that increase in the number of people requiring houses, which at the moment has risen to about 40 000.

The figure is a ballpark rather than a specific one, but I think it indicates what has happened. We can do very little without money and, if the Federal Government reduces funding to this State because it believes that we have had more than our fair share in the past, this State Government has probably been rather weak when negotiating contracts with the Federal Government.

The committee looked at the question of a consolidation of housing within Adelaide. I was a signatory to these recommendations, but I do not believe that we really need to consolidate very much in South Australia. We are not short of land. There is land north and south of the city and, provided that we have good roads and a reasonably well developed transport system, there is no reason why we cannot develop Adelaide a great deal more. Places like Sydney and Melbourne cover much larger areas than does Adelaide. Other than making Adelaide, particularly the centre of Adelaide, a place in which people can and do live, I do not believe that much consolidation is required. I do not agree with the idea of having a sterile business centre city where no people live. However, a lot of evidence was presented to the effect that it is very expensive to infill these areas with housing for low income earners.

That is very understandable, because everybody wants to live close to their place of employment. Naturally, people who earn higher incomes are prepared to pay more that they can live closer to their place of employment. As a consequence, I do not believe that people earning lower incomes will move closer to the centre of the city; rather, they will probably remain on the periphery of the city.

The committee also referred to the Housing Trust's program of infilling. In the 1940s and 1950s, each house was built on a quarter-acre block of land, but the Housing Trust has acquired these blocks, particularly corner blocks, and erected seven or eight houses on the backyards of about three blocks. These houses are well designed and they cater more particularly for single parent families, married couples without children and single people. I suppose the trend towards that type of family is increasing, so there is a demand and necessity for that type of housing. In the future, people who build houses in the private sector to provide housing for whatever strata of income need to be cognisant of the fact that the demography and society is changing, particularly here in South Australia.

The recommendations referred to the fact that the South Australian Urban Lands Trust has a continuing role as a banker and developer of land in separate and joint ventures. I believe that we will see an increasing number of joint ventures. The Urban Lands Trust has been criticised for maintaining high land prices, and that claim could probably be substantiated. I do not believe that the State should become involved in the development and holding of land, because in the past companies, which have held land hoping that prices will increase, have collapsed. New South Wales people got their fingers burnt by investing in those sorts of companies which held land in the hope that its value would increase. It is a private enterprise business and it should remain so.

Mr Murray Hill, who was a member of this committee, was very adamant that we should look at the nuclear family and the fact that, in Australia, unlike a lot of European countries, we do not have extended families living under the same roof. In an extended family situation grandparents can care for the children whose parents work. Mr Hill was quite adamant that small granny flats should be built in our rather large backyards. In general, the committee agreed with that proposition and recommended that that alternative be investigated. Such a system has been tried in Victoria, without a lot of success, but perhaps we can slightly change the criteria and it may work here. Because South Australian houses have such large backyards, in some cases such a system may work.

The twelfth recommendation refers to accommodation for young people, itinerant workers, students and country people. This really is a very vexed problem. Being a member of the Isolated Children's and Parents' Association, I know how difficult it is to find suitable accommodation for secondary and tertiary students. I believe that, although in the past it has not made any attempt, the Government should supply some accommodation for those people.

Finally, the committee looked at high rise development in Adelaide. It decided that high rise accommodation was not suitable for this city and I agree with that finding. Adelaide has a lovely vista with the hills in the background and the sea to the west, and I do not believe that that vista should be spoilt by the erection of city high rise buildings. Although the report is not world shattering, it is reasonable. Governments should continue to investigate this problem of housing for low income earners, and the mere fact that there has been a dramatic increase in the number of people seeking cheaper housing in this State indicates that the Federal and State Governments are not addressing this need.

The committee recommended that the Federal Government investigate the problem of housing, particularly in this State, because it is becoming more expensive for low income earners, who therefore have less access to and selection of housing. For those reasons, I support the motion.

The Hon. T.G. ROBERTS: I support the motion and, in doing so, I congratulate our research assistant (Helen Hardwick), who did a magnificent job. She undertook a great deal of work over and above what would be regarded as fair and reasonable. I think that we almost bordered on the point of exploitation of Helen's help, support and assistance. The committee basically agreed in terms of recognising and identifying need.

I do not think there were too many arguments about identifying what needed to be done to overcome it, although there was some discussion on the priorities in relation to how we addressed the problems associated with people on low incomes, the amount of funds that should be delegated

to accommodate these problems and how we could provide the support mechanisms for them to be able to afford even the small amount that people on low incomes pay for subsidised public housing.

The real problem was the support and assistance that was required for people in the private rental market. I think that, for all members of the committee who heard the submissions being put forward by various community groups, most sympathy did not lie with those people who were lucky enough to be in Government Housing Trust accommodation, which on inspection was found to be excellent in relation to the various types of homes and the areas in which the Housing Trust had built them. There was a mix of design features and of socio-economic groupings. The trust can therefore be congratulated particularly for the work it did in the 1960s through to the 1980s (and which, I guess, it will continue to do into the 1990s). It has done much to try to provide this balance which is necessary for societies to integrate, and to provide the best opportunities for people who live in Housing Trust homes to enable them to fit into communities so that the social interaction becomes automatic rather than having to overcome the stigma that may have been associated with some of the developments in the early 1950s. At that time trust houses were grouped together in large clusters, with little thought being given to their design features.

Given the financial problems associated with funding during the period between the late 1940s and early 1950s, and the large migrant intakes at that time, as well as the number of people who had to be housed, I suppose we should have some sympathy when reflecting on the Government's having to come to terms with those problems. Certainly, problems were associated with the rapid advancement of public housing in those times. The trust is trying to solve some of those problems by selling some of the houses in those areas so that they can be maintained, improved and expanded upon. People have availed themselves of that scheme and in some cases have provided the necessary mechanisms for alterations to upgrade the homes so that they fell into line with some of the standards that we see today.

We called evidence from witnesses in a number of sections of the community, including women's groups. We had a number of people from cooperative housing ventures, and we took evidence from departmental people, who gave us a report on Aboriginal housing and some of its associated problems. We were also cognisant of some of the problems associated with housing young people, not only in public housing accommodation but also in the private rental market, as well as with some of the problems associated with the mix of young people. In this respect, I refer to their needs and requirements for social integration in terms of living in communities with older people and the respect that needs to be given to the requirements of older people, such as turning down stereos, etc.; we were concerned to ensure that those problems were being addressed.

The committee also looked at people with disabilities and at some of the programs that were provided to support and assist them to become de-institutionalised and to go out into the broader community. We also took evidence from people living in rural communities about some of the problems associated with living in public sector housing, I refer particularly to those people in rural communities who were socially disadvantaged in terms of income. We looked also at some of the problems associated with supplying support structures through communities to ensure that those people felt that their social needs were being looked after.

Criticism and fear was expressed by some country people about the housing that was becoming available; this was particularly because of the lack of job opportunities in centres such as Whyalla (Mount Gambier could not be included in the same category), where there were fears that other socially disadvantaged people had some housing priority. However, their fears should not have been given the same priority as the provision of required accommodation support.

All people have the right to housing accommodation, and every Government, I guess, is judged to some degree by the resources that are allocated to and the priorities that are placed on providing accommodation for its people. A lot of people use housing for various reasons; most use it for accommodation, home support and refuge, this is particularly so in my case. Others use it as a social demonstration of what they have achieved over a particular period of their life, and yet others use it as a decoration and a show of social wealth and esteem to the rest of the community.

We were not looking at the problems associated with those who could have those sorts of displays. Rather, we were looking at the problems associated with providing adequate accommodation to suit the needs and requirements of those on low incomes who were part of the changing social order that we have witnessed over the last 10 to 15 years, that is, large increases in single people with children, both male and female, and older people who had lost their partners and were living alone.

Those problems were looked at in regard to the changing nature of housing demands and, from all the evidence that was supplied to us, it was apparent that there was a demand for a changing style of accommodation. This change was reflected in some of the evidence that was given in relation to the changing nature of society, particularly in the inner suburban areas, and the demand for smaller blocks instead of the standard quarter acre block. There needed to be more reflective thought about the way in which we built homes to meet social requirements of a particular historical period.

In the 1950s, 1960s and 1970s, the general theme was three bedrooms and a quarter acre. In the expanding, sprawling suburbia of all the major metropolitan centres, the view of local councils and Governments about the way in which accommodation is to be provided needs to be monitored. There has been a change in employment over the past 30 to 40 years. Smoke-stack industries with houses clustered around them never was a healthy way to build up a community. Smoke stack industries are being cleaned up to a certain extent. In fact, those industries are diminishing.

We now have the problems associated with the long distances that people have to travel away from their centres of work. The committee looked at the value of inner suburban planning where homes are built near to centres of work. There is some conservative resistence in local government to cluster housing and medium density housing. However, it was unanimous that nobody wanted high density housing with high rise. The problems associated with that sort of development have already been experienced, particularly in Melbourne, Sydney and other parts of the world.

There is enough evidence to support the fact that when buildings exceed four to five storeys the social order starts to break down, isolation sets in and people stop mixing. Britain is a good example of that, particularly in London where three to four storey apartment buildings were cleared out. There was a good community spirit in those places, particularly in and around London. The residents were cleared out and relocated in high density 30 to 40 storey housing and the whole social fabric broke down. In a lot of

cases those high density, high rise apartments—even though they are only 30 years old—have been knocked down and replaced by medium density housing. I believe that we can learn from that experience.

Unfortunately, some local councils have not been able to grasp some of the fundamental problems associated with housing and how those problems need to be grappled with. We have two illustrations of the differing views of local government to housing and where it should be going in the 1990s and the year 2000. One local council stands out positively in terms of its attitude to housing developments—the Munno Para Council. That council decided, through its planning initiatives, to allow high density housing in the local council area and to allow for the development of housing on smaller building blocks, with narrower roads, above ground storm water drains and other design mechanisms that are flexible enough to allow for change in some of the styles and structures that are required to lower the cost of housing so that it becomes more affordable.

At the other end of the spectrum, the Norwood council has placed some barriers in the way of the initiatives that have been attempted. Although, Norwood council has made some exceptions and there is some medium density, low cost public housing available, the battle is still going on in local circles and there is no unanimous view on future directions.

One of the problems in terms of allocation of funds for housing was in relation to the Federal allocation of funds. That allocation has been reduced because Australia's financial position over the past 10 years has declined. That circumstance presented problems, particularly to South Australia, in relation to the funding available. Certainly, there has been competition for existing funding and the waiting lists were higher than any State Government would like. However, the report does a lot to identify the problems associated with low cost housing for those on low incomes.

This committee could have met for any length of time given the change in social and economic circumstances. That situation could have obliged us to call more witnesses to draw a more complete picture. However, it is necessary to take stock at a particular time and make a report so that it could perhaps become a focal point for those building low cost housing in terms of attitudes to architecture, style and presentation. Hopefully, the report will encourage local governments to examine some of the regulations that they have made that prevent certain recommendations being implemented. Also, it is desirable that housing cooperatives and other community based organisations that provide support and assistance to low income earners get the support they deserve.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

EDUCATION POLICY

Adjourned debate on motion of Hon. M.J. Elliott:

That this Council expresses its grave concern at the Minister of Education's handling of his portfolio and in particular—

1. His failure to adequately consult school communities, that is, parents, students and staff, before amalgamation and closure of schools;
2. His proposed school staffing formula for 1989;
3. His proposal to gag school principals and teachers.

(Continued from 9 November. Page 1359.)

The Hon. R.I. LUCAS: I support this motion. I specifically refer to paragraphs 1, 2 and 3 of the motion. I must say that I think on balance the Hon. Mr Elliott is a little harsh in his criticism of the Hon. Greg Crafter in paragraph 1 of his motion. I think that any fair minded observer of the amalgamation debate would have to concede that in some areas—and I stress in some areas—the Minister and the department have undertaken extensive consultation with communities prior to any attempt to implement rationalisation or amalgamation—

The Hon. M. J. Elliott: What is 'adequate'?

The Hon. R.I. LUCAS: The motion reads, 'His failure to adequately consult school communities . . . before amalgamation and closure of school.' My reading of that part of the motion indicates that any consultation that has been undertaken has not been adequate. With the Joel Committee report in relation to schools in the Elizabeth-Munno Para area, and also the Newberry report in relation to the grouping of schools in the south- western metropolitan area, the department went as far as it could go in engaging in consultation processes with schools. The committee took evidence from a variety of people over time and then came forward with conclusions about various areas. These conclusions were greeted warmly or not so warmly according to the perspectives of particular school communities that happened to be involved or affected by the respective recommendations. The south-west metropolitan area committee's study certainly had room for criticism of the whispering campaign that was indulged in to facilitate the closure of one of the smaller primary schools in the south-west metropolitan area. Indeed, that aspect of the whole amalgamation process is one of the more insidious parts of the process.

The Hon. M.J. Elliott: It's still going on.

The Hon. R.I. LUCAS: It certainly went on in relation to the Fulham and Henley South primary school debate, and is going on in a number of areas as well. The whispering campaign goes along the lines that the school is going to close, so the parents make a judgment that they do not want to find, several years down the track, that they have to transfer their child midway through their child's primary or secondary schooling. Parents then look around and try to select another nearby school to which they can send their child. That procedure has been used and continues to be used in a number of areas to accelerate the decline in enrolments of certain schools: it then adds to the arguments of the department and its representatives when amalgamation or closure discussions eventuate.

Therefore, whilst I would have to say that there was at least a good attempt at consultation in those areas to which I have referred, there have been a number of other recent examples where there really has not been the wide ranging community consultation and discussion that the proposals merited. In particular, in relation to the Kidman Park and Findon High Schools amalgamation proposal—and also, I believe, in relation to the Fulham and Henley South proposal, to a degree—the department did not really engage in an extensive community consultation program. To take the Kidman Park and Findon schools as an example, the question that was raised by various representatives of parents and staff was why the department looked at only the two schools that were selected by some process for the amalgamation proposal. Some representatives argued that other schools in the area—Underdale, for example—ought to have been included in the discussions about what the proposed structure of secondary schooling ought to be in the western suburban area of Adelaide.

I noted from the Hon. Mr Elliott's contribution that he is not opposing school closures. He indicated that the Democrats accept the need for school closures in certain circum-

stances. To that degree, I guess all the major Parties in South Australia accept the fact that there will have to be some school closures. This motion expresses some criticism at the way certain closures have been approached by the current Minister and by the Government.

In addressing this aspect of the motion, I want to respond briefly to another aspect of the contribution made by the Hon. Carolyn Pickles. She said:

> The South Australian Opposition has already telegraphed its intentions. 'Liberals will close schools' said the headlines recently. So much for consultation; they have made up their minds already. 'We are going to close schools,' they say. 'Too bad what you think!' Once again they can only offer simplistic solutions to complex issues.

Those comments from the Hon. Carolyn Pickles really do not make much sense at all; they have no logical basis. The present Government has been engaging in the closure of schools to a greater degree than any other Government in the history of South Australian education. For the Hon. Carolyn Pickles to highlight what was, in effect, a press report of a motion moved by an individual branch of the Liberal Party—one of the many hundreds that we have—at the recent State council meeting, and then interpreting in some way from that that the Liberal Party was going to go ahead with school closures without any consultation at all, was indeed, to put it kindly, a quantum leap in logic on her part. It is certainly not based on any fact at all. I think it mirrors much of the approach taken by the Hon. Carolyn Pickles to this debate. As I have indicated on a previous occasion, her contribution has not added much at all to a sensible discussion of the motion that we have before us.

The second part of the motion refers to the proposed school staffing formula for 1989. The Hon. Michael Elliott has very adequately covered many of the concerns raised by school councils, staff associations, individual parents and teachers, and others interested in education, about the school staffing formula being implemented by the Bannon Government for 1989. In particular, major concerns have been expressed by those involved with junior primary schooling and with upper secondary schooling in South Australia. The Hon. Mr Elliott read at length from a number of submissions that he had received from various school communities. I, too, have received those submissions, as well as many others, as I am sure the Hon. Mr Elliott has too. Over the three years that I have been shadow Minister this issue has generated more correspondence to my office than probably any other.

I will not traverse the same ground as that covered by the Hon. Mr Elliott. He has done that very well and he has re-presented the views of school communities about the negative aspects of the staffing formula for 1989. I now want to consider something a little different in relation to the staffing formula, and this relates to the whole decision making process of the Minister of Education and the department in relation to the staffing formula. When the Minister introduced the new staffing formula for 1989 he indicated that it was intended to save $5 million to $7 million for the Education Department. He indicated that that saving would be utilised in a number of ways. It was pointed out that some $2 million would be directed towards professional development programs in South Australian schools. Secondly, some part, unspecified, of that $5 million to $7 million would be shunted off to general revenue to offset the cost effects of the 4 per cent salary rise for teachers which was agreed to this year. Thirdly, there were some other broadly unspecified spending aims of the Department that would benefit from another portion of the $5 million to $7 million.

As a result of the outcry that was generated by the introduction of the staffing formula and the fact that the staffing formula had not been properly thought through by the Minister of Education and the Bannon Cabinet, the Government was forced to give four guarantees to school communities. Those guarantees covered things like the continuation of continuous admission policies, vertical grouping in junior primary schools for schools that wanted to do that, and subject choice, in the secondary area in particular. As a result of the Minister's having been forced on the back foot by the extensive campaign and having then to give the four guarantees, he had to appoint, in effect, a principals' reference group in the Education Department, to channel back further funding into schools, in order to meet those guarantees and to prevent some of the more significant adverse criticisms of the new staffing formula in schools.

Information provided to me in recent days indicates that rather than saving $5 million to $7 million it may well be that the Bannon Government has been able to save only about $2.7 million as a result of the new staffing formula. I must say that varying estimates have been given to me. For example, the $2.7 million is at the lower end of the scale and the Bannon Government has had to put in an extra 100 salaried positions to meet those four guarantees. Other information forwarded to my office has indicated that perhaps the Government has saved not $2.7 million but up to $3.5 million to $4 million. Nevertheless, it is certainly many millions less than the upper limit of $7 million that it intended to save through the new staffing formula.

One would have thought that if a Government, supposedly in tune with what was going on in schools, was going to introduce a significant change to staffing in schools for 1989, it would have at the very outset properly considered all the ramifications and consequences of the new staffing formula. However, from the evidence available to members in this Chamber it is clear that the Minister of Education and the Bannon Cabinet had not thought through the effects of the staffing formula and was then forced into a situation of having to retreat and give certain guarantees, leaving us now with a situation where we do not know how much has been saved by the new staffing formula or whether $2 million will still be available for professional development for teachers in our schools, whether any money will be channelled into general revenue to offset the 4 per cent pay increase, or whether the other aims given by the Minister of Education and the Director-General relating to further spending proposals will be able to be achieved at all.

The last part of the Hon. Mr Elliott's motion relates to the Minister's proposal to gag school principals and teachers. I will quote some of the more extreme language used by the Hon. Mr Elliott in his contribution as follows:

> We have a paranoid Government which has been in office for too long. It is making mistakes and, rather than addressing those mistakes, it is trying to shut up the people who are pointing them out.

I can certainly agree that the Government has been in office for too long and that it is making mistakes. As the Hon. Mr Elliott says, rather than addressing those mistakes honestly it is trying to stifle criticism. We see that in relation to this proposal from the Minister, and also in the attitude of the Bannon Government in opposing steadfastly the freedom of information legislation. Mr Elliott stated:

> We have in Government a Party which talked about democracy, which talked about open government and now is doing the exact reverse. It cannot bear criticism. It cannot admit that it makes mistakes. The sort of move that is being made is a move towards totalitarianism.

I do not want to get as Party political as the Hon. Mr Elliott in accusing the Minister of Education and the Bannon Government of being a totalitarian Government, but I agree with his earlier comments about talking of open government and democracy in many areas, indeed in education, but when it makes mistakes or receives criticism of its policies it does not front up to those criticisms and seek to correct them but tries to suppress those who criticise the Bannon Government.

As we indicated publicly at the time this story was first released, the Liberal Party strongly opposes the proposal to treat principals as public servants. Indeed, on a previous occasion the Liberal Party led the charge in the Parliament against a similar Bannon Government proposal to treat TAFE college principals as public servants. We were pleased on that occasion to have the support of the Australian Democrats in opposing the Bannon Government's proposals in that area. At least on this occasion both the Australian Democrats and the Liberal Party are being entirely consistent in their attitude towards the concept of taking the key educators in our system—principals of TAFE colleges or principals of our schools—and trying to treat them no differently from a clerk or public servant within our Public Service system. Since the original criticism of this proposal the Minister has been seeking reverse gear as fast as he can on this issue.

The Hon. M.J. Elliott: He's got three or four of them.

The Hon. R.I. LUCAS: He has got three or four of them, as the Hon. Mr Elliott says. One explanation is that he did not know too much of the proposal and that it was undertaken by the previous Director-General. He stated that the new Director-General came in and he was obligated to circulate it, that it has not come to him or to Cabinet, that he does not know too much about it, and he does not want to know too much about the proposition. That has been one attempt to explain it away.

In a couple of other places in *Hansard* the Minister adopted a different approach to the whole issue. On 16 August in another place he stated:

> First, I am pleased to give an undertaking to teachers, parents and those interested in education in this State that there most certainly will be no gagging of statements of principals and others in our education system that are lawfully made—

I stress the word 'lawfully'—

> about issues affecting education in this State.

There was then an interjection from an honourable member, 'What does that mean?' I stress the words 'lawfully made'. Clearly, if the Minister provides, through amendments to the Education Act, for restrictions on the ability of principals to speak on education matters, the Minister can say lawfully that principals are not able or allowed to criticise decisions of the Education Department that principals see as adversely affecting their local schools. The key word in that is obviously what on earth the Minister means by 'lawfully'.

On 20 September during the Estimates Committees the Minister was asked a very mild mannered question by Mr Meier, as follows:

> Does the Minister still intend to introduce amendments to the Education Act to place restrictions on the ability of principals and teachers to speak on education issues this year? Is legislative change to be considered in this coming year?

The response by the Minister of Education was as follows:

> Obviously the honourable member believes the rhetoric of those who want him to create mischief in this area. There has not been any intention, by legislative means or otherwise, to do what the honourable member suggests.

Frankly, that is an astonishing statement from the Minister of Education. He is saying that there has never been any intention by legislative means or otherwise to introduce amendments to the Education Act to place restrictions on the ability of principals and teachers to speak out on education issues this year. Frankly, that is absolutely untrue.

The Director-General of Education circulated to a number of groups amendments to the Education Act to be introduced in this session. I frankly do not believe that the Director-General of Education in South Australia would circulate for comment amendments to the Education Act on such a sensitive issue as this—that is the ability of principals to speak out on education issues—and that the Minister of Education would not have been consulted about those amendments. It defies belief and I cannot accept that explanation from the Minister of Education in another place.

It is unacceptable that school councils and parent communities might be prevented from having their senior educator in a school, the principal, outline to the school council or parent group all aspects of a particular policy decision by whatever Government is in power. School communities and school councils have a difficult task in understanding what on earth the Education Department bureaucrats are up to. When a staffing formula change comes trundling through the system, on the surface if one reads the press release it might sound very innocuous indeed. Only the senior educators, after close consideration of the policy, are in a position to outline the effects of the staffing formula on that school. If principals are prevented from saying to their school councils or parent communities that the Liberal or Labor Government has introduced a policy, that the net effect will be that they will lose a number of subject choices or classes in the school and that in the principals view it is not to the educational advantage of all students in the school, parents will not be advised of such matters and something would be very wrong with our education system in South Australia.

I can only hope that the Hon. Greg Crafter, having put his toe into the water to test the temperature, will realise that the Liberal Party has indicted its steadfast opposition to that proposition. The Australian Democrats have also indicated their opposition. If legislation to achieve that purpose was introduced into the Parliament it would not be able to pass the Legislative Council. I conclude by indicating that I support the Hon. Mr Elliott's motion and urge all members of this Chamber to do so.

The Hon. T. CROTHERS: When the Hon. Mr Lucas—

The Hon. R.I. Lucas: Who wrote this one for you?

The Hon. T. CROTHERS: When you can learn to read and behave, I'll tell you. When the Hon. Mr Lucas began his contribution to this debate on Wednesday 9 October, he confessed to being somewhat bemused by the wording of the motion. He was bemused, he said, by Mr Elliott's inconsistencies. I have no doubt that his bemusement was strengthened by his own inconsistency in his attempt to criticise the Minister of Education. The bemused Mr Lucas not so long ago lavished praise on the Minister of Education (Hon. Greg Crafter) for his helpfulness during the Estimates Committees.

Rex Jory, writing in the *Advertiser* on 24 September, reported the Hon. Mr Lucas as saying that he received significant information from the questioning of the Minister of Education. 'Lavish', is, of course, a relative term when applied to words of praise from young Mr Lucas. We are so used to hearing him knocking that any form of praise for this side of the Chamber comes as a pleasant surprise and appears lavish by comparison with his usual contributions. Rex Jory himself, however, was a little more forthcoming. He wrote:

Mr Crafter performed well and rarely seemed under pressure.

This was in stark contrast to his comments about the performance of the Opposition during the Estimates Committees where, again, Mr Jory wrote:

It was clear that very few of the shadow Ministers and other Liberal members on the various Committees had done sufficient research and knew their subject sufficiently well to fluster the Labor front bench.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: Listen to him—he who would be the Education Minister! And listen carefully to what I have to say about that later. However, the Hon. Mr Lucas was not the only member of the Opposition to give praise to Mr Crafter, and I want members to listen to this. No less a person than the Leader himself was moved to acknowledge the Hon. Mr Crafter's competence. He said:

Other commendable contributions to the Committees were made by the Minister of Education, the Deputy Premier and the Minister of Labour.

I am quoting from the *Hansard* record of 5 October of the Appropriation Bill debate in another place. So, the bemused Mr Lucas and the Leader of the Opposition have given credit where credit is due. In contrast to this praise, Mr Lucas promised that he would not be critical of my colleague, the Hon. Ms Pickles, and then proceeded to heap criticism on her for her manner in delivering her speech. Mr Lucas's *ad hominem* attack did not succeed in being the red herring that he obviously hoped it would be, to draw attention away from the substance of Ms Pickles' comments.

The Hon. Mr Lucas was well off beam again—and that, of course, is usual with any criticism that he levels. He alleged that the Hon. Ms Pickles' speech was delivered before the Opposition had spoken to the motion, and he made out that this was somehow reprehensible. He either did not listen properly or failed to read his *Hansard* carefully enough. Ms Pickles, if the truth be understood, was responding to the Hon. Mr Elliott's opening speech in this debate. If Mr Lucas had taken the trouble to read the record of the debate carefully, he would have seen that Ms Pickles had not suddenly been gifted with the power of prophecy but was taking the opportunity to refer to several events then current, and anticipating some of the tired old Opposition complaints that get trotted out with monotonous and sometimes deceitful regularity.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: I am doing all right, I think. The Hon Ms Pickles said:

Members will recall the times that the Opposition has made snide and inaccurate remarks about consultation processes in education. I have no doubt that the Opposition will conveniently forget those occasions during this debate. Once again, if members of the Opposition support this motion, they will be trying to have it both ways.

That bears repeating: 'they will be trying to have it both ways.' Her anticipation of what members opposite would say was borne out. Mr Lucas, in his usual inimitable way, mouthed his predictable lines, just as Ms Pickles said he would. Ms Pickles did not need to tax her predictive powers too heavily. She even said so herself. She said that the Opposition had already telegraphed its intentions, and she quoted newspaper headlines which said, 'Liberals will close schools.'

Later in her speech, the Hon. Ms Pickles continued to speculate on what the Liberal contribution to the debate would be. 'I am fascinated,' she said, 'as to how Opposition members will rationalise their double standards if they support this motion.' It is foolish of Mr Lucas to bleat about how Ms Pickles got stuck into him and his Party's well-known attitudes before he had a chance to speak in this debate. The Hon. Mr Lucas made much of some unsubstantiated claims about the Minister of Education's popularity. I reject absolutely the Hon. Mr Lucas's allegations; however, it says much about his naivety when he tries to equate a person's popularity with his or her competence.

It is easy to try to score some cheap points by talking about a politician's popularity. Politician baiting is almost a national sport, and no matter how good a politician is at his or her job, you can always find someone who will complain. Perhaps Mr Lucas should take note of the words of my fellow countryman, Dean Jonathan Swift, writing about the clergy over 250 years ago, who said, 'Nothing can render them popular but some degree of persecution.' He could well have been writing about present day politicians. The Hon. Mr Lucas has certainly been doing his share in the disgraceful Opposition attacks on members of the Government in both Chambers. And he should beware of the kind of backlash that Swift warned us about some 2½ centuries ago. I do not go as far as to say that Opposition persecution will ever make present day politicians popular. The Hon. Mr Lucas now leaves the Chamber. I wonder whether he can pause first to listen to the rest of what I have to say.

An honourable member interjecting:

The Hon. T. CROTHERS: He is in the President's Gallery now: he is not in the Chamber. Certainly, there are plenty of signs in the community that the Opposition is losing what little sympathy and support it had because of its negativity and its tactics of constantly knocking. I cannot believe the way Mr Lucas blithely talked about alleged cuts to education funding over the last three years with a straight face. The amount of money spent on education each year is a matter of public record. The total education budget for 1987 was $726 million.

For 1988 it was $760 million, and for 1989 it is $816 million. These are facts which are beyond dispute and, in case the bemused Mr Lucas had not noticed, the amount has increased: it has increased, got bigger, expanded and grown. I hope that, by using repetitive and similar adjectives, I have got my message through.

The Hon. K.T. Griffin: It is in breach of Standing Orders.

The Hon. T. CROTHERS: Well, there's a go! The lawyer, Mr Griffin, interjects and says that I am in breach of Standing Orders.

The Hon. K.T. Griffin: Repetition.

The Hon. T. CROTHERS: How much do you want me to pay you to represent me? The Hon. Mr Lucas must know that the amount has increased. I refuse to believe that he is so bemused that he cannot tell up from down and that he genuinely believes that cuts are indicated by numbers which progressively get bigger.

When Mr Lucas spoke in this debate last week he was unkind enough to pass certain remarks about my modest ability with numbers. However, I am sure he will understand my motives when I give him this little lesson in arithmetic. I am merely trying to be helpful in order to lessen the honourable member's bemusement, which obviously extends to his understanding of the meaning of 'consultation'.

I do not intend to canvass that issue at any great length. Suffice to say that it was dealt with admirably by my learned colleague, the Hon. Carolyn Pickles, earlier in this debate. She gave abundant examples of the consultations which have occurred with school communities on matters relating to policies as well as to the provision of physical resources. Consultation means that one collects the necessary information, along with the opinions and comments from people who are involved or affected, and from those with special

interest or expertise. One then drafts proposals and options based on that information and presents them for response.

Depending upon that response, one may modify the proposals and eventually make a decision. When one does not like the outcome of a decision, it is easy to complain about the consultation process. If someone disagrees with a decision, it does not mean that that person was not consulted. In my view, Ms Pickles quite properly—and, I believe, effectively—pointed out the Government's commitment to consultation.

Since the Hon. Ms Pickles made those remarks early last week, the Minister announced that a Primary Education Board and a Secondary Education Board will be established. He made that announcement at the recent launching of the Education Department's draft three year plan. Consultation is one of the prime functions of these boards. The whole three year plan is a model of the consultation process in operation. This first draft is now subject to wider community consultation. The second edition of the plan will be published in July 1989 after community response has been considered. I believe that this is an example of responsible consultation, unlike the kind of shifting vacillation which Mr Lucas seems to advocate—a series of sycophantic attempts to please every disaffected group in the community.

The draft three year plan is a national first for South Australia, and that bears repeating: it is a national first for South Australia. It shows that this Government is committed to improving education in this State, and it spells out the priorities for education and the key goals for every school. In addition, the draft plan states how these objectives will be achieved and what the outcomes will be. This plan will be displayed in every State school for public perusal and comment. This is yet another example of the genuine and thorough consultation on education in South Australia, and it is about time that bemused Mr Lucas acknowledged it.

With respect to teacher numbers, Mr Lucas admits that over the past six years there has been a decline of over 20 000 students. Although the figure is closer to 23 000, he puts it at around 21 000. Incidentally, even then, the Hon. Mr Lucas could not resist the opportunity to denigrate State schools. He tried to make it appear as though 21 000 students had been removed from Government schools because their parents were dissatisfied. The truth of the matter is nowhere near that: the truth of the matter is that, because of changes in the demography, population patterns and birth rates, there has been a massive decline. In my view, it is mischievous in the extreme for Mr Lucas to imply that the enrolment decline is a reflection of community attitudes to State schools.

The Hon. Carolyn Pickles: Do you mean he's been telling porkies?

The Hon. T. CROTHERS: Well, you could put it that way—you could, but I would not. It is an example of—

The Hon. R.I. Lucas: You're much more genuine.

The Hon. T. CROTHERS: It is in *Hansard*—cheap point scoring at the expense of the reputation of those schools. The fact is that the continuing decline of an additional 3 000 students in the period 1988-89 will free up to 180 teacher positions. I want Mr Lucas to listen to this so that he will be further enlightened. Every one of those positions will be retained at a cost of about $6 million, and this will bring the number of teaching positions that have been kept in the school system over the past six years to 830, in spite of the loss of 23 000 students.

While I am in the process of trying to lessen the Hon. Mr Lucas' bemusement, I would also like to clarify a few other furphies that he has spread. As you would know, Mr Acting President, the word 'furphy' came from the type of water tanks that were much in use by the Australian Army in the First World War. Perhaps now that I am on my feet and enlightening young Mr Lucas—

The Hon. L.H. Davis: You're in the trenches, not on your feet.

The Hon. T. CROTHERS: Not yet—it is appropriate that I speak about a furphy as being a water tank which contains a lot of water. The Education Department's budget for administration has not blown out by $6 million, as Mr Lucas claimed. He has got it wrong again. It is obvious that Mr Lucas does not understand accounting practices, and this has helped to bemuse him. A number of budgetary decisions have taken place over recent years in order to improve accounting practices within the Education Department. For example, for 1988-89 the cost of Government-owned accommodation (that is, teacher housing and departmental offices) was transferred to the Education Department. This was a cost transfer of about $5 million.

Similarly, the costs of the Auditor-General's services were transferred to the Education Department and, simply put, this is not extra money that the Government is paying out; it is money which previously showed up against other lines and which is now shown against an Education Department budget line. The imposition of these cross-charges is in line with the Government's thrust to ensure that departments' accounts more accurately reflect the full cost of their operations.

In addition, there have been increases in costs previously transferred, for example, registration and third party insurance on vehicles, and the remainder of the increases is attributable to the full year's effect of salary increases. There are so many other areas where Mr Lucas shows that he does not really understand what is happening in education. One of his favourite complaints is about the position of a speech pathologist. The simple fact is that there has been no reduction in the number of speech pathology positions. Mr Lucas either does not know, does not want to know or chooses to ignore that speech pathology services were reorganised to improve services in the context of area management.

Rather than having only one central officer remote from schools, five senior speech pathology positions have been created to provide high quality leadership on site for each area. The Government believes that these positions will result in a significant improvement in the professional quality of speech pathology services across the State. The Speech Pathology Service is further supported by a sixth senior position based in the specialist resource section of the special services team at Underdale, the provision of an interstate scholarship to train a teacher as a qualified educational audiologist, and an additional salary for the Language Disorder Unit.

Commitment to services for children with disabilities is further seen in the establishment of a permanent School Education Technology Service. For instance, on 16 August this year, the Minister of Education announced several initiatives to support special education in schools. These included an extra 10 teacher positions freed up by the enrolment decline to provide:

(a) Six special school teacher-librarian salaries to help establish the first teacher-librarian network in the State's special schools to provide resource based training support for children and their teachers.

(b) Two extra visiting teachers appointed to Brighton Centre for Hearing Impaired Children and Mitcham Park Special Education Unit.

(c) An extra visiting teacher (whom I have already mentioned), based at the Language Disorder Unit at Ingle Farm Primary School to assist children in neighbouring primary schools.

Earlier this year, 20 extra teacher salaries were redirected to special education by the State Government to support children with disabilities in regular schools and other children with disabilities. The difficulty in recruiting speech pathologists is not a phenomenon that is unique to South Australia; it is an Australia-wide issue which the Education Department is helping to address by providing scholarships for five speech language pathology cadets studying at Sturt CAE. It is just nonsense for Mr Lucas to keep on pretending that a salary has gone away from speech pathology when it is obvious that more resources have been put into that area, and indeed into special education generally.

When young Mr Lucas talks about overstatement of enrolments, how does he reconcile his claims that the Education Department is not able to detect them, with the fact that the department identified them in order for people, including Mr Lucas, to know about them? During 1987-88, the Education Department conducted 544 enrolment audits; 294 were based on 1987 returns and 250 on 1988 returns. The Auditor-General's Report stated that 102 schools were reported for overstating enrolments. In fact, the figure of 102 was incorrect, and the Auditor-General subsequently contacted the Education Department and amended that figure.

The Hon. R.I. Lucas: That is right.

The Hon. T. CROTHERS: The correct figure for the information of the young, bemused Mr Lucas is 67 schools, 55 related to the February 1987 census and 12 related to the February 1988 census. The vast majority of these overstatements were fairly minor discrepancies. In every case the principal of each school was counselled about appropriate procedures and responsibilities. In a very small number of cases, disciplinary action was taken. The reality is that overstatement of enrolments is not the major problem that Mr Lucas tries to make out. The Education Department has a system of checks and balances to detect and correct errors that occur, and takes appropriate action where necessary.

Mr Lucas is also bemused over the issue of overpayments to teachers. He has distorted the picture and misrepresented the Auditor-General's Report, which clearly acknowledges a real improvement in this area in the past two years. As the report says, 'An audit examination in 1987-88 revealed that the position has improved further.' It must be realised that the Education Department is the State's largest single employer. This year, for example, it issued some 30 000 group certificates. Much of the overpayment is accounted for by the lead-time necessary for preparing a pay cycle, so that changes in the work force sometimes are not reflected until a later pay cycle. Overpayments represent only .1 per cent of the average fortnightly payroll, and most of these overpayments are recovered. In thanking the Council for the respectful silence that I have experienced during my speech, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

EXOTIC FISH

Adjourned debate on motion of Hon. Peter Dunn:

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.

(Continued from 9 November. Page 1360.)

The Hon. G.L. BRUCE: Last week, Mr Elliott in his address on this matter, raised some nine questions which he wanted the Minister to answer and which appear in *Hansard*. I directed the attention of this Council to Mr Elliott's questions and sent a copy to the Minister. I understand from a letter which I have received from the Minister and which he wrote to Mr Elliott that he has replied to those questions. In order to put the record straight, I intend to read the replies into *Hansard* as follows:

I note your comments to the council on 9 November 1988 concerning the exotic fish regulations and the motion of disallowance moved by the Hon. H.P.K. Dunn. I also note your specific request for written answers to a number of questions obviously provided to you by the members of the aquarium fish industry.

I am pleased to provide the following responses:

1. A major area of contention frequently raised by some industry representatives on the Aquarium Industry Liaison Committee has been their belief that the thrust and intent of the exotic fish regulations under the Fisheries Act 1982, have been contrary to the requirements of section 92 of the Australian Constitution. Section 92 has frequently been referred to as dealing with 'free trade between States'.

It has long been recognised by State Governments that section 92 is aimed at preventing a State from introducing unfair trade barriers and protection through State legislation. State Governments have always argued that this does not override their other responsibilities, such as in areas relating to environmental and disease aspects.

Over many years self-interested sectorial groups have exploited the confusion regarding interpretation of the section, particularly the legal profession. In May 1988 the High Court of Australia, in considering its judgment (*Cole v Whitfield*), took the opportunity to clarify this matter. In developing its ruling the court considered all previous cases relating to section 92. Due to the significance of this case the South Australian Government was represented. It is believed that all other State Governments were represented. The High Court ruling upheld the validity for States to implement legislation aimed at environmental and disease protection.

The interpretation of section 92 had been a significant source of debate in the liaison committee and the department sought Crown Law advice as to how the May 1988 ruling affected the then current legislation. The Crown Law Department recommended the amendments as gazetted and currently subject to the motion of disallowance. It is on this basis that my press release referred to previous agreements reached between the department and aquarium/hobbyists/traders, as it has been individuals of the latter who have strongly raised the issue of interpretation of section 92.

2. My advice to the Pet Traders Association of South Australia is based on the same chronology of events. In fact the pet traders' current representation (Mr A. Miller) has, over the years, been the most vocal on this subject. Mr Miller is the litigant responsible for the current legal challenge to the regulations.

3. The current regulations reflect the original intent of the 1984 regulations under the Fisheries Act 1982, before they were amended in response to liaison committee members concerns as a result of the then confusion over section 92.

Technically the Director of Fisheries is delegated the responsibility for approving species under schedule 5 of the regulations. In fact the regulation instructs that he cannot grant a permit unless the species is on schedule 5. Contrary to what is implied by some trade sectors regarding the Director's authority, amendments to schedule 5 are approved by the Government of the day. The Director does not actually assess the individual species applied for; this requires considerable technical, biological and taxonomic expertise in this particular discipline.

In reality the department employs a consultant taxonomist to carry out this assessment in consultation with a considerable number of similar fisheries experts both nationally and internationally. The species recommended by the Director of Fisheries for inclusion in schedule 5 have always reflected recommendations of the consultants plus the results of negotiation with trade representatives.

As trade representatives will be able to attest, and as reflected in the numerous of the records of discussion of the liaison committee and its forerunner, the consideration of species recommended for approval has also involved countless hours of detailed discussion with trade. Copies of these records of discussion are attached. Therefore accusations that the Director is the 'sole arbitrator' do not reflect the species assessment framework he himself established and what has happened in reality. It is correct that he is the delegated authority under the Fisheries Act 1982 to whom the above extensive assessment and liaison is directed.

4. This question acknowledges the concerns expressed by trade of the past various and diverse interpretations of section 92. As indicated in the evidence of the Joint Committee on Subordinate Legislation, the June 1988 amendment was in response to the then still confused interpretation. It is precisely for this reason that South Australia took a particular interest in the *Cole v Whitfield* case and when it was clarified Crown Law advised the most appropriate action. The department considered it was actually assisting the trade by clarifying the matter.

5. The Government was aware of the challenge to a recommendation regarding species approval by the Director of Fisheries, initiated by an individual (Mr A. Miller). This illustrates the problem facing the department under the April 1988 regulations (at that time without clarification of section 92). Despite the expenditure of considerable resources to obtain scientific advice on species applied for, and the extensive hours discussion with trade, the department was verbally advised by particular individuals in the liaison committee that 'if any species applied for was rejected, a legal challenge would be initiated'. The department is aware that this exposes it to ongoing and very costly litigation if any species applied for approval is rejected at any time. The department's preferred approach is for hopefully harmonious consultation in forming any recommendation regarding species approval. I again believe this is reflected by the extent of discussions in the liaison committee (and its forerunner) and the committee's terms of reference.

6. The Director of Fisheries comments in the Joint Committee on Subordinate Legislation referred not only to the species involved in the current litigation but also to the actual application of June 1987. This application listed 75 taxa, not all species. The word 'taxa' is used here to identify taxonomic groups at a lower resolution than species, as some of the listings were at family level. Each such taxa could contain a significant number of species. Again, the records of discussion illustrate the very large number of species (taxa) applied for and considered over the years.

7. The approach of the Fisheries (Exotic Fish, Fish Farming and Fish Diseases) Regulations 1984 under the Fisheries Act 1982, is to allow the trading of exotic fish in South Australia subject to their assessment against accredited scientific information that they present nil or acceptable environmental risk. The departmental approach has been that if this information is not available species are not recommended for approval. It is recognised that this will restrict some species, that, if the information was available, would be recommended for approval. However, it is considered that this is the only responsible approach available to the department. The department would be even more greatly condemned if it took the attitude to allow any species without the information available to enter the State, and only respond when a particular species or group had demonstrated itself to be a problem.

The department has indicated at the liaison committee and other meetings on numerous occasions that additional species can be applied for at any time or that additional information on previously rejected species will be considered on presentation. One of the difficulties in the current situation is that legal proceedings have been initiated and until these are finalised the department is unable to respond. The species agreed as part of the original June 1987 application were gazetted for approval in June 1988.

As part of the current legal challenge to the decision on the original application by Mr Miller, his lawyers have presented additional information and depositions. These are currently being examined by both the department's Australian based consultant and two international consultants (Dr Greenwood of the British Museum of Natural History and Professor Courtenay of Florida Atlantic University) in preparation for their presentations on behalf of the department. If their assessment recommends additional species, then the Director, in accordance with past practice, will recommend they be added to the appropriate schedule.

8. The difficulty in enforcing any legislation is acknowledged. The Department of Fisheries utilises its resources in the most cost effective manner possible whilst addressing the diverse and complex nature of its responsibilities under the Fisheries Act 1982.

The department firmly believes that a major influence on the effectiveness and acceptance of legislation is extension and education on the need and justification for such legislation. To this end the department undertook distribution of a number of pamphlets to all known trade outlets and associations when the current two tiered approval listings (following extensive discussion in the forerunner of the current liaison committee) were introduced. These are still being distributed. Education and extension is also one of the major objectives of the liaison committee. This is reflected in the terms of reference.

In addition both the Director and the department's consultant taxonomist have attended a substantial number of meetings of associations associated with aquarium fish to discuss the legislation and its need. In particular they have attended a number of meetings of the South Australian Cichlid Society, the group of fish currently being contested. The department's fisheries officer allocated full time to the exotic fish trade has also attended a number of meetings as well as visited every known trade outlet in the Adelaide and near metropolitan region. It is interesting to note that on occasion the representative of the Pet Traders Association and PIJAC have been unable to advise the liaison committee of who is actually in the trade. This is reflected in the record of discussion of the liaison committee of 31 August 1987.

To state that 'the Minister intends to send inspectors into people's homes to confiscate fish which can be legally kept in all other Australian States', is both alarmist and mischievous. The department has consistently stated that the hobbyist levels primarily relies on the education/extension discussed above. In addition the Director has advised the trade and hobby that any individual fish held by hobbyists before the legislation and not on the approved lists can be retained for the life of those particular individuals under the provisions of an exemption. To date 37 exemptions have been provided and 'no questions are asked'.

9. The short answer is yes. However this does not guarantee that they will not occur in the future, particularly as all indications are that the number of imports, both nationally and internationally, are increasing. A review of the South Australian situation regarding temperature tolerance with particular reference to the Cichlidae is attached. This illustrates that the situation is not as simple as some sectors of the trade suggest. The department recognises that if it acts anything less than environmentally responsible (maybe conservative) it is the department which will be condemned, not applicants for a large number of exotic species who may feel aggrieved if not all species applied for are accepted. These individuals must also recognise that it is the Government of the day which ultimately approves inclusion of particular species on the listings and, just like the department, the Government cannot abrogate its statutory and other responsibilities.

In summary, I believe that the actions of the department and the director in dealing with the biological and technically complex consideration of what exotic fish species can confidently be assessed as acceptable for introduction into South Australia have been both responsible and totally defensible. Similar to all other sectors the department deals with, the director was instrumental in the formation of the liaison committee to provide the trade with input into policy and species recommendations regarding the exotic fish. Again, like all other sectors, the trade must be aware, particularly the more extreme elements, that in addressing its other responsibilities the department may not be able to comply fully with all trade requests and demands. The department has established procedures for ongoing and additional consideration. It appears that sectors of the trade would rather debate this through costly and time consuming litigation (or even as presented to the Joint Committee on Subordinate Legislation by debate in the Parliament on each individual species).

The department has and will continue to seek a constructive and positive approach through liaison. It appears that the trade in general's concern (not the litigant Mr Miller) is that it is seeking a modified approach to the assessment of species applied for. In discussion with Mr Dunn and more recently a representative of the trade, the director has sought comment from the trade on a proposal that a subcommittee of the liaison committee be established with a single term of reference; namely, to assess and make recommendation to the liaison committee on applications for additional species to be incorporated in the Fisheries (Exotic Fish, Fish Farming and Fish Disease) Regulations 1984. It is believed that the trade will be responding to this suggestion on Friday 18 November 1988. It is proposed that the subcommittee have an independent but technically competent chairperson and comprise membership as nominated by both the department and trade (two positions each).

I wish to formally acknowledge my support and confidence in the Director of Fisheries in dealing with this matter. Contrary to the accusations voiced by particular trade representatives in numerous correspondence, submissions to the Joint Committee on Subordinate Legislation and as reflected in your questions of 9 November 1988, the Director has responded responsibly to his responsibilities under the Fisheries Act 1982, the environmental concerns for exotic fish expressed by other sectors of the South Australian community and the requests and demands of the whole of the South Australian exotic fish trade.

In 1986 the now director assumed responsibility within the Department of Fisheries for dealing with the exotic fish industry after similar accusations were levelled by the trade against his predecessor, the then Assistant Director of Fisheries. It is regretable that some sectors of the trade, if they are not successful in

all their demands, revert to character denigration in an endeavour to divert the department from its responsibilities.

I am sorry to have had to put the Council through the ordeal of having to listen to that, but that was the only way to get it into *Hansard*.

The Hon. R.J. Ritson: We would have given you leave to incorporate it.

The Hon. G.L. BRUCE: I am afraid it cannot be done that way, Dr Ritson. I feel that this response from the Minister to the questions raised by the Hon. Mr Elliott should go on record. In opposing the motion to disallow this regulation, I point out that I do not take this matter lightly. This is the second time the Joint Committee on Subordinate Legislation has had to deal with regulations concerning exotic fish, fish farming, fish diseases and undesirable species. Regulation 6a (1) of 2 April 1987 provides:

6a (1) 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 exotic fish of the species to which the application relates would create a risk of harm to the indigenous fish, or the living resources, of the waters to which the Act applies;

or

(b) that there is insufficient scientifically accredited information available within Australia concerning the species to which the application relates to enable the Director to be satisfied that the introduction of the fish would not create a risk of harm to the indigenous fish, or the living resources, of the waters to which the Act applies.

(2) Where the Director receives an application for a permit under section 49 of the Act, the Director may require the applicant to provide a certificate from a person who is, in the Director's opinion, appropriately qualified to provide such a certificate, that the species to which the application relates is not likely to create a risk of harm to the indigenous fish, or the living resources of the waters to which the Act applies.

At that time people in the industry had decided that they could live with this regulation, but to test it they decided that one of their numbers would apply for a permit to keep the fish, and it was a Mr Miller who applied for that permit. However, regulations gazetted on 30 June 1988 provided for revocation of regulation 6a and the substitution of the following regulation:

6a. The Director may not grant a 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.

This had the effect of no longer allowing Mr Miller to proceed with his appeal against the Director of Fisheries, and thus the work and effort that had been put into the case up to that point of time would to be wasted. On 24 August, evidence relating to paper No. 85 was given to the Joint Committee on Subordinate Legislation by Messrs Miller, Evans and Ericson, the legal representative of the Pet Traders Association of South Australia Inc. I draw to the attention of members that the Subordinate Legislation Committee tabled all evidence that was provided to it so that all members were in a position to see what had occurred in relation to the work of the committee. In his evidence, Mr Ericson stated (at page 2):

The permit was applied for in the name of Mr Miller, but it was known to everyone that it was a test case. He lodged an application for a large number of fish, and it was known that it would be funded by PIJAC. A large quantity of supporting material was lodged with it. We can arrange to have photocopies of several hundred papers of supporting documentation if that is required. The vast majority of the species for which a permit was applied for were refused and thereupon Mr Miller exercised his rights pursuant to the Fisheries Act, which provides that any decision of the Director of Fisheries can be appealed against to the District Court.

Acting in the belief that under the regulations and the Fisheries Act he had a right to judicial review, he lodged an application in the District Court and proceeded to arrange scientific evidence. He made arrangements to fly out Dr Eccles, an international consultant and expert on tropical fish, from London to give evidence before the court. They had accepted that the regulations as they stood enabled the Director to refuse a permit but that it could be challenged in the District Court. If you could possibly show that the fish were harmless you could compel the issue of a permit. If the decision was that there was not enough information you would not get a permit.

The Chairman of the Subordinate Legislation Committee asked Mr Ericson the following question (at page 12 of the evidence): 'You say there is no right of appeal,' to which Mr Ericson replied:

If you apply for a permit, the Director can properly tell you that regulation 6a precludes him giving the permit, even if he believes it is harmless and inoffensive. Under the old regulations he could refuse a permit for the species and one could apply to the District Court and appeal. Under the new provisions there is no power whatsoever. It is peculiar that the Director cannot give a permit even if he is absolutely convinced by the case.

Ms Gayler asked:

He could change the regulations?

The reply was:

Yes, he could, but it is an unreviewable decision. One cannot complain to the District Court or to Parliament. There is no recourse through Parliament or through the courts.

That was what got them uptight. The main concern was that there was no redress regarding new species of fish being added to the list that appeared to exist at that time. However, the Director of Fisheries gave evidence on 7 September 1988. Mr Duigan asked him:

My first question relates to the assertion by the trade that restrictions apply only in South Australia. Is that assertion correct or are fish hobbyists and pet traders allowed to trade in a greater range of species in the other States than they are in South Australia? If so, is that reasonable?

The reply was:

Yes, they can trade in a greater range of fish species than in South Australia. I believe that South Australia's legislation is foremost. As I said in my submission, it has been recognised by the authorities around Australia; some have been recognised with greater credibility or respect than others. The ACT authorities wish to follow up this legislation. There is also a suggestion that similar legislation will be used in Western Australia. The situation is that no State of Australia has adequate legislation. I believe that the South Australian legislation is the most adequate and this is supported by evidence from Mr Rowley McKay, the Curator of Fish at the Queensland Museum. He is the most noted academic in this area in Australia and is one of our consultants. In documentation to me he says:

It is my firm conviction that the present legislation in Australian States is totally inadequate to prevent the establishment by legislation of certain imported ornamental aquarium fishes.

The answer is that other States can bid for greater numbers with greater freedom. However, this is recognised as being unsuitable. I would say that most States with various degrees of speed are moving to address this problem.

I believe that this statement sets the scene for the scientific argument used by the Fisheries Department in support of the change of regulations. However, of further importance was the clarification of section 92 of the Constitution. I refer again to the transcript; Mr Duigan asked Mr Walter of the Crown Solicitor's Office:

Mr Walter, I notice that the memo that went to six Government departments from the Crown Solicitor's Office dealt with the High Court's judgment in the *Cole v Whitfield* case. Should I take it from that that each of those departments was thereby required to examine the appropriateness of their administration and regulations that existed prior to that judgment and, if necessary, alter their operational procedures in order to fit in with the new tests that the High Court was requiring in respect of section 92? Further, are you aware whether Crown Law Departments in other States would be likely to have asked their departments to similarly examine their operations with a view to altering their procedures, practices and regulations in order to fit in with the new test?

Mr Walter replied:

In answer to the first question, the departments which receive a copy of this minute were determined by knowledge within the

Crown Solicitor's Office—knowledge that these departments had had difficulties in the past with carrying out policies because of the previous test of section 92. This minute was merely to make those departments aware that the test for section 92 had changed and if they so chose to consider amendment to the legislation under which they operate. The test of validity of the law under challenge from section 92 of the Constitution was changed considerably in the case of *Cole v Whitfield* and greatly broadened the scope for State regulation. If I can give an example by reference to section 49 of the Fisheries Act: that was passed in 1982 and set up a scheme whereby if the fish was an exotic fish to which the Act applied it was banned absolutely.

Mr Miller and his legal adviser challenged the validity of that section and asserted that it was in contravention of section 92 of the Constitution. The test for section 92 then was one of reasonable regulation. You could impose a burden on interstate trade or commerce but only if that burden could be considered reasonable regulation. Various cases in the High Court, particularly in the area of environmental protection, had said that absolute bar as was set out in section 49 of the Fisheries Act was not reasonable regulation.

In fact, Mr Miller instituted proceedings in the Supreme Court seeking a declaration that that section was invalid. Upon receiving advice as to the chance of success of those proceedings, the section was amended to put in the situtation where you could attempt to obtain a permit from the Director of Fisheries for fish which were not previously absolutely prohibited. Simply, the present system is a return to the identical system that was instituted initially in 1984 based on the 1982 version of section 49 of the Fisheries Act. In answer to the second question, I am only aware of Victoria doing something similar, and it was doing it in respect of its tobacco tax legislation—because in a subsequent case on section 92, which was heard at the same time as Cole and Whitfield, their Act was declared to be invalid.

I then asked:

The main thrust of my argument was that they had no right of appeal and no way of getting in to have fish considered for putting on the schedules.

Mr Lewis replied:

That is incorrect. Through the liaison committee and through assessment they have the right to apply at any time, 365 days of a year. As soon as we get an application for the species we will engage our consultants to provide us with everything we can possibly glean from the data on that fish species. The consultant will make recommendations to me. I will then go back to the liaison committee. We will discuss it, and you will see in the previous minutes that I have tabled that we discussed it at great length. I do admit that the final decision is with the Department of Fisheries, and if we decide that it is unacceptable we make immediate recommendation to the Government through the Cabinet to amend the regulations and, as I said, the last time that we did that was 30 June.

He is saying—and it is a direct contradiction of what has been put to the Council—that there is no way that any more species can be put on the list. In his evidence to the committee, Mr Lewis said that there was no possible way that fish could not be put on the list if they were presented to the department and assessed. In the letter that the Minister sent to Mr Elliott, that was spelt out clearly—fish could be put on the list.

On balance, I consider that the regulations should be allowed. Foral fish are almost impossible to eradicate, and that should be the bottom line of the debate. I am prepared to throw my lot in with the Director and err on the side of conservation. I have a lot more scientific evidence which, if need be, I will put into my remarks. However, at this stage, I seek to conclude my remarks later.

Leave granted; debate adjourned.

CANNABIS RELATED OFFENCES

Adjourned debate on motion of Hon. K.T. Griffin:

That this Council notes with concern the recent directive to police officers that they may only enter one offence per expiation notice for cannabis related offences and requires the Government to take urgent action to allow multiple offences per notice to apply in future as it has in the past.

(Continued from 7 September. Page 656.)

The Hon. CAROLYN PICKLES: I oppose the motion. The Hon. Mr Griffin referred in his speech to instructions issued by the Police Department regarding expiation notices. The honourable member has confused the issue, and I would like to place the facts on the record.

The Police Department has issued an instruction through Police Commissioner's Office circular No. 476 of July 1988 and amendments to the South Australian *Police Gazette* to nominate only one offence per notice for offences under the Controlled Substances Act and the Expiation of Offences Act. The instruction was not issued by or at the request of the Government.

The department issued the instruction because the current computerised debt management system for the infringement notice systems cannot deal with the expiation requirements under the Controlled Substances Act unless a separate notice is issued for each offence. The instruction is, therefore, an administrative measure, not a policy matter.

In 1981, a system to enable the expiation of traffic offences was introduced in which traffic infringement notices could be used. A computer system of management of expiation payments and subsequent action upon non-expiation was introduced. At that time it was not anticipated that the expiation concept would be extended beyond traffic matters. The Summary Offences Act 1953, under which the traffic infringement notice system operated, required that all fees on the notice be paid to constitute an expiation.

In 1987 the Government introduced legislation under the Controlled Substances Act 1984 enabling expiation of certain offences under that Act. The legislation enabled the offender to expiate any or all of the offences. The debtor system for cannabis expiation notices was managed by a manual system. During mid-1987 the computerised TIN management system was about to reach maximum capacity when the red light camera initiative was undertaken. The TIN notice system was upgraded by August 1988 to cater for the increased number of expiation notices.

In early 1988 the Expiation of Offences Act 1987 was introduced. To reduce the need for police to carry three different notice books, it was decided to produce one notice type and to use one computerised debtors management system. Because the new single notice was based on the original TIN and its system, it provided the ability for managing the debts created by all notices. The limitation of the system is that it only allows for the complete payment of a notice (as per the Summary Offences Act) and does not permit payment for individual offences on a notice except, of course, where only one offence is reported.

I repeat that the Summary Offences Act, the Controlled Substances Act and the Expiation of Offences Act each provide for multiple offences to be reported per expiation notice. The Controlled Substances Act and the Expiation of Offences Act both provide for the payment of any, or, all offences listed on a notice, whereas the Summary Offences Act for which the original computer management system was created permits the expiation of the total notice only.

Members may wish to know what the Police Department is doing about the problem. As a short-term solution, the department has issued the instruction referred to above. This procedure enables offenders to expiate each of the separate offences and does not disadvantage the offender in any regard. The procedure does not affect the victim of crime levy payments. It has been recognised that this difficulty needs to be corrected. Assessment by Computer Services of the Police Department indicates that the modification to the computer system is required. Action is being insti-

gated by the Infringement Notice Unit together with the Computer Services and Financial Services Branch to make the necessary modifications to the computer system to enable single offence payments on multiple offence notices.

The instructions in question are temporary and will be removed as soon as the necessary modifications to the computerised debtor systems are complete. For the reasons I have indicated, I oppose the motion.

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

EQUAL OPPORTUNITY ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 2 November. Page 1125.)

The Hon. M.J. ELLIOTT: My contribution to this debate will be brief. When I say 'brief', unlike the Hon. Mr Lucas, I usually mean it. I believe that there are problems with the current implementation of the Equal Opportunity Act in relation to mixed sport for boys and girls, but they are not the problems that are being alluded to by the Hon. Mr Lucas: the problems are quite different. I have three young children, two of whom are girls, and in the fullness of time they will be playing sport; they are too young to be doing so at this stage.

The Hon. R.I. Lucas: Basketball, I hope.

The Hon. M.J. ELLIOTT: Basketball, I hope, too, but we'll wait and see. I want them to play sport, and it does not worry me whether or not they are playing in mixed teams. I want them to be able to play in a competition which they enjoy and in which they are competitive. However. particularly while they are young but, even as adults, that need not imply that the teams need to be of single gender. I think that covers my attitude towards what the Hon. Mr Lucas has raised. I happen to be—

The Hon. R.I. Lucas: Are you voting for it or against it?

The Hon. M.J. ELLIOTT: I am voting against it. I was a teacher for a couple of years in a very small area school. In such schools we only had, say, 10 children in any one year of the school. We played mixed sport all the time; we had no choice, and there were no problems at all. If there was a problem, some of the boys complained about being beaten up by some of the bigger girls. There was no question whether or not sport was going to be mixed, because of the numbers. If one wanted a game of basketball, the sport was still going to be mixed.

As I said, particularly with the younger children there were no problems at all; certainly, there were no problems in terms of physical strength and the like. There is a problem, though, and I think that the Government must face up to that. It is not a problem in relation to gender in the first instance. The problem is that there are not really enough coaches for junior sport, and that ends up creating some difficulties for girls in relation to mixed teams, because in many sports, at this stage at least, many more boys than girls are going into those mixed teams, Some girls are simply missing out on playing particular sports because of the inadequate number of coaches.

If we went back to the old situation of having distinct boys and girls teams, we would have a different problem. The problem then would be that the boys and girls who could not quite make the team most of the time would still be missing out. There is a problem in junior sport, and I believe that the girls are missing out somewhat. In fact, I know people who have raised concerns that indirect problems are being created. Those indirect problems need to be addressed, but I do not believe that the problems that they have will be solved in any meaningful way by the Bill that is currently before us. The Democrats will therefore oppose it.

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

BUILDERS LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 9 November. Page 1361.)

The Hon. J.F. STEFANI: Both my colleagues the Hon. John Burdett and the Hon. Trevor Griffin have spoken on this Bill and indicated that the Opposition will not support it. I believe that in principle the present Builders Licensing Act provides sufficient control and penalties for builders, and that the imposition of extra requirements and regulations of this nature will add to the administrative burden and the cash flow difficulties of home builders and, therefore, ultimately to housing costs.

I will now refer to the circumstances of the insolvency of Heritage Homes, which failed to pay subcontractors for work performed. This led to a report (168 of 1986) by Judge A.V. Russell QC of the Industrial Commission of South Australia. The circumstances are similar to those of the Leader Homes situation. An inquiry was conducted, and recommendations were made to the Minister, who asked certain questions about the payment of subcontractors for work done in the building industry, pursuant to section 25b of the Industrial Conciliation and Arbitration Act 1972. The questions for the inquiry were as follows:

The Minister of Labour has submitted three questions to the Industrial Commission of South Australia (which I shall call 'the commission') for inquiry, namely—

1. What is the most appropriate and equitable resolution of the current dispute between subcontractor members of the BWIU and Heritage Homes in regard to the inability of Heritage Homes to pay sums due and owing to the subcontractors on account of their work on the domestic building sites at Darlinga Court, Salisbury and Texas Court, Wynn Vale?
2. For the future, what action (if any) should be taken to protect the interests of a subcontractor in the building industry against the insolvency or winding up of a principal contractor?
3. What action (if any) should be taken to protect the interests of a builder in the building industry where a principal or a subcontractor becomes insolvent?

The answer by Judge Russell was as follows:

Question 1:

Regrettably, the only course available to the subcontractors for the purpose of securing payment for work done by them under their contracts with Heritage is to prove that to the liquidator. Having regard to the state of Heritage's financial affairs, it is unlikely that they will receive any payment.

My impression, however, from the evidence given by subcontractors, who have been affected in the past by principal contractors or builders going into liquidation, was that, however hurtful the experience was to their pockets, they accepted it as a fact of commercial life. It seemed to be realised that once one enters into commercial transactions, such as subcontracts in the building industry, bad debts are to be expected from time to time and eventually have to be written off.

I do not accept the BWIU's contention that subcontractors are in a similar position to piece workers and are in need of the same degree of protection as employees. Those who chose to trade as subcontractors do so, with a view to making profits in excess of wages and, no doubt, there are certain other advantages, including fiscal, which are to be gained by trading as subcontractors.

I should also add that I can see no reason to distinguish, as seemingly does the question, between subcontractors who are members of the BWIU and subcontractors who are not members of that association. The mere fact that membership of the BWIU does not bring with it the same advantages as accrued to subcon-

tractors who chose to be members of the Housing Industry Association (the HIA) under its trade indemnity scheme (to which I shall refer later), does not persuade me to take the view that the BWIU subcontractors should be put in a more advantageous position commercially.

The fact that the BWIU does not provide its subcontractor members with a trade indemnity scheme, ought not, in my view, to make any difference to the way in which those subcontractors are dealt with under the law.

In my view, the most appropriate and equitable resolution of any dispute which may exist between subcontractor members of the BWIU and Heritage is by resolving it in the commercial setting in which those subcontractors engaged for the purpose of carrying on their business.

In answer to question 2, the judge went on to say:

The causes of insolvency, which I have already mentioned, are instructive. The mechanism which causes financial institutions to freeze funds where workmen's liens are placed by subcontractors on the land on which they had performed work for which they have not been paid by the builder who, in turn, has already been paid by the owner of the land, is also of significance.

The first observation that I have to make is that the Builders Licensing Act of 1986 appears to address, at least in part, the problems which give rise to insolvencies in the building industry.

That Act and the regulations made under it are designed to ensure that licences in the different categories of builders are not granted by the tribunal constituted under the Act unless it is satisfied that the applicant is not only a fit and proper adult person, in the general sense, but also that he has, or, in the case of a corporate body, that its directors together have, a sufficient business knowledge and experience for the purpose of properly carrying on the business authorised by the licence. Furthermore, in both cases, the tribunal must be satisfied that the applicant for the licence has sufficient financial resources for the purposes of properly carrying on the business authorised by the licence.

The Act also provides for the supervision of building work by licensed supervisors. Such supervision, if properly carried out, should avoid much of the re-working of faulty workmanship, which was but one of the aspects responsible for the collapse of Heritage.

Not everything, of course, can be remedied by an Act of Parliament. But the groundwork laid by Parliament can be supplemented by individuals and by trade or other associations.

I was most favourably impressed by two of the avenues of 'self help' afforded by the HIA.

Those avenues were:

1. The provision of the trade indemnity scheme for subcontractors, which enabled subcontractors, whose principals went into liquidation, to claim for the moneys owed to them, and made irrecoverable by the liquidation, from the indemnity policy.
2. The provision of a wide spectrum of training programs for both members and non-members of the association.

In relation to question 3, Judge Russell simply reported:

I can see no reason why subcontractors and contractors should be in any different position commercially.

The Opposition considers that the Bill as drafted does not add any extra protection to home owners. It might appear to add some protection to subcontractors, but I believe it would be at a substantial handicap to the efficient operation of honest and hard working builders. As well, the extra cost and effort required by the Government to enforce and police the requirements of this Bill could not be justified. The Opposition therefore does not support the Bill.

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

CHLOROFLUOROCARBONS BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 1369.)

The Hon. T. CROTHERS: Last week I sought leave to conclude my remarks on this measure. That request was acceded to and I thank all members for according me that privilege. Much has happened at national level over the past seven days which has a direct bearing on the honourable member's Bill, not the least of which was the introduction into the national Parliament on 10 November 1988 of the Federal Government's Ozone Protection Bill. I am given to understand that the Commonwealth legislation will control the import and the export of these substances and will extend to some facets of labelling, production, distribution and other uses. It is the State Government's view that South Australian legislation should complement and support the Commonwealth Bill. In particular, the Government proposes that the State legislation will provide for the prohibition of the unnecessary release and the regulation of other releases of chlorofluorocarbons and other ozone depleting substances in such a manner as to render disruption to South Australian industry down to a minimum.

The Government therefore proposes that the Clean Air Act of 1984 be amended and that new regulations, to be known as the ozone protection regulations, be enacted to prohibit or regulate the manufacture, sale, use, recycling and disposal of ozone depleting substances and goods containing ozone depleting substances.

As I stated in this Chamber last week, the matter of the protection of the ozone layer is one which we believe can be given maximum effect only if there is concerted national and resolute international action. It seems to us therefore that the best and most effective role that Australia can take if it is to play its part in the international community's responsibilities for the protection of the ozone layer is for the primary legislation to be the responsibility of the national Government of Australia, with the necessary complementary legislation being enacted by Governments of the various States and Territories of the nation.

Whilst I place on record that we are not opposed to the principles embodied in the Bill of the Hon. Mr Elliott, we feel that in the interests of maximum effectiveness in dealing with chlorofluorocarbons, the option laid out by the Government in this matter is the way to go. I oppose the Bill.

The Hon. M.J. ELLIOTT: Ms President, I first raised this matter by way of a Bill some 20 months ago in April of last year during the last couple of days of the session. I moved a Bill the purpose of which was to give notice of my intention and to give people a chance to consider the issues. When we returned in the budget session last year, I moved the Bill a second time and it sat on the notice paper for a considerable time, adjourned week after week until finally both the Labor Party and the Liberal Party opposed the Bill at that time for a number of reasons.

At the beginning of the budget session again this year, I moved, for the third time, a Chlorofluorocarbons Bill in a slightly modified form. Again it sat on the notice paper week after week without consideration and that led to the level of frustration which our Party showed last week when there seemed to be a failure to really take the bit between the teeth on what was, I believe, one of the most important issues before us not only in this State but world-wide at this time.

It is a matter which relates not only to the destruction of the ozone layer—CFCs are also responsible for something like 10 per cent of the greenhouse effect. When we set about tackling the greenhouse effect, CFCs will be the easiest of its components to reduce. Each year of delay results in an increased level of damage to the ozone layer and an increase in the greenhouse effect that will have to be tolerated in the future.

The level of CFCs in the atmosphere has been increasing at a rate of 5 per cent to 7 per cent a year. CFCs reside in

the lower atmosphere for three or four years before they find their way to the stratosphere where they do damage. It is no good looking at what is happening now and taking that as a clear indication of what will happen in a few years because a time bomb is ticking away in the lower atmosphere. In recognition of that fact, we took a stand against what we saw as very clear procrastination. I have been extremely disappointed by the lack of willingness on the part of the Government to debate the issues fully in Parliament and the token argument it put up after continued adjournment of the debate. I also suggest that its attitude has a Party political taint.

Last week, the Hon. Mr Crothers said that the Government is not in a position to support the Bill, although he suggested that the Government had sympathy for the views. He also said that Australia represents only 1.7 per cent of the known use of CFCs. That is true. However, one Australian using CFCs is equivalent to approximately 1 000 people in India and China. Unless advanced places such as Australia and South Australia are willing to take a strong stand on the issue of CFCs, there is no way that we can go to the Third World and ask them to stop using CFCs. We need to be consistent and we need to lead the way.

Mr Crothers also suggested that we must make sure we get it right the first time. I have two responses to that. First, I would like to get it right sooner rather than later, which is the position we seem to be in to some extent. From what I have seen of the Federal Government's intentions so far, it is not getting it right, it is getting it half right. It intends to follow the Montreal protocol. It is looking to reduce the use of chlorofluorocarbons by 1993 to 80 per cent of the 1986 figure. That means that, if all other countries adopt a similar line, by 1993 the level of CFCs in the atmosphere will still be increasing at 5 per cent to 6 per cent a year. There is talk of a decrease in production but that will still mean an overall increase in the level of CFCs in the atmosphere.

The Federal Government proposal suggests that a review be held every two years. In other words, the Government will wait and see how bad things get before it starts accelerating the program of cutbacks. That is an extremely dangerous line to take in the light of all the evidence that we have before us at this time in relation to both the ozone layer and the greenhouse effect. Minister Hopgood has been extremely good at making comments in the press about both these issues. In fact, he has been quoted as something of an expert.

He is not an expert. In fact, at times he has come very close to being a dill on this matter. He obviously cannot understand the full ramifications of what is occurring or he would not be pussyfooting along behind a Federal Government which has been very tardy and unfortunately looks like not going far enough.

From time to time, the Minister has pleaded ignorance about what the Federal Government is doing. I was contacted by an industry representative who was surprised that I had not been getting information. He faxed me enormous amounts of information amongst which I found that the State Government has representatives on a number of committees. Why the State Government appears to be so ignorant about this matter when theoretically it has representatives on these committees has me a little baffled. This person told me that he first saw the draft Federal legislation last Monday. In fact, his department had held it for a few days but had not told him. I am not sure what sort of a department he runs, but that is quite abysmal and shows how seriously the Government has been treating this matter all along. It also shows why we decided to take such a strong stand to try to force the Government's hand.

I must admit to being somewhat surprised that the Federal Bill moved so quickly. If the State Government saw the draft only on Monday, how is it that we had the legislation within three days? It is unusual for Governments to move that quickly, but thank God it did. It is a pity that it was not introduced a lot earlier and that the Government's stand was not a lot stronger. I understand that sometime next year the Government will consider amendments to the Clean Air Act. At this stage the promise is early next year, and we certainly hope that it is. I believe that there will be only 18 sitting days next year, so I hope that the Government does not pussyfoot around. In fact, I do not think that the community will tolerate much more procrastination on this issue.

As I said, the Government is looking at amendments to the Clean Air Act. I find it interesting that it intends to place all the controls under regulation. That is exactly what I propose in this Bill, so I fail to understand why the Government did not support this Bill in the first instance. The power to provide controls will be in the regulations, but the mechanism to do that will be in the Act itself. The Federal Government, although not going as far, is following exactly the same sort of structure suggested by the Democrats. We suggest that there must be controls on the manufacture and servicing of, in particular, refrigerators and refrigerated air-conditioners, and that in the short term they would need to continue to use CFCs. That is exactly what the Federal Government has suggested, and that is what is in the Bill now before us.

We suggest that all other uses needed to be phased out extremely rapidly. The only difference between our stand and the Federal Government's stand is the speed with which that would occur. However, since the rate of cutback is to be controlled by regulation, the State Government could use the Bill that is now before us to do exactly what it says it intends to do under amendments to the Clean Air Act. It all comes down to the fact that the State Government, in general terms, will introduce legislation which has the capacity to do exactly what is proposed in the Bill now before us. So the Government will achieve absolutely nothing other than a further delay on an issue of great importance. I urge the support of all members in the rapid movement of this Bill through the Council and the other place.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

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

That Standing Orders be so far suspended as to enable the Bill to pass through its remaining stages without delay.

The Council divided on the motion:

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

Noes (6)—The Hons G.L. Bruce, T. Crothers (teller), M.S. Feleppa, Carolyn Pickles, G. Weatherill, and Barbara Wiese.

The PRESIDENT: There are 12 Ayes and 6 Noes. The motion is carried by an absolute majority of the Council, as required.

Motion thus carried.

Bill read a third time and passed.

[*Sitting suspended from 6 to 7.45 p.m.*]

STATUTES AMENDMENT (LOCAL GOVERNMENT) BILL

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934 and the Local Government Act Amendment Act 1988. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

This is a Bill to amend the Local Government Act 1934 and the Local Government Act Amendment Act 1988 which was assented to on 21 April and which is yet to come into force. The majority of these proposals stem from two recently completed reviews of particular portions of the Act, independent of the major rewriting program.

In 1984, as part of the first stage of the Local Government Act revision, the provisions relating to amalgamation, boundary change and other alterations to council structure, the Local Government Advisory Commission, and elections were entirely reformed. Earlier this year the Government sought advice from the advisory commission on any changes which the commission believed desirable based on its four year experience of the new provisions. The commission has suggested various changes, many of which are technical refinements of the existing provisions.

The new electoral provisions were first used for the 1985 local government periodical election. Following that election, the Hon. Gavin Keneally, MP, then Minister of Local Government, appointed a representative working party to review all aspects of the 1985 election. That working party concluded that the preferential voting systems introduced for that election had achieved their objectives, and made a number of recommendations for amendment which were incorporated in the Local Government Act Amendment Act (No. 4) of 1986. An undertaking was given that a similar review of the local government electoral provisions would be conducted following the 1987 periodical election. A second working party was appointed in December 1987, with terms of reference which focused not on voting systems but on maximising voter turnout and on the adequacy of procedures for policing illegal practices and challenging an election.

On the basis of that working party's recommendations this Bill provides for advance voting as an automatic right (not dependent on inability to attend a polling booth on polling day) and for temporary and mobile polling booths on polling day. Procedures for the scrutiny and reconciliation of ballot papers are improved and a number of new offence provisions added.

The Bill repeals the present requirement that municipal councils must have wards and the present limitation on the number of councillors per ward to four. These measures were recommended by both the Local Government Advisory Commission and the election review working party. Removal of these arbitrary restrictions will give councils more options in redesigning their elected structure. The commission and the working party also concurred on amendments contained in this Bill which resolve problems in the application of the electoral provisions of the Act to councils affected by proposals or proclamations under Part II of the Act.

The election review working party's recommendation that exclusively postal ballots be an option for all councils has not been included. The Government has concerns about the potential for fraud and lack of confidentiality in postal ballots in metropolitan areas, and it will not be possible in the time available to resolve this issue for this Bill, given that an improved method for the policing of offences is still to be determined. The working party put forward two alternatives for an improved way of dealing with electoral offences. Under the first alternative the administration of complaints is placed with the Minister of Local Government; under the second alternative it passes to the Attorney-General. This matter, together with the working party's suggestion that aspects of the procedure in the court of disputed returns require attention, is still being worked on. The Bill makes a number of improvements to technical and procedural aspects of the local government electoral process which it is desirable to put into place in preparation for the 1989 local government periodical elections.

Finally, the opportunity is taken to make three amendments to the Local Government Act Amendment Act 1988 before it is brought into operation. The first amendment relates to the suppression of information from the assessment book in cases where similar information has been suppressed under the Electoral Act 1985. The second amendment corrects a technical problem identified in relation to proposed new section 184 (7). The third amendment provides for greater consultation between the Minister and a council when it is proposed that the council be included as a constituent council of a controlling authority. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 provides that a reference in Part II of the Bill to 'the principal Act' is a reference to the Local Government Act 1934. Clause 4 amends section 5 of the principal Act to introduce the concept of 'a general election' and to make a consequential amendment to subsection (7).

Clause 5 amends section 6 of the principal Act. Section 6 presently provides that a proclamation constituting a council must also make provision for a number of other matters. It has been decided to provide that many of those matters may be dealt with by subsequent proclamation. Furthermore, if a proclamation makes provision for the appointment of the first members of the council, the proclamation, or a subsequent proclamation, may also make provision for the first election of members of that council.

Clause 6 amends section 7 of the principal Act in a manner consistent with the amendments to section 6. Clause 7 relates to section 11 of the principal Act to allow a proclamation under this section to make provision for incidental matters that may be necessary or desirable in view of the circumstances of the particular case.

Clause 8 amends section 13 of the principal Act to remove the requirement that a municipal council must be divided into wards. A new subsection (2) will allow a proclamation under this section to make provision for incidental matters that may be necessary or desirable in view of the circumstances of the particular case.

Clause 9 inserts a new section 15a in the principal Act under which the Governor will be empowered to cancel the holding of periodical elections for a council if a proclamation under Division I or II of Part II makes provision for the appointment or election of the members of the council.

Clause 10 inserts new subsections in section 20 of the principal Act that will regulate the disqualification of members of the Advisory Commission in relation to the hearing of matters in which they might have a conflict of interest. Clause 11 inserts a new section 25a that will require the

advisory commission to prepare an annual report to the Minister.

Clause 12 makes various amendments to section 26 of the principal Act. An amendment to subsection (2) will provide that an application for referral of a proposition to the commission may be made by 20 per cent of the electors for an area or portion of an area directly affected by the proposal. Another amendment will deal with the situation where the proposal relates to a part of the State that includes land both inside and outside an area. Other amendments are intended to clarify the powers of the commission under subsection (10).

Clause 13 amends section 28 of the principal Act so as to allow the commission, on a review under section 28, to recommend any alternative proposal, or that the proposal not be carried into effect. Clause 14 amends section 46 of the principal Act to remove the restriction on the number of councillors who may represent a ward. Clause 15 replaces a reference in section 47 of the principal Act to 'periodical elections' with a reference to 'general elections'.

Clause 16 amends section 49 of the principal Act. Section 49 presently provides that a council must fix the rates of its annual allowances at its first ordinary meeting held after the first Saturday in May in each year. However, provision also needs to be made where the council is newly constituted, or where a general election has been held pursuant to proclamation, and not under section 94 (1).

Clauses 17 and 18 replace references to 'periodical elections' with references to 'general elections'. Clause 19 relates to certificates of registration issued by the Local Government Qualifications Committee under section 69. It is proposed that the regulations may provide for the term, and renewal, of such certificates.

Clause 20 makes various amendments to section 85 of the principal Act relating to the definitions that are required for the purposes of Part VII. One amendment relates to the inclusion of definitions of 'polling booth' and 'polling place', in a manner consistent with the Electoral Act 1985. New subsection (2) will provide that the close of voting on polling day in an election or poll is 12 p.m. in the case of a supplementary election carried out entirely by the use of advance voting papers (section 106a), or 6 p.m. on polling day in any other case.

Clause 21 replaces subsection (2) of section 86 and will provide that if a council has appointed more than one deputy returning officer, the deputy returning officer to act in the office of returning officer in the absence of the returning officer will be determined in accordance with an order determined by the council.

Clause 22 recasts section 89 of the principal Act relating to the appointment of polling places. The new provision will allow mobile polling booths to be used and a council will be able to decide the times at which polling booths will be open for polling on polling day (although no polling booth will be open after 6 p.m. on polling day). At least one polling booth will be open between 8 a.m. and 6 p.m. on polling day.

Clause 23 inserts new subsections in section 91 of the principal Act relating to the ability of a body corporate to nominate an agent at an election on its behalf. Amendments made to the principal Act in 1986 provided that the nominated agent must be an officer of the body corporate. New subsection (7) defines the meaning of 'officer' of a body corporate. New subsection (8) is intended to remove any doubt as to the validity (or invalidity) of any nomination made before the commencement of the 1986 amendments.

Clause 24 relates to the voters roll. Section 92 (2a) of the principal Act presently provides that the chief executive officer may suppress the address of a person from the roll in order to protect the safety of the person. A new provision will compel the chief executive officer to suppress the address if it is suppressed under the Electoral Act 1985. Furthermore, it is proposed that a revision of the roll is to be completed by the second Thursday of the calendar month following the month in which a closing date occurs (the Act presently refers to the first Thursday of the following month).

Clause 25 provides for amendments to section 94 of the principal Act. Subsection (1a) provides that where a proposal for the making of a proclamation under Part II has been referred to the Advisory Commission, the Governor may, by proclamation, suspend pending periodical elections. New subsection (1b) will require that the suspended elections must be held within the following period of 12 months. Another amendment will allow a returning officer to appoint a day other than Saturday as polling day for a supplementary election that is to be carried out entirely by the use of advance voting papers. Clause 26 amends section 96 of the principal Act in several respects and is related to the introduction of the concept of 'general elections'.

Clause 27 provides for a new section 100 (3) of the principal Act. It has been submitted that under the present provision it is arguable that if a voter, voting at an election where the method of counting is as set out in section 121 (4), votes for less than the number of candidates required to be elected, subsection (3) may in some cases nevertheless render his or her vote valid. It is intended to clarify that, for the purposes of the operation of subsection (3), the voter must have at least set out numbers that are consecutive up to the number of candidates required to be elected. Clause 28 amends section 101 (1a) to ensure that a candidate who has already been declared elected cannot act as a scrutineer. Clause 29 makes a consequential amendment to a heading.

Clause 30 amends section 106 of the principal Act in several respects. Subsection (1) is to be altered so as to allow advance voting papers to be used whenever a person desires to vote at an election or poll otherwise by attending at a polling place during voting hours (the present provision only operates when the person is unable to attend at a polling place). The declarations that are to be printed on the outside of the relevant envelopes are being revised. New subsection (10) will require the returning officer to give public notice of the fact that advance voting papers are available to electors under section 106. Clause 31 amends section 106a in several respects. Advance voting papers under this section are to be sent as soon as practicable after the 21st day before polling day. The envelopes sent as part of the papers will be required to be prepaid envelopes addressed to the returning officer. Other amendments are similar to amendments to section 106.

Clause 32 recasts sections 107 and 108 of the principal Act in order to ensure consistency with other provisions of the Act relating to the procedure to be followed when voting, the procedure to be followed when voting papers are returned, and the provision of assistance to persons who desire to vote but who are illiterate or physically unable to carry out a voting procedure. Clause 33 recasts the provisions relating to voting at polling places. New section 111 revises the procedures to be followed when a person attends at a polling place to vote at an election or poll. New section 112 is similar to section 117 of the present Act. New section 113 relates to the provision of assistance to a person who desires to vote at a polling place but is illiterate or physically unable to carry out a voting procedure. New section 114 relates to how-to-vote cards. The new section will provide for how-to-vote cards that are to be placed in voting compartments (the Act presently provides for the display of cards in polling

places), and will allow the returning officer to determine the size of the cards submitted to him or her. New section 115 relates to the use of ballot boxes and reflects the fact that many ballot boxes are now sealed, and not locked. New section 116 is similar to section 120 of the present Act.

Clause 34 inserts a new section 120 relating to the scrutiny of declaration voting papers. The scrutiny of declaration voting papers is to be completed as soon as practicable after the close of voting on polling day. Subsection (3) sets out in detail the procedures that are to be applied. Subsection (4) will allow the returning officer subsequently, on his or her own initiative, or on application, to admit to a count any declaration vote initially rejected but later found to be valid. Clause 35 amends section 121 of the principal Act in several respects. Some amendments reflect the fact that polling booths will be closing at different times. Other amendments reflect the fact that voting is now to occur in polling booths, as defined. Under subsection (8) of section 121, the returning officer must presently carry out any recount within 48 hours after the provisional declaration is made. New subsection (8) will only require that the decision to carry out a recount be made within that period.

Clause 36 will require the returning officer, after the conclusion of an election, to prepare a return to candidates setting out various matters relating to the conduct of the election. Clause 37 amends section 122 of the principal Act in a manner consistent with the introduction of the concept of 'general elections'. Clause 38 makes various amendments to section 123 of the principal Act ('procedure to be followed at the close of voting at polls') that are consistent with the amendments to section 121. Clause 39 amends section 124 of the principal Act to provide that except as authorised by other provisions of the Act, voting material will not be available for public inspection.

Clauses 40 to 48 inclusive relate to illegal practices under Division X of Part VII. New section 124a will ensure that the provisions relating to offences in polling booths extend to acts committed in any other place where voting papers are issued (such other places being where advance voting papers are issued). Other amendments clarify various offences, or provide greater consistency with the provisions of the Electoral Act, 1985. It will be an offence for a candidate at an election, or a person acting on behalf of a candidate, to have in his or her possession advance voting papers issued for the particular election. Another provision will prohibit persons attempting to discover how electors voted at a particular election or poll. New section 133a regulates the publication of statements that are inaccurate and misleading to a material extent.

Clause 49 will provide that the court of disputed returns will not call into question the eligibility of any person whose name appears on the roll as an elector to be a candidate under section 95 (1) *(a)*.

Clauses 50 and 51 make various amendments to the Local Government Act Amendment Act 1988. The amendment relating to section 178 is consistent with an earlier amendment relating to the suppression of the name or address of a person whose address has been suppressed under the Electoral Act 1985 in order to protect his or her safety. New section 184 (7a) corrects a technical problem identified in respect of the operation of section 184 (7) in certain cases. Proposed amendments to section 200 relate to the powers of the Minister to include other councils as constituent councils of controlling authorities. Clause 52 makes a technical amendment to section 55 of the Local Government Act Amendment Act 1988.

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

RACING ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 15 November. Page 1479.)

The Hon. J.C. IRWIN: The Opposition supports the Bill. which I note, has come to us from the other House in an amended form. Following its introduction, advice to the Government and the Opposition was similar, and I am pleased that the belated consultation process has produced a better piece of legislation for this Council to consider. The Government has accepted an amendment from the Opposition that in so far as clause 18 is concerned a person will not be considered for appointment as a member of the tribunal if that person is a member of a controlling authority, for example, a member of the Jockey Club executive or the Trotting Club executive, or if that person is licensed under the Act or the rules of controlling authorities; that, for instance, would be a bookmaker.

I am puzzled by the Government's consultation process, which is not very satisfactory and which follows a pattern set by the Minister of Recreation and Sport. I imagine that the Minister would have consulted with the racing industry following the report of the Nelson committee of inquiry, many of whose recommendations were accepted by the Government. It follows that the Bill that was introduced by the Minister should reflect the advice of the racing industry, but sadly it did not. Instead, similar amendments, as a result of advice from the industry, are on file from both the Government and the Opposition, and an acceptable amending Bill comes from the other House to the Council. The outcome is good, but the methods are questionable. The Opposition believes that the Bill as first introduced by the Minister of Recreation and Sport would have created a *de facto* racing commission. We are glad that the Government has stepped back somewhat and that that will not become a reality.

This Bill amends the Act so as to set up an independent racing appeals tribunal, and we support that amendment. We think that the Government should go further and consider setting up an independent body relating to stewards. Neither the shadow Minister nor I make any reference to the ability of stewards: we merely assert that the tribunal should be an independent body. The Government should also seriously consider setting up a racing industry research and testing centre in Adelaide. Considerable sums of money are generated by the racing industry, and every effort should be made to protect the betting public and, indeed, everyone who plays a part in the racing industry.

The racing—or should I say the betting—industry is changing: that is quite obvious. Not only is racing in its three codes a competitive sport, but there is competition between the codes themselves, and this is a healthy situation. Further, there is considerable competition for the betting dollar between the many modes available and, again, this is a healthy situation. However, I hasten to add, before receiving a lashing from the Democrats, that betting may be a reasonable pastime in moderation but that it can and does cause many social problems. Those problems will require the Government's revenue from gambling to be picked up in some other social welfare areas of its budget.

This Government's motivation and continual amendments to the Racing Act are not primarily aimed at better, pure racing but, rather, at the dollar it will get out of it all: for example, trying to stamp out illegal SP bookmaking. All of this gain is redirected away from the racing industry to satisfy the other calls on the Government's general revenue budget.

Over the past few months between debating the last Racing Act amendment and these before us now, we have been hearing about a number of issues pending resolution. One is the upgrading of facilities for bookmakers on course, providing telephone and computer availability to counter the unfair advantage enjoyed by the TAB. Secondly, there is the introduction of a recommendation of the Nelson inquiry, that is, fixed tote odds betting on TAB, which we have been told is to be introduced progressively on a trial basis but whose implementation I understand will require legislation. We cannot now expect that legislation until February 1989 at the earliest.

The Government should consider the adverse impact this dilly-dallying is having on the industry as a whole. I hope that any new legislation considered in the new year will reflect consultation with the industry before it is introduced, and that it will not involve the procedure we have experienced with this Bill, which was introduced in the House of Assembly and immediately amended by the Government on the recommendations and advice of the Opposition. The Opposition supports the Bill and hopes that the changes endorsed in it will benefit the racing industry.

Bill read a second time and taken through its remaining stages.

LOCAL PUBLIC ABATTOIRS ACT REPEAL BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 1479.)

The Hon. PETER DUNN: This Bill repeals the old Act, which was implemented in 1911 and is now no longer required. This legislation deals mostly with meat hygiene, which in the early days involved some difficulty because of the lack of refrigeration, so there had to be some fairly specific rules and regulations. The old legislation dealt mostly with the larger towns. However, there were many abattoirs in smaller local government areas. Since the Meat Hygiene Act was introduced by the Hon. Ted Chapman in 1980, there have been some hiccups, but I think that most of those have been sorted out now.

This Act is no longer required, because it has been superseded by the Meat Hygiene Act. Small abattoirs are very expensive to run and many country people have problems with inspectors who become rather pedantic about whether the killing pen is too close to the skinning pen, which is too close to the cutting down pen and so on. I think that in recent years most of the problems have been overcome and, because of that, the original Act is no longer required. In his second reading explanation the Minister clearly outlined the provisions of the old Act, which are no longer appropriate. For those reasons, I support the Bill.

Bill read a second time and taken through its remaining stages.

AUSTRALIAN FORMULA ONE GRAND PRIX ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 1492.)

The Hon. BARBARA WIESE (Minister of Tourism): I thank members for their contributions to this debate. As has already been said, the purpose of the Bill is to amend the Act to provide the mechanism for this State to secure and continue to host the only Australian round of the FIA Formula One World Championship on an ongoing basis. Negotiations to secure a long-term extension of the FOCA contract were concluded over the four days of the Grand Prix. Finalisation of all contractual details is, however, still subject to the passing of the necessary amendments to this Act.

In answer to the question raised yesterday concerning the term, it has been correctly reported that Adelaide is now in a position to continue to host this premium event until the year 2000. This is, of course, subject to our continuing to meet and maintain the international standards required in Formula One. The Hon. Mr Lucas, during the course of his contribution to this debate, asked what opting out provisions may or may not be in the contract. Unfortunately I am not able to provide details of the contract at this time except to say that contracts of this kind normally do contain opting out provisions, and I expect that this contract is likely to be no exception in that sense. The details of the contract have been carefully negotiated, and it is not usual that such matters are debated in the Parliament.

In addition, and as a corollary to the acknowledged ability and success of the Grand Prix Board, the Bill will also enable the board to utilise the expertise it has gained on a commercial basis. The extent of the board's involvement in other events, projects or activities will depend on the nature of the opportunities which will undoubtedly arise from time to time. Each such opportunity will be evaluated on its own merits.

As to the other questions that were asked yesterday, I intend to deal with them in the order in which they were raised. First, the Hon. Mr Griffin asked if an indication could be given as to the 1988 attendance figures on each of the four days. The figures that are available at this point indicate that on Thursday, 61 000 people attended; on Friday, 65 000; on Saturday, 70 000; and on Sunday 108 000. That is a total of 304 000 for the four days of the Grand Prix. As has already been reported publicly, although the attendance figure for the main race day on Sunday was down on last year's figure, in fact the attendance figures for the first three days of the event were in excess of last year's figures, so it would appear that there is now a much greater interest in looking at the carnival as a four day event rather than simply a one day race.

Another question sought information as to the extent to which seats were unsold, keeping in mind that some seats were added this year, and how that compares to previous years. Certain stands were not sold out, but that was offset by increased corporate facility sales totalling 3 000, and increased numbers within the general admission areas leading up to the Sunday. Considerable effort was made by the board this year to improve facilities and entertainment within the general admission areas. In particular, a giant television screen was erected which gave people in the general admission areas a much better view of the race than they would otherwise have had. There was also an expo, a fun fair and various closed circuit television receivers around the general admission areas. The overall result, when considering the competition from the World Expo held in Brisbane and a host of other bicentennial events, is in fact quite incredible.

Another question was asked as to what assessments of the Grand Prix have been made. Three surveys were conducted during the course of the four-day carnival which covered, first, people who were not attending the event to try to ascertain why and to gain whatever information may be useful for future marketing endeavours. Secondly, there was a survey of corporate facility holders to ascertain their views on suitability and other issues. The third was a survey

of those attending the event under categories of whether or not they were people coming from Adelaide, country areas, overseas or interstate. The surveys cover the economic impact, the content of the event including services provided, utilisation of accommodation, and the impact of event marketing. Each of those surveys following the Grand Prix will now be analysed, and I am sure that the information gained will be very helpful in assisting the organisers in planning a much better event for next year and beyond.

I was also asked about the possible extension of the Grand Prix track into the parklands. It should be made quite clear at the outset that this Bill does not alter the pre-existing functions and powers of the Grand Prix Board in so far as they relate to this issue. The major function of the board has always been:

> To do all other things necessary for or in connection with the conduct and financial and commercial management [of the event].

It has always been empowered to carry out works to alter the track, if necessary, and furthermore it may carry out any works and do other things that are reasonably necessary for or incidental to the performance of its functions. It is not yet known with any degree of certainty whether it will be necessary to extend the Grand Prix track. Any decision in this regard will depend on various requirements of the international bodies, FOCA and the FIA, and the number of Formula One team and car entries in 1989 and onwards and that number is not yet known.

The Hon. K.T. Griffin: Will there be a decision next year or some time soon?

The Hon. BARBARA WIESE: It could be next year but we will not know for some time. In the event that an extension is required, the appropriate bodies will be consulted and every effort will be made to minimise the effect as much as possible. To date, the actual effect of the event on the parklands has been minimal. The board has in fact spent to date around $500 000 on greenery, irrigation and improvements to the parklands area of the circuit. After each event, additional money is spent to ensure that the parklands are brought back to their original state. In fact, it is considered by many people that the areas of the parklands within the circuit are in better condition now than they were prior to 1985. In addition, after each event, once dismantling works have been completed, there is little evidence of the event other than the actual track surface.

I was also asked about the proposition that has been reported in the press which suggests that the May Adelaide Cup holiday should be cancelled in favour of a public holiday taking place to coincide with the Grand Prix weekend. The origin of the proposition is not known to me. No such proposal has come before the Government at this time, as the Premier indicated. He also indicated that, if such a holiday were to be granted, it should not be an additional holiday but should replace another holiday some time during the year. He has not specifically mentioned the Adelaide Cup holiday as most appropriate. As I have already said, no such proposition has been put to the Government.

The Hon. R.I. Lucas: What about tourist shopping and things like that—wearing your other hat?

The Hon. BARBARA WIESE: What about it?

The Hon. R.I. Lucas: If it is a holiday, you have to pay penalty rates.

The Hon. BARBARA WIESE: I do not know. We would have to think about that.

The Hon. R.I. Lucas interjecting:

The Hon. BARBARA WIESE: I am certain that the racing fraternity would not like the holiday to be taken away, and I understand that spokespersons for the SAJC have said as much in recent newspaper reports. It would be a difficult and controversial decision to take away the May holiday in favour of a holiday for the Grand Prix. I was also asked questions relating to the definition in the Bill of the Grand Prix insignia and the inclusion of the term 'Grand Prix' and provision for protection of the FIA Formula One World Championship. Over the past four years, the Grand Prix Board has expended much time, effort and money in generating commerce and valuable goodwill in the Grand Prix event.

The board has succeeded in maintaining the most successful merchandising and licensing programs of all the organisers of Formula One events throughout the world. There is no doubt that, in Adelaide, the term 'Grand Prix' has become synonymous with last weekend's event. Even in Parliament, the event is rarely referred to as the Australian Formula One Grand Prix, the Australian Grand Prix, a round of the FIA Formula One World Championship or the Fosters Formula One Grand Prix. It is referred to simply as the Grand Prix.

In 1988, some $500 000 is expected to be generated through the board's licensing and merchandising program. The event's goodwill is a valuable commodity. It is precisely for this reason that commercial use of the term 'Grand Prix', providing it refers to the event, should be regulated. If it continues to be commercially available for use by all and sundry, existing licensees who have already experienced tremendous frustration at seeing non-approved users commercially associate themselves with the event without any regulation or control may well choose not to renew their licences. Aside from the question of the use only of the term 'Grand Prix', the FIA has issued new rules relating to the manner in which all Formula One events around the world must be identified.

The FIA considers that the protection of unauthorised association of the Formula One championship or any round thereof to be of paramount concern. Accordingly, rather than adding all possible permutations of Australian Grand Prix and FIA Formula One World Championship, combined or alone, the amendment proposed in the Bill is a more effective way of achieving the desired result. The Grand Prix Board will undoubtedly continue to adopt a fair and sensible approach in regulating commercial use of all official Grand Prix insignia, as it is in the interests of its overall charter to do so.

I was asked about the definition of 'motor racing event' and the intention to include 'any event or activity promoted by the board in association with the race'. This amendment is clarifying in nature and serves only to make it quite clear that the definition covers all events and activities promoted by the board in association with the Formula One race. This year the Grand Prix Board organised some 41 different events and activities in association with the Formula One race including a fun run, a bike hike, a fun fair, a giant video screen, the East End festival, Rock of Ages and other such events, all of which are in keeping with the board's charter to appeal to the widest cross-section of people to attract them to Adelaide to be part of the Grand Prix activities.

Clause 4 deals with resolutions of the Grand Prix Board other than at a board meeting. The Hon. Mr Gilfillan expressed some concern about this clause and has placed an amendment on file, but the Government believes that his amendment would not be practical given the substantial business commitments of individual board members and their unavailability at various times during the year. Whilst the legislation provides for deputies, this is not always practical where there is only short-term unavailability of a board member. Whilst the amendment proposed by the

Hon. Mr Gilfillan does not provide a satisfactory solution to the problem to which he has alluded, the Government understands the point he makes and has placed an alternative amendment on file which it believes is more practical and addresses to a large extent the concern raised by the honourable member.

The Hon. K.T. Griffin: And me.

The Hon. BARBARA WIESE: And the Hon. Mr Griffin. Concern was also expressed about the Chairman being able to appoint committees to assist him or her in his or her capacity. The innuendo seemed to be that there is something untoward in giving the Chairman of the board the ability to appoint a committee to provide advice on a particular matter. It is not at all unusual for committees to be formed to work on particular issues either within the Grand Prix Board structure, company structures or Government circles.

The Hon. K.T. Griffin: It is usually a board that sets up the committee and not a person such as the Chairman.

The Hon. BARBARA WIESE: That may be so. It is certainly expected that the board will be fully aware of the actions being taken with respect to committees that are formed to work on particular events or activities. It is the intention that the board would take this task force approach to the development of particular events and other activities in which it might be deemed appropriate for the Grand Prix Board to become involved. It would be most unusual that the board would not be aware of the formation of such committees and task forces working on particular events and I believe that the terminology in the Bill simply reflects the practical considerations of an authorising officer to make the decision. In practice, the board would be made aware of the activities of such committees in these circumstances.

The Hon. K.T. Griffin: The difference in this case is that the board can establish a committee and the Chairman can also establish a committee. I have no quarrel with subcommittees or committees, but it seems rather strange that the Chairman can technically go off and do his or her own thing with subcommittees.

The Hon. BARBARA WIESE: We can pursue that matter in greater depth in the Committee stage, and I hope that I will be able to convince the honourable member that this is a reasonable course of action. Reference was made to the exemption in the Tobacco Products Control Act relating to motor racing events promoted by the board. The exemption would extend to whatever events or activities fall within the definition of a motor racing event. Assurances were sought in relation to the board's involvement in other events or activities; that is, that it would not compete with private enterprise. The extent of the board's involvement in other events, projects or activities will depend on the nature of the opportunities as and when they arise from time to time.

It must be in a position to react quickly to tender opportunities. Each such opportunity will be evaluated on its own merits. However, as I understand it, because the organisation has only a small number of staff, it is much more likely that, in cases where such activities are contemplated, various functions would have to be subcontracted out to various companies and individuals in private enterprise in order to ensure that those functions occur. I understand that the sorts of events that the board would be interested in would be similar to the kinds of activities in which the board has already engaged with respect to the organisation of various events that are associated with the Grand Prix—such as the consultancy advice that has been provided to authorities in Singapore with respect to the establishment of a Grand Prix there, and activities of that kind. Members may wish to probe a little further in relation to this when the Bill is in Committee, at which time I will certainly try to satisfy any inquiries that are made.

I was asked whether the board's involvement in the World Three-day Event, the entertainment centre, etc., was outside its current powers. The answer to that is 'No'. The board's involvement in those events occurred at the specific request of the Government. It could also have been involved relying on its secondary function and various ancillary powers. The functions and operations of the board have always been subject to the direction of the Minister in all respects. The Minister believed that the involvement of the Grand Prix Board would be useful in those circumstances. However, if the board is to take an active rather than a passive role in involving itself in other events, there should be a clearly defined function and appropriate powers for it to do so in the Act, in order to remove any doubt as to the appropriateness of such activity being undertaken.

Issues were raised relating to detail of the board's involvement. As mentioned, its involvement in the entertainment centre and the World Three-day Event occurred at the request of the Government. A small contribution was paid to the board to cover the services provided by its staff in assisting the World Three-day Event. No payment was received by the board for its involvement in the entertainment centre proposal. The board received a fee for the hire of facilities to the organisers of the Australia Day celebrations in Sydney.

Any further arrangements of this nature in relation to the commercial use of the board's assets would be handled by Arena Promotional Facilities (Aust) Pty Ltd. Questions were also asked about other involvements of the board in commercial activities. First, the board currently has a 50 per cent interest in Goodsports Pty Ltd. Since the board's involvement the turnover of that company has increased five times. In particular, I refer to the contract recently completed for clothing at World Expo.

A recent article in *Australian Business* quoted a turnover increase in 1988 from $1.1 million to close to $4 million, so it would seem that that company has been resoundingly successful in the short number of years that it has existed. As I understand it, the injection of capital that was provided by the Grand Prix Board came at an important stage in the company's development, enabling it to improve and expand, as indicated by the figures that I have just quoted.

The second involvement of the board is in Arena Promotional Facilities Pty Ltd, in which the board has a 50 per cent interest. This venture includes a licensing agreement whereby the company is able to lease the board's assets on a commercial basis during the period that they are not required by the board. There are other comments that I would want to make about amendments that are on file, but rather than taking up the time of the Council now I will leave those comments to the Committee stage. I hope that some of my the responses have satisfied the questions raised in the second reading stage. If there are still questions to be asked, I am sure they can be dealt with in Committee.

Bill read a second time.

TRUSTEE COMPANIES BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 1494.)

The Hon. BARBARA WIESE (Minister of Tourism): I thank the Hon. Mr Griffin, as the only speaker in the debate, for his contribution. The honourable member asked for clarification of several points raised by the Chairman of the

Property Committee of the Law Society. The first related to clause 4 (3). The Hon. Mr Griffin suggested that instead of the reference being to the 'consent of a person entitled', it should read 'the consent of the person entitled'. To make absolutely clear what is intended, it should read 'the person,' and as a result I will move an amendment to clarify that point.

The second issue relates to clause 10 concerning the fee for administering a perpetual trust. This new provision is included at the request of trustee companies. The trustee companies advise that, now when preparing trust documents creating perpetual trusts, they include provisions allowing them to charge appropriate fees for administering perpetual trusts. However, the companies are in the position of administering old established perpetual trusts where there is no provision for charging any fee for the administration. These trusts, the trustee companies advise, tend to involve quite a bit of administration, involving thing like workers cottages. They tend to involve capital assets and little or no income.

The third point related to the fact that there is no definition of 'perpetual trust'. A perpetual trust is one which continues beyond the perpetuity period, and the Government does not think that it requires definition. The fourth point was that it should not be possible for the beneficiaries of the estate to agree to pay additional fees as provided in clause 11 (2) *(b)*. This provision does not alter the existing law.

Finally, the point was raised that trustee companies should be entitled to charge estates commission under clause 9 or a management fee under clause 15, but not both. The commission charged under clause 9 is for the work involved in obtaining probate and distributing the estate. The commission charged under clause 15 is for the cost of managing the investment of the estate money. These provisions do not change the charges that may be made by trustee companies. Since 1986 trustee companies have been authorised to charge an administration fee against their common funds. The 1986 amendments were supported by members opposite. That deals with the major points raised by the Hon. Mr Griffin and I am sure that, if he wants further clarification, he will ask for it in Committee.

Bill read a second time.

LAW OF PROPERTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 1381.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill. It is a highly technical piece of legislation on which I have been able to obtain some comment from the Law Society and from lawyers who practise in this field. The Law Society requested some time ago that the Attorney-General refer to the Law Reform Committee the question of execution of deeds under the Law of Property Act. That was done but, as the Law Reform Committee has been in a state of suspended animation for the past three years, quite obviously it was able to do that work before the suspension occurred and produced its 77th report on this question.

The Bill essentially does two things: it alters the power with respect to a person contracting in two or more separate capacities. For example, a person may be a trustee and also a beneficiary. Some doubt has existed about the capacity to contract one with the other. This Bill provides that that is permissible but only where at least two persons are parties to the contract or conveyance, one of whom is the person contracting in those two capacities.

The second area covered by the Bill relates to the execution and attestation of deeds. There has been doubt about the way in which deeds may be executed. Over several centuries a great body of law has been developed in relation to the execution of deeds, which are binding when they have been signed, sealed and delivered by a party and do not require consideration to be enforceable.

Under the law of contract, a contract between parties can be enforceable only if there is consideration. If there is no consideration the document is not enforceable. But, if a deed or an indenture is entered into between two or more parties which is not supported by consideration but is signed, sealed and delivered, then it is legally binding and enforceable. A deed may be signed by only one person and be binding; for example, a trustee of a trust deed seeking to vary the terms of a trust may do so by a deed or deed poll executed by that trustee.

Therefore, a deed or an indenture is distinguishable from a mere contract. The Bill provides that a deed no longer needs to be sealed and delivered by a party to it. There has been a lot of controversy about when a deed is actually binding, when it is actually delivered, and how it may be sealed. The intention of this Bill is to abolish the common law and to apply a statutory code that will have the effect of providing in one document in the Act a code for the execution of deeds.

In conjunction with this latter amendment the Bill also provides for the conditional execution of an instrument. Previously, there was doubt as to whether a document could be executed and held in escrow until it was needed. For example, where shares are transferred to a purchaser the whole purchase price is not paid but is to be paid over a period of time, and it was not uncommon for an executed share transfer from the purchaser back to the vendor to be held by the vendor to be activated in the event of default and a need to recover the shares by way of realisation of security. That can be done, but the Law of Property Act in this amendment now formalises that sort of situation and provides an improved procedure to enable it to be done.

In essence, the Bill reflects the recommendations of the 77th report of the South Australian Law Reform Committee. Parliamentary Counsel, as a member of the Law Reform Committee, provided a draft Bill as an annexure to the report. The Bill before us now essentially reflects that draft recommended by the committee. That is an important way by which the Law Reform Committee can present to the Government of the day, through the Attorney-General, its intention for reform of the law.

The Law Reform Committee presented this most comprehensive report dealing with a number of issues—the delivery of documents to be held in escrow, the delayed delivery of documents, and deeds executed by corporations—and identified the specific needs for reform.

I do not think that I should relate to the Council the detail of the report. What I now want to do is draw attention to one or two technical matters which I would appreciate the Government looking at before the Bill goes into Committee. The Bill is not controversial in the sense of the Opposition seeking to take political points on it. What I seek to do is ensure that, as much as possible, the reform of this area of the law is effectively achieved with the minimum of confusion to lawyers and, more particularly, to those who seek to execute deeds and indentures in accordance with the provisions of the Bill.

The Chairman of the Law Society Property Committee wrote to me on the Bill presenting his views and, to assist

the Government, I think that I should quote that letter in full and then await some replies. The letter refers to clause 2 which relates to the power to contract in separate capacities. The proposed subsection (1) provides:

A person may be a party to a contract or conveyance in two or more separate capacities (but a contract cannot be validly made unless at least two persons are parties to it).

As the Chairman of the committee says:

(a) The meaning of the words in parenthesis are not clear. Two persons are parties to a contract if a person enters into an agreement with a person for whom he holds a power of attorney or for whom he acts as manager of his estate. Subsection (2) appears to confirm the validation of such contracts, if there is doubt under subsection (1).

In the accompanying report the introductory remarks suggest that the amendment is not intended to enable the making of such contracts but the comments on the clause itself are silent on the question. If it is not intended to validate contracts of the type I have mentioned, I submit that the words in parenthesis should be deleted and a new subsection inserted—

(1a) a contract to which the same person is a party in two or more separate capacities cannot validly be made unless another person is also a party to it.

I question whether any such limitation is desirable. The limitation applies only to contracts. If a person can convey to himself in different capacities, it seems illogical to prevent him contracting with himself in those same capacities.

(b) What is meant by 'separate capacities'. I take it to mean different legal capacities, for example, in my personal capacity on one hand and as trustee on the other, but am I acting in separate capacities as transferor and transferee if I want to transfer property to myself? (There may be occasions when it is desirable to do this under the Real Property Act). For the sake of clarity, I submit that at least subsection (3) of the existing section 40 should be retained.

That refers specifically to conveyancers and says:

A person may convey land or any other property to himself or to himself and others.

I must say that I think there is some merit in the proposition, although, because I do not have the resources of the Attorney-General's Department, I think it appropriate that those resources be employed in examining further the points of the Chairman of the Law Society Property Committee.

He next turns to clause 3 of the Bill, which deals with the execution and attestation of deeds. He states:

(a) In subsection 41 (5)—

(i) *(a)* should read 'indenture or deed'—

I should indicate that, in the Law Reform Committee's report, a typographical error has obviously not been picked up in the translation of the draft Bill from that report into this Bill. The submission continues:

(ii) since delivery is unnecessary [see subsection (3)] the reference to delivery in *(b)* should be deleted. As sealing by natural persons is not necessary, it seems unreasonable to require it to be expressed to be sealed and it should be sufficient to express it to be signed as a deed. Paragraph *(b)* can be amended to read:

(b) in the case of an instrument executed by a natural person the instrument is expressed to be sealed or to be signed as a deed;

(iii) a document should not be deemed to be a deed merely because it is executed by a company under seal. Many agreements between companies are executed under their common seals. To deem them to be deeds could have serious consequences;

(iv) under paragraph *(c)* a document which is neither expressed to be a deed nor executed as a deed can be deemed to be a deed. This is opening Pandora's box.

(b) Section 41aa applies to deeds. The heading should be altered to 'Conditional execution of instruments'.

(c) When one party executes a contract, it is executed conditionally upon the other parties also accepting it. The first party can withdraw until it has been accepted.

I am concerned that section 41aa (3) *(a)* prevents a party who has signed a contract from withdrawing if the other party does not accept it promptly. This could leave the first party waiting an inordinate time for the second party to make up his mind whether he would proceed with the contract or not. The right of one party to withdraw from a contract until it has been accepted should be preserved and subsection (3) *(a)* should only apply after the instrument has been accepted by all of the parties to it. It is pointed out that with contracts required to be in writing, for example, contracts for the sale of land, acceptance must be by signing the contract. In other cases, it may be sufficient acceptance for the other party to act on it.

(d) (i) In subsection 41aa (5), should a person be able to prevent reliance on conditional execution if he has acted on the instrument without relying on its execution or if he has relied on the execution but not acted in any way? If not, paragraph *(a)* should be altered to read—

(a) another party who has acted in reliance upon the execution of the instrument.

(ii) In this paragraph, does 'another party' mean 'another party to the deed' or does it include third parties? I have not had time to consider whether third parties should be entitled to this protection. In any case, the meaning of the paragraph should be clarified.

Again, some important questions have been raised by the Chairman of the Law Society Property Committee that ought to be considered. Other lawyers have raised with me the problem of a company executing a document under seal so far as it relates to stamp duties. As I understand it, the Stamp Duties Office does try to stamp documents executed by a company, when executed under seal as a deed or covenant. Under the provisions of the Stamp Duties Act it is possible for the Stamp Duties Office in some circumstances, particularly where it is a mortgage, bond, debenture, covenant or warrant of attorney, to seek to stamp a deed at *ad valorem* rates of duty.

It is a difficult area but there needs to be some clarification of the circumstances in which a company executing a document under its common seal can identify whether or not that document is in fact to be deemed a deed. There are also some other difficulties, I suspect, with conditional execution. Undoubtedly, some land agents, particularly in the area of the sale of land, will change their contracts from conditional contracts to contracts executed conditionally, allowing a party to escape in a number of circumstances which would not apply where the contract was conditional and which, for example, required the parties to make every reasonable effort to obtain mortgage finance for the purpose of proceeding to the settlement of the purchase.

The last point which is made in the submission to me is in relation to clause 4. The Chairman of the Property Committee states:

By definition, 'instrument' includes deed. 'deeds or other' should be deleted from subsection (2) *(a)*.

He refers to the definition section of the principal Act, section 7, which defines an instrument as 'including a deed and will', but does not include a statute unless the statute creates a settlement. He then goes on to say that he would have liked more time to consider the measure. He states:

It requires more consideration than I have had time to give it. If the Bill is passed, it should be given publicity in business and commercial circles as it could have serious effects.

That raises the question as to when the Government intends to apply the law. From the way in which the Bill is framed, it appears to come into effect on assent but, as I have just indicated, unless the enactment of this legislation is given wide circulation, there may well be ignorance throughout the legal profession as to the operation of the Bill, even from the day of assent. It may be, too, that it can have some significant commercial and legal consequences. So it seems to me that there is merit in the proposition that the enactment of this legislation be given wide circulation, even to the extent of a letter to every legal practitioner as well as to the Law Society to draw attention to the terms of the

legislation once it has been enacted. That is a small price to pay for reforming the law in this way.

There are matters, as I say, which require consideration by the resources available to the Attorney-General's office. I would hope that they can be considered before we proceed further with the Bill. However, I am prepared to support the second reading. I am pleased that at least one of the many outstanding recommendations of the Law Reform Committee is being brought before us by way of legislation. I only hope that other areas which are the subject of reports can be treated in a similar way, particularly areas which are difficult and complex areas of the law but which are not necessarily those sorts of issues which attract a lot of high profile publicity.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 1496.)

The Hon. BARBARA WIESE (Minister of Tourism): During the course of his second reading contribution, the Hon. Mr Griffin asked a number of questions. First, he asked whether the Chief Justice supports this measure. The Chief Justice's objections to acting judicial appointments have not changed since the honourable member was Attorney-General. However, the Chief Justice has informed the Attorney-General that those objections have less force in relation to retired judges than to acting appointees and he supports the general thrust of the Bill, while expressing the hope that auxiliary appointments will be confined to covering temporary absences of permanent judges.

Secondly, the point was whether District Court judges should have power to exercise the jurisdiction of a magistrate. The honourable member is not correct in his understanding that District Court judges do not have the power to exercise the jurisdiction of a magistrate. Section 22 of the Magistrates Court Act presently gives them this power. Clause 5 of the Bill is in conflict with section 22 of the Magistrates Court Act and section 5 (L) *(a)* of the Local and District Criminal Courts Act which provides that a judge of the Supreme Court may exercise the jurisdiction and powers of a District Court judge. An amendment that has been placed on file will remove this conflict.

The honourable member queries why District Court judges should not sit in the Industrial Court. There is still resistence to having District Court judges sitting in the Industrial Court. The Minister of Labour would not object to their sitting on workers compensation and other legal matters but considers that problems could arise in having them sit on Industrial Conciliation and Arbitration Act matters. It may be that suitable arrangements can be agreed on at a later date and flexibility introduced into the Industrial Court as well as other courts.

The honourable member criticised the provision which would allow experience outside of the State to be taken into account in determining eligibility for appointment. The basic requirement for eligibility for appointment to judicial office remains, that is, a person to be eligible must be a practitioner of the Supreme Court. Thus, the provision does not allow for the appointment of persons from anywhere, only the appointment of persons recognised by the Supreme Court as being entitled to practice law in South Australia.

The honourable member questions whether persons appointed under this Act have the same immunity as persons appointed under what may be called the head Acts. Judicial officers are, at common law, immune from liability for acts done in their judicial capacity. The honourable member queries the need for this Act, given the existing power to make acting appointments. The scheme provided in this Act will ensure that extra judicial resources are readily available. The administrative procedures involved in appointing acting judicial officers are inflexible, unwieldly and time consuming. It is often difficult to establish who is available and the problems are compounded when a person is required at short notice.

In introducing the Bill, the Attorney-General referred to the financial and administrative difficulties involved in making *ad hoc* appointments. This Act will enable the creation of a pool of suitably qualified persons who would be available at short notice and who are eligible to be called upon at any time for a period of up to 12 months. This is in contrast to the existing situation where, for example under the Supreme Court Act, acting appointments can be made for only six months. If the extra resources are needed for longer than that, the person must be reappointed. This is administratively inefficient.

The honourable member queries whether the scheme allows for magistrates to act as Supreme Court judges and *vice versa.* Clause 5 of the Bill makes it clear that a judicial officer (which is defined in clause 2) can act only on a level equal to or below that which the person holds. Thus a Master can act as a District Court judge, a Licensing Court judge or a magistrate but a magistrate cannot act in any of those positions under the provisions of this Bill.

It must be realised that this Bill provides greater flexibility not only in securing extra judicial resources from outside the ranks of the judiciary but also in the use of existing judicial resources. By force of clause 5, a District Court judge can sit in the Licensing Court if need be without necessity for appointment as an acting judge of the Licensing Court. This flexibility in the use of existing judicial resources is equally as important as the flexibility in securing extra judicial resources.

Bill read a second time.

BOATING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 1432.)

The Hon. R.J. RITSON: When I last spoke on this matter I said that I supported the Bill and commented that the provisions for regulating hire boats and that section of the tourist industry generally were supported because of the need for such regulations. However, I expressed concern about the type of regulations that would be brought in. In putting matters before the Minister of Tourism, I will try to explain to her the nature of the lobby that is developing in this regard and the sort of problems that will be confronted by the Government, and I do so in order to be helpful.

I do not intend to move any amendments but the Government has a choice of response to the passage of this Bill. It can blindly accept the transfer of the existing regulations under the Marine Act to the Boating Act and applied to yachts, or it can recognise that it has an opportunity to write a new code applicable to the situation. It raises a series of questions. First, will the Minister of Marine, who is new in his portfolio, refuse to take advice outside his department

and allow the provisions regarding the USL standard presently in the Marine Act to be transferred to the Boating Act by department whose officers have said to boating operators that they may as well sell their boats now because they will not pass the survey?

Another question is whether there will be a period of consultation with safety experts from the yachting field. In addition, are the Government and Cabinet prepared to take advice from the Department of Marine and Harbors and from other sources and view the skeletal part of the Bill relating to hire boats as an opportunity to write a code of safety for these vessels, having regard to various sources of advice, including advice from people more experienced in ocean yachting than are departmental officers?

In concluding my remarks, it is sufficient to say that keel boats are perhaps the safest form of water transport. They are safer than bulk ore carriers—they do not break up as often. Manufacturers of keel boats are well versed in that field of marine architecture. If we look at the track record of the department, we find some unfortunate incidents. We will recall a survey vessel that capsized in the Port River minutes after coming off the slip following a refit. We will recall a dredge that capsized in the Port River with loss of life. In another incident, a Government vessel was lost off Kangaroo Island, again with loss of life. But, in living memory, there has been no loss of life as a result of a keel boat foundering in South Australian waters—safety certainly matters.

I have argued by way of raising matters in this Parliament that operators of bare boat charters should be regulated. Why have they not been regulated? I have been persistent in that argument and I hold to that view. So, I support the provision that enables promulgation of safety regulations for this class of vessel. Likewise, I know that the Department of Marine and Harbor's application of the rigid USL standard and the apparent antipathy between some officers of that department and the recreational boating industry has given rise to grave disquiet that the opportunity of writing new regulations in wide consultation with the yachting industry will not be taken.

So, I appeal to the Minister. This is a Cabinet matter—it is not a question of a new Minister in love with his department or dependent on his department slavishly bringing Sir Humphrey's regulations into Parliament. In fact, there is a long history of vessels from South Australia experiencing difficulties here and proceeding to Queensland to operate under regulations available there.

So, I appeal to the Minister of Tourism and Cabinet to take wide advice beyond that of the department. Certainly, the advice of the department must be included, but they should look beyond the advice of the department to experts in yacht design, yacht charter and safety committees of ocean yacht racing organisations to come up with an appropriate standard under this Bill. It is better if the Government does it than if the Joint Committee on Subordination Legislation tries to do it or the Council tries to do it during the Committee stage. My Party colleagues are prepared to pass this Bill forthwith. What counts is the regulations which come in. I simply ask the Minister to consider this matter from the point of the Government as a whole and to use her influence in Cabinet to ensure that it receives that sort of consideration by the Government rather than the Government rubber stamping the code that exists in the Marine Act by transferring it to the Boating Act without considering the particular aspects of keel boat sailing. I support the second reading of the Bill.

The Hon. M.J. ELLIOTT: The Democrats support the Bill. I wish to raise a couple of matters during this second reading debate. The Democrats have been approached by several people who have concerns about the ramifications of this Bill—and I imagine that they are the same people who have been speaking with members of the Liberal Party, and I understand that they have also spoken with people in Government. Their concerns relate more to the proposed regulations than directly to the legislation itself. After speaking with the Minister's people this morning, I believe that by raising these matters now I can get a clear indication, either from the Minister's second reading reply or during Committee, of what is likely to happen in relation to these people who have raised concerns.

I will briefly go through the two cases that have been brought to my attention, so that a response and the necessary assurances can be given in this place. The first group of people who approached me—and I think the Hon. Dr Ritson referred to this matter as well—are involved with Lincoln Cove Yacht Charter. They have a significant and growing tourist business, involving the hire of yachts. I think they also supply yachts which have a master—if that is the correct term—on board. These people are concerned that should the USL standard be invoked a couple of their yachts might fall some 20 cm short of the requirement. I think that it is a 30 metre length that is important, and their yachts fall some 20 cm short of the required length. The significance of that difference in length is enough to determine where those boats can go, and they could be prevented from sailing where they currently go.

The Hon. R.J. Ritson interjecting:

The Hon. M.J. ELLIOTT: I will not enter into an argument about how safe they are or are not, but the ramification of this is that if the USL standard is invoked by way of regulation under the new Act that charter business could be severely curtailed. It will have boats which will not be able to go to places where they currently sail. That yacht charter business would be altered significantly. It was suggested to me during a conversation that I had with the Minister's people this morning that there was a very real chance that the code could be altered or that they could come up with their own code sufficient to allow those boats which are very close to the mark to continue. It was suggested that that would relate to at least some of them. I would certainly like the Minister to spell out a little more clearly what sort of position this charter business would be in, what regulations are being prepared and what sort of codes are to be invoked.

The second contact that I had was from a person who has a speed boat hire business on the Murray River. I understand that most, if not all, of his boats have inboard motors. He expects that, under the code proposed to be invoked, only hire boats with outboard motors would be allowed to operate. That means that all his boats would be unusable. It would not simply be a matter of selling the boats and buying a complete set of new boats; one cannot do things that simply. In fact, uncertainty has been created due to the fact that the Bill has been talked about for some time; the likelihood that these new codes would be enforced has made his business unsaleable. He has tried to sell it on two occasions, but when people have spoken with the Department of Marine and Harbors people they have been warned off. Essentially, they have been told that that business will not really be viable because the rules are to be changed.

He has really been caught out rather badly. I suggested this morning (and I hope my suggestion might be taken up), that there should be some form of grandfather clause whereby this business can continue using inboards but progressively, as the boats become old and need replacement, they can be

replaced by outboards if the Government is to insist that outboards be used. Certainly, this person should not be put in a position where his business is at risk.

The Hon. R.J. Ritson: With respect, the grandfather clause is a bit silly. Either they are safe or unsafe. The question is whether the Government would examine afresh what sort of safety regulations would apply.

The Hon. M.J. ELLIOTT: I believe interim measures are possible. While the grandfather clause is in operation the Government might need to keep a closer watch on the standard at which the boats are maintained. That may involve a cost to the Government, but that is something that it has to bear if it is to change the rules for someone who has a business. We can do things to ensure safety. Obviously, that person could be allowed some sort of phase-out period and, should he sell the business, that should transfer with the business so that it is saleable. It would be extremely unfair if he was trapped into it and could not get out after making a fair commitment in terms of money.

Regardless of whether or not the Government takes up my suggestion, I again ask it to indicate clearly in what position that person will be left. I was advised that the Bill is not to be implemented for another 18 months, and even then it will be implemented only progressively, with sail boats being the first affected, followed by other types. That will leave many people uncertain over the next couple of years as to how things will end up. I have requested the Government to indicate as soon as possible what codes are likely to be brought in and what likely variations will occur. Any indications which could be given at this time would be most useful.

One question brought to my attention which I could not answer in relation to the Bill and which was not answered for me this morning was, 'Will the breathalyser tests also apply to those who operate houseboats?' They are picked up under another Act. I would appreciate a reply to that question. The Democrats support the Bill.

The Hon. PETER DUNN: I wish to speak briefly to the Bill, which contains provisions affecting people in my area, especially in respect of hire boats in Port Lincoln. Also, I wish to canvass a couple of other matters. The first relates to the $17 registration fee. That is likely to be the minimum fee, but I suppose the regulations will allow a fee greater than $17 to be charged for bigger boats and ultimately people will pay so much per metre.

The Bill is not specific about how that will be applied, but I understand that the regulations are and that they will ultimately be altered through the Subordinate Legislation Committee to increase that fee. It is fine to establish a $17 fee now, but boating is a big industry in South Australia. Many people have boats, dinghies and yachts. It is an enormous leisure industry, an industry that I promote particularly in South Australia with our lengthy coastline. We do not make enough use of this industry. It works inland as well, surprisingly, because we have the lovely Murray River on which houseboats operate and people water ski. Much water sport can be enjoyed in South Australia, particularly in the area to the south of Port Lincoln.

It is a beautiful sailing area out from Lincoln. It is very safe and picturesque, and usually the climate is very good in the middle of summer. For all those reasons the boating industry in St Vincent and Spencer Gulfs, on the River Murray and even on the West Coast at Smoky Bay, Streaky Bay, Ceduna, Murat Bay and even as far west as Fowlers Bay are all lovely areas in which to sail. With the advent of trailer sailers people can get to those areas easily, and they very much enjoy sailing in not unchartered waters but waters that are new to them. They enjoy the excitement of exploring them.

I have placed on file the amendment to which the Hon. Michael Elliott referred. It deals with the provision relating to breath analysis. We have lifted out of the Motor Vehicles Act the provisions dealing with blood alcohol and the testing of it. It is a large amendment of nine pages.

An honourable member: Is it longer than the Bill?

The Hon. PETER DUNN: I think it is even longer than the Bill, but it is important. The provision was canvassed in another place and the Minister wanted it in toto. We have had it drawn up with a few slight word changes so that it fits the boating industry and assumes that all those regulations that are required in relation to the road will apply to the boating industry. It is a shame that we must do that. This has been made necessary by the accidents on the River Murray which involve high speeds and loss of life and which have been caused by the high consumption of alcohol. It will be a pity if this provision will apply to people on houseboats. However, that is not so terrible because people can be on soda water for most of the day.

As one who flies a lot, I stay off alcohol for eight hours before I fly. I do not do a lot of boating, although once every two years I go to Port Lincoln and act as ballast on the high side of the boat for one or two races; I enjoy that immensely. I have a shack at Port Neill and an 8ft tinny in which I chase a few tommy ruffs and garfish. Apart from that, my boating experience is not great. I prefer to fly, as it is easier to get from A to B in that way. However, I understand what this amendment does because I must stay off alcohol for eight hours before flying. Driving a motor car is more dangerous than flying an aeroplane or piloting a boat. It has often been said that the most dangerous part of flying is driving to the airport, and I agree with that.

Boating tends to go with the leisure industry, in which a bit of alcohol seems to be involved. However, I guess that people are accustomed to not consuming alcohol before driving, and I hope that this will not be too big an impediment on the boating industry. It has been brought about following several accidents that have occurred on the river, and this now has to apply to all sailing boats, and all industries involved with water sports and boating. I have moved an amendment in relation to that and hope that the Minister will consider it at the appropriate time.

This Bill places some fairly severe impediments on the people who have charter businesses in the Port Lincoln marina. Lincoln Cove Yacht Charter, run by the Haldane family, has over the past few years developed into an entrepreneurial and excellent business. If one goes back into the history of the Haldanes one finds that they have been in Port Lincoln for a long time. They featured in the early development of the tuna industry and did a lot of work in the prawn industry. They provide a tourist service for the area of Port Lincoln by hiring out a beautifully made Beneteau (French) boat and, although I have not sailed in it, it has been given many accolades by the people who have hired it.

If members went to the Expo they would have seen one of these boats out of the water in front of the French pavillion. It would be a disaster if this Bill restricted the ability of those boats to sail around these beautiful islands, including the Sir Joseph Banks Group. The coastline just south and north of Port Lincoln, the area around Boston Island and Boston Harbor itself are also very beautiful. This Bill will effectively mean that these boats cannot be licensed if they do not exceed 10 metres—and these boats are 9.8 metres—to sail in waters that are deemed not to be smooth or partially smooth.

In fact, the waters on the other side of Boston Island are deemed, by the uniform shipping laws code, to be not partially smooth. In the Lower House Mr Blacker stated:

> In order to get into the partially smooth waters classification, one needs less than 1.5 metres wave height for 1.8 per cent of the time, whereas I believe that that is the case in the area outside Boston Island for 2.2 per cent of the time—so we are talking about a minute difference.

To me the waters in that area are not very rough. If one looks at the maps one finds that it is well protected by Thistle Island, which takes much of the swell that comes up from the Southern Ocean and dissipates it before it gets into this Sir Joseph Banks Group of islands. If the weather turns sour and one is sailing anywhere in that most beautiful group of islands a lee side of an island is almost always within sight. There are so many islands with lovely beaches where one can moor and get protection. I understand that the Haldanes have a number of permanent moorings in that area where one can run to in order to get out of bad weather. In fact, it is a very safe area.

The Hon. G.L. Bruce: Who was the other entrepreneur in Port Lincoln who supported it?

The Hon. PETER DUNN: He happens to have a boat over 10 metres, so he can do that. He is virtually saying that this will eliminate his competition. I think one or two people want to take over the whole industry. But that is not the point. The industry now has a number of boats and has grown at the rate of about 30 per cent per year for the past three years. I think that that needs to be thought of when we are putting legislation to the people, as we are doing here. I believe that Haldanes have every right to continue what they are doing. It is a shame that the Minister is not here at the moment, because she is the Minister of Tourism, and that is what this is about. We are not only talking about tourism, but—

The Hon. G.L. Bruce interjecting:

The Hon. PETER DUNN: The same boats can work in the Whitsunday Group. What is the difference? It is a little colder in Port Lincoln than in the Whitsunday Group, but we do not get tornadoes or cyclones as they do in the north. What we have is a very protected area at the bottom of Spencer Gulf, which we ought to be promoting as a tourist resort. We have that lovely marina there now which, incidentally, has changed hands in the past couple of days, the Government having sold its share, I understand, to the person who owned the rest of it. I think that it will go ahead rapidly now that it is wholly a private enterprise, but we must promote it. We promote the Grand Prix, and as a State we ought to be promoting the tourist industry in that area. If we do not, it is a shame, because the Port Lincoln area is one of the prettiest areas in the Commonwealth. Indeed, if the Government does not promote it it is not fair dinkum about tourism.

I am disappointed that the Minister is not here to talk about it. Not only is it a tourist industry but I understand that Haldanes are negotiating to build those boats in Port Lincoln. They are fibreglass boats and very expensive, and I understand that Haldanes are negotiating to build them for the South-East Asia area. If they can build 50 boats a year—which I am informed they can—an industry will commence which will employ many people. Not only do we have a tourist area there but also an industry which can bring in some export dollars, which we need with the balance of payments situation today and the Federal Government falling over.

They call Mr Keating the world's greatest Treasurer: I think that the J curve fell over or turned upside down somewhere along the line. About six months ago I remember Mr Keating saying that, if the Australian dollar went up, interest rates would go down. I received two notices from my banks saying that interest rates were going up. They have gone up by about 2 per cent in the past three months, and so has the Australian dollar, which is now up over 85 cents. The Treasurer, therefore, does not know much about earning export dollars, and I am beginning to believe that this State does not know much about it, either, if it can knock off an industry like this.

That is what this legislation is doing. It will knock off that industry—not only the tourist industry but a manufacturing industry as well. We ought to be out there helping them establish this industry, giving them some guidance to establish a factory in Port Lincoln and get it going. There is a factory there now which is very well developed. We have a surveyor in Port Lincoln and a very well developed manufacturing industry that builds tuna and prawn boats and also enlarges them, yet the Government wants to knock it off all because of about .2 of a metre, which is the basis of the argument. It is fairly clear that this Bill has deficiencies. We are supporting it, but I will be moving an amendment to include the provisions relating to breath analysis when piloting or steering boats, or whatever term one wishes to use.

I believe that the Government and the Minister ought to look very carefully at what they are doing with this hire boat industry if we want to be fair dinkum about tourism in this State. We have some of the most protected waters in the country. St Vincent Gulf and Spencer Gulf are lovely areas to sail around, and we will kill the industry by not allowing people to hire boats. Visitors to the Gold Coast can hire boats almost anywhere and sail around that lovely Whitsunday area. We have here an area equally nice so why can we not make use of it and promote tourism, and why cannot the Minister be cognisant of that fact and get off his butt and make sure that the Bill does not hamper those people who are trying to promote tourism in this State?

Bill read a second time.

SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 1434.)

The Hon. DIANA LAIDLAW: The Liberal Party opposes this Bill, which seeks to expand the functions and powers of the South Australian Metropolitan Fire Service. In 1984 the functions and powers of the service were amended to read as follows:

> *(a)* to provide efficient services in fire districts for the purpose of fighting fires and of dealing with other emergencies; and
>
> *(b)* to provide services with a view to preventing the outbreak of fire in fire districts.

This Bill seeks to leave paragraphs *(a)* and *(b)* intact, but to insert a further paragraph as follows:

> *(c)* such other functions as may be assigned to the corporation by the Minister.

The Minister's second reading explanation provides three grounds for proposing this almost unlimited and unchecked expansion of function and powers of the corporation. The Liberal Party believes that each ground is most dubious.

First, the Minister argues that the Fire Service is presently carrying out additional functions, including marine and Penfield operations and salvage. This reference suggests that the two nominated activities (marine and Penfield operations and salvage) are not the only ones being conducted by the corporation as 'additional functions' but, rather, that

the corporation is also undertaking these activities outside of its current statutory charter. In recent days, when the shadow Minister of Emergency Services (Hon. Bruce Eastick) and I discussed this Bill with industry representatives, that view was most definitely put. Industry representatives are less than pleased about the situation. On those grounds alone, I cannot see any reason why Parliament should be asked to amend the Act to provide virtually retrospective endorsement of these additional functions being undertaken by the corporation.

Secondly, the Minister argues that it is 'necessary for the fire equipment servicing division of the corporation to expand beyond its current practice of servicing and maintaining fire extinguishers and fire hoses into the field of replacing fire protection equipment'. The Minister would have us accept on face value that such a step, as reported in the second reading explanation, is essential for the corporation in order that it may provide a total service to its clients. Nowhere, however, does the Minister outline why this move is either deemed necessary or essential by the Government.

I pose a variety of questions as they have been posed to us. Is such a move proposed because the division is overstaffed and underworked? Is it because of a Government directive that the division generate more revenue? Is it because the corporation's counterparts in Victoria and Tasmania have expanded into this same field of supply? Perhaps the Government and the corporation have received a stream of complaints about lax or shoddy service provided by private sector companies involved in the supply, manufacture, installation and service of fire protection equipment. Whatever the rationale may be, and it has certainly never been explained, for its part the Liberal Party has not been able to detect any criticism of the operation of private sector companies in this field, and I would add that our inquiries in this respect have been quite extensive.

Thirdly, the Minister argues that the need to widen the powers and functions of the corporation will be exacerbated by the need to replace fire protection equipment which will become condemned in 1989 by the introduction of new standards which will render obsolete a very large number of fire extinguishers currently in use by fire service clients. Inquiries made by the Liberal Party revealed that this reason or excuse by the Minister has no foundation at all. The Opposition is in receipt of a faxed statement from the Standards Association of Australia in which the Executive Officer of Committee FP-3 related to fire extinguishers, Mr W.C. Pringle, writes:

1. Standards Australia have no proposed standards which will obsolete any type of extinguisher.
2. South Australian Metropolitan Fire Brigade will service soda acid type extinguishers and chemical foam type extinguishers as long as parts are available and they meet the requirements of the standard hydrostatic test.

With respect to this statement by Mr Pringle, I remind members that, if and when new standards are to be introduced to render obsolete various types of fire extinguisher as alluded to by the Minister in the second reading explanation, it would be this committee, FP-3 of the Standards Association of Australia, that would be recommending such a change. Yet, at this time, the Standards Association and that committee in particular have no proposed standards which would render obsolete any type of extinguisher. Therefore, it is misleading for the Minister to suggest that a proposed change in the standards next year provides further reason for members in this place to endorse the widening of powers for the corporation. This is just simply not the case.

The Opposition believes that not one of the three grounds put forward by the Minister as justification for this Bill is legitimate or sound. In addition, we are most concerned about the impact on the commercial sector if the corporation as proposed is granted the almost unlimited rights to expand its functions, if not immediately, certainly some time in the future. At present no fewer than 75 private companies are listed in the Yellow Pages of the South Australian telephone directory as suppliers of fire safety products.

The market therefore is clearly most competitive: it is an open competition, it is efficient and suppliers are well catered for. Of those 75 companies, 60 are listed under the heading 'Fire protection equipment and consultants' and it is estimated that the total market in South Australia is over $20 million a year and that it employs over 500 people, excluding MFS and CFS personnel. Of those 60 companies that I noted as South Australian companies supplying fire equipment, 10 are members of the Fire Protection Industry Association of Australia Ltd (South Australian Branch), and this organisation operates to provide industry commerce and the community generally with high standards of work and strives to maintain ethical principles appropriate for an industry engaged in the preservation of life and the conservation of property.

The Fire Protection Industry Association is a highly reputable organisation and my inquiries have not found anybody who would suggest otherwise. Its member companies generate hundreds of jobs in this State and millions of dollars of business turnover each year.

This Government, however, did not even bother to inform the association or the individual members of the association of the content of this Bill, let alone seek their opinion of the provisions. When the shadow Minister of Emergency Services in the other place, the Hon. Bruce Eastick, forwarded a copy of the Bill to them for feedback after its presentation in the other place, the companies were literally shocked by the content and its implications both immediately and in the future.

Promptly they inundated the Liberal Party with pleas calling upon this Parliament to oppose the Bill. We have received protest letters and fax from a large number of companies: the Director of the Australian Fire Company; the Director of Total Fire Protection Pty Ltd; another director of the Australian Fire Company; the Contracts Manager of Australian Fire Services Pty Ltd; the Service Manager of Simplex International Time Equipment Pty Ltd; the Manager, Merchandising Division of Fire Fighting Enterprises (South Australia) Pty Ltd, a member of the James Hardie Industry group; the State Manager for South Australia of Chubb Fire, a division of Chubb Australia Ltd; the Manager of South Australian Fire Extinguishers Pty Ltd; the Director of South Australian Fire Enterprises; the Chief Executive of Fire and Safety Products (Australasia) Pty Ltd; the Director of the fire protection division of O'Donnell Griffin, a division of ANI Corporation Ltd; and the Divisional Manager, fire protection, of Wormald Fire Systems.

In addition to those letters and fax which the Opposition has received, which all call on the Parliament to defeat this Bill, I was also interested to be asked to sit in on discussions with industry representatives who had taken the trouble to fly from Melbourne to inform the Opposition of the state of play in Victoria following the introduction of similar provisions in the Metropolitan Fire Services Act in that State.

They were particularly alarmed that there are proposals in this State to move in the same direction. I assure members that the alarm is widespread in South Australia, and

that concern is supported by companies interstate. The companies to which I have referred do not consider it proper, reasonable or necessary that a body such as the South Australian Metropolitan Fire Service, being Government sponsored and funded, should involve itself in commercial enterprise, as instanced by the Minister in the Bill, in the replacement or supply of fire protection equipment. The Liberal Party agrees with this proposition.

Whenever a public enterprise such as the fire service becomes involved in commercial enterprise, the question is whether that is the best use of the taxpayers' dollar. On that point, I note that, in the second reading speech the Minister said that the South Australian Metropolitan Fire Service already services fire extinguishers and fire hoses. I will dwell on this point for a moment with respect to the income and expenditure statement for the fire service for the year ended 30 June 1987. The statement shows a credit balance of $40 000 on an income of $1.006 million, which represents a 4.14 per cent profit margin on costs of $966 000, or a 3.976 per cent profit margin on total income. That is a very low profit margin by any standard. Sources of income are not revealed in the statement but I understand from industry sources that, based on known corporation rates in the marketplace, it is unlikely that even the extremely low margins indicated were achieved through actual trading operations.

Last December, the Western Australian Labor Minister for Emergency Services (Mr Gordon Hill) announced a revamping of the fire service in that State. His press release stated, in part:

> The brigade would transfer responsibility for its commercial, extinguisher and hose reel maintenance operations to private suppliers and contractors, and instead train and regulate them. Mr Hill said it was much more cost effective for the private sector to service extinguishers as it had been doing since the early 1970s and officers of the brigade to use their expertise for training and monitoring.

Essentially, Mr Hill has made sure that the metropolitan fire brigade in Western Australia opts out of servicing extinguishers and the Labor Party in that State has acknowledged that the private sector can do that in a far more cost effective way. On the figures provided in the income and expenditure statement for the year ended 30 June 1987, one could certainly argue that that would be the case in South Australia although the fire service is seeking to extend its operations into what is and should remain the province of the commercial sector.

The Liberal Party endorses the moves undertaken recently by the Western Australian Government and also the rationale for such moves. I indicated earlier that Victoria and Tasmania have similar provisions to those which this Government proposes to insert in this Bill. In this regard, it is important to quote the Minister's statement in the other place when summing up the second reading debate because it casts an interesting reflection on the quality of advice that we believe the Minister has received on this subject.

In respect of the operations of the Metropolitan Fire Services in Victoria and Tasmania in relation to the supply of fire extinguishers and hoses, the Minister said:

> The sky does not seem to have fallen in those particular areas. I do point out that some of the fears that may reside in private industry probably come from the fact that in Victoria, where this occurs to a certain extent (as I am advised), the fire service sources its equipment from only one supply. It is not for me to give gratuitous advice to fire services in other States because that is asking for trouble, I guess that is to invite the suspicions of private industry generally.
>
> I understand that a different system obtains in Tasmania, and certainly my advice to the fire chief here would be that we do not get into a position where we source our equipment purely from one supplier, nor is it envisaged that the fire service would adopt an aggressive marketing stance in relation to this matter. It is not suggested, either, that any mark-up that it would have would be such as to undercut private industry that is currently operating.

The Opposition has received a response on virtually all of those points from the Chief Executive Officer of the Fire Protection Industry Association of Australia Ltd which is based in Sydney. The letter from Mr Douglas A. Greening, dated 11 November and addressed to Mr Richard Bright of the Fire Protection Industry Association of Australia Ltd (South Australian Branch), is headed 'South Australian Metropolitan Fire Services Act Amendment Bill', and it states:

> We read the contents of the parliamentary debate on the above Bill with great concern. Whether intentionally or not, the information placed before the House by the Minister is at best inaccurately understood. The following points should be clarified:
>
> *(a)* There are no resident fears from the private industry as to the number of or method of supplier selection in Victoria and the Minister is incorrectly informed that equipment comes from only one supplier.
>
> *(b)* Whilst, through the Minister's lack of clarity, we are required to assume that the committee referred to is the Standards Australia Committee FP-3 we must advise that the proposition of banning extinguishers via that medium is not possible.
>
> Standards Australia Committee FP-3 a number of years ago raised the issue of a phase out period for soda-acid reversible extinguishers and were advised by the Trade Practices Commission and the Consumer Affairs personnel that such an agreement could not be supported. In fact the brigades representatives have continually 'marketed' the proposal that they will continue to service such units and they discussed a system whereby the brigades would ensure spare parts were available.

As with point *(a)* in the letter, point *(b)* highlights that the Minister has been provided with misleading information on this matter. The letter continues:

> *(c)* FP/3 Committee is currently considering no proposals for banning extinguishers.

That is contrary to the advice of the Minister. The letter continues:

> *(d)* Revised regulations, now before FP/3 Committee refer to a 'how to' document to assist in correct servicing procedure.

Again, that is contrary to any matter that the Minister placed before us in the second reading explanation or in debate in the other place. The letter continues:

> *(e)* The proposition that Victoria and Tasmania have profitable servicing areas within their brigades is treated with scepticism. It is interesting to note that the service groups always appear to state all income, but expenses do not indicate that the organisation is incurring appropriate expenses. For example, the Tasmanian Auditor-General has noted that the Tasmanian Fire Service accounts were neither prepared on an income and expenditure basis nor disclosed appropriate opening and closing balances. At a later stage, cost accounting practices were introduced, and for the first nine months of 1987 the net profit result was 3.42 per cent, or $12 042. One should note that the 1987 report indicated that Hobart was incurring a deficit, as was the northwest area; only the area of Launceston actually returned a surplus.
>
> *(f)* The replacement sale argument is not valid. No example has been given whereby any client has not been able to either replace or purchase extinguishers from the private sector. We therefore do not accept that 'it has become necessary to include replacement sales'.
>
> *(g)* The South Australian Metropolitan Fire Service has an extremely unfair advantage in the marketplace. Many instances may be cited, but some of the more obvious are: sales tax exemptions, entry to premise by uniform authority status, ability to offset staff costs between departments without appropriate expense adjustment, and relief from many Government charges.
>
> *(h)* The issue of Western Australia always operating at a loss may in fact indicate that they alone indulged in appropriate and accurate accounting practices.

That letter was signed by the Executive Director of the Fire Protection Industry Association of Australia Limited. In addition to those points, which, again, refute the premise upon which the Minister has introduced this Bill and also the arguments that he put forward in the other place when summing up the second reading debate, I would also take issue with his statement that it is not envisaged that the

fire service in South Australia would adopt an aggressive marketing stance in relation to this matter. It is important for honourable members to be aware that that is not the position that has currently been adopted by the South Australian Metropolitan Fire Service in regard to servicing. On that basis, one cannot have any confidence that its approach in respect of supply in the future would be other than aggressive. I refer to a circular of February 1988, headed 'Fire Equipment Replacement', which reads as follows:

> Clients should be aware of sales personnel who advise that certain pieces of approved fire safety equipment, for example fire extinguishers, are no longer acceptable and should be condemned for various reasons. Replacement equipment may be unnecessary as well as expensive. Our Servicing Division is available for verification and advice on those matters by contacting the Manager.

Then it goes on to give the telephone number for the Fire Equipment Servicing Division of the South Australian Metropolitan Fire Service. That memo was sent not only to clients of the South Australian Metropolitan Fire Service but also to many companies in the State which require fire equipment. I highlight with regret that the Fire Equipment Servicing Division should seek to reflect so badly on the private sector companies involved in that field with no proof being registered that the 75 private sector companies operating in this State have ever provided poor or less than cost-effective service or have not provided full follow-up service and at all times acted in the best interests of their clients.

I would argue that it is regrettable that the Metropolitan Fire Service should be reflecting in that way and without foundation on the private sector. If we see that method of operation at this stage, I do not have any confidence in the statement that the South Australian Metropolitan Fire Service would not aggressively pursue competition in the field of supply in the future if members of this place grant it the right to do so by supporting this Bill.

For the variety of reasons that I have outlined we believe that the Bill is unnecessary. We believe that it is based on misleading advice and that the private sector is more than adequately, cost-effectively and efficiently providing services to customers in this State; there is no need whatsoever for the Metropolitan Fire Service to enter this field. I support the second reading, but repeat that the Opposition strongly opposes this measure.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

LIFTS AND CRANES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 15 November. Page 1514.)

The Hon. J.F. STEFANI: The Opposition supports the Bill, which contains two sets of amendments. The first amendment removes the reregistration anomaly which was contained in the 1985 Act requiring all lifts and cranes still licensed when this legislation comes into operation in early 1989 to be reinspected before they can be relicensed. It became apparent that some cranes, only several months into the operation of the new Act, would have to be reinspected before they could be permanently placed on the register. The second amendment upgrades penalties under the schedule in accordance with the new divisions. The Opposition supports the amendments to this legislation.

Bill read a second time and taken through its remaining stages.

MINING ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 9 November. Page 1383.)

The Hon. K.T. GRIFFIN: My colleague the Hon. Martin Cameron will handle the major part of the Bill, but I am getting in first to make my point on one issue, namely, the resolution of certain disputes under the Mining Act. The Wardens Court has traditionally been the court to resolve disputes under the Mining Act, except when they exceed a certain value, beyond which they are resolved by the Land and Valuation Court. Under this Bill any claim less than $100 000 may be resolved in the Wardens Court, although under the amendments proposed in clause 15 of the Bill, if there is a case of unusual difficulty or importance in the Wardens Court, the matter may be removed by order of the Wardens Court or the Land and Valuation Court into the Land and Valuation Court.

The Hon. M.B. Cameron interjecting:

The Hon. K.T. GRIFFIN: The Wardens Court goes to the field. The Land and Valuation Court is a division of the Supreme Court and would sit ordinarily in Adelaide but can sit on circuit. Generally speaking, the issue which I raise and on which I wish to comment is the $100 000 jurisdictional limit of the Wardens Court, which is essentially constituted by a magistrate. In other jurisdictions the magistrate can exercise responsibility only where claims do not exceed $20 000. Between $20 000 and $100 000, except in personal injury claims, it is the District Court and thereafter the Supreme Court.

I have canvassed opinion on the $100 000 jurisdictional limit for the Wardens Court. There is not a great deal of concern about it in the community. I understand that the mining industry is happy with it. Of course, it depends on the experience of the particular magistrate who constitutes the Wardens Court. I want to record the fact that because this $100 000 limit is not being challenged in the context of this Bill it is not to be taken as a precedent by the Government with respect to any increase in the jurisdictional limits of magistrates exercising civil jurisdiction.

The legal profession and litigants are satisfied with the $20 000 existing limit for magistrates in the civil jurisdiction of the Local Court and are anxious not to see that extended. But in the area of mining, all the parties seem to be reasonably untroubled by the $100 000 limit, and because of that the Opposition will not take any point that that ought to be reduced. That is an issue that I want on the record in case at sometime in the future someone might seek to throw up this limit of the Wardens Court as a basis for extending significantly the jurisdiction of the other courts presided over by magistrates.

The Hon. M.B. CAMERON (Leader of the Opposition): It is not my intention to canvass at great length the issue that has been raised by the Hon. Mr Griffin. The Opposition has no major objection to this Bill. A number of questions were put by the Hon. Mr Goldsworthy in another place, and I understand that they were satisfactorily answered. Basically, the Bill increases the size of claims from 50 metres by 50 metres to 50 metres by 100 metres. That is commonsense, and for that reason it is obviously supported by the miners in the field.

These days, certainly at Mintabie, mining claims generally are worked by bulldozer and there must be a lot of give and take on the claims because, while one person is digging with a bulldozer, the other person has to wait; then the heap has to be shifted the other way so that the next person

can dig their claim. It is sensible to allow for a reasonably sized claim so that bulldozers can operate without having to run over the top of another person's claim. The raising of the jurisdictional limit for disputes up to $100 000 is also sensible because these sites are a long way from the metropolitan area. It would be rare for the Land and Valuation Court to go into that area. The Wardens Court sits regularly to handle disputes, a large number of which involve reasonably large amounts of money.

I take the point that was raised by the Hon. Mr Griffin in relation to that matter. Nevertheless, I think it will cut down the cost of litigation. That is important and will lead to a speedier settlement of these disputes, some of which entail a lot of feeling. Some of the people in mining areas—

The Hon. R.J. Ritson: And also an amount of gun power.

The Hon. M.B. CAMERON: I do not want to comment on that. They tend to express their feelings fairly forcefully. I have had some experience in conducting meetings at Mintabie. They are not people to withhold their expressions of opinion about either politicians or one another, and I would say that it is unwise to leave them with a dispute between any parties in those areas for any length of time and that the sooner they are settled, the better. In relation to the need to have a miscellaneous purpose licence, I understand a question was put but that the Minister in the other place satisfied the Hon. Mr Goldsworthy on that point. It was also a sensible move to cut back the length of the licence. One area about which I have always been concerned is the provision that existed before—although I am not sure that it now exists—that a person in forfeiting a lease had to do so in the field.

Quite often, these people had already left the field and come to Adelaide, yet many were faced with the prospect of having to return to the field because they were not allowed to forfeit the lease unless they were in the field. I remember having some quite vigorous discussion about this matter when the previous Liberal Government was in office, and commonsense eventually prevailed on the one issue in which I was involved. I expect that this measure will assist in that, by introducing the situation whereby a person can forfeit a lease at a much earlier stage and not have to wait the full time. With that very long and meaningful contribution the Opposition supports the Bill.

The Hon. BARBARA WIESE (Minister of Tourism): I would like to thank members for their contributions to this debate and also for the cooperation they have shown in being prepared to go ahead with this Bill this evening, even though their principal speaker was not available to participate. I appreciate that cooperation and am pleased that the Bill has the support of members opposite.

Bill read a second time and taken through its remaining stages.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 9 November. Page 1383.)

The Hon. M.B. CAMERON (Leader of the Opposition): I can add no more to what my colleague in the other place (Hon. Mr Goldsworthy) said. He stated:

I support the Bill. The section to be struck out of the principal Act is now redundant.

Bill read a second time and taken through its remaining stages.

FIREARMS ACT AMENDMENT BILL (No. 2)

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 2, and had disagreed to amendment No. 1.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL (No. 3)

Returned from the House of Assembly without amendment.

CRIMINAL LAW (SENTENCING) ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SUMMARY OFFENCES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT AMENDMENT BILL

Returned from the House of Assembly with amendments.

ADJOURNMENT

At 10.35 p.m. the Council adjourned until Thursday 17 November at 2.15 p.m.