LEGISLATIVE COUNCIL

Wednesday 12 April 1989

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

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

PETITION: MAXIMUM SECURITY DETENTION CENTRE

A petition signed by 3 160 residents of South Australia praying that the Legislative Council would urge the Government to reconsider its proposal to build the maximum security detention centre on Blacks Road, Gilles Plains, was presented by the Hon. Diana Laidlaw.

Petition received.

QUESTIONS

Mr TERRY CAMERON

The Hon. M.B. CAMERON: Will the Government appoint an independent legal practitioner to review the investigation of Mr Terry Cameron's activities in the building industry by the Department of Public and Consumer Affairs to determine whether that investigation was a full and proper one?

The Hon. C.J. SUMNER: The honourable member has asked a question which is out of order, as there is already a motion on the Notice Paper dealing with this topic. However, as he has abused Standing Orders and will accuse me of not wanting to take any action on the matter if I do not answer, I will answer the question.

The honourable member is saying that the Commissioner for Consumer Affairs, Mr Neave, has not carried out a proper investigation. He is also saying that the Crown Solicitor has not properly reviewed that investigation, the report and the material that was presented with it.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The Crown Solicitor reviewed the report and the statements prepared by the investigator.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Of course. The Crown Solicitor reviewed the report, reviewed Mr Neave's advice and the advice from the legal officer of the Department of Public and Consumer Affairs, and had to hand the statements taken by the investigator. That is what happened in this matter.

I repeat what I said yesterday: the matter, having been raised in the Parliament, was referred to the appropriate authorities. In this case the appropriate authority was the Commissioner for Consumer Affairs. He conducted an investigation and produced a report which was tabled in Parliament. This report was sighted by the Crown Solicitor who was asked to advise whether there was any evidence to support any charges of breaches of legislation. The report said quite clearly that there was not. It further said that, in some cases, these matters occurred over 10 years ago and that clearly, with respect to many of these matters, action could not be taken because of the statutory time limits applying.

The central point which needs to be made is that the Crown Solicitor found that there was no evidence to form the basis of charges. Surely, that is the situation which needs to be considered in this context. The request was to examine the allegations made in the Council. The Commissioner took that to mean that he should examine allegations to see whether there had been any illegal behaviour—and conducted his report accordingly.

The Premier and I, as the responsible Minister, have not been involved in the investigation. I did not want to get involved in this investigation. Clearly, as I said yesterday, had I become involved members would have accused me of somehow or other acting improperly. The fact is that, as I described yesterday, the matter was referred to the Commissioner for Consumer Affairs, who had the matter investigated by Mr Webb, and the Crown Solicitor examined the results of that investigation.

What more is the Government expected to do? What more is the responsible Minister expected to do? What more is the Premier expected to do? We happen to live in a society where there remains—albeit in a somewhat restricted form—presumptions of innocence and civil rights of individuals, whether they be secretaries of political Parties or members of Parliament. Unfortunately, in this State witch-hunts are now being carried out. There is a new McCarthyism abroad where anything goes in terms of allegations against members of Parliament in this place or other people connected with politics.

Over the past 12 months on numerous occasions we have seen this from members opposite. We have seen it in the case of the Hon. Barbara Wiese, the Hon. Mr Mayes, the Hon. Mr Blevins and most notoriously in my case where members opposite engaged in a personal witch-hunt against me by rumour, innuendo, and so on. It is time that a halt was called to this sort of behaviour in this sort of community and particularly in this Council. The Opposition has gone overboard, and I believe it is time we came back to allowing the law and proper investigations to take their course in these matters. In this case, the reality is that the accusations and allegations made by members opposite were referred to the appropriate authority.

If, for instance, there were suggestions of criminal offences, would members suggest that I should carry out the investigation into those criminal offences? Of course not. They would be referred to the appropriate authorities—the police—to carry out an investigation and Crown Law authorities would adjudicate as to whether there was evidence to prosecute.

In this case, the responsible public official was the Commissioner for Consumer Affairs. The matter was properly referred to him and he conducted the investigation. He was told to investigate the matters that had been raised in Parliament by the Opposition, and that is what he did. The results of his investigation were referred to the Crown Solicitor and she gave the advice that has been passed on to Parliament. That is what happened, that is the correct procedure, and there is no way in which the Premier or I can be criticised for having behaved improperly in the conduct of this case.

The suggestion that, somehow or other, there was improper behaviour or that the matter was not handled properly is rejected absolutely. I said last week and I said yesterday that, if further allegations come forward about behaviour that may be criminal and require investigation, they should be made so that they can be investigated. Many of the things that are now being dredged up by the Opposition occurred 10 years ago when Mr Cameron was a private citizen engaged in activities in the building industry. That is the reality of the situation. He has not been engaged in those activities in recent times but, if there is any suggestion that he has been engaged in illegal activity for which there

is evidence that can lead to a prosecution, that should be brought forward so that it can be investigated properly.

The Opposition was given that opportunity on the occasion of this investigation. Mr Baker, a member of another place, was interviewed; Mr Yeeles was interviewed; and Mr Olsen was written to, as I said yesterday, with the suggestion that he should produce any evidence. It is on the basis of that discussion that the investigation was carried out. It is also the basis of the questions that were asked in Parliament by members opposite. Impliedly, the honourable member is saying that Mr Neave has not done his job. Impliedly, he is saying that the Crown Solicitor has not done her job. The Opposition is now suggesting that there ought to be some independent person. Serious allegations have been made against the public officials in this particular matter who were responsible for carrying out the investigation.

At present Mr Neave is overseas on Government business and I have not had the opportunity to discuss the last round of allegations that were made in this Chamber yesterday. However, I will do that when he returns. At this stage, there is no basis for acceding to the honourable member's request.

'SHELTERS IN THE STORM' REPORT

The Hon. M.B. CAMERON: I seek leave to make a short statement before asking the Attorney-General a question on the subject of the 'Shelters in the Storm' report.

Leave granted.

The Hon. M.B. CAMERON: I refer to the article on page three of today's *Advertiser*, headed, 'Sacked shelter women seek reinstatement'. The article refers to the findings of the select committee into the operations of the Christies Beach Women's Shelter, which had its funding withdrawn by the Bannon Government in September 1987 after a report tabled in Parliament, 'Shelters in the Storm', alleged misappropriation of funds, sexual and physical harassment, intimidation of clients, professional negligence, persistent overspending and inadequate financial records.

However, today's *Advertiser* is particularly interesting for the comments it attributes to the Chairperson of the review committee which wrote the 'Shelters in the Storm' report, Ms Judith Roberts. The *Advertiser* report states:

> ... Ms Roberts said the unsubstantiated allegations had been put in the report on the recommendation of the Crown Law office. She said that during the review which preceded the report many women had made allegations to the committee which 'it was not our duty to substantiate'.

Ms Roberts then went on to say the allegations had been passed on to the Police and Consumer Affairs, as well as the then Minister of Community Welfare (Dr Cornwall).

Madam President, a debate later in the day in relation to the Christies Beach Women's Shelter select committee report will indicate that many of these misdemeanors were addressed in that report. Therefore, I do not intend going into the details of that, except to say that it appears to the Opposition—and this is not an opinion—that the misdemeanors taken to court were minor or accounting misdemeanors which were hardly the stuff that should lead to the drastic action of defunding that occurred soon after 'Shelters in the Storm' was released. Even Ms Roberts' assertion in the *Advertiser* that the Christies Beach Women's Shelter was defunded because of its failure to remain within budget is not entirely what was found by the select committee. In view of the statements by Ms Roberts—and some evidence that was given about the Crown Law officers—my questions to the Attorney-General are as follows:

1. What advice did the Crown Law office give that would possibly lead to the authors of 'Shelters in the Storm' bringing up unsubstantiated allegations about the operation of the Christies Beach Women's Shelter?

2. Will the Attorney-General indicate precisely what advice was given by the Crown Solicitor to the authors on the unsubstantiated allegations that were later published in the report, and did he agree with that advice?

The Hon. C.J. SUMNER: As I understand it, the material has been made available to the select committee. I have not had a chance to study the effect of Crown Law advice which I understand, was made available to the select committee. Crown Law opinions were not made available because, as members will know, Crown opinions are not customarily tabled in the Parliament or made available to select committees. They are the subject of legal professional privilege between the Crown Solicitor and the clients concerned—the Minister or departments—and, clearly, that is a necessary convention for the proper functioning of government.

What has been done in the past, and what can be done, is that the effect of Crown advice can be provided in certain circumstances. It is fair to say that in some circumstances the opinions of first law officers and the Crown Solicitor are provided to the Parliament. However, the general principle and convention is that the opinions of the Crown Solicitor are for the Ministers or departments concerned—they are not made available *in toto* to Parliament or to the select committee.

I understand that there has been correspondence between the committee and the responsible Ministers. I have written to the select committee myself in relation to a number of matters where the effect of the Crown Law advice was provided to the committee. Whether or not the matter raised by the honourable member was included in that advice, I cannot say. I will have to check the dockets and provide an answer for the honourable member.

My recollection was that the effect of the Crown opinions in relation to this matter was provided to the select committee. As I said, I have not had a chance to study the report in detail, nor have I had a chance to study the evidence tabled in the Council yesterday to see whether or not that correspondence is in fact in the evidence. However, I will do that. I can say, however, that in general terms the Crown Solicitor did provide some advice with respect to the report 'Shelters in the Storm'. However, I do not think it is accurate to say that the report was tabled on the advice of the Crown Solicitor. The Crown Solicitor gave general advice in relation to the matter.

With respect to the general matter, it is clear that there was a history of overspending with the Christies Beach Women's Shelter. There is a history of failure to sign the agreement which was required to be signed between the shelter and the Department for Community Welfare to enable funding to continue. The women's shelter apparently failed or refused to sign that agreement and there is evidence, supported by the select committee of financial mismanagement with respect to the shelter which would have justified the defunding of the shelter in any event.

The defunding of the shelter was taken on the basis of the report, 'Shelters in the Storm', which was commissioned by the Minister. An independent group was asked to look at the question of women's shelters, and it dealt with the question of the Christies Beach Women's Shelter. The report that was tabled was in fact the report of a committee which was asked by the Minister to examine issues in relation to the women's shelter. It is clear that there was overspending; it is clear that there was financial mismanagement; and it

is clear that there was failure to sign the required agreements.

The committee indicates that those grounds alone would have been sufficient to defund the shelter. So, there is no question of reinstatement to any position. The Government does not have the power to reinstate individuals formerly employed by the Christies Beach Women's Shelter. It is not a Government instrumentality as such, although it was Government funded. What happened was that that funding was withdrawn. On the evidence of the select committee, there was a clear basis for the withdrawing of funding. That is what has occurred.

Members interjecting:

The Hon. C.J. SUMNER: Well, you can interpret the report how you like. The reality is that the report says that there was sufficient evidence—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —to justify the defunding of the centre. So, in general terms, in respect of the specific question raised by the honourable member, it is not accurate to say that the Crown Solicitor advised (I am not sure of the precise wording) in favour of tabling the report, but the Crown Solicitor did provide some general advice in relation to it.

The Hon. M.B. CAMERON: As a supplementary question, I do not expect the Attorney to know what was in the evidence, but Ms Roberts, in giving evidence, said:

> I thought it would be entirely unfair on all other shelters if we put these reports to Parliament realising that they were to be tabled.
>
> We invited Crown Law to help us and comment on it, and they did. We had the advice of Crown Law, and they told us how we should write up the report and say that they were unsubstantiated allegations. They advised us how to proceed so that it would be seen to be fair and reasonable.

Does the Attorney agree that that apears to imply that the advice was sought from the Crown Law Office on the basis of the eventual tabling in Parliament of the reports? Could he advise whether that implication was indicated to the Crown Law Office: that their advice would be subject to the report eventually going to Parliament? If that is not the case, could he bring back to Parliament a report on this important issue?

The Hon. C.J. SUMNER: The situation is that the Crown Solicitor advised in relation to the report and the tabling thereof. Indeed, the report was revised on the advice of the Crown Solicitor. However, that does not imply that the Crown Solicitor recommended that the report be tabled. The Crown Solicitor provided advice in relation to it. In the light of that advice, certain revisions were made to the report, but, ultimately, it was a decision for the Minister as to whether the report should be tabled. As members know, that is what occurred, but there is no question that there were discussions between the Crown Solicitor and the Minister's office in relation to the matter and probably between the Crown Solicitor, as I recollect it, and the Chairperson of the committee. However, as I said, it is not correct to say that the Crown Solicitor recommended that the report be tabled.

SOUTH AUSTRALIAN SUPERANNUATION SCHEME

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in the Council and representing the Treasurer, a question about the South Australian superannuation scheme.

Leave granted.

The Hon. L.H. DAVIS: In the *Advertiser* of Friday 7 April reference was made to a proposed new superannuation tax levied by the Federal Government at a rate of 15 per cent on employer contributions. That will apply in both the public and private sector. After discussions with people in the superannuation industry and after examining the South Australian Superannuation Fund financial statements, I believe that this taxation could cost the State Government as much as $15 million per annum. With about 30 000 members in the South Australian Superannuation Fund, this $15 million represents a cost of $500 to each member of the fund. If we assume that the average annual contribution to the fund is 5 per cent of salary and that the annual average salary is $25 000, that represents an average employee contribution of $1 250 per annum; in other words, the proposed Government tax could account for as much as 40 per cent of a member's annual contribution.

If this tax on public sector superannuation funds proceeds, it could mean a reduction in existing superannuation benefits for retired public servants. That reduction could be at least 10 per cent on the existing benefit. Another option is to make no employer or Government contributions to the fund; in other words, make it an unfunded scheme, but there are inherent dangers with that proposal.

A further option is for the Federal Government to exempt public sector schemes from the proposed superannuation tax. Understandably, that option would be seen by private sector superannuation funds to be discriminatory. My question to the Attorney-General is: what does the South Australian Government intend to do about this proposed superannuation tax, which could well affect the South Australian public superannuation schemes?

The Hon. C.J. SUMNER: I understand that in recent times there has been some press publicity of this matter to which I am sure the honourable member referred. The Premier has written to the Federal Treasurer. I do not know the results of that communication, but I will seek an answer and bring back a reply.

JUSTICE INFORMATION SYSTEM

The Hon. K.T. GRIFFIN: My questions to the Attorney-General are as follows:

1. Has the Attorney-General received a report on the cost of the Justice Information System following my question last Wednesday?

2. Does that report confirm my assertion that the total cost of implementation has blown out to $70 million to $75 million?

3. Has the Attorney-General been advised, in conjunction with that report, to endeavour to avoid questions on the subject and, in particular, any statement about the cost?

The Hon. C.J. SUMNER: The answer to the last question is 'No'. The answer to the second question is that one estimate mentions a $75 million cost overrun. That is not accepted by the Government and is the subject of consideration. The JIS and the overrun in costs has been known to the Government since at least June last year.

As I said when this matter came up previously it was considered in the context of the budget last year. It was decided to commit the funds for this financial year. That is what has occurred. Subject to there being a reassessment of the Justice Information System, that commitment was

made. The reassessment has been occurring with the board of management of the Justice Information System, and the Office of the Government Management Board. As the honourable member probably knows, and as I have pointed out previously, the Public Accounts Committee is currently inquiring into the Justice Information System, and I understand it will produce a report shortly. That report will be considered, along with the considerable work that has already been done by the Government to examine the suggested cost overruns in relation to the JIS. That examination has been going on since the budget last year. An enormous amount of work has been done by the agencies to examine the issue, the reasons, and to make recommendations in relation to the future funding and scope of the Justice Information System.

On previous occasions I have given a history of the JIS, and no doubt it will be the subject of further debate when the Public Accounts Committee report comes down. I should point out that the office of the Government Management Board has not accepted the figure of $75 million as being the all-up total cost. In fact, as I said last week when this matter was raised, that is not the figure—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: That will be the subject of further consideration.

The Hon. M.J. Elliott: Why can't you tell us?

The Hon. C.J. SUMNER: Because there are differing views as to the cost overrun. That matter will no doubt be examined by the Public Accounts Committee and it will produce its report, which members can read. The report of the Public Accounts Committee, along with the information and reassessments that have been done by the Government to date, will be considered. As soon as those matters have been properly assessed, a decision will be made with respect to the JIS's future scope and funding.

PARLIAMENTARY PRIVILEGE

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

Leave granted.

The Hon. M.J. ELLIOTT: The question of parliamentary privilege was raised in this Chamber as a consequence of the Christies Beach Women's Shelter report, which was tabled yesterday. Parliamentary privilege has been a topic of some concern in relation to quite a number of matters that have been raised in this Chamber. In fact, the Attorney-General has been upset about allegations that have been made about the Secretary of the Labor Party, Mr Cameron. Late last year the Attorney-General was very upset about innuendos which he said were being made about him. I would have thought that he could understand the sorts of damage that can be done to a person by innuendos made under parliamentary privilege. Yet, he had one advantage that the people of the Christies Beach Women's Shelter did not have—self defence.

People who have spoken to me about this matter suggest that there has been a gross abuse of parliamentary privilege in relation to the Christies Beach Women's Shelter and the workers there. As far as members of the public are concerned, the workers were found guilty of a large number of things. When the 'Shelters in the Storm' document first came out, I spoke to members of the media who were not willing to really treat the whole matter seriously because they said this report proves it all. Since that report came out, quite a number of the members of the committee have not worked. They have been unable to get work for a number of reasons directly relating to the report itself.

I raised one matter some time ago with the Attorney-General about parliamentary privilege and suggested that we needed some mechanism whereby people have a right of reply. Such a mechanism exists in the Senate. He said that he would look at it. I have heard no more about it, and that was 18 months ago.

Former workers and management of the Christies Beach Women's Shelter have suffered great damage. It has now been shown that it was wrong to raise in this place many of the things which were alleged. No evidence could be found to support many of the allegations.

Will the Government consider an *ex gratia* payment of compensation as an absolute minimum for these people? Will the Government also look at the refunding of the Christies Beach Women's Shelter?

The PRESIDENT: Order! The two questions have nothing whatsoever to do with parliamentary privilege.

The Hon. M.J. ELLIOTT: They have, because—

The PRESIDENT: I beg your pardon. They were questions on the Christies Beach Women's Shelter, not on parliamentary privilege. It seems to me that your explanation and questions have nothing to do with each other.

The Hon. M.J. ELLIOTT: Perhaps I may ask another question. What does the Attorney-General intend to do about matters relating to parliamentary privilege?

The PRESIDENT: That question fits your explanation.

The Hon. C.J. SUMNER: I have already dealt with the funding of the Christies Beach Women's Shelter. The reality is that there was financial mismanagement and there was a refusal to sign the funding agreement. According to the select committee, there was a clear basis for defunding of the centre on those grounds alone. The report was prepared by an independent group chaired by Ms Roberts—

The Hon. M.J. Elliott: On the instructions of the Minister.

The Hon. C.J. SUMNER: At the request of the Minister. The report as tabled was seen and assessed by the Minister, and there is no question about that. In the final analysis there was a basis for the defunding of the Christies Beach Women's Shelter on financial grounds alone, and the select committee so found.

On the question of parliamentary privilege, the honourable member is able to pursue that matter through the appropriate procedures.

The Hon. M.J. Elliott: I have already done that. There has not been a meeting of the Standing Orders Committee.

The Hon. C.J. SUMNER: There has not been a meeting of the Standing Orders Committee; that is the problem. However, that is not my responsibility. There has not been a meeting of the Standing Orders Committee for some months. There is a whole range of matters that I raised last year that I wanted considered by the Standing Orders Committee, but it has not met. One of the matters which could be considered by the Standing Orders Committee is the question of a right of reply that could be accorded to individuals who feel that they have been wrongly treated under parliamentary privilege.

I understand that the Federal Parliament has examined this matter and now has a provision whereby a person who feels that he has been wronged under parliamentary privilege has a right to have a reply read in Parliament and has a right to have that reply included in *Hansard*. That suggestion has been taken up by the Federal Parliament and could be examined, but it is not a matter that I am in a position to impose on the Council. If the Council wants to

use that procedure, it will need to have the matter examined by the Standing Orders Committee and a suggested amendment to the Standing Orders Committee would have to be brought to the Council for discussion. The honourable member has raised this matter before. The officer responsible for the Standing Orders Committee is the President. As the honourable member has now raised the matter again, I can only suggest that it be placed on the agenda for the next meeting of the Standing Orders Committee.

CHRISTIES BEACH WOMEN'S SHELTER

The Hon. M.J. ELLIOTT: In relation to the Christies Beach Women's Shelter, does the Attorney-General agree that the unsubstantiated allegations relating to sexual harassment, misappropriation of funds, inappropriate personnel and financial management, professional negligence and unprofessional, inappropriate and exploitative client counselling are likely to have been damaging to the reputations of the former staff and management of the Christies Beach Women's Shelter?

Secondly, in the light of the report which now finds that those allegations could not be substantiated—there was no evidence to support those allegations—will an *ex gratia* payment of compensation be paid to those former staff of the Christies Beach Women's Shelter? Thirdly, will the Government refund the shelter?

The Hon. C.J. SUMNER: I have already responded to the last question. It is not a question of refunding this particular shelter. I understand that there is a shelter already being funded in that area of the State. The defunding of the shelter was justified, according to the select committee's report, at least on the basis that there was financial mismanagement. That was clearly admitted and accepted by the select committee. There was a failure to sign the agreements which were necessary to continue the funding, and there was a proven record of financial mismanagement at the shelter. The honourable member may shake his head, but the report indicates that there was sufficient evidence to justify the defunding of the Christies Beach Women's Shelter. Refunding of the shelter is not a matter that I believe can be contemplated. There is another shelter in that area. The defunding of the shelter was justified. In any event, this matter lies within the province of the Minister of Community Welfare.

I have not studied the select committee report and the evidence tabled today in detail. I have read the section relating to the defunding of the shelter. I have not considered the report in detail, nor have I considered, as one would be expected to do to reach a considered view on that topic at least, the evidence tabled with the report. I will consider the questions asked by the honourable member and bring back replies.

CHILD ABUSE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about child abuse litigation.

Leave granted.

The Hon. DIANA LAIDLAW: The Director of the Legal Services Commission of South Australia, Miss Lindy Powell, has expressed worries about the increasing amount and proportion of public funds that the commission is allocating to litigating child abuse cases in South Australia. I understand that those worries are particularly significant in the light of new funding arrangements for the commission this year, with an increasing proportion of State funds required to fund that commission. The Director believes that the court—the Children's Court or the Family Court—is not an appropriate forum for many of the debates between experts about assessment procedures and that, in the interests of the child, a concerted effort should be made to resolve these issues before they reach the court.

Beyond the Director's concern about funding, I understand that the commission is encountering conflict of interest problems on an increasing scale arising from the fact that it has a statutory obligation, under the Child Protection and Young Offenders Act to represent the child, but it is increasingly finding that it is providing legal aid for the men who have been charged with abuse and, further, it is often providing funding for separate representation of parents before the Family Court.

Is the Attorney-General aware of the Director's worries about the matters that I have raised, and what action, if any, is he taking to address those matters?

The Hon. C.J. SUMNER: I am not sure to what the honourable member refers. As far as I am aware, she has not referred to a document or a report; apparently she has gleaned this information by some other means.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: The honourable member now tells the Council that she has had a conversation with the Director of the Legal Services Commission and that in that conversation the Director indicated the matters to which she refers in her question.

Members interjecting:

The Hon. C.J. SUMNER: I am trying to find out whether the honourable member is referring to a report, a letter, a public statement, or a speech.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: One might then have some basis for examining the report—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —with a view to giving a response.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order, Ms Laidlaw!

The Hon. C.J. SUMNER: As I understand it, the Hon. Ms Laidlaw said that she bases her information on a conversation with the Director of the Legal Services Commission—that is fine. I was trying to find out whether she had any details of the suggestions made by the Director.

Legal aid is granted with two criteria in mind: first, whether the individual can afford to take the case and does it come within the criteria for the granting of legal aid; secondly, an assessment is made of the likelihood of the success of a case. So, legal aid is granted to persons charged with child abuse provided they meet the appropriate criteria.

It is also true that the Legal Services Commission represents children—and that is usually done in house—in 'in need of care' applications before the Children's Court. So, the Legal Services Commission is involved in a number of ways in respect to these matters, but in general terms its role is as I have outlined. I will examine the honourable member's question, check the statements which are purported to have been made by the Director of the Legal Services Commission, and bring back a reply.

CANE TOADS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Agriculture, a question about cane toads.

Leave granted.

The Hon. J.C. BURDETT: I understand that the Minister of Agriculture will hold a press conference on the steps of Parliament House at 3.30 this afternoon on the subject of cane toads. He claims that there is an invasion of cane toads into South Australia, and at the press conference he will produce a live cane toad.

An honourable member: A South Australian one?

The Hon. J.C. BURDETT: Yes, he will produce a live cane toad. Following this rather bizarre presentation, will the Minister table a report in Parliament on the effect of cane toads in South Australia?

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

STATE CLOTHING CORPORATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about the State Clothing Corporation.

Leave granted.

The Hon. J.F. STEFANI: Since November 1988, I have been trying to obtain information on the operating results of this Government factory at Whyalla. The factory reported an operating loss of $496 000 for the year 1987-88. In its annual report for 1987-88 tabled in this Chamber, the board of the State Clothing Corporation states:

> The losses experienced this financial year have in the boards opinion been caused by lack of sales. It must be said that, with the current level of employment, the losses will continue into the medium term until private sector sales increase sufficiently, or unless Government agencies direct their textile requirements to the corporation. The board has three alternatives:
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> *(a)* sales are achieved and profitability improved;
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> *(b)* retrenchments are made to Whyalla staff and the corporation embarks upon a policy of loss minimisation.
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> *(c)* subsidies in the order of $350 000 will be required per year [that is, the current year] to enable the corporation to exist in its present form.

On 15 February 1989, almost two months ago, I sought information on the amount to which operating losses have been accrued for the period 1 July 1988 to 31 January 1989. I have been informed that monthly trading results are prepared for the board and that such reports are also made available to the Minister. They confirm continuing substantial losses for the operating period ended 31 March 1989. My questions to the Minister are:

1. Is the Government deliberately withholding damning information about the losses of this operation?

2. Will the Minister confirm or deny that further heavy losses have been incurred to 31 March 1989?

3. When will this information be made available?

4. What action will the Government take to reduce the drain on taxpayers' funds?

The Hon. BARBARA WIESE: I will refer those questions to my colleague, and I am certain that he will provide appropriate information as soon as possible.

SOUTH AUSTRALIAN ORAL SCHOOL

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question about the South Australian Oral School and related matters.

Leave granted.

The Hon. R.I. LUCAS: I have received a submission from the South Australian Oral School highlighting the significant and vital work that it does. As members know, this school has a significant role to play in providing facilities for learning impaired children to establish basic communication skills in preparation for integration into the education system which is available to the children of South Australia.

Recently, the school has experienced some funding problems. I am advised that the number of teaching positions has been reduced and that no additional positions can be considered until the school can eliminate its level of deficits. In the past three years it has had deficits or deficiencies of funding of approximately $40 000 and for this year it is conservatively estimated that it will have a deficit of some $30 000.

In 1984, the Government working party inquired into the education of hearing impaired children and recommended that the South Australian Oral School be given the responsibility of providing services to independent schools as well, and that it employ a coordinator of visiting services for hearing impaired children in non-government schools in the metropolitan area. I am advised in the submission that I recently received that, whilst this service is being provided, the South Australian Oral School says that if it were to continue its support to the State Government it may have to be on a revised basis.

There is concern amongst the officers and administrators of the South Australian Oral School that, with its current level of funding problem, this service—which is an important one—might have to be cut back. Will the Minister initiate urgent discussions with the Education Department and the South Australian Oral School to try to assist the school to maintain its current level of vital services to both non-government and Government schools?

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

CONFLICT OF INTEREST

The Hon. J.C. IRWIN: I seek leave to make a very brief explanation before asking the Minister of Local Government a question relating to conflict of interest.

Leave granted.

The Hon. J.C. IRWIN: Recently, articles have appeared in the *Advertiser* about a conflict of interest in the Burnside council, suggesting that the Solicitor-General was giving advice on this matter. Last year a similar issue concerning conflict of interest in the Adelaide City Council was raised. My questions are: is it not up to councils or councillors to seek their own legal advice? Who refers matters to the Solicitor-General? Who picks up the bill?

The Hon. BARBARA WIESE: When the conflict of interest provisions were rewritten in the Local Government Act, it was certainly the intention of Parliament that individual councils should deal themselves with complaints relating to conflict of interest situations with respect to individual councillors. However, in the four years or so that the legislation has been in place, it has been found that there is a reluctance on the part of councils to deal themselves with allegations of conflict of interest, and I guess that we can all understand the problems that councillors have with respect to making judgments about their peers.

It is clear that many councils would prefer not to deal with these issues when they arise but to refer them to some other authority so that they do not have to become involved. There has been a growing practice for councils, councillors and members of the public to refer allegations of conflict of interest to me, as Minister of Local Government, or to the Department of Local Government. In those circumstances, we refer such complaints to the Crown Solicitor, who undertakes an investigation to determine whether there has been a breach of the conflict of interest provisions of the Local Government Act and whether a prosecution should be launched.

With respect to the two city councils referred to by the honourable member—Adelaide and Burnside—I point out that, in the first instance, the situation has been a rather difficult one to deal with because no allegations or complaints have been made about an individual but there has been rumour and innuendo concerning particular individuals. Those individuals have chosen to take up that matter in order to seek an investigation and to clear their names of any suggestion of wrongdoing. In the most recent case involving the Burnside council, that approach was taken with respect to a particular allegation. Officers of my department discussed the matter with the council and expressed reluctance to become involved in a matter when no allegation or complaint had been made. I understand that, subsequently, an allegation about conflict of interest has been made and the matter has been referred to the Crown Solicitor for investigation.

I am not satisfied that the conflict of interest provisions of the Local Government Act are operating effectively and there have been some years of practice to determine that. For that reason, late last year I decided that it was time to instigate a review of the conflict of interest provisions. I will be seeking advice from councils and any other organisations that have some interest in this matter as to whether those provisions should be amended in some way to ensure that they operate more effectively and also to determine what measures need to be taken to ensure that individual councillors understand their responsibilities with respect to the conflict of interest provisions and the role that they must play as councillors when dealing with matters of public interest. It is a complex issue.

In answer to the honourable member's question as to who pays, I must say that it is the State Government or the taxpayers of South Australia who pay whenever the Crown Solicitor deals with an allegation of conflict of interest. In those rare cases in which individual councils accept the responsibility themselves and seek their own legal advice, it is those councils which pay their solicitors for the advice on which they act.

COUNTRY FIRE SERVICE

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

1. That a select committee be appointed to inquire into and report on matters relating to the funding of the Country Fire Service.

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order 389 be so far suspended as to enable the Chairperson of the select committee to have a deliberative vote only.

3. That this Council permit the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to this Council.

This motion is a direct consequence of the Country Fires Bill, which is presently before the Council. If there is one thing that has unanimity among many people it is the matter of funding. I have been approached by local government, which is upset about the way in which funding is worked at the moment, given that it provides such a significant amount of funding for the service. As the Country Fires Bill stands at present, local authorities will have very little say in how the Country Fire Service functions, yet they put up something like 50 per cent or more of moneys for provision of services at the local level.

The insurance industry is also unhappy about the way things are working out at the moment. It argues that it is iniquitous that there is a levy on the industry, while those who insure their properties pay for the CFS yet those who do not insure do not pay. Volunteer firefighters are also upset and of particular concern to them is the increasing resistance by local government to the provision of funding, and that is understandable. Firefighters are concerned at the ramifications on the quality of their equipment, and that reflects on their effectiveness and on the safety and the service they deliver.

I do not intend to dwell on this at great length, because I will get the chance to speak to the Country Fires Bill. I ask members to seriously consider the formation of a select committee. I understand that the Government has had great difficulty addressing this issue and some people might consider the recommendations that have come forward to be a new form of taxation. It would be a healthy thing to have an all-Party committee to look at the issue, and to come up with an answer that satisfies all of the groups about which I have spoken.

Some people will also have noted that I had tabled some amendments to the Country Fires Act Amendment Bill whereby all those clauses relating to funding would contain a sunset provision. The intention is that there is quite clearly a need for a change in funding, and the best way to achieve that is to set up a select committee to look at the question. I know that quite a few select committees have been established by this Council in recent times. However, I would not expect this committee to sit for an extended period. I believe that the evidence could be looked at in a relatively short time, and I would expect that the committee could report before the resumption of Parliament for the budget session. I ask honourable members to support the motion.

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

SELECT COMMITTEE ON CHRISTIES BEACH WOMEN'S SHELTER

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

That the select committee's report be noted.

In moving this motion, I would like to say a few words about the committee and the report that has been tabled. First, I pay a tribute to the committee's research assistant, Ms Maureen Gupta, who worked for the committee from its inception. The committee sat frequently, in fact, it met on 18 occasions and at all times Ms Gupta was in attendance. A very unobtrusive and helpful worker, she catalogued and filed the work of the committee in a most efficient manner.

I also pay a tribute to the committee's Secretary, Mr Chris Schwarz, who was very busy and, as members will note from the list of witnesses who appeared before the committee, he did a great deal of work teeing up those witnesses.

The time that went into that work ensured that the committee ran smoothly when it met. I also pay a tribute to the witnesses and the manner in which they came forward to give evidence.

It was a very lengthy and difficult select committee. I have been a great advocate of select committees in this Council, and I still feel that they serve a worthwhile purpose. In relation to this committee, the setting up and sitting by its members to hear the terms of reference given to us proved worthwhile. It was a sad committee in some ways because we had appearing before us persons who had suffered as a consequence of the defunding of the shelter. Some of those people were victims—as we stated very neatly in the report—of the maelstrom of the tabling of the report, 'Shelters in the Storm'.

I found it most disturbing that the allegations made against those people were very hard to refute once they had been made in the public arena. By that I mean that the allegations were made in this Council under parliamentary privilege; this made it very hard for those people who felt they had been affected, or were affected, to have their say and to be able to put their point of view.

I believe that the way in which the committee sat and the recommendations that came from it were a tribute to the members. Members of the committee participated in a bipartisan way. Like most of the committees that I have been on in this Council, the committee proceeded in a very fair and even handed way. I thank the members of the committee for the support that I received as Chairman. There was no hassling or anxious moments between me and the committee members. The evidence was dealt with and the report was formed as a result of input from all members. There was never any unpleasantness or nastiness associated with it.

I think that the recommendations of the committee go a long way to redressing the problems that we found in relation to the women's shelter. The main point raised in the evidence was the way in which women's shelters had been formed. They were set up and saw themselves as autonomous bodies. They were like topsy—'they just grew'. Of course, when they grew there was a need for their services. As that need grew money was required to fund the services. As a result, the shelters received money from Government grants. However, in receiving that money they still wanted to retain their autonomy. They did not feel that they should be subject to restrictions as to how they ran the shelters or what they did with the money allocated. They seemed to resent the fact that they were no longer autonomous. I believe that they had to come to terms with the fact that, once they took Government money, there would be a great degree of accountability. I do not believe that they came to terms with that fact, and that was the basis of the problem. Of course, when the DCW went down there and tried to assist, it was seen as interference in a lot of cases.

This was understandable and, as we heard witnesses giving evidence to the committee, it was glaringly obvious to me, and I think to many other members of the committee, that mistakes had been made and were continuing to be made. However, the people running the shelter were unaware of this. In the end, it was very hard to change what had happened, what is past is past. However, the committee has tried to ensure that the mistakes and faults that were occurring do not occur again, that safeguards, checks and counter-balances are put in place, and that everyone has a fair go and a fair say and is able to put a point of view when things start to go wrong.

In evidence presented to the committee, a minister of religion stated that he did not want to get involved in the shelter row, but that he was very concerned with the effect that it had on the delivery of those services to the community. It had a demoralising effect and meant that the community had no confidence in those areas. He did not care about the rights or wrongs of the case. He felt it should never have gone as far as it went, and that the confidence of the community was put at risk. I felt that was a very notable point of view because, when one starts to tear down these shelters, or any other community service that helps people, one helps destroy public confidence in them.

I think everything should be done by Government bodies and people working on those committees to ensure that they maintain and uphold the confidence of the community. Unfortunately, much damage has been done to the Christies Beach Women's Shelter possibly by the tabling of the 'Shelters in the Storm' report and the unsubstantiated allegations. It affected not only that women's shelter but, from what I can gather from the evidence that came before us, also the confidence in the area. That is an important issue in an area like Christies Beach, where there is much dependence on Government facilities and services.

Therefore, I do not want to go into much detail. The report speaks for itself. I commend the report to the Council. I believe that the select committee did its job well and in a manner which reflects credit on its members. It was done in a bipartisan manner. I think that when members of the Council and the public read the report they will see that we have tried to act in a fair and reasonable manner. I commend the report to the Council.

The Hon. M.J. ELLIOTT: I support the motion. As the original mover of the motion to appoint the select committee, I recall people saying that it had been set up to fulfil a political role. That was said about several select committees that were set up at that time. I would like to go back to that time and relate the experiences that led to the establishment of this committee.

The report, 'Shelters in the Storm', was tabled first in this Council. Of course, immediately after that, the Chairperson of the committee (Ms Judith Roberts) which drafted the report, appeared on the *7.30 Report*. There were quite a few reports in the *Advertiser* and a number of other newspapers, and on the electronic media generally. The general flavour of the stories dwelt on certain parts of this lengthy report. There was only a small section, about 10 pages, relating to the Christies Beach Women's Shelter. That particular section attracted the attention of the media. Indeed, one page was headed 'Examples of unsubstantiated allegations'.

Of course, anybody with half an ounce of commonsense would realise that, if you make allegations about sexual or physical harassment in a women's shelter or about professional negligence, misappropriation of funds, and unprofessional, inappropriate and exploitative practices, there is more than a reasonable chance that the media might pay some attention to it. That was all brought in under parliamentary privilege.

People from the shelter came to see me saying, 'This is outrageous. These things that have been alleged about us are not true.' As I remember, I asked a few questions in this Council and made absolutely no progress whatsoever. I moved a motion. I must admit that in the first instance it condemned the Minister for the action but I said, in moving the motion, that I was trying to get to the bottom of the case. I presented some of the arguments which had been put to me by the people from the shelter, giving the Minister a chance to respond. He really ducked the questions. He really did not answer the questions, challenges and responses that were put forward.

So, at the end of that process, the motion was dealt with on Party lines, I suppose not surprisingly, but no good result came from it. Justice had still not been done. These people, who had been thrown out of their jobs, who had had their names slurred in the media and who, according to many people, were guilty of all these offences, still had all these things pinned on them for life. For that reason, I moved for a select committee. Once again, I said that I did not know whether or not these people had done these things, but that I believed that natural justice demanded that they had the right to have these allegations put, so that they could respond to them; no more, and no less. It is the sort of thing that Government employees are allowed. Certainly, if those allegations had been made public in the first instance, they could have been tested in the courts, and I am damn well certain they would have been.

The select committee was set up. I must admit that the media largely ignored it at that stage. In fact, some members of the press asked me, 'Why are you doing this? We know they've done it. They've done all these things. Everybody knows that they have done it.' I had members of various groups saying, 'Why are you doing this?' I said that I did not know that they were guilty and that I believed that they had a right to natural justice.

The committee started taking evidence. Concern was expressed that some people might have had threats of violence made against them and therefore might not have come forward. We changed the terms of reference of the select committee so that people could come forward, and evidence could be withheld, if necessary, to protect such people. The end result of all that was that we could get no first-hand collaboration whatsoever about a great number of those allegations. Some people had heard the rumours and were repeating what they had heard from elsewhere. However, we could find nobody who had been sexually harassed. We could find nobody who had been physically intimidated.

There was no evidence of misappropriation of funds. In fact, an investigation had been conducted by the Corporate Affairs Commission which led to a charge under the Associations Incorporation Act which, according to the judge who looked at it, was so trivial that all the money that was wasted on the investigation should have been spent on the women and children who were going into shelters. So much for the misappropriation of funds! I would argue in relation to even the few unsubstantiated allegations which may have even a grain of truth in them that, by the time they have been so heavily qualified, they are of no consequence whatsoever.

I know the Government raised arguments about the fact that the Christies Beach Women's Shelter was paying a slightly higher salary than was permitted. The fact is that a number of shelters were paying the same salaries as were being paid by the Christies Beach Women's Shelter.

Not long after this report was presented all other shelters lifted their salaries to exactly the same level. At that stage there was no award. The management of the shelter felt that people working in that shelter should have the same levels as those in the DCW where people performed similar sorts of jobs. As I said, even when something can be found that appears to be substantiated, by the time it has been qualified, it really is not a matter of great importance. One ends up with only one point and that is the one which the Attorney-General mentioned during Question Time—this question of overspending. I believe that that topic could have been explored in greater depth also.

The Hon. R.I. Lucas: We could defund the JIS.

The Hon. M.J. ELLIOTT: The Justice Information System is running at $40 million to $50 million in debt. Perhaps whole ministries could be defunded on the basis of that.

The Hon. R.I. Lucas: We could defund the Attorney-General.

The Hon. M.J. ELLIOTT: Yes, you could. If defunding is implemented on the basis of overspending, one would think that overspending at that level would demand it. One could put all sorts of qualifications on it such as the fact that they were not consistently running up new debts. For instance, some debts were created when the shelter moved. Most shelters were given funding to move, but that was not the case with this shelter. The move created quite a large debt and, because of the way in which they received advances, there was always an advance every year, but most of that advance was the same money, if members get my drift.

There was not a massively exploding debt. It is true that the shelter had a persistent debt. It is also true that at least two other shelters had debts of at least a similar size and could have also been defunded on that basis. I believe that at one stage the SAAP document was signed by the Christies Beach Women's Shelter, but with one line deleted. That document could have been an excuse to defund the shelter. However, I would argue that, if justice prevailed, at the very least the Government would have said, 'If this document is not signed within two weeks, we will defund,' but that is not the way things worked. The advice received was, 'We are still looking at this' and, while the document was still being perused, the report was tabled in Parliament, so the excuse was kept in hand.

As I said during Question Time, the Attorney-General, at the very least, understands the sort of damage that can be done to people as a result of unsubstantiated allegations. He would understand what it can do to families. Families of shelter staff members gave evidence to the committee. Those family members were genuinely distressed, but I do not believe that their distress was nearly as great as that of members of staff and management of the Christies Beach Women's Shelter. I witnessed that distress in the committee room and also outside. Many responsible community members who are involved at the management level were greatly harmed by what happened there.

The Government clutches at one particular observation of the select committee—that the Government could have used the overruns of money or the persistent debt as an excuse for defunding. If for political reasons the Government wished to dispose of the women's shelter because it was causing difficulties for the Government, it could have used the debt as as excuse. People from that shelter were very powerful among the movers and shakers in the women's shelter movement. They were defending the rights of women and children who had to leave their homes because of domestic violence. The Government is now trumpeting the fact that it will take up domestic violence as an issue. These shelter people were at the forefront in defending these women and children and they battled constantly to try to get more funds. They gave a great deal of their time and their advice to other shelters. Despite the fact that allegations were made that this shelter was professionally negligent and also unprofessional and had exploitative client counselling, many other shelters were receiving advice from members of this shelter on how to run shelters, how to counsel, and the like.

Dawn Rowan, the administrator of that shelter, travelled interstate and lectured on the topic, but this report dares to state that this shelter had exploitative client counselling. It might be said that some people disagreed with the coun-

selling techniques, but I believe it is outrageous to put it in black and white and say that they had exploitative client counselling. That allegation is totally unsubstantiated.

I believe that we now know that this select committee was not set up for political reasons but, rather, it was set up because damage had been done to people under the protection of parliamentary privilege. I will be very angry if this Government now decides to try to duck behind the observation that it could have used overruns in expenditure as an excuse to defund. It is true that, if it wanted to defund at the time, it could have used that as an excuse. It is not something with which I would have agreed, but it could have used that excuse at the time. The fact is that all these other matters were raised. Those were the matters upon which the press dwelt and the damage has been done to those people.

We cannot just shrug our shoulders and say, 'It was terrible; we really shouldn't do these sorts of things in Parliament. We were wrong. The Minister was naughty; perhaps the committee was naughty and other people were naughty.' Our Parliament and the Government allowed this to occur. We cannot just say, 'Tsk, tsk, this sort of thing should not happen again.' It has done irreparable damage to a number of people and, if this Government does not have the gumption to address the key issue here—that it has done real damage—then it stands condemned.

I would have liked to make a much longer contribution, but with about 30 Bills which the Government hopes to get through in the next two days, I may need to shorten proceedings. However, the matter is not yet finished until justice is done. I do not think that anyone could argue that the simple noting of this report in Parliament is justice. The tabling of the report has provided those people with the opportunity at least to answer some of the charges and one can only hope that the press will be as free in advertising the fact that these charges are not true as it was in displaying them willingly and treating them as fact some 18 months ago.

Ms President, I believe that there is one other implication in this report and I refer to the implications for other shelters and other non-government bodies. The Government has tried to drag as many non-government bodies as possible under its umbrella. Last year a Bill was introduced in this Parliament in which the Government tried to drag many hospitals and other health bodies into the Health Commission to get total control of the way in which they operate. It appears that, as a result of the type of action which was taken in relation to this shelter, it is trying to take total control of non-government bodies by fear—the fear of defunding, the fear of smear, and the fear of destroying reputations. Members will have noted that in the past women's shelters have had a great deal to say about issues which are very important, but those same shelters have been strangely quiet recently and that is probably with good reason—the next one to speak out would be frightened that it, too, would be defunded.

This does not relate only to the women's shelters. One of the witnesses referred to the great damage which it has caused to the non-government sector in the Noarlunga region. In fact, in recent times but for other reasons, two other bodies in that area have also been defunded. Without going into an analysis of that, there is no doubt that non-government bodies are living in great fear of what the Government will do to them.

The Hon. Diana Laidlaw: If they depend on Government funds.

The Hon. M.J. ELLIOTT: Yes, if they are dependent on Government funds. My advice to non-government bodies is that, wherever possible, do not depend on Government funds. The reality is that the money has to come from somewhere for women's shelters. How efficiently would a women's shelter be run under the DCW bureaucracy? That sort of body cannot run under a bureaucracy. The ordinary qualified person would not be prepared to work the sorts of hours involved and to offer the same sort of commitment. In saying that, I am not reflecting—

The Hon. Diana Laidlaw: Problems don't arise between 9 and 5.

The Hon. M.J. ELLIOTT: That's right, In fact, many problems arise after the husband has arrived home from the pub or wherever. Perhaps he has used the Government's newly supplied TAB hotel facilities and has blown a bit of money. That then creates additional problems.

So, I do not believe we can expect women's shelters to be self-funding; nor could we expect them to be within the Government bureaucracy. They do need to be accountable, and the Government does need to set up various guidelines for them. I do not think that is what this matter is about. This is all about political power and silencing people who were becoming difficult for the Government.

In the final analysis, I was pleased that the select committee's finding was unanimous. That finding gives some comfort to the people from the women's shelter, but only a little comfort. It has not given justice.

The Hon. M.B. CAMERON (Leader of the Opposition): As the mover of the motion said, the select committee received a lot of assistance from a research officer that we appreciated. When this select committee was first mooted there was an aura that there were so many allegations there must be some substance in them. I am not talking about monetary allegations, I am talking about the other allegations made in 'Shelters in the Storm'. It is important to list them so that members will understand what the select committee was facing. At page 65, the report states:

> Examples of unsubstantiated allegations made to the department about deficiencies and financial management, unacceptable management practices and professional and personal misbehaviour include: persistent overspending, and inadequate financial recording operating costs used to augment salaries, without the authorisation of the department; inadequate personnel records, and ineffective control of personnel and resources, and the granting of excessively generous terms and conditions of employment; inappropriate personnel and financial management, misappropriation of funds; failure to cooperate with departmental personnel in the normal course of funding procedures; sexual harassment; physical harassment and intimidation; professional negligence; unprofessional, inappropriate and exploitative client counselling practices, including breach of confidentiality.

They are extremely serious allegations. Some of them concern finance, and could be subject to correct procedures. Many were extremely serious in terms of personal behaviour. One of the problems I faced was the storm of publicity that arose as a result of some of the unsubstantiated allegations. There is a tendency to think that, if a Minister tables a report in Parliament, there must be some trouble.

An honourable member interjecting:

The Hon. M.B. CAMERON: I freely admit a lot of heart and soul searching went on before agreement was given to the select committee. I now unreservedly withdraw the soul searching I did in relation to some of these allegations. It should be quite clear to members in this place, from the report of the select committee, that none of the evidence given substantiated some of the more serious allegations on a personal level. We received evidence from Ms Roberts and Ms Anderson, two of the authors of the report. I will read a small part of that report:

> Some of the allegations of sexual harassment go back over many years. The people who talked to me and Mrs Anderson and

who made the claims were clearly intimidated and they did not wish to proceed. That in itself is very damning. I became very concerned, as did the media, about the alarming matters of sexual harassment and physical intimidation. The questions that we provided through departmental files came from information we gained and are fact. They are substantiated fact, and we stand by that.

When we look at the report 'Shelters in the Storm', we see the words used by the authors, 'examples of unsubstantiated allegations.' There is a difference between 'They are fact' and 'unsubstantiated allegations.'

Perhaps it is as well to refer to the select committee's report, which will give some indication of what we thought of the facts. The report states:

> The select committee, in the strongest possible terms, condemns the use of those 'unsubstantiated allegations' by the authors of the report 'Shelters in the Storm'.

It recommends:

> All sections of official documents, other than original documents, associated with defunding that relate to 'unsubstantiated allegations' of physical harassment and sexual misbehaviour, misappropriation of funds and professional negligence, be destroyed and the original documents be noted to show that there is no evidence to substantiate such allegations. While this can never fully erase the damage that has occurred for some individuals, it should assist in offsetting the effects that such 'unsubstantiated allegations' have had on the reputations of those persons who were unfortunate enough to be caught up in the maelstrom of events that surrounded the defunding of the CBWS.

The problem for the select committee was that we received evidence, and we all accepted it, that the Christies Beach Women's Shelter overran its budget and the staff were refusing to sign a document. The problem for the Minister was that the moment that overrunning of budget was used for defunding the Christies Beach Women's Shelter—as we say in the report, other shelters did the same thing—that would have led to a consideration of the position of other shelters and that would have caused many problems. It appears that the Minister of the day set out to find other reasons. Those reasons appear to me, and certainly appeared in the way that the matter was presented to the public, to have been based on unsubstantiated allegations of personal behaviour or misbehaviour.

That is very serious. There is no reason, if the Minister wished to take the action of defunding, why he could not have justified it on the basis of budget overrun. It has been pointed out, by way of interjection, that if that is used, it leads to problems not only for other shelters, but many other places in the public arena which have overrun their budgets. We would probably have to close the Royal Adelaide Hospital on that basis and defund it. While that is a Government organisation, nevertheless it has a problem.

In evidence, we were told that the women at the Christies Beach Women's Shelter were not given the opportunity to reply to the allegations before they were tabled in the Parliament. In fact, they had no knowledge of them. There seems to be a difference of opinion about that. Ms Roberts, giving evidence, said:

> Ms McSkimming said that Miss Anderson spent an hour with her. We spent the best part of three or four hours at Christies Beach talking about financial details. We talked about a plethora of things and I cannot see why Ms McSkimming was not aware of some of these issues. Ms McSkimming and Dr Fran Baume were apprised by the Department for Community Welfare about the content of the report.

That was 'Shelters in the Storm'. The evidence continues:

> They were given prior notice. Certainly, they were given every opportunity to reflect on what was in the report. I am surprised to hear these comments because I know them to be untrue.

From the way in which the evidence was placed before us by the women from the Christies Beach Women's Shelter, it is plain to me that they had no idea before that day that anything like this was going to be said about them. If they had known, knowing the women concerned, I am certain they would have taken some action at a much earlier stage. It disturbs me that coming before a select committee it appears that some statements that were made are untrue. Ms Anderson said:

> I do not have the dates but they did in fact meet with them before the report was released. We were told the allegations and were asked what they had to say about them.

I know that is quite untrue. In the report 'Shelters in the Storm', in order to arouse a feeling that everything was bad, some of the words used were clearly inflammatory. On page 70, the report said that it was particularly ominous that many complainants were unwilling to make a formal complaint. The word 'ominous' is used when trying to arouse a feeling of problems within the community.

The allegation that there was misappropriation of funds is very serious. If such an allegation were made about me, I would be extremely angry if I felt that it was untrue. The report indicates that the matters were placed before the Corporate Affairs Commission and that there was an investigation. The feeling one gets is that there is a real problem. That document was tabled in Parliament before the report was finished. The Hon. Mr Elliott has indicated what happened. Two charges were laid. In fact, the amount came from a donations account, not a public fund. The amount involved was $700. The charges were that it was not audited by an authorised auditor. If we are to take people to court on that basis in respect of every body that is incorporated, the courts will be chock-a-block. That is what came out of the investigation alluded to in 'Shelters in the Storm'. They then proceeded to prosecute, as the Hon. Mr Elliott said, and got a conviction, but there was no penalty. The Hon. Mr Elliott has indicated what the court had to say.

Another matter related to allegations of sexual misbehaviour and physical harassment. We understand that about 200 people were interviewed over a fairly lengthy period.

The Hon. M.J. Elliott: By the police.

The Hon. M.B. CAMERON: By the police. One person involved was examined for some considerable time. Absolutely nothing came out. No charge was laid.

I have listened to what has been said about the reasons for defunding. The Attorney-General is quite right. The select committee found that there were reasons for defunding on the basis of budget overrun, but it is important to put that in context. This is what the select committee said:

> The select committee believes that certain unsubstantiated allegations referred to in the report 'Shelters in the Storm' should not have been used to justify the defunding of the CBWS. The select committee believes that persistent overruning of budgets, also true of some other shelters, which has been shown to be largely correct, was sufficient in itself to warrant defunding, if that course was considered appropriate.

The Government could have done that, but then it could have been faced with the problem of what to do with other shelters. It was not very pleasant to sit on a committee feeling that people had been destroyed by an action by the Minister in this Council in tabling this report, and with the people who prepared it knowing that the allegations were unsubstantiated. If those persons, the Minister and the authors of the report, had been willing to wait until the final investigations were made, the report could have been tabled but it would not have contained those sections. There appeared to be an anxiety to take this action to defund—an anxiety based, I believe, not on the usual grounds. At one stage, the Hon. Mr Burdett defunded the shelter on other grounds, but it appeared that there was almost a feeling of seeking these people out—

The Hon. Diana Laidlaw: A vendetta.

The Hon. M.B. CAMERON: It seemed to be like that. There is no doubt that, in the way they were handled, many

of the matters appeared to indicate that. I regret that members of the community, who were the authors of this document, appeared in some way to have been involved in that. There was no reason for the report to be tabled in this way.

The select committee did not make any recommendations in relation to reinstatement or compensation. Those matters will need to be addressed by the Government and the people concerned; that was not considered to be the role of the select committee. Nevertheless, there is little doubt—and I do not think that any member of the committee would disagree—that these people were severely damaged in a most unnecessary way by allegations on their personal behaviour. They were totally unnecessary. This matter could have been resolved without resorting to that, but it may have led to other problems for the Minister of the day. It is extremely regrettable that the report 'Shelters in the Storm' was tabled in this Council when matters contained in it were either unsubstantiated or unresolved—and it should not have occurred. I regret that the Council was used as a vehicle for what appears to me to have been a vendetta against these people.

The Hon. T. CROTHERS: On 13 April 1988 the Council determined to appoint a select committee to inquire into the withdrawal of public funding from the Christies Beach Women's Shelter and matters surrounding and pertaining to that defunding. Early in the life of the select committee it sought some changes to its original terms of reference. The changes sought were agreed to by the Council and had the effect of offering greater anonymity, if required, to all witnesses. The committee took much evidence from many witnesses during the course of its deliberations. One of the most difficult tasks which confronted the committee was trying to sort out what was truth, half-truth, innocent misperceptions and deliberately contrived misperceptions.

It is fair to say that the report which now lies on the table of this Council represents, in the main, the consensus of the committee. I will not dwell on the contents of the report, as they are self-explanatory. However, one of the biggest stumbling blocks which faced the committee was the problem of the employees of the shelter, including the administrator, being members of the management committee at the time of defunding. This committee was the instrument used by the shelter to hire and fire staff and, in the absence of an industrial award, to make adjustments to salaries and other payments from time to time. Flowing from that the report contains two recommendations, namely Nos 10 and 11, which I believe are well worth quoting. Recommendation 10 states:

> Guidelines clearly state the necessary composition of management committees, election processes and the necessity of maintaining accurate detailed records of management committee proceedings. Such guidelines must be adhered to.

Recommendation 11 states:

> The administrator should not be a member of the management committee but may attend in an advisory capacity.

I think it is fair to add that the select committee was unanimously of the view that employees should, and are entitled to, have one employee on the management committee to represent the viewpoint of employees but that, given the very nature of the responsibilities of the Christies Beach management committee in particular—that is, responsibilities over wages and conditions of staff—employees should not be put in a position where they could be the majority determinant on the committee of management in relation to salaries, wages, other payments and the month-to-month running of the financial affairs of the shelter.

Evidence was given that four, and perhaps even as many as five, of the shelter's employees sat on the management committee. I believe that this is not unimportant, particularly when one considers one or two aspects of the report: namely, those sections which state:

> Evidence was given to the select committee that at times the CBWS did not appear to see its role as having a high degree of accountability in the spending of those moneys.

The word 'moneys' can be taken to mean 'public moneys'. The report continues:

> Overrunning of the budget appeared to be done as a matter of established policy.

The report further states:

> The administrator and staff of the CBWS denied that operating costs were consistently used to augment salaries although there was contradictory evidence brought before the committee.

I have to say that the committee also heard evidence which showed that the CBWS was not the only shelter which engaged in a deliberate program of overspending. I believe that there is little doubt in the minds of the majority of the committee members—and this has been mentioned today by previous speakers—that the CBWS was among the leaders in respect to the practice of deliberately overspending. I further add that there was little doubt in the minds of the majority of the committee that this tactic was evolved and aimed at using public opinion to squeeze more funds out of the Government.

I might add that the committee is of the view—and so stated in its conclusions to the report—that the persistent over-running of budgets by the CBWS was sufficient in itself to warrant defunding, if that course was considered appropriate. At this point I think it is fair to add that the select committee found this to be true of other shelters.

I do not wish to further mention financial matters as they pertain to the CBWS, although there is much more material in the report dealing with matters of financial accountability, both of direct and indirect reference.

I turn my attention to those issues which flowed from the decision to defund the Christies Beach Women's Shelter, namely, in my view, the *de facto* dismissal of the then employees of the shelter and the charges alleged in respect of the blackening of the character of those employees. With respect to the first matter, I point out that the committee found that Ms Rowan's appointment as administrator of the CBWS changed many things. It also found that, as administrator, she took on a strong, politically active role, employed new staff and developed a totally different management style. The shelter's emphasis changed from one of a drop-in centre/community support group to an organisation specialising in supporting women and children who were the victims of domestic violence. The report noted, in the same paragraph:

> During this period, it became a regular practice of the shelter, together with some other shelters, to overrun its budget.

Evidence was given by some witnesses that Ms Rowan was perceived to be a strongwilled, persuasive person who had the ability to engender a high degree of loyalty or an equally high degree of disapproval from the individuals with whom she was associated. It can be fairly said, having listened to all the evidence, that a number of employees who were there at the time of the defunding had nailed their flag to the administrator's masthead. As previously referred to by myself and indeed, as contained in the report, the select committee found that there had been consistent overrunning of budgets by the CBWS—

The Hon. M.B. Cameron: —and others.

The Hon. T. CROTHERS: I have already said that, in fairness. That in itself was sufficient to justify the defunding of the CBWS. The majority of the committee considered

that it was unfortunate that some of the former employees, but not all, were caught up in the maelstrom of events that surrounded the defunding of the CBWS. I have quite deliberately used the words 'certain employees' because of the opening paragraph of an article in today's *News*, which was written by a Mr Mark Douglas. The paragraph reads:

> Members of the former management committee of the Christies Beach Women's Shelter said yesterday that they had been 'completely exonerated' by a select committee report on the shelter tabled in Parliament.

That is an absolutely inaccurate statement of the complete view of the majority of the select committee and must be corrected and laid to rest. Before winding up on the question of the *de facto* dismissal of the then employees of the CBWS, I must point out that a majority of the committee was puzzled as to why the former employees did not take an unfair dismissal case to the Industrial Commission of this State against their employer, the Christies Beach Women's Shelter.

Evidence was given that a hearing commenced in the commission and was then discontinued. As a former Secretary of a very large union, I believe that, in the interests of any alleged denial of natural justice, that would have been the way to go and, again, a majority of the committee believed that there would have been no legal impediment in respect of the case proceeding. The committee noted that some, if not all, of the former employees were members of a trade union. It is common knowledge that, if a union believes that there is a case to be answered with respect to unfair dismissal, the union will pick up the costs of pursuing that case. Finally, had the hearing occurred and judgment been given in favour of the respondents, any Government would have been hard pressed not to agree to reinstatement.

At the time of the defunding, the then Minister, in order to ensure proper financial accountability of public moneys at the CBWS, in the light of the repeated warnings by the department about persistent and deliberate over expenditure, had only one mechanism to use and that was defunding. It has been said previously that defunding was used in another case by the Hon. Mr Burdett when he was the Minister responsible for that portfolio. No other disciplinary mechanism was available to the then Minister (Dr Cornwall).

With respect to the blackening of the characters of the former employees, I point out that the select committee found that the allegations of physical harassment, sexual misbehaviour, misappropriation of funds and professional negligence were unsubstantiated and, as such, quite correctly, absolved all former employees of such charges. The committee further stated:

> The select committee believes that certain unsubstantied allegations referred to in the report 'Shelters in the Storm' should not have been used to justify the defunding of the CBWS.

Had they not been included in the report they should not and, indeed, would not have been used in Parliament as part of the explanation given for the defunding. On page 10 of its report, the committee recommended:

> While this can never fully erase the damage that has occurred for some individuals, it should assist in offsetting the effects that such unsubstantiated allegations have had on the reputations of those persons who were unfortunate enough to be caught up in the maelstom of events that surrounded the defunding of the Christies Beach Women's Shelter.

Much more could be said but I trust that, as a member of the select committee, I have covered most of the salient points in the report which were pertinent to the terms of reference of the committee. I commend the report to the Council.

The Hon. J.C. BURDETT: I support the motion to note the report. I was a member of the select committee and I approve of the whole of the report and the emphasis that was given in that report. Page 65 of the report 'Shelters in the Storm' referred to examples of unsubstantiated allegations made to the department. In fact, I might add that, as it is included in the report, 11 unsubstantiated allegations were made over quite a considerable period. These were the only allegations that had been made, and there was no direct evidence of the truth of some of them.

The principal unsubstantiated allegations were misappropriation of funds, sexual harassment, physical harassment and intimidation, and professional negligence. Because of the importance of these very serious allegations, the select committee was concerned to investigate the allegations and to get direct or first hand evidence of them if that were possible. It would be fair to say that, through changing the terms of reference to enable evidence not to be tabled, we were trying to flush out any kind of direct evidence of the serious allegations, and none was forthcoming.

There was absolutely no direct evidence of any of the allegations to which I have referred. As has been said by other honourable members and, in effect, in the report, it was grossly improper, highly irresponsible and reprehensible for the report to be tabled under parliamentary privilege in this Chamber with the admittedly unsubstantiated allegations which appeared in the report 'Shelters in the Storm'.

I do not want to say any more about parliamentary privilege. I believe that it should exist but, like most other privileges, it can be abused. In my view it was a gross abuse in this case to table under parliamentary privilege a report which contained most serious and damaging allegations without any substantiation. As I said, the committee tried to flush out any kind of substantiation and none was forthcoming. The evidence was all hearsay and secondhand; there was no direct evidence at all.

The report does not say that the shelter should not have been defunded. On the contrary, at page 9, the report states:

> The select committee believes that the persistent overrunning of budgets—also true of some other shelters—which has been shown to be largely correct was sufficient in itself to warrant defunding if that course was considered appropriate.

In my view, the allegations in the report 'Shelters in the Storm' of financial mismanagement was substantiated—and I think this is a fair extract from the report—and provided grounds for the defunding. However, it should have rested there. As the Hon. Mr Crothers and perhaps the Hon. Mr Cameron said, when I was Minister I defunded a shelter. However, I did not go into all these kinds of details and did not refer to unsubstantiated allegations. I let the matter rest simply on the issue of lack of financial accountability. As the Hon. Mr Cameron said, when one is spending public money there must be financial accountability.

I want to emphasise that the report does not say that the defunding should not have occurred and, as has also been pointed out, it does not entirely exonerate the administrator, the shelter staff, the management committee or anyone else. On the contrary, it would be fair to say as a summary of the report that some degree of blame was attached, certainly to the Minister, certainly to the review committee in making these unsubstantiated allegations, and to the department for not having cooperated in a more sensitive and better manner with the management committee and the shelter staff. So, some degree of blame was attached to everyone.

It is probably true that, when one comes to examine under a microscope almost any operation which is called into question and where there is some controversy, one will find that not everyone comes out squeaky clean. One will find that there is some degree of blame to be attached to every-

one. However, leaving those points aside, the issue which the report emphasises and which I want to emphasise again, is the fact that the most serious and gross allegations which one could imagine and which were said to be unsubstantiated were laid against people and were tabled under parliamentary privilege. That should never have occurred. As the report stated, it unfairly pinned labels on people who should not have had labels pinned upon them.

Certainly, it was clear to members of the committee—and it would be fairly obvious anyway—that a great deal of personal damage was done to those people and their families. Of course, that information was published in the press—the press being able to publish what is tabled in this Chamber under privilege. No-one came out of this squeaky clean. However, it remains that the main blame must attach to the Minister of the day in having tabled this report under parliamentary privilege, thereby destroying the character of citizens who should not have been attacked in that way. I support the motion.

The Hon. DIANA LAIDLAW: I support this motion. I was not a member of the select committee as were other members who have spoken in this debate. That was a deliberate decision on my part because I considered that I would be deemed by the witnesses who appeared before the select committee to be prejudiced in my view and could well be accused, as a result of questions, comments and statements that I had made in relation to the 'Shelters in the Storm' report, both in this place and in public forums, of having a conflict of interest if I had sat on the committee.

I commend members of the select committee. I note that six men undertook this task. I point that out because women's shelters across Australia and umbrella community groups rang me soon after the establishment of the select committee when they learnt that a women's shelter would be investigated by six men. I can assure honourable members that I have spent a great deal of time reassuring those people that all of the six men were compassionate, caring individuals who would be interested in seeing that justice was done.

I believe that the report that was tabled yesterday leaves my credibility intact with respect to the statements that I made to the women's shelters across Australia. However, more importantly, my credibility in this issue relates to the integrity of the management committee and staff of the Christies Beach Women's Shelter, who received rough justice in the manner in which the report was compiled in the first place and presented in this place, and by the subsequent statements made by the former Minister of Community Welfare. My contempt for that Minister's role in this matter is well identified in the comments that I made as reported in *Hansard* on 12 August, 19 August, 7 October and on other occasions. Therefore, I will not go back over those issues.

It gives me considerable pleasure to see that the women involved in the management committee and in the management of the shelter, women who have been badly and maliciously maligned, have received some reward for their courage in fighting this issue. I certainly hope that they will now have some higher regard than they have had recently for the parliamentary processes and the integrity of this place, because they have had reason to question both.

I turn now to the select committee's report, on which I intend to comment, principally on comments by the Hon. Mr Crothers and the Hon. John Burdett. I understand their argument that the management committee has not been totally exonerated in relation to this matter. However, I find it difficult to accept their arguments that the overrun of the Christies Beach Women's Shelter's budget was sufficient grounds to warrant the defunding of that shelter, while in the very same paragraph the select committee members note that other women's shelters encountered overruns. However, no action has been taken in the past against those shelters or to have them investigated in the manner in which the Christies Beach shelter was investigated, nor was any action taken nor any recommendation made in this report to defund them. I rather suspect that this is a neat way of trying to reach a compromise within the select committee, but I will not take the issue further. However, I do question the basis of those remarks.

As I said earlier, I have just been to the Queen Elizabeth Hospital and to some other hospitals in this State, all of which are suffering overruns at this present time, and have been suffering them in recent years. I have not heard members in this place suggesting that, because of these persistent overruns of budget, they should be defunded. An interesting standard has been set.

I am still unable to come to grips with a matter I have pursued from the day following the tabling of the report 'Shelters in the Storm'. I never understood this matter, and never had an answer from the former Minister about it. The recommendation to withdraw funding from the shelter was noted on page 76 of the review committee's report. It always seemed to me that it was just a tacked-on afterthought. It must have arisen from consultation with the Minister, further to the original report, because that recommendation was never included in the list of 44 recommendations noted at the front of the report. It is extraordinary that the major recommendations—

The Hon. M.J. Elliott: The first one acted upon.

The Hon. DIANA LAIDLAW: The first one acted upon, with an enthusiasm that was beyond all comprehension, and beyond any degree of rational judgment. It was the first and only one acted upon, and yet it was never included in the body of the report. Most members, if they are like me, with a lot of paper work, would always flip through the recommendations of a report of this size to see what was included there, in the belief that they were getting a true and accurate reflection of what was in the report. That was never the case with this report. Further, I have never had my concerns answered that this matter was a tacked on matter addressed later for the former Minister's own purposes.

Finally, I have continued to be surprised by the fact that apparently this report was handed to the Minister in May 1987 and presented to this place in August, but the Minister's defunding statement was made in September. If the issues were as grave as the Minister believed, why was the shelter not defunded immediately or defunded at the time of the ministerial statement? Why leave the matter until September? So many aspects of this report have never made sense. The select committee did address some of the matters I have raised today, and I am heartened that it did. I am also heartened by the conclusions reached, with the one exception I have noted.

So many matters still remain unanswered in relation to the former Minister's actions and this report. Because of his retirement from this place, we will never have those questions answered. I suppose that people will query for some time what the motivation was for defunding this shelter, because I do not believe evidence has been presented to show that it was because of persistent overruns in budgets.

The Hon. G. WEATHERILL: I do not want to canvass the comments made by previous speakers, because the select committee's report received unanimous support. However,

in commenting on 'Shelters in the Storm', to some extent I am echoing the remarks made by previous speakers. The situation surrounding the innuendo and unproven statements was totally unacceptable to all members of the committee. As far as I am concerned, the authors of 'Shelters in the Storm' should be condemned for their actions. This document affected not only the people who worked at the shelter but also their families.

I believe that, before any defunding, the Christies Beach Women's Shelter should have been notified, but apparently the Department for Community Welfare did not give that advice. I was critical of the department for not giving guidelines to the shelters when they first started. I understand that information has recently been circulated which advises shelters as to how they should conduct the day-to-day running of their organisations. It was a poor situation when the DCW waited until concerns were raised in the committee before it published any guidelines.

Evidence was tabled of expenditure incurred by the Christies Beach Women's Shelter prior to the Government funding being approved. Demands were then made on the DCW for money to be refunded. I take issue with the Hon. Mr Elliott when he said that the reason why Christies Beach shelter operated at a deficit was that at one stage it moved. Evidence showed that the shelter was refunded for that amount of money.

The Hon. M.J. Elliott interjecting:

The Hon. G. WEATHERILL: Yes, it's right. Following the defunding of the Christies Beach Women's Shelter, a new shelter, called the Southern Women and Children's Shelter, has been established in that area. The new shelter built a budget surplus of about $13 000 during the period mid-September 1987 through to the end of January 1988. When the new administrator left that shelter in August 1988 there was a surplus of $22 000.

I believe that when shelters, including the Christies Beach Women's Shelter, run over budget on several occasions, they should be warned that this will not be tolerated. If such budget overruns continue after the warning, then they should be defunded. However, the Christies Beach Women's Shelter was not warned.

I congratulate all members of the committee on their hard work. I believe that in the future there will be closer scrutiny of all women's shelters that try to run over budget and then put pressure on the State Government.

The Hon. Diana Laidlaw: What about all organisations?

The Hon. G. WEATHERILL: All organisations should be accountable, because they are playing with taxpayers' money. I believe that they should be—

The Hon. Diana Laidlaw: I didn't want you to distinguish, that one case.

The Hon. G. WEATHERILL: Right. A lot of people were hurt by this report. I do not care what the Hon. Mr Elliott said about putting pressure on the Government: I believe that the document was a definite attempt to have a go at a particular Minister.

Motion carried.

SELECT COMMITTEE ON EFFECTIVENESS AND EFFICIENCY OF OPERATIONS OF THE SOUTH AUSTRALIAN TIMBER CORPORATION

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

That the time for bringing up the report of the select committee be extended until Thursday 13 April 1989.

Motion carried.

REPRODUCTIVE TECHNOLOGY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 2615.)

The Hon. G.L. BRUCE: In responding to comments by members opposite, I intend, first of all, to clarify the rationale behind the differential proclamation dates of the Act. There is no hidden agenda, intention to frustrate, or contemptuous purpose behind the manner in which the legislation was brought into force. Indeed, quite the reverse applies. Members may recall that the Reproductive Technology Council was initially established on an interim basis before the legislation had even passed. That was done, bearing in mind the all-Party support in the select committee for the creation of such a council. The council was established in that way so that it could start turning its mind to the important issues which would come within its charter once the legislation had passed.

The legislation duly passed and action then needed to be taken to bring it into force. As members might recall, there was also in existence at that time an Act called the IVF (Restriction) Act which enabled the three existing IVF programs to continue, but placed a moratorium on the establishment of any further programs. That Act (and the moratorium) expired on 31 March 1988. To ensure that there was no gap of which private commercial entrepreneurs could take advantage, action was taken to bring parts of the Reproductive Technology Act into force as from 1 April. In particular, section 13 was brought in, making it an offence to carry out artificial fertilisation procedures without a licence.

The Hon. R.J. Ritson: The whole of the Act was brought in with the exception of section 14.

The Hon. G.L. BRUCE: That could well be. The honourable member can respond to that. The transitional provisions schedule to the Act was also brought in, and provided for the continuation of the existing three programs. In other words, the *status quo* was maintained.

However, no further IVF programs have been licensed and the Health Commission does not intend to license any more until the code of ethical practice on the use of artificial fertilisation procedures is in place. Members will recall that, in terms of the Act, licences must be subject to a number of conditions, one of which is a condition requiring the licensee to ensure that the code of ethical practice is observed. That code does not yet exist.

As members will note from the recently tabled first annual report of the Reproductive Technology Council, a good deal of work has already gone into the development of the code. It is being drafted and will be finalised in the near future. In terms of the Act, it will then need to be promulgated in the form of regulations.

Turning now to section 14, the honourable member is correct in observing that it is not yet in force. There was no dark or devious reason for that—it was simply that, if it had been brought in on 1 April 1988, the council (and it is the council and not the commission in this instance) would not have been in a position to issue any licences. That would have meant that people carrying out research would have been doing so without a licence and therefore committing an offence carrying a penalty of $10 000. Effectively, it would have prohibited research. While members of the select committee may have had different views in relation to the nature and extent of research, there was never any intention that research *per se* should be prohibited.

Looking more closely at the provisions of section 14, it should be noted that a licence will be subject to:

(a) a condition defining the kinds of research authorised by the licence;
(b) a condition prohibiting research that may be detrimental to an embryo;
(c) a condition requiring the licensee to ensure observance of the code of ethical practice formulated by the council in relation to such research.

There is also provision for the council to add other conditions, either at the time of grant of the licence or subsequently.

In other words, it was envisaged that licences would at least be subject to those three conditions at the outset. It is agreed that the code of practice when promulgated is not expected to be the definitive document for all time. It will change, or evolve, to take account of developments, as the Opposition has already said. This legislation anticipates that happening. However, compliance with the code was made a condition of licence, rather than a requirement in its own right. There was an anticipation that, when licences were issued, there would be compliance with the code as it existed at that time. As I am sure any honourable members who sat on the select committee over the years of its deliberation would attest, the issues involved in the area of reproductive technology are many and complex.

Members will note from the annual report of the Reproductive Technology Council that the council has approached the development of a code of practice in two parts. It has made substantial progress in developing a code of ethical practice for artificial fertilisation procedures and is about to embark on a code of ethical practice for research, having already formed working parties in specific areas. It will, however, be some time before a code is finalised.

In those circumstances, the Government has some sympathy with what the Opposition is seeking to achieve, although it believes there is a simpler, more satisfactory way of achieving it than by the honourable member's Bill.

I would point out, however, that the Chairman of the South Australian Council on Reproductive Technology has advised the Minister of Health that 'on examination of the project details provided Council agreed that no research is being carried out on the embyro in South Australia.' The projects which are being carried out by the IVF clinics have been approved by their respective institutional ethics committees.

Nevertheless, the Government has no intention of thwarting or circumventing the intentions of the select committee or the legislation. Having received the annual report and noted progress to date, we believe it is not appropriate to delay the operation of section 14 for any further substantial period of time while awaiting the research code of practice.

We do not believe, however, that the honourable member's Bill is necessary or desirable. It seeks to bring section 14 into operation immediately on assent. In other words, the day the amendment receives assent, people carrying out research without a licence are in breach of the law, which carries a penalty of $10 000. And, of course, a condition which cannot be complied with—that is, compliance with the code of practice—would also come into force at that time. Conceivably, a condition could be drafted requiring compliance with the code at such time as the code comes into effect. However, we believe a more satisfactory way to go about it is to issue a proclamation to bring all of section 14 into operation with the exception of 14 (2) *(c)*, that is, the condition requiring compliance with the code of practice. That provision is suspended at the moment and it is intended that it would remain so for the time being.

My colleague the Minister of Health, having had the annual report presented to him and noted the progress and current stage of the Council's deliberatons, has given an undertaking that action will be taken within a matter of weeks to proclaim section 14 as I have outlined. There will be a lead time allowed for the council to receive and consider licence applications, so that persons are not unwittingly in breach of the law, as they would be under the Hon. Dr Ritson's Bill. However, it is the Minister of Health's intention that the section will be in force by the middle of this year. The Government, therefore, does not support the Hon. Dr Ritson's Bill.

The Hon. R.J. RITSON: The first part of the Hon. Mr Bruce's response was largely irrelevant because it dealt with IVF, which is not in question here, or because it dealt with matters which are commonly agreed. It boils down to an argument as to whether the fact that there is not yet a code of practice promulgated is or is not a barrier to the proclamation of this section.

This section does not create the obligation to promulgate and formulate the code of practice. That obligation with respect to research is contained in section 10 of the Act, which is already in place. The obligation to formulate a code of practice exists. There is no time limit in the Act for the formulation of this code. There are no penalties for breach of that obligation by the council. Therefore, there is no problem with that obligation being in existence and there is no problem, as those who are legally trained know, in issuing licences with conditions, some of which cannot be complied with. The holders of such licences would be obliged to obey the conditions in the principal Act that could be complied with, and they would not be in breach of the Act or subject to penalties for non-compliance with a code of practice which had not yet been formulated. The Reproductive Technology Council found no obstacle with the same argument in relation to IVF.

I want to refer to Professor Cox's letter to the Minister on this subject and deal basically with the last paragraph. I thank him for the reassurance that detrimental embryo research is not being carried out. In the final paragraph of his letter to the Minister, he says that the council intends to develop a code of practice for research on human reproductive medicine—here is the key phrase—'as soon as the code of practice for artificial fertilisation procedures is completed.'

The very situation that exists with section 14 in relation to research has existed for a year in relation to IVF—namely, the requirement that licences be issued and that the holders of the licences obey the code of practice which has not been completed up to the date of the writing of this letter in April 1989. Yet those licences have been issued. Because of the non-completion of the code of practice in relation to IVF, there are doubtless some things which have remained unregulated and others which could not be complied with but will eventually have the force of law. However, the fact that there was no code of practice and that it is still not completed did not stop the proclamation of the Act one year ago.

The letter indicates that the code of practice with regard to research will begin to be developed when the code of practice relating to IVF is dealt with. If it is as difficult a problem as IVF—I think that embryo experimentation might be a thornier problem than IVF—are we to assume that it will take another year? Perhaps it will, because the Hon. Mr Bruce, on behalf of the Government, offered to bring in section 14, minus the code of practice, within weeks. That would satisfy the fears that people have that embryo

research and research on eggs and sperm is unregulated. I am not casting any aspersions on people in South Australia. I know them and have a high regard for their academic qualifications, their integrity and social responsibility. Lloyd Cox taught me, and I have great affection and respect for him. However, because of the suspension of section 14, anyone could come here from another State and do anything and be totally unregulated as regards research on human reproductive material.

That is why the intention of Parliament must be carried out quickly. The basic controls of licensing and the fundamental prohibition of deleterious embryo research must be instituted. At the moment, it is entirely unregulated. The law is silent on it. Indeed, this matter, at the time of public debate, was of extreme concern to a number of people in the community. Those people are still concerned that a year down the track that area of research still remains unregulated.

The Government has persisted with the point that it cannot proclaim a law some parts of which are unable to be complied with. I disagree with that. After all the advice that I have received and the arguments I have heard. I still think that the simplest thing would be to proclaim the section as it is and not waste the Parliamentary Draftsman's time excising the question of the code of practice. However, if the Government adheres to its proposal it will solve the major objections of constituents who have brought this matter to my notice.

Nevertheless, I would like to take this Bill through the second reading stage. I remind members and the Hon. Mr Gilfillan that, if this Bill is read a second time, given the sitting time left and the Government's control of business in the other place, it is unlikely that it will pass in this session and will therefore lapse. It may not need to be revived in the budget session if the Government carries out its undertaking. However, the matter having come this far, it is worth taking a vote on the second reading so that if for any reason the Government does not stick to its undertaking the matter can be revived without these speeches having to be recycled.

For this simple and practical reason I ask members to support the second reading of this Bill on the understanding that if the Government acts in accordance with its undertaking there will be no further consequences of this Bill because it will not need to be revived. If it needs to be revived because the Government reneges on its undertaking to bring in the principal and important parts of section 14 within weeks, the matter can be raised again and the entire passage of the Bill sought without unnecessary repetition of the earlier stages of the debate.

I thank the Government for giving the Bill what I believe to be conscientious and serious consideration. I remind members that I am not at all convinced that the absence of a code of conduct is an obstacle in the way of proclamation of this clause because it was not an obstacle to the proclamation of the rest of the Act which is just as dependent on the existence of a code of practice. I commend the Bill to the Council and I sincerely hope and expect that it will not need to be revived during the next session because the appropriate proclamation will have occurred.

The Council divided on the second reading:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson (teller), and J.F. Stefani.

Noes (8)—The Hons G.L. Bruce (teller), T. Crothers, M.S. Feleppa, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. I. Gilfillan. No—The Hon. G. Weatherill.

Majority of 3 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

KALYRA HOSPITAL

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

That regulations under the South Australian Health Commission Act 1976 concerning Kalyra Hospital, made on 26 January 1989 and laid on the table of this Council on 14 February 1989, be disallowed.

(Continued from 5 April. Page 2617.)

The Hon. M.B. CAMERON (Leader of the Opposition): I would like members to support this motion, which is important in that it indicates that the actions taken by the Government in relation to Kalyra were not proper, not correct and not sustainable on the facts presented by the Hon. Mr Bruce. I recognise that the Hon. Mr Bruce did not have a thorough knowledge of the background to this move by the Government. Nevertheless, he indicated support for the moves made against Kalyra and, frankly, I am disappointed in that.

The speech that the Hon. Mr Bruce made on the matter made clear to me that he and the Government, through him, still talk about hospice care in terms of institutions. They have not grasped the fundamentals of hospice care, that is, that whilst institutions play a role it is the team in the institution that is important. Kalyra was used by the Health Commission as a means of promoting hospice care and the hospice care policy just one year before the Government moved to defund it. After the experience that we have been through with the Christies Beach Women's Shelter, one cannot help but wonder whether there was someone within that organisation whom the Minister of the day did not like, because the move to defund Kalyra—to remove it from the function of providing health care in this State—did not seem to have any real basis in fact or reason.

It is just rubbing salt into the wound to remove Kalyra totally from the list of recognised hospitals. I trust that in future Kalyra will not fully disappear as a hospital and that it will be in a position to provide hospice care of some sort to the people of South Australia. It is an important institution and has a background of long-standing care for the people of the State, and many of those people who have been catered for in that institution do not have a lot of money. Kalyra has always tried to provide care for the underprivileged of the State, and it was a great pity that such a good institution was virtually destroyed by the Government through the actions taken by the Minister. I urge members to support the disallowance of this regulation, which is an attempt to put the final nail in the coffin of Kalyra.

The Council divided on the motion:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, Peter Dunn, M.J. Elliott, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson, and J.F. Stefani.

Noes (8)—The Hons G.L. Bruce (teller), T. Crothers, M.S. Feleppa, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. I. Gilfillan. No—The Hon. G. Weatherill.

Majority of 3 for the Ayes.

Motion thus carried.

SEXUAL REASSIGNMENT ACT REGULATIONS

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

That regulations under the Sexual Reassignment Act 1988 concerning certificates and returns, made on 10 November 1988 and laid on the table of this Council on 15 November 1988, be disallowed.

(Continued from 5 April. Page 2619.)

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Griffin has moved for the disallowance of the regulations under the Sexual Reassignment Act 1988. The Hon. Mr Griffin argues that the regulations do not reflect the intention of Parliament. He holds this view because the regulations provide for the Registrar to issue a certified copy of, or extract from, an entry in a register or index showing the entry as altered. The fact that an alteration has been made to the register following a reassignment would not be evident from the extract or copy.

The Hon. Mr Griffin and the Hon. Mr Burdett have suggested that, by not including any reference to the original sexual identity on the extract, the extract constitutes a falsification of a public record. A similar argument has been raised before with regard to birth certificates. The Hon. Mr Griffin and the Hon. Mr Burdett, during a debate in the Legislative Council, expressed concern at the issue of a new birth certificate to a reassigned person. In my second reading response, I indicated as follows:

With regard to clause 18 of the Bill dealing with registration, I advise that, following discussions with the Principal Registrar, an amendment will be moved to this provision. The Births, Deaths and Marriages Registration Act does not provide for the issue of a birth certificate; a birth is registered and there is provision for issue of a certified copy of the entry in the register. In the case of reassigned transsexuals, a new birth certificate will not be issued: rather a copy of the register entry would be prepared and verified showing the usual registration details as varied by the subsequent process of reassignment. This is the process already used in the case of adopted or illegitimate children or where the original entry cannot be copied.

If honourable members are complaining about falsification of public records in respect of this matter, they would have to run the same argument with respect to adopted persons. The second reading response continues:

As a birth certificate is a basic document for general identification, it is of great importance to a sexually reassigned person that the sex designation on it indicates the acquired sex. At the moment, the sexually reassigned person is in limbo in the legal world. The issue of recognition and revised birth entry will resolve some of these difficulties.

During the Committee stage of the legislation, the Hon. Mr Griffin advised of his opposition to the issue of a new birth certificate. However, no debate occurred on the information to be provided in a copy or extract issued by the Registrar. It is implicit from the contents of section 9 (4) (that is, the section which provides that a person supplying an extract to a person for the purposes of a law of another place must inform the other person of the reassignment) that the copy or extract would not indicate that a reassignment had occurred.

When a reassignment of sex is registered pursuant to the Sexual Reassignment Act 1988, the Registrar makes a corresponding alteration to the entry in the birth register. However, the original entry is not erased. The birth register would clearly show that an alteration has been made. When a request is received for a certified copy of an entry in a register, the copy would be a 'typed up' copy showing the entry as altered. Except in cases where an application is made in accordance with regulation 6 (5), there would not be a reference on the copy to the original entry relating to the sex of the person.

The issue of what information should be on the copy or extract is crucial to transsexuals. They argue that the whole point of recognition is to enable a person to establish their new identity, maintain their privacy and integrate into society. The Government's intention has always been that the extract or certified copy should not include information to show that a reassignment has occurred.

The Hon. Mr Griffin argues that the approach adopted in the Act and regulations will cause significant difficulties under the Federal marriage laws and for agencies and persons with a legitimate interest in knowing the sex of a person. It has been suggested that a marriage celebrant should have access to the records relating to a reassignment in order for the celebrant to satisfy himself or herself of the sexual identity of the parties.

Throughout the debate in Parliament on the Bill the Government indicated that the issue of marriage was predominantly a Commonwealth matter. However, the Government acknowledged that there could be some difficulties with respect to the impact of the legislation on the marriage of transsexuals and other matters involving Commonwealth jurisdiction. In response to the concerns expressed by members, section 9 (4) was included in the Act. This section clearly sets out how the extract or copy issued by the Registrar should be used. The section makes it an offence to use the copy or extract for the purposes of the law of another place without informing the relevant person of the reassignment.

In addition, the Marriage Act provides an offence for the making of a false statement in a notice of intended marriage. The Commonwealth considers that the entry of the name of a person born male as a bride or a person born female as a bridegroom would constitute a false statement. The Marriage Act does not require a marriage celebrant to examine the birth certificate to satisfy himself or herself of the sexual identity of a party to a marriage in any event. Following the enactment of the Sexual Reassignment Act 1988, I wrote to the Federal Attorney-General seeking his views on the issue of marriage by transsexuals. The Federal Attorney-General responded, as follows:

The Marriage Act (the Act) requires that each party to a proposed marriage produce to the celebrant an official certificate of birth or official extract of an entry showing the date and place of birth of the party. The birth certificate is primarily used to ascertain that the parties are of marriageable age and is also a useful means of checking some of the details in the notice of intended marriage. A birth certificate or extract produced by a reassigned person pursuant to the Sexual Reassignment Act 1988 will contain the unaltered details of date and place of birth of the party and in that respect will not affect the provisions of the Marriage Act.

It should be noted, however, that it could be anticipated there may be some confusion in the event that two persons of the same biological sex, but one with a different reassigned sex, wish to marry. The practical difficulty in such a case would be that the marriage celebrant would be presented with birth certificates, one of which is a birth certificate that indicates only the reassigned sex.

A marriage in the above circumstances would be invalid as it would contravene the provisions of the Marriage Act which require that a marriage in Australia is the union of man and a woman to the exclusion of all others, voluntarily entered into for life. In addition, the parties to such a marriage would be liable to be prosecuted under the Act if they falsely declare that there is no legal impediment to their marriage.

As the Hon. Mr Bruce has indicated, following similar advice from the Commonwealth, the Registrar of Births, Deaths and Marriages provides a written statement to a reassigned person, who obtains a copy or extract of an entry, advising of the effect of section 9 (4) of the Sexual Reassignment Act, with a specific reference to marriage.

The Hon. Mr Bruce has expressed some concern regarding the certification made by the Registrar that a 'typed up'

copy is a true copy of the entry in the birth register. In his capacity as Chairman of the Joint Committee on Subordinate Legislation, the Hon. Mr Bruce wrote to me requesting that consideration be given to the actual form of wording of the Registrar's certification. This matter has been examined and a response forwarded to the Hon. Mr Bruce. The use of the words 'true copy' in the certification is not as a result of any prescription in the Births, Deaths and Marriages Registration Act. Rather, it is the wording that has been adopted by successive Registrars.

Section 66 (2) of the Births, Deaths and Marriages Registration Act provides for the Registrar to provide a certified copy of, or extract from, an entry in a register. While section 68 (4) provides that if any certified copy of or extract from, any entry corrected, altered or added to pursuant to, the Act is issued, the copy shall be of the entry so corrected, altered or added to. Where the principal Registrar thinks fit, the certified copy may show all alterations and additions. When the Registrar provides a 'typed up' copy of a certificate showing any alteration, he would certify it as a 'true copy'. For example, where a child has been adopted, the typed up copy would show the information as altered—not what was originally entered in the Register of Births. In fact, the two cases are analogous with respect to transsexuals and adopted persons.

The argument raised regarding a 'true copy' would apply equally to the case of the adopted child—and the reassigned person. The Registrar makes a true copy of the entry as altered. Section 8 of the Sexual Reassignment Act states that the recognition certificate is conclusive evidence that the person to whom the certificate refers is of the sex stated, while section 9 requires the Registrar to make such entries and alterations as may be necessary in view of the reassignment. Therefore, the Registrar certifies the sex of the person by reference to an entry in the register. The entry relating to sex is accurate at the date that the copy or extract is issued, although it will be different from what was recorded at birth. The matter of the wording of the certificate has been raised with the Registrar of Births, Deaths and Marriages. He has indicated that he can see little value in reprinting the forms to provide an amended certification.

In summary, I am of the view that the regulations relating to the information to be provided by the Registrar and access to information held by him conform to the spirit of the Act. In addition, I consider that the State has made every effort to address the problems arising from the interaction of the legislation with the Commonwealth jurisdiction. In particular, I refer to a written statement given to any person who seeks a birth certificate showing the reassigned details. The note from the Births, Deaths and Marriages Registration Division states:

> This certificate has been issued showing a reassigned sex. The holder should be aware that it may be an offence to present the certificate as evidence for purposes of a law of a place other than South Australia, particularly for the purpose of marriage, which is governed by Commonwealth law. Refer to subsection (4) of section 9 of the Sexual Reassignment Act 1988. If you are in any doubt, refer to the Principal Registrar of Births, Deaths and Marriages or to your legal adviser.

That statement is handed to persons who receives a birth certificate following a reassigned sex and draws their attention to the potential problems in relation to Commonwealth marriage law. It was clear when the legislation was passed that sexual reassignment was meant to have some effect and that the sexually reassigned person, could then hold themselves out as being of the new sex, particularly with respect to State law.

I should add that, with respect to passports, that is already dealt with by the Commonwealth accepting the reassigned sex for the purpose of passports. As agreed to by the Parliament, the intention of the legislation is in the Act. In effect, this motion attempts to overturn the intention by disallowing the regulations which have been introduced to give effect to the Act and, I believe, to give effect to the intention that is expressed in the legislation. Accordingly, I oppose the motion.

The Hon. M.J. ELLIOTT: The Australian Democrats do not intend to support the motion.

The Hon. K.T. GRIFFIN: As this is the last day of the session on which private member's business will be effectively dealt with, I have tried to appreciate the content of what the Attorney-General quickly read into *Hansard*. As I understand it, he was saying that he and the Principal Registrar are satisfied that the regulations are in accordance with the provisions of the principal Act and that the Commonwealth Marriage Act, according to the Federal Attorney-General, does not create a problem where a person who is the subject of a certified copy of a birth certificate after sexual reassignment produces that to a marriage celebrant for the purposes of marriage.

The Federal Attorney-General, as I understand the State Attorney-General to say, indicated that the intention of a certified copy of the birth certificate being produced to a marriage celebrant by parties to a prospective marriage is only to provide evidence of the date and place of birth. I suggest that, whilst that may be one of the objects of production of such a certified copy, it is not the only use to which that certified copy would be put, and the question of evidence of sex would undoubtedly be a relevant consideration by a marriage celebrant who would have such a certificate produced.

I also understand that the Attorney's view, after advice from the Principal Registrar of Births, Deaths and Marriages, is that the form of certification on a certified copy of a birth certificate after reassignment of sex is adequate, although I suggest that that is not so, that it does not accurately reflect the nature of the entry in the birth records of this State. I am disappointed to hear that the Attorney-General is not willing to countenance an amendment to the wording in that sense.

I believe that this issue is important. The Joint Standing Committee on Subordinate Legislation elicited valuable information, and contributions to this debate have been helpful in raising the profile of this issue in the contemplation of a number of interested people.

Notwithstanding what has been said, I am still of the view that there are problems with the regulations and that they should be disallowed. In the light of the indication by the Hon. Mr Elliott that he is not prepared to support the motion for disallowance, if the motion is not carried on the voices, in order to save time I do not intend to call for a division.

Motion negatived.

VEGETATION CLEARANCE

Order of the Day, Private Business, No. 5: Hon. G.L. Bruce to move:

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

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

That this Order of the Day be discharged.

Order of the Day discharged.

COORONG AND LAKES NETTING

Adjourned debate on motion of Hon. Peter Dunn.

That the regulations under the Fisheries Act 1982, concerning Coorong and lakes netting, made on 8 December 1988 and laid on the table of this Council on 14 February 1989, be disallowed.

(Continued from 5 April. Page 2620.)

The Hon. G.L. BRUCE: The honourable member acknowledges that there is a fish stock problem in the Coorong. However, he is incorrect in his assertion as to the cause. He indicated that, although the stock had reduced, it is probably because the fish are being caught at the wrong time of the year, such as when they are spawning.

If the honourable member had read the green paper on the mulloway fishery produced in October 1986, the various submissions to the Joint Committee on Subordinate Legislation and the correct facts presented during the debates on this legislation in both Houses, he would have realised that the primary cause of declining stocks is environmental changes in the freshwater flow into the Coorong region. This has reduced the stocks of some fish species in the region, mulloway in particular. On top of this there is the added impact of increasing demands from fishing, both recreational and commercial. It is for this reason that the amended regulations are necessary.

The previous management arrangements (to which the fishery will revert if these regulations are disallowed) resulted in the capture of unacceptable numbers of juvenile mulloway. There is only one way to guarantee this does not occur—the total prohibition on the use of nets in the area by both recreational and commercial fishers. However, this very hard option would devastate the existing commercial and recreational fisheries. Therefore, the package (and it is a package) of amended arrangements was developed through extensive consultation. It allows for the principal stock maintenance objectives to be addressed whilst providing continued access by both sections. So, rather than the arrangements being 'heavy-handed', they are a compromise.

As any rational discussion relies on accuracy of facts, it is necessary to correct a significant number of incorrect statements in Mr Dunn's explanation of the motion for disallowance. Mulloway do spawn not in the Murray River but in the sea: mulloway do spawn not in the Coorong, but in the sea. The honourable member is correct in stating that a few mulloway get into the lakes, through the barrages, but the lakes are not the areas in which the recreational fishers catch the mulloway; the recreational mulloway fishery is centered in the Coorong (outside the lakes) and the sea. Contrary to the assertion that there is not a great abuse in the catching of mulloway, the need for amended arrangements resulted from the capture of unacceptable numbers of juvenile mulloway.

This has been acknowledged by all parties throughout the whole lengthy discussion and consultation period. I have already indicated that the decline in fish stocks in the Coorong is due primarily not to fishing at the wrong time of the year but to environmental influences. The amended arrangements include appropriate area and seasonal closures to provide maximum seasonal protection.

The Hon. Mr Dunn indicates that he is speaking on behalf of recreational fishers. He may be speaking on behalf of a few individual recreational fishers who have approached him. The current management arrangements (subject to this motion for disallowance) were endorsed by the South Australian Recreational Fishery Advisory Council on 15 December 1988. This is reflected in the record of discussion to the Recreational Fishing Liaison Committee which states, when referring to the regazettal of the amended regulations on 1 December 1988, the following:

Sarfac indicated that this was most acceptable.

The Hon. Mr Dunn has now sought a removal of the requirement for recreational net fishermen to be in attendance, despite this being the norm for the majority of the recreational net fishery. The attendance requirement is a direct result of the need to reduce the capture of juvenile mulloway. By being in attendance the fisher can release juvenile fish that become enmeshed whilst still alive. Any relaxation of this is a further comprise that further retreats from the original need to provide protection to juvenile mulloway.

There is a growing belief in the community (including a large sector of the recreational fishery) that the spirit of recreational fishing is reflected in active rather than passive operations. In fact, if my memory serves me correctly, we were successful in removing the provisions relating to nets having to be operated from the shore. At least nets can now be set away from the shore, and people have to service them. The motion will allow people to spend the whole day in other places without servicing their nets and, when they come back to them at a later time, the fish will have drowned. That was the basis of the Subordinate Legislation Committee allowing the regulations, and what the Hon. Mr Dunn sought was achieved. Why he is seeking this disallowance is beyond me, and I oppose it in the strongest possible way.

The Hon. PETER DUNN: That is the funniest reply I have heard in a long time. The Hon. Mr Bruce talked about releasing juvenile mulloway from a net. He should know that they would swim straight through it. The nets would be cast some distance into the water so that people would have to row to and fro in a boat. The regulation provides that a person must sit on the shore while the net is in the water. All I am asking is that the nets be looked at on an hourly or even half-hourly basis. All I want is that the parties get together on this matter because a problem was perceived by a group of fishermen. Mr Barry Treloar, who is a member of the group (Sarfac) on which the Hon. Mr Bruce reflected, indicated that this regulation was an unnecessary impediment. I ask the Council to support this motion.

The Council divided on the motion:

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

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

Majority of 3 for the Ayes.

Motion thus carried.

EXOTIC FISH REGULATIONS

The Hon. PETER DUNN: I move:

That the regulations made under the Fisheries Act 1982, concerning Exotic Fish, Fish Farming and Fish Diseases—Undesirable Species made on 8 December 1988 and laid on the table of this Council on 14 February 1989, be disallowed.

The reason for this motion is purely to enable the Director to meet with the group of advisers with whom he had promised to meet. He has got them together, but I understand that one of the persons he appointed from his department either resigned or could not attend the meetings. The situation now is that the people who sell fish, the project group, who withdrew their case against the department from

the courts, are now left in limbo with the group not meeting to determine what exotic fish are or are not saleable.

Until such time as the group—I believe it has representatives from all or most States—gets together and decides how this matter should be legislated, I believe that we should hold this up until the group can get together and operate as a working group. Otherwise, there may be an unfair advantage. The paper may fall off and become a regulation and the Minister will have total control within this State. Although he promised me many months ago that that would not happen, it has taken much longer than we were originally given to understand. For those reasons, I ask that the motion be disallowed.

The Hon. G.L. BRUCE: I oppose the motion moved by the Hon. Mr Dunn. As advised during the previous debates, the current exotic fish legislation under the Fisheries Act 1982 has been developed after long debate between interested parties (including those who lobby for even greater restrictions on the introduction and translocation of exotic fish around Australia), and it reflects the Government's and Department of Fisheries requirement and responsibilities to address the protection of the Australian aquatic environment as well as provide for the trade and hobbyist industry to operate.

For various reasons this legislation was rejected by this Council on 30 November 1988. This was despite agreement on that day by the trade to withdraw from litigation regarding the major species applications following agreement on the formation of a technical working group of scientifically competent persons to assess and advise on the suitability of species. This satisfied the concerns of trade that there was no independent adjudicator to assess the suitability of particular species. Since then the department and trade have met on two occasions (7 February and 7 March 1989) through the Aquarium Industry Liaison Committee to establish the working group. The working group will hold its inaugural meeting on 5 May 1989. The group was scheduled to meet on 31 March 1989 but had to be deferred through the resignation of one on the trade-nominated representatives. The department is seeking urgent endorsement from the Aquarium Industry Liaison Committee of an alternate member (Mr R. McKay of the Queensland Museum) out of session.

Prior to the 30 November 1988 disallowance, the Hon. P. Dunn was instrumental in conciliating the agreement between the department and the trade which addresses the needs of each. The working group provides the independent review of applications sought by the trade without the need for costly litigation. The department has proceeded to implement this agreement in full consultation with the trade and hobby.

Therefore, I urge this Council to reject the motion of disallowance, as the actions taken by the department and the trade now provide for the 'safeguards' and independent adjudication of species applications sought for by the trade in September-November 1988 and which formed the basis for the 30 November 1988 motion of disallowance.

As the Hon. Mr Dunn will know, the Joint Committee on Subordinate Legislation has met on numerous occasions and examined witnesses. I believe that this fulfils what we are looking for in the exotic fish consultation process, so that the fish species can be regarded and looked over by the department and by people seeking to bring them in for sale. The motion moved by the Hon. Mr Dunn should be rejected.

The Hon. J.C. BURDETT: I support the Hon. Mr Dunn's motion. It is true that there ought to be some sort of control over exotic fish. The situation has not changed very much since the Council disallowed similar regulations quite some time ago. While it is necessary to have some control over exotic fish, it should be recognised that most exotic fish do not survive for very long in the wild: most of them die very quickly and cannot survive in the wild, where they could do damage. The South Australian Department of Fisheries, on its own admission, does not know very much about exotic fish. It has to get most of its information from overseas, and it gets some from interstate. However, the trade and the consumer should not be disadvantaged by this.

The thing that I think is quite wrong is this sort of, in effect, reverse onus of proof. Under the regulations, in order to be able to import and sell exotic fish it would be necessary for the trader to establish that the fish were safe. It should be the other way around. There should be—as exists mostly interstate, and as has existed in South Australia in the past—a list of noxious fish, and it should be illegal to possess or sell the fish that are so listed. It should not be the way that it is, with a department, which is admittedly inept in assessing the characteristics of exotic fish, calling on the trader to establish that a certain breed of fish is safe—and against the background, as I have said, that most exotic fish (although there are some exceptions) do not survive for very long in the wild, anyway. There is no suggestion of importing, selling or possessing piranhas, or anything of that kind, and certainly some controls ought to be maintained. I believe that the regulations are inappropriate and, accordingly, I support the motion moved by the Hon. Mr Dunn.

The Hon. PETER DUNN: In his contribution, the Hon. Mr Bruce indicated the problem that I highlighted, namely, that it has taken from November last year to March this year to consider this matter, and it has now been put off until the end of May, possibly so that Parliament will not be sitting, at which time the motion will lapse. This is a purely mechanical thing. The department can put the regulations straight back on again if it wishes. No-one will argue about that. In the meantime, the people selling fish, having withdrawn their case against the department, should have the right to ensure that a committee is in place to assist them in determining what fish are and are not acceptable. As the Hon. Mr Burdett has said, I believe that the present situation is the wrong way around. I think the committee will cure the problem by setting out details of the fish that are unacceptable in this State. For those reasons, I believe we should disallow these regulations.

The Council divided on the motion:

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

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

Majority of 3 for the Ayes.

Motion thus carried.

[*Sitting suspended from 6.2 to 7.45 p.m.*]

SELECT COMMITTEE ON EFFECTIVENESS AND EFFICIENCY OF OPERATIONS OF THE SOUTH AUSTRALIAN TIMBER CORPORATION

The Hon. T.G. ROBERTS: I move:

That the Council allow the select committee to sit from 8 o'clock tonight until completion.

Motion carried.

TRAFFIC INFRINGEMENT NOTICES

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

That the regulations made under the Summary Offences Act 1953 concerning Traffic Infringement Notices, made on 12 January 1989 and laid on the table of this Council on 14 February 1989, be disallowed.

(Continued from 5 April. Page 2621.)

The Hon. K.T. GRIFFIN: I do not wish to spend time on this. Although I appreciate the contributions that have been made by members. I remain unconvinced by the *ex tempore* contribution by the Hon. Trevor Crothers in relation to this matter. He was not convincing and, in fact, admitted getting away from the point on several occasions. I intend to persist with the motion.

The Council divided on the motion:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson, and J.F. Stefani.

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

Pair—Aye—The Hon. M.B. Cameron. No—The Hon. T.G. Roberts.

Majority of 1 for the Noes.

Motion thus negatived.

MOUNT GAMBIER BY-LAW: COUNCIL LAND

Order of the Day, Private Business, No. 11: Hon. G.L. Bruce to move:

That by-law No. 5 of the Corporation of Mount Gambier concerning council land, made on 29 September 1988 and laid on the table of this Council, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

EQUAL OPPORTUNITY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 2623.)

The Hon. M.J. ELLIOTT: Given the number of Bills before the Chamber, I have not prepared a speech on this matter. However, the Democrats are completely in support of this Bill, as is the Government, although it wishes to introduce its own Bill. The Democrats support the Bill.

The Hon. DIANA LAIDLAW: I thank all members who have contributed to this debate and I am heartened by the short but positive response from the Hon. Mr Elliott.

The Hon. I. Gilfillan interjecting:

The Hon. DIANA LAIDLAW: If the honourable member did not interject, I might get through this a little more quickly. The Hon. Mr Elliott has seen the Government's response to the measure in the manner in which it should be interpreted, that is, as a political ploy. There is no doubt that the objections to this Bill, which were raised about a week ago by the Attorney-General in a ministerial statement and in her contribution to this debate by the Hon. Ms Pickles, and the loopholes that it perceives in this Bill to amend the Equal Opportunity Act to incorporate the ground of age could be addressed by way of amendment if the Government had the heart to support it and ensure that legislation is provided in the very near future so that all South Australians can enjoy the benefits and protection of age discrimination legislation.

I note in passing that the Bill I have introduced, the second of its kind, in addition to having the support of the Democrats as expressed this evening also has the support of DOME (Don't Overlook Mature Expertise), the Aged and Invalid Pensioners Association of South Australia, VOTE (Voice of the Elderly), the Over Sixties Radio Association, the Older Women's Advisory Committee, the Women's Information Switchboard, the Retired Trade Union Members Association, the Salisbury Task Force on the Ageing, and the Ethnic Communities Council of South Australia. I have a further letter from the South Australian Council on the Ageing Incorporated wholly supporting the move and wishing that the Parliament approach this measure with speed. The New South Wales Council of the Ageing and the Australian Council of the Ageing also support the Bill. The Bill has widespread support in this State and interstate. I am very heartened to note that it has been accepted by the majority of members of this Parliament.

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

CHILD PROTECTION POLICIES

Adjourned debate on motion of Hon. Diana Laidlaw:

1. That a select committee of the Legislative Council be established to consider and report on child protection policies, practices and procedures in South Australia. With particular reference to:
   - *(a)* provisions for mandatory notification of suspected abuse;
   - *(b)* assessment procedures and services;
   - *(c)* practices and procedures for interviewing alleged victims;
   - *(d)* the recording and presentation of evidence of children and the availability and effectiveness of child support systems;
   - *(e)* treatment and counselling programs for victims, offenders and non-offending parents;
   - *(f)* programs and practices to reunite the child victims within their natural family environment;
   - *(g)* policies, practices and procedures applied by the Department for Community Welfare in implementing guardianship and control orders; and
   - *(h)* such other matters as may be incidental to the above.
2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks, fit of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 5 April. Page 2628.)

The Hon. M.S. FELEPPA: I rise to speak briefly in opposition to this motion to establish a select committee of the Legislative Council to consider and report on child protection policies in South Australia. First, I acknowledge the sincerity with which this motion was introduced. At the same time, one must also note the Hon. Ms Laidlaw's statement on behalf of the Liberal Party that child abuse is:

... vile act, a crime that must be pursued with diligence, care and commitment in order to protect children and to redress the actions of the offenders.

I welcome such a strong and unequivocal statement on behalf of the children of this State by the Hon. Ms Laidlaw as Opposition spokesperson on community welfare matters. The honourable member, like many others in this Council, would be well aware of my attitude and my strong commitment to the well-being of children in our society and to supporting the family unit as a preferable environment for the bringing up of our children. That is not only a philosophy and an abstract notion but a practical commitment.

Members would also recall that in many of my speeches in this Chamber I have constantly focused on the needs of the family and all the component parts thereof. Not unnaturally, I have often focused on the needs of migrant families in our society. Whilst this is the case, it is not to be presumed that an inflexible approach to solving child abuse problems should be advocated.

In my Address-in-Reply speech in this Chamber on 9 December 1982, I observed quite firmly that intervention in the family unit by organisations such as the police or the Department for Community Welfare was often greeted with some level of distrust. On that occasion, I pointed out that this was especially so if the intervention did not take into account cultural values. The problems associated with applying one set of cultural values uniformly throughout society—for instance, the 'one Australia' approach—still need to be resolved.

I raise the matter of cross-cultural differences in relation to child rearing and abuse to establish that my personal concern for family life and support for children in our society is based on my own longstanding and deeply held beliefs. It is therefore disappointing for me to see the complex problem of child abuse relegated to the position of—as I interpret it—a political point scoring exercise.

In proposing the establishment of a select committee to report on child protection policies in South Australia, the Hon. Ms Laidlaw, on this occasion, has totally failed to produce any evidence in support of her claim that the South Australian child protection programs are failing. In the two speeches that she delivered on 30 November 1988 and 15 February 1989 the Hon. Ms Laidlaw has broached a number of topics concerning child abuse, but all the arguments that she raised in those speeches have failed to convince me of the crisis in our child protection programs. I believe that the Hon. Ms Laidlaw has based her attack on the Department for Community Welfare and the mandatory reporting obligation on a table showing the number of allegations of suspected child abuse and the number of substantiated cases.

The table used by the honourable member showed that in 1981-82 there were 474 reports of suspected child abuse in South Australia, with 90.8 per cent of substantiated cases. In 1986-87, after some years of mandatory reporting, the number of suspected cases reported had risen to 4 027, with 25.65 per cent substantiated. I suspect that these figures are the basis of the honourable member's claim that the child protection policies in South Australia are breaking down. They are the basis of her call for the establishment of a select committee.

Unfortunately, the honourable member presented these figures without any explanation and without taking into account any overseas experience in the same field. The honourable member has linked the mandatory reporting requirements with the increase in the number of reports and the decrease in substantiation rates and has concluded that we should return to the good old days of 90.8 per cent substantiation, if only we could get rid of the mandatory reporting provisions. I believe that her observations in this regard could be interpreted correctly.

By cutting down the categories of people required to report suspected instances of child abuse, or by doing away with mandatory reporting altogether, we would most probably see a decline in the number of cases reported and an increase in the percentage of substantiated cases. The problem with the Hon. Ms Laidlaw's analysis is that, if one thinks in terms of percentages, one can often miss the full picture. The very statistics quoted at great length by the Hon. Ms Laidlaw show that in 1981-82 there were 427 substantiated cases of abuse in South Australia.

The same figures show that in 1986-87, with mandatory reporting in place, there were 1 033 substantiated cases. As I have ascertained, this is an increase of over 100 per cent. With mandatory reporting, 606 cases of real—not suspected—child abuse in 1986-87 may not have been reported and dealt with if the situation was not scrutinised in such a way. This is the situation which the Hon. Ms Laidlaw is advocating. Mandatory reporting is an accepted practice in many parts of the world, including the US, where in most States the categories of people required to report cases are similar to those in South Australia.

It is also an accepted practice in one form or another in most States and Territories of Australia. In fact, the only States without some form of a mandatory reporting provision are Western Australia and Victoria. According to the Family Law Council of Australia Report titled 'Child Sexual Abuse' released in September 1988, the State Government in New South Wales, under the Liberal Premier (Nick Greiner) is moving towards expanding the classes of persons required to report suspected cases of child sexual abuse.

Following the recent release of the Fogarty report on child protection services in Victoria, the Liberal spokesman for community services (Mr Hayward) criticised the Cain Government for not introducing mandatory reporting for suspected cases of child abuse. In the Melbourne *Age* of 17 February 1989 he was quoted as saying that the mandatory reporting would 'increase the numbers of reports that could not be substantiated, but it was better than leaving children in situations where they could be abused.'

I believe that to some extent the Hon. Ms Laidlaw is out of step with her colleagues in Victoria and New South Wales who are strong advocates of mandatory reporting of cases of suspected child abuse. I believe that she is also out of touch or in some sort of disagreement with her conservative colleagues in Tasmania, Queensland and the Northern Territory, who all have some form of mandatory reporting for child abuse.

I believe that mandatory reporting can lead to an increased number of unsubstantiated reports. That has been the experience in most places where it has been implemented. For example, in the United States, in 1980, 40 per cent of the child abuse cases were dropped because of insufficient evidence and by 1985 the figure had increased to 80 per cent. Therefore, I believe that the South Australian experience has been less dramatic than Ms Laidlaw suggests.

We must remember that in itself a report is not persecutory and is not equivalent to a conviction. As a responsible community, do we wish to sweep the problem of child abuse under the carpet by removing mandatory reporting and, if we do, more importantly, as a society are we then prepared to accept the fact that, when parents who are faced with child abuse and neglect problems do not seek help on their own, the responsibility to take protective action then rests with others in our community? In my opinion, initially the responsibility should lie with the parents to find a solution for problems within the family unit, whether it be

child abuse problems or any other problems. The notion of responsibilities within the family unit is one I have always maintained and one to which I often refer so strongly in this place.

I believe that the Hon. Ms Laidlaw has argued that the responsibility for solving child abuse problems rests with the family, but all too often and under our cultural conditions the concept of family responsibility is misunderstood. When there is an insufficient recognition in Australian society of what family responsibility means, it is no good saying that the State is too intrusive and that the problem is a family responsibility.

Previously in this Chamber I have spoken of the implementation of written responsibilities for members of the family unit. Parents should have not only moral responsibility but also legal responsibility over their children, and I believe that this makes a lot of sense. One cannot condemn parents for failing in their duty towards their children unless they first have a legitimate chance to succeed.

In some countries, such as China and Italy, the responsibilities of children and parents have been codified and placed into law. In China, section 15 of the Marriage Act 1981 outlines the rights and responsibilities of children and their parents. The journal *Family Process* contains an article entitled 'China's Marriage Law: A Model for Family Responsibilities and Relationships', written by Rachel Hare-Mustin. Article 15, in relation to children, is as follows:

> The parents' duty is to rear and educate the children. The children's duty is to support and assist the parents. If the parents fail to do so, children who are minors or not capable of living on their own have the right to demand that the parents pay for such care. Parents who have difficulty providing for themselves have the right to demand that the children pay for their support.

Article 17, dealing with 'Responsibility', is as follows:

> Parents have the right and duty to discipline and protect minor children.

Similarly, Italy has codified the rights and responsibilities of parents and children. The Italian Constitution outlines these responsibilities as follows:

> Article 315. (Duties of the Children Towards the Parent.) The child must respect the parents and must contribute, taking into account his means and his income, to the maintenance of the family for as long as he lives in it.
>
> Article 316. (Exercise of Parental Authority.) The child is subject to the authority of the parents until the age of majority.
>
> Article 318. (Abandoning the Home of the Parents.) The child cannot abandon the home of the parents or of the parent who exercises on him authority in the residence assigned to him. Should he leave it without permission, the parents can recall him, having recourse, if necessary, to the Children's Court.

These simple rules by which family responsibilities are established and understood by these societies continue to provide for stability in family life in these two countries. It is a surprise to me that Australia has yet to seriously consider outlining the rights and responsibilities of both parents and children. It is simply not good enough to say that issues such as child abuse can be resolved within the family when clearly the role of the family in modern society is changing.

Without having an easily understood reference point by which we can understand our responsibilities as parents and children, in my view we cannot expect the institution of the family to withstand many of the pressures it is placed under. In conclusion, I wish to reiterate my understanding of the sincerity of the Hon. Miss Laidlaw in introducing this motion. However, I must point out to the Council and to the honourable member that, on this occasion, she has failed to show cause as to why a select committee should be established. For that reason, I urge the Council to reject the motion.

The Hon. J.C. BURDETT: I support the motion for a select committee. It seems to me that members opposite who have spoken to this motion have just been skating around it and have not really appreciated what it is about. It is a motion for a select committee to consider and report on child protection policies, practices and procedures in South Australia, with particular reference to certain things which have been set out.

The previous speaker (Hon. Mario Feleppa) placed great emphasis on the removal of mandatory reporting procedures. The Hon. Diana Laidlaw did not advocate that. She spoke about mandatory reporting procedures at some length but the motion refers to provisions for mandatory notification of suspected abuse. She is simply asking that this be inquired into. She is not knocking it; she is not saying that it should be removed; she is asking for it to be inquired into by a select committee with public input, the report of which would be available to the public. It seems to me that this has been overlooked by members opposite.

The select committee may well arrive at the positions which the Hon. Mario Feleppa has talked about in Italy and China, but that will not occur unless a select committee is established. There does not seem to be any move on the part of the Government to change its attitude at the present time. There is no doubt that child abuse, where it is proven, is an absolutely abominable offence against young children. I have felt this for a long time, particularly since I was Minister of Community Welfare when the number of child abuse cases which were established was alarming (and it still is). It probably always has been alarming, but the reporting procedure was not very strong before that time.

I am not in any way suggesting that child abuse does not exist; it does. I am not suggesting that it is not an appalling situation; it is, where it is proven. It is a form of criminal assault which must be proven beyond all reasonable doubt, in the same way as all other criminal assaults. There is a particular problem in this area, because we are dealing with young children and relying on their evidence. Members must acknowledge this difference in comparing child abuse with other forms of criminal assault but, in the last resort, where it is alleged, it must be proven, and it must be proven beyond all reasonable doubt.

The Hon. Ms Laidlaw has brought the motion not as a point-scoring exercise, as the Hon. Mr Feleppa suggested. That is ridiculous. The various parts of the motion indicate that she has carefully considered all the questions that are involved. As she said, the motion has been brought forward because, during the past few years, in South Australia, the United Kingdom and other places there has been an alarming number of cases brought by parents where children have been wrongly removed from their parents' care on the basis of child abuse allegations which often were not established. That has been the case in the United Kingdom in a matter which everybody will know about.

There are many allegations of this kind in South Australia. I have had a number of cases brought to my attention. On the Saturday of the Easter weekend, I came to Parliament House to do some work. I parked my car at the front and was about to enter the House through the door in which we use our cards by the Old Parliament House when I saw a couple with a placard saying, 'Our child was removed at a meeting where we were not present'. Although I was in a hurry, I thought that I should speak to them. I spoke to them and got the details. Their child had been removed from them in a fairly summary fashion without anything having been proven by way of child abuse. Other parents have come to me with similar cases. Often they have been to the DCW for help and counselling—

The Hon. R.J. Ritson: They probably wished afterwards they had not done so.

The Hon. J.C. BURDETT: Indeed. They went to the DCW for help and counselling with problems relating to their children or other family matters. Very quickly these days the DCW officers assume that child abuse is involved and the child is taken away. Such things have been reported on many occasions. Many parents have reported such matters, and they have formed themselves into organisations.

The referral procedures have a lot to answer for, and in many respects they ought to be assessed. The procedures at the sexual offences referral centre at Queen Elizabeth Hospital have often been criticised by the courts and persons charged have been found not guilty. Cases have been reported to me and to other members of Parliament of parents, at the drop of a hat, being charged and the children being taken away. In some cases the onus of proof beyond reasonable doubt has never been established and the inquiry methods have been criticised by the courts. They do not match up to the long-established standards of inquiry in criminal cases—and these are criminal cases.

That is what we are talking about and that is what the Hon. Ms Laidlaw has been talking about. She is talking about a select committee to investigate all these matters. She is not saying that mandatory notification or various other things should be abolished; she is saying that there is a matter to be inquired into by means of a select committee.

The Hon. Terry Roberts, and also the Hon. Ms Pickles, referred in their contributions to the Child Protection Council. The Child Protection Council is no doubt a very worthy body, and the Hon. Terry Roberts gave details of the people on that council and commented on how well qualified they are. I am not discounting that at all. The honourable member also gave details of the terms of reference of the Child Protection Council. The point is, though, that the people on the council report to the Minister; they do not report to the public.

At present the public is upset and concerned. There are concerns about children being taken away from their parents willy-nilly and in fairly short order, without very much having been established against them. That has been the situation for some years and it has not got any better. It has not improved as a result of the activities of the Child Protection Council. That council, quite properly, reports to the Minister. That applies to many of these organisations, and I am not attacking that in any way at all. But it does not help members of the public who have this concern.

There are members of the public who are concerned—and who continue to assert their concerns—about the increasingly interventionist way in which children are taken away from their parents. We are not hearing about that from the Child Protection Council—and we are not likely to, because it reports to the Minister. I am not criticising that, as I have said before. However, the public could have input into a select committee of the type that the Hon. Ms Laidlaw is asking for. A report would come to the Legislative Council, it would be tabled in the ordinary course of events, and the public would have access to it.

An increasing number of people are becoming very disturbed and concerned indeed about the way in which children are being taken away from their parents. I entirely support the Hon. Ms Laidlaw's motion calling for the establishment of a select committee to enable these matters to be brought forward, to enable people to make an input, and from which a report could be provided to Parliament, which report would then be made available to the public. I support the Hon. Ms Laidlaw's motion.

The Hon. R.J. RITSON: I support the motion also. I shall begin where the Hon. Mr Burdett left off, in discussing the right of Parliament to inquire into this matter. I shall quote again, as I have done before in the Council, the words of Gladstone, who said, 'It is not for Parliament to govern but it is for Parliament to call to account those who do govern.' This is not a subject that has been plucked out of the air. It is not a subject for political point scoring. It is a subject in relation to which constituents, judges, and writers of reports who are deeply concerned are raising problems, and scientific writers in journals are deeply concerned about certain matters.

For the Government, in love with its own department, to proclaim the department infallible and to proclaim us to have no right and no cause to investigate the operation of the laws that we in this Parliament make is the height of conceit. It is the height of insult to Parliament to say, as has been said, that it is not for this Parliament to inquire into the administration of these laws. It is not for us to administer them, as I have said, but it is for us, as elected representatives, to inquire into these laws on behalf of the public.

I will now mention the sorts of matters that have come from various sources that would seem worthy of inquiry. The thing which stands out first and foremost in relation to some of the complex matters that are dealt with by the Department for Community Welfare in this area and which is most criticised concerns the subprofessionalism of the officers who deal with very complex matters.

I am sure that if we had a select committee that matter could be examined. The former Minister Dr Cornwall explained that if the department, with its caseload, had to use properly qualified professionals with degrees, it simply could not run the service. Given the criticism of the delegation of complex psychiatric and social matters to people who are not qualified members of the Association of Social Workers—a fact which is freely admitted by the Minister—a select committee should be able to look at the matter. After all, the answer might be not to hang the social workers but to recruit more senior people.

The Cooper report deals with the welfare of children of children in need of protection; for example, the situation of a teenage girl who is under the care of the Minister and becomes pregnant. How to handle such a child is a complex matter. In her report to the Government, Dr Cooper referred repeatedly to under-qualification and lack of supervision, protocol and planning which surround the people who provide this service. What will happen to Dr Cooper's report? Will there not be funding for additional training and supervision?

Whenever the Opposition raises these matters in a fragmentary way, whether it be the Cooper report one week or a judicial decision another week, the Minister is totally defensive of her department as if nothing could be wrong with it. I think she wrongly fears an inquiry. If the Minister does not consent to an inquiry, and if there is a fundamental flaw in the system, these problems will keep cropping up in an adversary sense. They will keep cropping up in the newspapers and in this Chamber. If I was in Government I would welcome putting the matter to a select committee, where the adversary system would be less operative, where more scientific evidence would be produced and where some of these things could be looked at coldly and calmly.

Another example of subprofessionalism involves what is called psychotherapy. I refer to a letter, which I will not produce now, but the Attorney could find it in his files because it emanated from his office. The letter explained to a parent that Dr X, a qualified psychiatrist who was

conducting psychotherapy on a child, was leaving the State and thus in future the child's therapist would be Miss X. A person with no psychological or psychiatric qualifications at all was named to continue the therapy that was formerly carried out by the psychiatrist. This was probably in breach of the Psychological Practices Act, but such things do not stop the fervour, enthusiasm and misplaced belief in their own infallibility of some of the people who deal with these complex matters. So, I really think that the degree of professionalism ought to be looked at.

I do not say that these people behave unprofessionally in a blameworthy sense, but I do say that in very complex matters delegation often occurs to people who do not have the requisite standard of technical education to be the best people to deal with them. If we really care about this problem, we will look at raising standards and not punishing. We will look at buying qualifications and paying for courses to upgrade the professionalism of people working in these fields.

Society has another problem in understanding what is going on. The courts and departments that deal with these matters are, quite rightly, cloaked in secrecy. Cases are not able to be discussed in public or in the media and, to a reasonably responsible extent, Parliament restrains itself from discussing details of cases in this place. However, that means that there is a great cloud of ignorance lying over the whole scene, whereas in a select committee we could obtain detailed advice and expert comment from people within the department, from experts who have given evidence in court, from lawyers and from the judiciary, and better understand the needs that the Government would have in doing the job better.

It is no shame to the Government that it is having problems, because this is a new area in which there have not been studies and longstanding practices which enable anyone to claim to be a specialist in this regard. Rather than people who are not specialists cloaking themselves in secrecy and claiming to be specialists, everyone concerned ought to be prepared to lay their cards on the table in front of a committee of the Parliament and say, 'These are the awful problems we have: we want to do better.' That would be a more honest and praiseworthy approach by the Government than for the Minister in another place to stand up on her hind legs, make a blanket denial of everything whenever there is a public complaint and firmly and loudly proclaim her department to be infallible.

One of the problems in this area is a matter of policy. As my colleague the Hon. Mr Burdett said, criminal matters require to be proved beyond reasonable doubt. That is the approach of the law to crime. At a level of family law and Children's Court law, decisions are made on the balance of probability where, theoretically, no-one is being punished but where an interventionist act is contemplated. Even so, some people in the Department for Community Welfare are very unhappy about these issues being decided on the balance of probability and they would want the intervention to occur if there were any likelihood of the child suffering.

That is a real problem. Does one put everyone in gaol so that no guilty person escapes? If the policy is to leave no abused child unprotected, whatever the cost, it could be important to report many more cases on slight suspicion, either to alter the law or to persuade the judiciary to authorise intervention on the slightest suspicion. Even if one regards the only interest to be that of the child and even if one says that parents who have a child that is wrongly removed from them have no rights, nevertheless a child whose family is disrupted for no reason suffers.

The more that people push this matter to, first of all, reporting at the slightest suspicion and, secondly, intervention on less than the balance of probability, the more the point will be reached at which more harm than good will be done to the children as well as to the community. This matter requires deep thought and examination and is not best done by a department of relatively poorly trained people vigorously defending themselves against adversary political attack. That is just not the way to do it. A select committee is the way to do it.

The question of mandatory reporting should be rethought. In years past men have come to me confessing with deep shame that they have made some sexual overtures to their teenage daughter and wanting help. In some circumstances I have gathered together the whole family, we have discussed the problem and the family pathology, which can be psuedo inherited for a couple of generations, and I have placed them in the hands of a competent psychiatrist in this field. I have watched them improve and function better as a family. In such circumstances, I would be in deep and grave doubt as to whether I would report that or whether I would risk the sanctions of the law in not reporting such a case. I would not want a sub-tertiary educated junior social worker moving into that scene, giving the family advice conflicting with that of their psychiatrist, and fouling up the whole thing when we may have been well on the way to constructing a happy solution. I wonder whether all reporting by medical and psychological practitioners should be mandatory.

I also wonder about the word 'reasonable'. We never hear this used but it is mandatory to report an instance of child abuse—mostly physical abuse—only if one reasonably suspects or believes. With the vigorous instruction and detailing of the psychological indicators to classes of person who have no real understanding that a child with a sore throat is more likely to have tonsillitis than to be a victim of fellatio, increasingly matters will be reported which are not reasonable once they are considered in more detail. Instances of such reporting have been brought to Parliament before and there has been judicial criticism of such reporting.

Maybe the answer is not to prevent or discourage such reporting but that the reasonableness of a report should be subject to an early and effective test so that it does not get two years down the road and the alleged perpetrator has sold his home to pay legal costs before the matter is clearly determined in the accused's favour. A protocol should be devised for sieving the reasonableness of reports if we are to invite them from psychologists' assistants and preschool teachers, etc. They should be reasonably sieved early by a more expert body before being labelled as cases of child abuse.

That ought to be done before the disaster of injustice and trauma to the child gets too far down the track. One of the things that worries me is the conflict of interest that exists presently in the structure of the helping agencies. A departmental officer assigned to investigate a complaint is many things all at once. The first thing that she or he is (most of them are 'shes') is a public servant—a servant of the family that she is employed and paid to help. Equally she is the protector of the child.

She is other things also. She becomes a treater of the child, psychologically in many cases, and therefore eminently subject to being able to influence the child—indeed, one of the child's most important influences during the subsequent weeks and months of the child's life. She also becomes a potential or actual witness and investigator and is also an employee of the Minister who may eventually be party to litigation. That is an enormous conflict of interest.

With the best of will in the world there is no way that such an officer can avoid that conflict of interest, but perhaps, just as in the western world we have the separation of powers in government, the helping and serving functions could be separated from the investigating and testifying functions of those people.

The Hon. M.J. Elliott: Come and give evidence to the committee—don't do it now.

The Hon. R.J. RITSON: I thank the honourable member for his oblique remark, but that indicates that he has support for this subject. When you have the numbers, you sit down. I have indicated briefly the sort of problems that the committee ought to investigate and commend the motion to the House.

The Hon. M.J. ELLIOTT: The Democrats support this motion. I spent quite some months agonising (and I use that word sincerely) over whether or not to support this select committee. Over the past couple of months I have talked to a large number of people with expertise in this matter from all sections before coming to that decision. No doubt exists that child abuse is far more prevalent in our society than many wish to admit, and I include in that child sexual abuse. No doubt exists also that denial of problems is occurring at both the societal and family levels. Many simply do not wish to admit the extent of the problem or that we have a problem at all. We could have arguments about whether or not the problem is getting worse and whether the society is decaying, causing increasing problems. We could argue about what the causes may be, but they really are not relevant to this motion.

I congratulate the Government for its willingness to tackle an issue that others would have shirked. No doubt exists that the Government has been very responsible in the way it has behaved in getting over the denial phase. It has taken a great deal of flak, and I hold it in high regard for what it has done in this issue. It has shown real commitment to divert resources. I note, unfortunately, that it is making huge demands on the resources of DCW. It has been suggested that so many resources are now directed to intervention after abuse has occurred that too few resources are available to intervene earlier. That is somewhat simplistic, but it contains a great deal of truth.

When child abuse is suspected, it would be immoral not to act to ensure that, first, it is not occurring and, secondly, if it is, that it stops. Unfortunately, particularly in cases of sexual abuse, it is an incredibly difficult thing to prove. As inquiries are pursued, a great deal of damage can ensue. The suspicion created in families where abuse has occurred can damage a family irreparably. What damage is done to the child and the family when the child is taken out of the home on the basis of suspicion—even if the suspicion is reasonable (whatever that means)? As we seek more successful prosecutions—prosecutions which are difficult to prove—there is an increasing danger of harm to innocent persons. I do not think we can record our level of success in terms of the number of successful prosecutions. Basically, the authorities are damned if they do, and damned if they do not.

I have raised in this Council on several occasions my concern with respect to particular cases that have been raised with me. I did not know, and could not hope to know, whether or not abuse had occurred in each of those cases. However, there was no doubt in my mind that there were problems in the way the cases were pursued, regardless of the end result and whether or not the accused was guilty. In my consultations, I spoke to a large number of persons including senior officers of the Department for Community Welfare, officers of the Children's Interest Bureau, the Australian Association of Social Workers, family therapists, the Domestic Violence Prevention Unit, paediatric surgeons, representatives of people who have had children taken away as a result of charges, and parents of molested children where the charges had been proven. Therefore, I have spoken to people from all sides.

After listening to those people I am still left with the impression that we have some problems. There is no doubt that mistakes have been made. Department for Community Welfare senior officers have conceded that they have made mistakes in the past. Those mistakes have largely involved the procedures adopted. This is a relatively new and difficult area. The Government started pursuing this problem only in the past five years and it has pursued it with great vigour. Given that, it is not surprising that mistakes are made on both sides. I am sure that there have been times when children should have been removed and they have not been and, conversely, when children have been removed and should not have been.

There has been an honest effort on the part of DCW officers, the police and other people involved in investigating child abuse to improve practices. However, the advice that I am receiving from a large number of people who I believe are reliable, and who have no axe to grind—in a philosophical or political sense—is that there are problems. I found it interesting that, when I requested copies of police instructions in relation to child abuse, my request was denied.

I suppose that if I had forced the issue they might have been supplied. The response was that they were in the process of changing them—thus admitting that the ones they had were not too good—and the new ones would not be ready for a few months. Does that mean that the police will continue operating over a period of months with instructions that they admit are not any good (and that is without my knowing what the new instructions will be)?

There are two sides to the coin. Yes, the police are trying to lift their game, but they admit that there are still serious problems. I do not want the select committee to be any form of a witch-hunt against the department, SARC or anyone. I have seen some select committees degenerate into sensationalism, and that has tended to occur where paragraph 3 of the motion before us has been included in the terms of reference, as it allows select committees to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee.

I have seen reporters being briefed immediately after a meeting having evidence handed to them complete with dog tags indicating the sensational bits, and the information appearing in the newspapers the next day. I believe that to be a gross abuse of the select committee system. I do not want people with an axe to grind to use a select committee as a way of sensationalising the problems and as a way of scoring points in whatever direction they choose.

For that reason I oppose paragraph 3 of the motion. I want to see the evidence brought forward when the final report is presented to this Council—and not before. I have been advised that this was the usual practice until the late 1970s. In fact, paragraph 3 of the motion conflicts with Standing Order 398, which makes it clear that in the normal turn of events evidence should be brought forward at the time that the select committee reports. It would be wise if the Council thought more seriously about conforming to that Standing Order more often than it has in the few years that I have been in this place.

I support the motion, with the exception of paragraph 3, and I hope that the select committee is highly constructive. I hope that, at the conclusion of its deliberations, all persons

are satisfied. I hope that the department finds the process satisfactory. Who knows, we might find that it is being inadequately resourced and supported in other ways. The inquiry might be a positive contribution to the department's efforts. Anyone who assumes that the department is in the gun is working from an incorrect premise, and that view is certainly wrong from where I stand.

The Hon. DIANA LAIDLAW: I would like to thank all honourable members who have contributed to the debate on the motion: the Hon. Terry Roberts, the Hon. Ms Pickles, the Hon. Mr Feleppa, the Hon. Mr Burdett, the Hon. Dr Ritson and the Hon. Mr Elliott. After running through those names one can see the interest that this subject generates. I have no doubt that every single member in this place has, on a regular basis, had some contact or dealing with this vexed subject of child abuse.

I have no wish to be involved in a witch-hunt, and in that respect I certainly support the remarks of the Hon. Mr Elliott. I also repeat the statements that I made in this place on 30 November 1988 and 15 February 1989. When speaking to this motion on those occasions I said that this initiative has been taken purely and simply to provide Parliament with an opportunity to confirm whether or not our child protection practices are serving the best interests of the children of this State. I firmly believed at the time—and I continue to believe now—that this Parliament has a duty to be confident that child protection practices being pursued in this State in the name of the best interests of the child are serving the best interests of children.

It was with some disappointment that I noted the contributions of members opposite. They have been prepared to support select committees on a whole range of subjects, but when it comes to the most important resource in our community—our children—they have back-pedalled and distanced themselves from this motion. As to the comment of members opposite that the Government has acted in respect of establishing a Child Sexual Abuse Task Force and the Child Protection Council, those members of Parliament did not participate in the task force report, nor did they participate in the Child Protection Council or its report to this Parliament. In fact, we do not know of the daily proceedings of that council. I believe that in the circumstances it is most important that members do take an intense interest in this subject.

I can assure members also that the setting up of this select committee has the support of the Australian Medical Association and the Medical Board of South Australia, both of which would like the opportunity to present their concerns to Parliament on this matter. The Australian Association of Social Workers is also very deeply disturbed about this matter, and I meet with that association on a semi-regular basis. I was interested to learn that the Hon. Mike Elliott had also consulted with the Association of Social Workers and he would be able to confirm that it is most concerned about practices within the department relating to supervision of social workers and the retention of senior social workers with experience in this field. It is also concerned about morale and other problems within the department. The association would also like the opportunity to put its concerns to Parliament.

I understand that the Legal Services Commission is also concerned about the matter. When the Family Law Council of Australia recently reported to the Federal Attorney-General, it reflected on child protection practices in this State. I understand, through discussions with the Chairman, that the Family Law Committee of the Law Society of South Australia is anxious that the new unit which has been established at the Adelaide Children's Hospital is aware of the problems that have arisen to date and for the need to ensure that these problems do not continue. I have listed all those groups, because I did take some offence at remarks made by members opposite when they suggested that I was being alarmist and dramatic. A whole range of accusations were levelled at me when I moved this motion.

I suspect that, of all members in this Chamber, I have been more involved in this issue on a daily basis (for about five years) than has any other honourable member. I did not make the decision lightly. In fact, my colleagues would confirm that, for at least 18 months before I moved the motion, I resisted the pressure to do so. I did so finally because of the weight of evidence from community bodies, including the Family Law Council, the Law Society and the AMA. Those organisations wanted these matters addressed and also an avenue through which to address them. It was on that basis that I moved the motion.

It is not, as the Hon. Ms Pickles suggested, a few disgruntled adults, who have been called to account by the department and the courts, who have given rise to this motion. I do not want to get involved in every argument that is presented in these debates. However, I just make the point (and it is a point of which the Attorney-General is well aware, because it was raised during debates on the package of child protection Bills some 18 months ago) that Mr Ian Bidmeade, in the review of procedures for children in need of care, often stressed the point throughout his report that, under the current arrangements, the Department for Community Welfare is all powerful in this area of child abuse and that in practice the Children's Court does not have the review function that is desirable in respect of applications before the court. I refer the Hon. Ms Pickles in particular to pages 86 and 88 of Ian Bidmeade's report.

I suspect that most members are familiar with the Cooper report on the protection of children of under-aged parents. In fact, it was scathing of departmental practices in relation to child abuse. It is particularly difficult to obtain copies of that report as apparently the Minister ordered that only 20 be prepared. It has been my challenge to provide dozens of reports to groups around South Australia so that they can be made aware of Dr Cooper's concerns in relation to practices in the Department for Community Welfare.

I believe it is important that Parliament now seeks to ensure that the Minister's statement that matters and practices will be changed in the department as a consequence of the Cooper report will be acted on. I thank all members for their contributions and trust that our deliberations on this matter will ensure, in the longer term, that child protection practices in this State serve, as we would all desire, the best interests of children.

Motion carried.

The Council appointed a select committee consisting of the Hons M.J. Elliott, M.S. Feleppa, K.T. Griffin, Diana Laidlaw, Carolyn Pickles, and T.G. Roberts; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to sit during the recess and report on the first day of the next session.

ASBESTOS REMOVAL

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

That regulations made under the Occupational Health, Safety and Welfare Act 1986 concerning licence for asbestos removal made on 17 November 1988 and laid on the table of this Council on 29 November 1988, be disallowed.

(Continued from 5 April. Page 2629.)

The Hon. C.J. SUMNER (Attorney-General): The Government opposes this motion. The licences are restricted and aimed at demolition companies to ensure that asbestos fibrocement is removed according to safety standards as laid down by WorkSafe Australia. The cost of the restricted asbestos removal licence is $500, not $2 750 as claimed by the Hon. Mr Griffin. So far, 14 restricted licences have been issued and the companies granted them employ a wide range of unionists, including the BWIU, plumbers and gas fitters, carpenters and joiners, as well as ABCWF members. Continued allegations of harassment of contractors by the BCF are unsubstantiated, and if evidence is produced of such harassment, it should be investigated by the appropriate authority.

The Hon. I. GILFILLAN: The Democrats oppose this motion. Members may recall a question I raised about the improper handling of asbestos lagging at the Emu Winery site and the risk to health of children at the kindergarten and school nearby. The more I looked into the way that was handled, the more I realised we need very strict enforcement of the handling of asbestos material, and there must be much more adequate supervision of the way it is handled.

The Hon. K.T. GRIFFIN: I thank members for their contributions. It is not necessary to establish a licensing system to ensure that standards are maintained. One can well set codes of conduct and practice which have the force of law without requiring a restrictive licensing system for that purpose. If the motion is not carried on the voices, in the light of the Australian Democrats' indication, I do not intend to call for a division.

Motion negatived.

ATMOSPHERE PROTECTION BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 2634.)

The Hon. G.L. BRUCE: The stated purpose of this Bill is to reduce within South Australia the emission of so-called greenhouse gases, for example, carbon dioxide, methane, nitrous oxide and chlorofluorocarbons, which are likely to modify the thermal retention properties of the atmosphere and thus potentially cause global surface temperatures to rise over the next few decades. Recognising the significant contribution which energy production makes to greenhouse gas emissions, the Bill seeks to improve the efficiency of energy use within South Australia, hence reducing the need to burn fossil fuels to meet such energy demands.

This aim is to be achieved in two ways through the Bill, first, by ensuring that any machines, appliances or equipment installed or sold in South Australia which consume electricity, gas, coal or oil must comply with specified energy efficiency standards, and that such standards would be promulgated by regulations under the Act; and, secondly, by ensuring that all Government agencies, as far as is practicable, should take measures to reduce their energy consumption, and report annually on those measures.

The Government has sympathy with the intent of this Bill. There can be no doubt that improved efficiency of energy use in all sectors could, in the long term, make a substantial contribution to limiting the accumulation of greenhouse gases in the atmosphere. Apart from reduced environmental impacts, such measures could provide a range of other benefits to the community, including reduced energy costs for consumers, improved energy security and reduced capital expenditure by energy utilities.

It is interesting to note that in the *News* today the headline is 'Greenhouse tax plan'. The article reads:

> South Australian industry and luxury car owners are likely to bear the brunt of moves to combat the greenhouse effect. One of the major recommendations in a new study is that industry should be levied to pay for research into the greenhouse impact on the South Australian coast. The other is that a 'gas guzzler' tax be imposed on vehicles—mostly imported luxury models—in the city. The study was released today by the Environment Minister, Mr Hopgood.

It makes headlines in our local newspaper, so it is a vital issue and it is of concern to the community. Our main objection to this Bill rests with the impractical manner in which it attempts to achieve such an objective. In addition, the second reading explanation introducing the Bill ignores a number of activities already being undertaken by the Government in this area.

To address, first, the question of impracticality, it is a fact that South Australia acting in isolation cannot have any significant impact on the greenhouse effect, which is a global issue. As a minimum, action must be Australia-wide. South Australia is responsible for only about 5 per cent of greenhouse gas emissions in Australia. The State must therefore work through bodies such as the Australian Minerals and Energy Council and the National Energy Consultative Council to ensure that appropriate action is taken at the national level, and work is proceeding through these bodies.

The Hon. M.J. Elliott: You gave a speech like this two years ago.

The Hon. G.L. BRUCE: It is the same one. It has been recycled. We save energy. The manner in which this Bill seeks to mandate the use of energy efficient appliances of all types, quite independently of actions in other States, is also very impractical. While the terms 'machine appliance' and 'equipment' are not defined, they would appear to include all equipment using electricity, coal, gas or oil whether for industry application (such as boilers, foundries or metal fabricating machines), commercial application (such as air-conditioners, all forms of domestic heating and cooling appliances and other domestic appliances) or for use in motor vehicles of all kinds. Such an introduction of mandatory standards for all energy using equipment would be a major step for any Government to take. Unilateral action by this State in the absence of similar action in other States could have dramatic and unforeseen costs for consumers here.

The Hon. R.R. Roberts: This was on the front page of the *News* today. Dr Hopgood was launching it.

The Hon. G.L. BRUCE: That is right, but it will be on a greater basis than that. In particular, the implications for capital costs of equipment arising from this Bill are likely to be significant, as are the revenue implications for retailers. Why is it that the sale and installation of appliances and not the manufacture of appliances is being regulated by the Bill?

An honourable member interjecting:

The Hon. G.L. BRUCE: When you get your chance to speak, you can reply to all these points.

The PRESIDENT: Order!

The Hon. G.L. BRUCE: What do we expect to be the reaction to this Bill of manufacturers who deal in a national or even international market and find that a small portion of the total market now has different regulatory requirements? The implications for, say, Mitsubishi in having to produce one vehicle to meet the requirements of a South Australian standard and another vehicle for the rest of Australia are extreme. Similar comments would apply for local appliance manufacturers. Clearly, regulations of this

sort must be developed in unison with the relevant industries—

The Hon. M.J. Elliott interjecting:

The Hon. G.L. BRUCE: —including manufacturers and installers. In addition, they could be targeted initially at those appliances (or end uses) which do consume substantial quantities of energy. The Hon. Mr Elliott interrupts and says, 'What peanut wrote this?' I would have thought it quite logical that, if we were to tackle this on the basis of South Australia standing alone, we would be behind the eight ball to start with. We have a small manufacturing base here and we must export our manufactured goods interstate. The Hon. Mr Elliott cannot say that we will do all this and just have our own little private market separate from the great international goal of exporting overseas along with the rest of Australia. That would put South Australia at the greatest possible disadvantage. If one wanted to ship industry out of South Australia, this would be the Bill to do it.

In summary, any proposal for separate State specifications and significant additional costs for South Australian manufacturers, retailers and consumers to achieve only a negligible effect on a global problem is clearly impractical. The proposal in clause 8 of the Bill that all Government agencies should take measures to reduce their consumption of electricity, coal, oil and gas is somewhat belated. It overlooks the fact that the Government Energy Management Program has been in place for about four years, with just such an aim. The GEMP was established with the initial fundamental objective of saving 10 per cent of the total expenditure on energy use by the South Australian Government. The objective is now basically being achieved. Through application of a variety of energy management techniques, total savings in excess of $20 million have been identified.

The Hon. M.J. Elliott interjecting:

The Hon. G.L. BRUCE: The Hon. Mr Elliott will certainly get his opportunity to reply to this. I just want to know how the $20 million that has been saved has not been saved.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! There is far too much audible conversation going on. I can barely hear the speaker.

The Hon. G.L. BRUCE: That is all right—it does not interfere with me. Furthermore, detailed reporting and budgetary control systems are already in place involving the Treasury and the GEMP group of the Office of Energy Planning. The proposal in the Bill completely overlooks the fact that the GEMP exists, despite the fact that it has been publicised in Parliament and in a number of other areas, including, for example, in the first annual report of the Office of Energy Planning, which has been tabled in Parliament.

The proponents of the Bill would be better occupied in supporting various short-term measures and proposals by the Government whilst a range of medium to long-term issues are considered on a coordinated basis by bodies such as the National Energy Consultative Council and the Australian Minerals and Energy Council, on which the South Australian Government is actively represented.

The Hon. M.J. Elliott: They want to mine more coal, you dill.

The PRESIDENT: Order!

The Hon. M. J. Elliott interjecting:

The Hon. G.L. BRUCE: I understand that they are going to nuclear—don't worry too much about it. Such interim measures include motor vehicle fuel efficiency programs being developed at a national level; investigations into improvements of gas/coal burning systems; investigation of coal gasification combined cycle electricity generation. This ought to interest the Hon. Mr Gilfillan, as I understand that he has had a committee going for many years on all this. Further interim measures include wind energy monitoring and wind turbine generator evaluation; energy demand management studies, involving ETSA and the Office of Energy Planning; energy labelling regulations for electrical appliances; and energy research and development to investigate potential alternatives, such as solar, wind, etc. The Hon. Mr Gilfillan is almost leaping out of his seat now. This is right up his alley.

Further interim measures include promotion of energy efficiency through the Energy Information Centre; energy conservation in buildings by the promotion of appropriate building designs, etc.; the five star design rating system for houses; co-generation systems using natural gas; the Government energy management program activities; and research into compressed natural gas use in public and private transport and for rail locomotives.

To summarise, all of these programs will begin to impact on the emission of greenhouse gases in this State and they demonstrate the Government's commitment in this area. However, to be effective, a South Australian program must be part of a coordinated national effort, rather than involve just a unilateral approach, as proposed by the Bill introduced by the Hon. Mr Elliott. I urge members of the Council not to support the Bill.

The Hon. R.J. RITSON: With extreme brevity I will comment that I have been persuaded by the eloquence of the Hon. Mr Bruce and by the fact that the Government Bill which we are to debate has an element of uniformity and hangs upon the schedule to the Commonwealth Act. Therefore, I will oppose this motion.

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

PRIVACY COMMISSION BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 2635.)

The Hon. M.J. ELLIOTT: My contribution will be brief. Both the Government and the Opposition have indicated clearly that they will not support this Bill. I express my deep regret that that decision has been made. Only recently the Attorney-General lectured me about the need for openness in such matters, but the Government and the Opposition have made it quite clear that they are not willing to support this form of legislation which seeks to tackle those very issues.

It is a great pity, at a time when our society, with increased computerisation, is moving towards a point where great manipulation and a very real loss of privacy can occur and where the 'big brother state' is capable of easily existing, that in this State we do not have any legislation which offers any real protection whatsoever.

I am pleased to see that the Hon. Mr Griffin concedes that there is a need for legislation. So far the State Government has gathered itself a headline or two by announcing that it has introduced certain administrative guidelines, but administrative guidelines are simply that—they are administrative and can be altered tomorrow by the stroke of a pen and have no real legislative backing. This means that the Justice Information System and its various brothers sitting in departments around Adelaide will continue to

grow, the potential for them being interlocked and abused sometime in the future being ever present. This Government has no commitment to do anything about these matters.

As the Liberals have expressed some support for the general concept of a need for legislation, I will be looking in their direction in the future in the hope that, as they do not find this legislation appropriate, they will be capable of coming up with a better idea of their own. If they do, I will gladly support it. It is a great pity that this Bill, which was produced over a very long period of time with a great deal of consultation and thought, will lose in this place, but I will not call for a division.

Second reading negatived.

WAROOKA COUNCIL BY-LAW: PERMITS AND PENALTIES

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

That by-law No. 1 of the District Council of Warooka concerning permits and penalties, made on 26 May 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

The committee does not take this decision lightly. In moving this motion, it seemed to the committee that previously established rights are being unduly affected by this by-law. Of all the similar by-laws from other councils, Warooka was the only one to engender witnesses in the form of residents and landowners from the Warooka area to come and give evidence before our committee. As members would be aware, a previous by-law along the same lines was disallowed by this Chamber. The evidence given on page 5 of the transcript, which was tabled in this Chamber some time ago goes a long way towards explaining the committee's concern. On page 5 Mr Duigan stated:

It is a technical problem that we have in one sense. There is no argument about the council's policy, objective, intent or anything else. They have perfect rights as we see it and autonomy to operate in whatever way they think is in the best interests of their areas. It is just the device they are using. Our dilemma when confronted with their device is that our committee shall, with respect to any matters, regulations, or by-laws before us, consider whether what we are presented with unduly trespasses on rights previously granted. Our problem is that the imposition, obligations and responsibilities that the council is wishing to impose on those individuals are trespassing on rights that they would otherwise have under the Planning Act. It is really an argument about the correct way that the council should go to achieve its purpose rather than any objection of the purpose of the council at all.

That sums it up very well. A substantial deal of evidence was tabled in the Chamber on this matter. As members would be aware, the matter has been going on now for some two years and there has been no satisfactory conclusion to it. In fact, the committee has virtually turned itself into a select committee with the amount of evidence we have had to take from witnesses.

I refer to page 44 of the evidence in regard to the discussion with Mr Chamberlain from The Pines Action Group, who came and gave evidence to us. Mr Duigan on that page stated:

I will run through the policy. First, it refers to the use of caravans, tents and sheds on allotments for long-term and weekend purposes which is to be discouraged unless council is satisfied with four things. Those four things relate to the nature of the dwelling, the access to water for washing and drinking purposes, toilet facilities, garbage and waste disposal. It will be discouraged unless the council is satisfied that those four things are met.

Further on, he says:

The by-law states:

No person shall, without permission, within any township in the area use any caravan or other vehicle as a place of habitation unless such person is within a caravan park which the proprietor has permission to operate.

That is before us at the moment. If it stated:

No person shall, without permission, within any township use any caravan or any other vehicle as a place of habitation otherwise in accordance with council policy—

would you be happy with that? The policy is available for everyone who wants to go and get it. It is quite clear and may need additions in terms of long-term or immediate-term habitation or weekend habitation over an extended period, but if the statement of policy is clear, the by-law only needs to refer to it. The difficulties you raised before would be overcome? Why not enshrine that policy within the by-law?

Of course, that was the problem. Policy was not enshrined in the by-law. The concern of the committee is that the by-law should be more specific and relate to the policy of the council, and address the short-term aims of that policy in specific terms, not broad terms as it now does.

I realise that the District Council of Warooka will say 'Why have you singled us out and yet let other councils proceed with their by-laws?' I would say to them that the other councils have not had the problems Warooka council has encountered, and the matter of camping outside caravan parks is not a worry in their areas. The Joint Committee on Subordinate Legislation is sending a letter to the Local Government Association expressing its concern about the differences of the by-law within its various council members. Some councils have three days grace, some 14 and some none. However, I am sure that, if the Warooka council resubmits a new by-law spelling out its policy more clearly and in specific detail, no problem will exist in relation to its acceptance. Until that occurs, the Council should disallow this by-law.

The Hon. J.C. BURDETT: In supporting the motion moved by the Hon. Gordon Bruce, I do not wish to duplicate all the things that he said. He mentioned that, previously, a by-law in exactly the same terms was disallowed by this Council for the same reasons, and the grounds given were those stated in the Joint Standing Orders, the by-law being contrary to rights established under existing law. The position is that, while other councils have had similar by-laws, evidence was given in this case to the joint committee that there were objections to it, and that had not happened on other occasions.

The Pines Action Group and other people gave evidence, and the joint committee was concerned that the by-law was not being used for its expressed purpose. Rather, it was being used as a planning vehicle, and there are other ways of doing that. Conditions can be imposed on permits for caravans but, in this case, in granting those permits in such a way, the by-law became a planning device. The joint committee felt that that was not appropriate.

As the Hon. Gordon Bruce said, the committee recommends disallowance and, if the motion is carried by the Council, a letter will be sent to the Warooka council stating that we acknowledge their right to have a by-law, but that we suggest it be on a more limited scale; that it simply apply to caravans; and that it not be used as a planning device without the conditions which may be attached to it. Most council by-laws outlaw the occupancy of caravans without a permit beyond a set period which, as the Hon. Gordon Bruce said, may be three days or 14 days.

The Warooka by-law completely prohibits such occupancy without a permit, and that is the basis of the committee's decision. We felt that the by-law infringed rights previously established by law and that it was being used not for the purpose of controlling caravans but in a planning role. While there is a need for some by-law, which the council can introduce in the future in conjunction with proper planning procedures, in its present form the by-law

should be opposed. I therefore support the motion moved by the Hon. Gordon Bruce.

Motion carried.

WAROOKA COUNCIL BY-LAW: CARAVANS

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

That by-law No. 8 of the District Council of Warooka concerning caravans, made on 28 July 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

The previous motion concerning by-law No. 1 (permits and penalties) related directly to this matter, and my speech on that motion also wraps up this matter. The original speech that I made on Orders of the Day, Private Business, No. 19, relating to by-law No. 1, should have been made now. However, because the permits and penalties are so wrapped up with the District Council of Warooka concerning caravans, they are one and the same and the committee could not see its way clear to pass one while the other was still floating around. We therefore consider them contingent upon one another and, until such time as by-law No. 8 is tidied up by the Warooka council, the committee considered that it should be disallowed. We were concerned that when by-laws come down to us we normally also get the permits and penalties therewith. We are concerned at the trend that is occurring, with some regulations and by-laws coming to us without permits and penalties; they have been separated by some months, and have come to the committee as a separate issue.

It has always been the policy and practice of the committee to consider the by-laws and changes to the regulations in line with what is happening to the permits and penalties. We were very concerned that there seemed to be a departure from this procedure with the Subordinate Legislation Committee. I express that concern now so that it may be noted by various bodies that take an interest in the proceedings of this Parliament. However, in line with the speech I made earlier, I seek to have the by-law disallowed.

The Hon. J.C. BURDETT: I support the motion for the reasons that I have already given and that have been given by the Hon. Gordon Bruce.

Motion carried.

WAROOKA COUNCIL BY-LAW: TENTS

Order of the Day, Private Business, No. 21: Hon. G.L. Bruce to move:

That by-law No. 9 of the District Council of Warooka concerning tents, made on 26 May 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

WAROOKA COUNCIL BY-LAW: PARKLANDS

Order of the Day, Private Business, No. 22: Hon. G.L. Bruce to move:

That by-law No. 10 of the District Council of Warooka concerning parklands, made on 26 May 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

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

That this Order of the Day be discharged.

Order of the Day discharged.

WAROOKA COUNCIL BY-LAW: PERMITS AND PENALTIES

Order of the Day, Private Business, No. 23: Hon. R.J. Ritson to move:

That by-law No. 1 of the District Council of Warooka concerning permits and penalties, made on 26 May 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

The Hon. J.C. Burdett, for the Hon. **R.J. RITSON:** I move:

That this Order of the Day be discharged.

Order of the Day discharged.

WAROOKA COUNCIL BY-LAW: CARAVANS

Order of the Day, Private Business, No. 24: Hon. R.J. Ritson to move:

That by-law No. 8 of the District Council of Warooka concerning caravans, made on 28 July 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

The Hon. J.C. Burdett, for the **Hon. R.J. RITSON:** I move:

That this Order of the Day be discharged.

Order of the Day discharged.

WAROOKA COUNCIL BY-LAW: TENTS

Order of the Day, Private Business, No. 25: Hon. R.J. Ritson to move:

That by-law No. 9 of the District Council of Warooka concerning tents, made on 26 May 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

The Hon. J.C. Burdett, for the **Hon. R.J. RITSON:** I move:

That this Order of the Day be discharged.

Order of the Day discharged.

WAROOKA COUNCIL BY-LAW: PARKLANDS

Order of the Day, Private Business, No. 26: Hon. R.J. Ritson to move:

That by-law No. 10 of the District Council of Warooka concerning parklands, made on 26 May 1988 and laid on the table of this Council on 4 August 1988, be disallowed.

The Hon. J.C. Burdett, for the **Hon. R.J. RITSON:** I move:

That this Order of the Day be discharged.

Order of the Day discharged.

Mr TERRY CAMERON

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

That this Council censures the Premier, the Attorney-General and the Government for repeated failures to ensure full and truthful answers to questions asked by this Parliament about the activities of Mr T.G. Cameron.

(Continued from 11 April. Page 2820.)

The Hon. I. GILFILLAN: The Democrats have taken note of the contributions made in this debate, both in this place and in the other place by the Leader of the Opposition. I do not intend to speak at length about the contents of the debate but I do intend to make some observations from the Democrats' viewpoint in the whole issue and its consequences to this Parliament and, by implication, to the Gov-

ernment. Yesterday, Mr Olsen, the Leader of the Opposition in another place, made a very serious allegation against a senior public servant, Mr Colin Neave, the Commissioner for Consumer Affairs, regarding a report that he had made to the Minister of Consumer Affairs (Hon. Chris Sumner) on his investigation into the activities of Terry Gordon Cameron. Mr Olsen stated:

> That Mr Neave's statement at best, is misleading by omission. It omitted a great deal of evidence available in Government files.

This virtually accuses Mr Neave of dishonesty in the compilation of the report, and he is required and entitled to respond to this accusation.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: The Hon. Trevor Griffin denies that. I have heard the tape of the statement made by the Leader of the Opposition in another place, and the allegation that the Commissioner had been in default of his responsibility and guilty of deliberate misrepresentation is quite clear on that tape. I do not think that anyone who considered those words dispassionately could interpret them in any other way.

I am not here to argue the accuracy or otherwise of that accusation but it has been made and, having been made, the Democrats believe that Mr Neave is entitled and, in fact, is required to respond to it. We believe that the material relating to Mr Terry Cameron's building activities introduced into Parliament in the debate on the motion moved by the Hon. Trevor Griffin in this place (and in parallel by the Leader of the Opposition in another place), is substantial, different from and additional to material that has been presented previously, and it requires assessment by Commissioner Neave.

This motion attempts to criticise the Premier, the Attorney-General and the Government—not specifically Mr Cameron. Therefore, the Democrats believe that for the motion to succeed it needs to be established that the Premier or the Attorney-General have been guilty of providing untruthful answers or deliberately withholding information. In our view, that has not yet been established by the Opposition. However, several important questions must be answered by the Commissioner for Consumer Affairs, Mr Neave. They are:

1. Did his investigation cover all the matters raised by the Leader of the Opposition and other Opposition speakers in the debate on the motion?
2. If not, does he consider that these allegations alter the substance of the report that he has presented to the Attorney-General? If not, why not?
3. If all of the information presented by the Opposition was sighted by the Commissioner or his officers, why was it not included in the report?

The Democrats request that the Attorney-General direct the Commissioner to address these questions and, as soon as possible, to furnish full answers to the Attorney who should then undertake to make these replies public immediately. If the Attorney-General gives this undertaking (and I hope that he has the opportunity to make plain his reaction to this request)—

The Hon. C.J. Sumner: I can't speak.

The Hon. I. GILFILLAN: I hope that the Attorney-General will be able to communicate the Government's position through another member of the Government in this place. I repeat that, if the undertaking by the Attorney-General is made clear in this debate, the Democrats see no reason to support this motion. If, on the other hand, the Attorney-General refuses to give that undertaking, the Democrats will see that as a failure by the Government to do its best to provide full and truthful answers and will support the motion.

In summary, the Democrats believe that it is acceptable—I am not making a value judgment as to whether or not it is desirable, but it is certainly acceptable—for a motion such as this to be moved, assuming that the material brought forward by the Opposition was factual.

I have regrets when material that may be damaging to individuals is made public when it is of no particular relevance to the public responsibility of the Government or to the person involved, and I believe that in this case much of the material has come close to that. I repeat: the actual motion is not an accusation against Mr Cameron *per se*—it is an accusation of shortcomings by the Premier or the Attorney-General and, by implication, the Government. The Democrat's reaction to this motion will depend on the assurances that can be given by the Attorney-General through someone speaking from the Government side. We hope that this request can be complied with and, if it is, we believe that the Government will be fulfilling its obligation to the best of its ability in the circumstances.

The Hon. BARBARA WIESE (Minister of Tourism): As has been indicated, the Attorney-General, who has already spoken in the debate, cannot give undertakings in this debate, but I can certainly speak on behalf of the Attorney-General and the Government in this matter. I indicate to the Council that the Government accepts the approach suggested by the Democrats in this matter as being a responsible and reasonable approach to take in order to further investigate matters that have been raised in this place over the past 24 hours or so.

Also, I would like to commend the Democrats on rightly drawing the distinction between the two issues that have been raised by the Liberals in their motion. The first issue concerns material in respect of Mr Cameron's building activities that has been introduced into Parliament. The second issue is the question of whether the Premier and the Attorney have failed to provide full and truthful answers to questions that have been asked in Parliament about Mr Cameron. It is important to draw those distinctions and it is appropriate that the Democrats, in suggesting this course of action, have done just that.

The Attorney-General has already indicated that the Commissioner for Consumer Affairs was instructed to carry out an investigation into allegations made about the building activities of Mr Cameron. Both the Attorney-General and the Premier have behaved in a very appropriate manner with respect to those investigations by taking a hands off approach. It would be quite improper in this instance for Ministers of the Crown to become directly involved in any investigations concerning allegations made about the conduct of an individual. The Attorney-General and the Premier have acted in a very proper way by referring those allegations to the appropriate public authority, who in this case, is the Commissioner for Consumer Affairs. In this place yesterday some very serious attacks were made on the Commissioner, Mr Neave, and on his competence and capacity to investigate matters that come within his jurisdiction.

His report has been seriously criticised by members opposite. I am certain that he would like the opportunity to respond to some of the issues that have been raised by irresponsible members opposite. He might also like to consider his legal position with respect to some of the interviews that have been conducted on this matter during the past 24 hours or so.

Members interjecting:

The ACTING PRESIDENT (Hon. G. Weatherill): Order!

The Hon. BARBARA WIESE: There is no doubt that the attacks on the Commissioner for Consumer Affairs have been quite unwarranted, quite unreasonable and quite outrageous but very typical of the way in which members of the Liberal Party in both Chambers have, over the past 12 months or so, attempted to denigrate and besmirch the character of anybody—

The Hon. M.B. Cameron interjecting:

The ACTING PRESIDENT: Order!

The Hon. BARBARA WIESE: —who happens to hold any sort of public position in South Australia. The Government has stated repeatedly that any allegation of wrong doing will be investigated by the appropriate authorities. The Attorney-General has given an undertaking that he will refer the latest issues that have been raised in this place to the Commissioner for Consumer Affairs for investigation. I believe that that should satisfy the concerns of the Australian Democrats about these issues. I am certain also that the Attorney-General will ensure that that investigation is undertaken with proper haste so that this matter can be dealt with expeditiously.

In conclusion, I indicate that I share the concerns that have already been expressed by various members of the Parliament during the course of the past couple of weeks about the nature of the attacks that have been made in this place on Mr Cameron. I am appalled by the way members of the Liberal Party have handled this matter. I ask, if Mr Cameron had been a member of the Liberal Party, would this matter have been raised in the way that it has; and would the issues that have been raised in this place have been posed in the way they have been in order to seek an investigation into the question?

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. BARBARA WIESE: Mr Cameron is not a public official responsible to this Parliament. He is a private citizen who happens to be employed by the Australian Labor Party. Allegations concerning his building activities date to a time long before he was employed by the Australian Labor Party. The point I make is that Mr Cameron is entitled to the same rights as any citizen in this State. He is entitled in such circumstances to have his case examined impartially by the appropriate authority. It is not the right of members opposite to use parliamentary privilege to set up their own kangaroo court to try Mr Cameron, to sit in judgment on him, and to use this issue as a political point scoring exercise thereby jeopardising Mr Cameron's right to a fair hearing and, in the process, publicly harming his reputation before the substance of allegations have been investigated or tested.

As I have indicated, this type of action is typical of members of the Liberal Party who play very fast and loose with the rights of individuals. I share the concerns that have been expressed by the Hon. Mr Gilfillan, who indicates that the important matter is the public responsibility of the individual. It seems to me that members of the Liberal Party are not in the least bit interested in those issues; they are much more interested in attempting to score political points against the Labor Party, no matter what damage it does to particular individuals. Anyone who happens to be a card carrying member of the Labor Party is most at risk in this community with respect to the sort of attacks mounted by members opposite.

In relation to the undertaking that was requested by the Australian Democrats, I can indicate that these questions will be referred to the Commissioner, they will be investigated and the results of that investigation will be made known as soon as possible.

The Hon. G.L. BRUCE: I want to buy into this argument.

The Hon. R.I. Lucas: Is this your last speech before becoming President?

The Hon. G.L. BRUCE: I do not know whether it will be my last speech. I take exception to the wording of the motion 'that this Council censures the Premier, the Attorney-General and the Government for repeated failures', and it goes on. I am a part of that Government, and I will not be censured in relation to a matter that I believe has been handled in a proper and fair way. When this matter was raised in this Parliament I understand that the Premier undertook to obtain a report, and he divorced himself from that report and it was not interfered with.

In this Council over the past two or three days the Attorney-General has been accused of not being involved in that report. Had he been involved in it, he would have been accused of meddling. I do not doubt for a minute that, when the Premier or the Attorney-General undertook to obtain a report and table it in the Parliament, they divorced themselves from being involved in its preparation in any way.

It is a no-win situation for the Attorney-General, the Premier and the Government. Had they involved themselves in the compiling of that report, they would have been accused of meddling and, by the very fact that they did not involve themselves in it and left it to a person in the Department of Public and Consumer Affairs, they are accused by the Hon. Mr Griffin of 'repeated failures to ensure full and truthful answers'. Both the Premier and the Attorney-General demanded from the investigating officer full and truthful answers to the questions raised in the Parliament.

As a member of the Government, I resent the implication of the Hon. Mr Griffin. I am prepared to stand up and defend the fact that the officers who conducted the investigation did so in a fair and just manner. I condemn the Hon. Mr Griffin for making cheap political mileage out of this matter. He made his points yesterday, and they were well taken. I imagine that Mr Cameron will have to answer those points, book, chapter and verse to the investigating officer. I resent the accusation that I, as a member of the Government, the Premier and the Attorney-General, have covered it up and have not done the right thing.

The Hon. M.B. CAMERON (Leader of the Opposition): It was not my intention to speak in this debate, but the Hon. Mr Bruce has brought me into it. I regret that he has tied himself in with the Attorney-General and the Premier because I do not blame the Hon. Mr Bruce at all. I am sure that he was just as much in the dark as we were. I take exception to the Minister of Local Government getting up with a speech prepared for her, starting her remarks on the matter in hand, and then going through the old resume about the alleged smear tactics of the Opposition.

If ever a Minister disgracefully smeared individuals, it was the Minister who used to sit in the seat that she now occupies. I hope that the Minister of Local Government does not develop the same tactics. If members of the Government are going to talk about smear tactics, they want to think about what was done by one of their Minsters—for instance, in relation to the Christies Beach Women's Shelter—who misused this Parliament in a way that I have never seen done in my time in this place.

The Opposition in many cases does not know the answers to questions. We ask questions and we sometimes get answers, but in this case that Minister on that day knew exactly what the answers were before he tabled the report,

yet he brought it in here and raised these matters in this Parliament. I will argue that point.

The Hon. G.L. BRUCE: On a point of order, I understood that the debate related to censuring the Premier and the Attorney-General. We were not debating the 'Shelters in the Storm' issue or anything else.

The Hon. M.B. CAMERON: You introduced it. You brought it up.

The ACTING PRESIDENT (Hon. G. Weatherill): Order! Remarks have to be relevant to the motion we are discussing at the present time.

The Hon. M.B. CAMERON: It is relevant because both the Attorney-General and the Minister of Local Government brought in these matters. They are the pair who always sit there crying crocodile tears about 'What has happened to poor me?' We do not do it. We did not introduce the subject—they did. I am telling them, if they will continue on that line, they will hear about the Christies Beach women until the cows come home every time that they raise that matter.

I will not put up with the nonsense that comes from the Attorney-General who seems to have turned into some sort of 'poor me' subject in this Parliament. Every time the subject is raised by the Opposition, it is 'poor old me; what happened to me'. We asked questions: he declared himself publicly. We did not do that. I will get off that matter, but if members opposite want to get back on to it, I am quite happy to debate it any time, and I will debate it until the cows come home. I will debate the fact that the Attorney-General's Department advised the authors of 'Shelters in the Storm' of how to present the report. I believe that is what happened. The Attorney-General has not convinced me otherwise. I did not raise that subject this afternoon; I did not intend to raise it.

The Hon. G.L. Bruce: I didn't raise it.

The Hon. M.B. CAMERON: No. I did not intend to raise it, but now this pair of wimps has come into it and started it, I will raise it time and time again. The facts are that we did not have this material when we were invited to present material to the investigators when they came to see a member of our staff and Mr Baker. We did not have that material, but the Attorney-General tried to smear us by saying that we withheld material. That was a deliberate lie on his part. We indicated to him that that was not true but he did not accept that. He is prepared to get up and accuse us in that way, and he knows it is an absolute lie.

The fact is that we did not have that material. The Hon. Mr Griffin will go through that in chapter and verse. We presented the material, but what did the Attorney-General and the Premier do? They said, 'That investigation is all over. We do not need to worry about that any more. You should have given that material at the time.' Now they suddenly find this afternoon that they are faced with a select committee. What has happened is that the Democrats have gone to the Government and suggested that they be given an assurance of an investigation or they will support the select committee. The Government has gone to water, and we will have some sort of investigation.

Members interjecting:

The Hon. M.B. CAMERON: Yes, they have gone to water, but the Government was given the opportunity this morning of doing that.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: You covered up. You refused to say anything.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: Don't start saying what you said. You remained silent.

The PRESIDENT: Order!

The Hon. M.B. CAMERON: We know what you said.

The PRESIDENT: Order!

The Hon. C.J. Sumner: Look at *Hansard*!

The Hon. M.B. CAMERON: I am not saying anything, Madam President. I am talking through you.

The PRESIDENT: I am calling for order.

The Hon. M.B. CAMERON: Good idea! Keep him quiet, because he really is a very unruly member. This whole matter has been handled in a most inept fashion by a dying Government. That is what has happened. The Minister of Local Government made a feeble effort to try to rectify a situation that the Government has been forced into. The facts are the Government had the opportunity to investigate this matter, but it did not do it. It made an absolute shambles of it. It has reached the stage where editorial after editorial is turning on the Government because it is not prepared to disclose the truth. The fact is that all this material was available. We finally got it, not the Government, and we have now flushed the Government into the open.

The Hon. G.L. Bruce interjecting:

The Hon. M.B. CAMERON: Look, it is better if you stay out of it. I quite like you. I am not blaming you. You are just a blind backbencher. I understand that role—I have been in it often enough myself.

The PRESIDENT: Order! That is not addressing remarks through the Chair.

The Hon. M.B. CAMERON: Through you, Ms President, the Hon. Mr Bruce is just a poor old blind back-bencher. He understands that role. He would not know what is happening; he would not know that there has been a cover-up.

The Hon. CAROLYN PICKLES: On a point of order. I think that the honourable member is casting aspersions on my colleague, the Hon. Mr Bruce, and I ask him to withdraw.

The Hon. G.L. BRUCE: On a point of order. I am not blind; I can see.

The PRESIDENT: Order! I do not think that it is unparliamentary.

The Hon. M.B. CAMERON: He can only see what he is allowed to see.

The PRESIDENT: Order! I suggest that the debate return to the topic of the motion.

The Hon. M.B. CAMERON: I am doing that all the time. It was not my intention to speak, but I was provoked beyond the point of no return by the inane contributions by the Ministers who have spoken in this Chamber. It is time that we had a good Minister on the front bench, and we will welcome you, Ms President, when we get you there.

The Hon. K.T. GRIFFIN: The first fact is that in April 1988 a question was asked in the House of Assembly about Mr Terry Cameron. It was asked because there was evidence at that stage that he had committed breaches of the Builders Licensing Act, and those breaches had not been pursued. It is perfectly legitimate to raise a question relating to public administration.

The second fact is that there was apparently no follow-up by the Government for about eight months. In February this year, when Parliament resumed, an interim report by Mr Smith was tabled by the Opposition, not by the Government. It raised legitimate questions about the conduct of Mr Cameron and about issues of public administration.

The third fact is that we disclosed that interim report and again asked the legitimate question: why was it not followed up? Why were the references to serious questions and issues not pursued by the Government? Then we had the report tabled last week. We were assured by the Premier that it was the most thorough investigation ever by the Department of Public and Consumer Affairs.

The Hon. T. Crothers: How do you know it wasn't?

The Hon. K.T. GRIFFIN: We know it was not, because after the report was tabled last week new information became available. We did not have that information at or prior to the tabling of the report by the Premier in the House of Assembly and by the Attorney-General in the Legislative Council. That information was significant.

It is all very well for the Minister of Local Government to say that there is a smear campaign about Mr Cameron. There is not a smear campaign about Mr Cameron. The issue is a serious one of public administration.

The Hon. R.R. Roberts: What about Mr Neave?

The Hon. K.T. GRIFFIN: I will get to that in a minute.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner: Channel 2, the *7.30 Report*, Conlon, Satchell—all of them.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: This is a serious issue relating to public administration. It is raised in the Parliament because ultimately the Premier is accountable for the Government's actions and the Attorney-General and Minister of Consumer Affairs is responsible for the administration of the Department of Public and Consumer Affairs. They have to account to the Parliament for what happens within the department. It is not for Mr Neave to account; it is for the Attorney-General and the Premier to account. That is a matter of public administration which, under the Westminster system, must be raised in the Parliament, and we are entitled to raise questions about the issues of public administration involved.

As I have said, Madam President, as to the issues raised yesterday, the information presented to both Houses of Parliament was new information. We did not have it when the investigator, Mr Webb, saw Mr Baker and Mr Yeeles, and we did not have it last week when a report was tabled in both Houses of Parliament. We received it after the tabling of the report, and it disclosed disturbing information. The Australian Democrats acknowledge that it discloses new matters of substance. Those new matters of substance cast grave doubts on the adequacy of the report and the extent of the investigations.

It is not up to the Opposition to provide information to the Government and its investigators. It is not up to us to say, 'Well, if you look in this particular file in the Builders Licensing Board you will find X, Y, and Z' or 'If you look in the Residential Tenancies Tribunal's records, you will find this, and this.' We do not have the power to do that and we do not have the resources to do that. It is the Government that has the investigators. It has the resources, the power and the access to Government files. The Premier and the Attorney-General promised a full and thorough investigation on the basis of the questions that were raised in April 1988 and on the basis of the Smith interim report produced by us in Parliament in the middle of February.

The material referred to yesterday again showed that the investigation was not thorough. It was not thorough because it did not disclose information that was available in the Government's own files, information which included transcripts of proceedings before the Builders Licensing Board, records of proceedings before the Residential Tenancies Tribunal, records of findings, reports of inspectors, letters, and other material relevant to this whole issue. That is information to which ordinarily an Opposition would not have access. It is in Government files and the Government has access to it.

The question that we are asking—and it is a serious question—is: why was that information not checked, not disclosed, and not part of the reports? It is not up to us to produce even more information. We have now done it, though, and it is up to the Government to take it further. The Premier and the Attorney-General are the Ministers responsible for public administration, and they have to answer the following questions. Why was that damning material we identified yesterday not investigated? Why was it not referred to in the earlier report?

The motion before us does seek to censure the Premier and the Attorney-General. We do seek to censure the Government, because it is the executive arm of government, accountable to the Parliament. Under the Westminster system of government, it is responsible for what goes on in Public Service departments. There can be nothing clearer than that: those Ministers are accountable. In February they sought to blame public servants for the eight-month delay. They now seek to say again that it is up to the public servants to do the work, that it is not up to them, as Ministers, even to make sure that it is done promptly and properly. I do not accept that.

It is for that reason that I urge the Australian Democrats, the members on this side of the Council, and, I would hope, members on the other side of the Council, to accept that that sort of accountability must be recognised in this place. The Premier and the Attorney-General must be censured for what has so far been a grossly inadequate response to the serious allegations that have been raised.

The Council divided on the motion:

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

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

Majority of 1 for the Noes.

Motion thus negatived.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 2417.)

The Hon. K.T. GRIFFIN: What amazes me—and perhaps it should not when I consider the Government's record—is that so many ALP members opposite who call themselves civil libertarians meekly go along with the Attorney-General on this Bill. Their policy has been for total suppression of names of accused persons until committal or conviction, yet like lambs to the slaughter they follow the Attorney-General who really proposes quite the reverse. Why? They are afraid of the media which will be given a pre-eminent right under this legislation—a right not recognised in relation to the administration of justice in any other jurisdiction in Australia.

This feature of the Bill has the ALP members lying down and not arguing about this issue. Members opposite are afraid that if they stand up to be counted and express their real views, either they will be ostracised by their own Party or the media will turn on them. What a cynical view! Are

they so desperate to win the next election, and are their stocks so low, that they are not prepared to argue on this issue?

Do they really, though, have such a cynical view of the media? What they are really saying, as they compliantly support this Bill, is that they cannot trust the media to be responsible. I certainly do not subscribe to that view. So, my first observation in respect of this legislation is to focus on the cynical attitude of members opposite. On 15 February 1989 in a press release the Attorney outlined what course of action the Government would take on suppression orders. He said, among other things:

Time will be allowed for comment on the Bill after its introduction.

He did not consult with the Law Society on his statement. He introduced the Bill on 16 March 1989 and, again, had no prior consultation with the Law Society. I cannot find anyone with whom I have discussed this issue whom the Attorney consulted. Easter intervened. A mass of other Bills were introduced and, even last week, a number of Bills were still being introduced in this and the other place. Representations since the introduction of this Bill have been made to the Liberal Party as they have been to the Government and to the Australian Democrats, and we have endeavoured to come to grips with the issues which have been raised. The Law Society has expressed some real concern about the Bill. I will read into *Hansard* the substance of the Law Society's letter to me, which I feel sure has also gone to the Attorney-General and to the Australian Democrats. After some preliminaries, Mr Mansfield (the President) says:

I confirm that the society's view is that, in criminal matters, the name of an accused person or information tending to identify that person should be suppressed from publication until conviction, subject to the court having power to authorise publication in certain limited circumstances where publication might lead to the procuring of further evidence, the apprehension of other persons, and the like.

I further confirm that the society is concerned about the terms of the Bill, not simply in relation to the substantive amendments contemplated (particularly that creating a right of the media to publish information to be given substantial weight), but also because it is the society's view that the Bill fails to address adequately the position of witnesses, victims, those referred to in proceedings, and the position in relation to civil proceedings.

As you are aware, there are, in other jurisdictions, alternative 'solutions' adopted as to the appropriate law relating to suppression of an accused's (and other's) names, or evidence. For example, the law presently in force in England permits the publication of the name of an accused person and the charge, but substantially restricts the publication of evidence and allegations until convicted.

The society is concerned that the proposed Bill, if enacted, will be likely to cause grave hardship to accused persons. The fact of publication of an accused's name, particularly in conjunction with the allegations then made, may itself have a significant prejudicial effect upon that person, even though that person might ultimately be found to be innocent. The presumption of innocence, which lies at the heart of our criminal law system, may be significantly impaired. In addition, of course, the publication of an accused's name in conjunction with the nature of the allegations (depending upon the nature of the presentation of that material) may significantly affect the opportunity that person has to a fair trial.

You no doubt appreciate that the proposal in the proposed section 69 (2) *(a)*—the right of the media to publish information, and its being given substantial weight by the court—is an entirely new concept. Although the issue of the appropriate law relating to suppression has been debated for some time, that concept has not been much ventilated.

In those circumstances, the society requests that you support the referral of the Bill to a select committee of the House which would be charged with the responsibility of obtaining the views of all concerned groups within the community, in addition to the views of the media which have obviously been very substantially reflected in the Bill.

That letter expresses the formal view of the Law Society. It is also the view of the criminal law section of the Law Society. We have seen some quite active representations being made by those lawyers, as well as a range of other people, on this Bill. It is a good thing that the Law Society is beginning to take a much higher profile on issues of public importance which affect individual rights, so I do not in any way criticise the Law Society for the representations or public statements it has been making on this issue. I hope that it will continue to make public statements and be involved in ensuring that issues of principle are debated publicly. Lawyers are in a unique position to be able to give guidance to the community on particular issues.

In the Liberal Party over the past year or so we have expressed concern about the area of suppression orders in South Australia. We have expressed concern about the breadth of some suppression orders and concern that suppression orders have been made in some criminal cases. They relate essentially to criminal cases. Until the past year or so we have had reports, which seem to be prevalent, of persons obtaining a suppression order on the basis of the so-called 'sick grandmother' syndrome. There does not seem to have been such prominence given to such orders, which rather suggests that they have not been so prevalent as in the past.

We have seen some rather broad orders. I have made criticism of one in particular, which I have pursued with some vigour over the past 18 months, involving a person who was charged with a criminal offence but who was acquitted. This case arose out of an incident in a country hospital, and it was not permitted to publish the name of the victim, the occupation of the person charged, the location of the hospital or the reasons for the acquittal. In those circumstances there has been some justifiable criticism of the breadth of the suppression order.

This has impinged on other areas. In relation to the coronial inquiry that was completed only a few months ago, the Coroner was disposed to publish some findings that did not give adequate information about the conclusions which he had reached. We have been critical also about orders such as those in relation to Mr Barry Moyse, particularly where the occupation of the defendant was disclosed and, as a result, a number of senior police officers were under something of a cloud in the public mind as a result of one individual having his name suppressed.

We have been critical also of the suppression of reasons for particular orders. In that context interstate orders have been a basis of comparison. All information indicates that they have been limited and depend more specifically upon a determination as to whether or not a suppression order is in the interests of the administration of justice.

As a Party, we have supported a review of these orders made in South Australia and the basis upon which they are sought and made. We have also been critical that there has not been a central registry of suppression orders because anyone who has a legitimate interest has not been able to confirm whether or not a suppression order has been made in a particular case or whether it has been lifted or varied. Therefore, this Bill, which contains a requirement for a central register, is appropriate. Of course, that central register must be kept up to date, it must be accessible to those with legitimate interests and it must contain details of variations.

With that background, it is appropriate for me to identify the principles that the Liberal Party believes should be considered and incorporated in legislation which deals with the very complex and controversial question of suppression orders. Any democratic system depends on there being a free press which reports responsibly and is entitled to have access to information of public interest. In South Australia and Australia we have that free press and we must ensure

that it retains that freedom and that, in the context of exercising that freedom, it reports responsibly all the affairs of State, including the proceedings of the courts. Periodically there are criticisms of the media for so-called biased or flamboyant reporting and for undue focus on particular individuals or issues. I have made observations on those sorts of matters in the past, affirming a view which I hold strongly that the press must be able to do that. However, I do not necessarily agree with the way in which they do it and would seek to ensure that they exercise a very weighty responsibility to report fairly and accurately. That is the first principle that needs to be recognised in the context of this legislation.

The second principle is that the administration of justice must be open to public scrutiny. The extent to which the courts are open depends, to some extent, on the nature of the matter which is before them. Of course, where there are children, the principle is that a young offender's name or anything tending to identify that person is not to be published. That is appropriate because of the need and the desirability for the community not to bring undue pressure to bear on young offenders who must be given an opportunity to make their way in life, even though they may make a mistake or two which brings them into conflict with the law.

In relation to sexual offences, it is appropriate that the names of victims and anything that might tend to identify the victim not be disclosed. Frequently, where the accused is related to the victim, there is every good reason for ensuring that the name of the accused is not available. There may be other instances in which that is appropriate—where the right of access of the public to the courts should be limited.

But, as a matter of general principle, the administration of justice must be open to public scrutiny. I suppose in that context one could make the passing remark that there is very much more scrutiny now of what happens in our courts—the question of the progress of cases, delays in the courts, even criticism of decisions of judges—than there would have been even 10 years ago. Whilst one has to be careful of the law of contempt and ensure that the criticisms are not made in such a way that indicates a disrespect for the courts, it seems to me that that is a healthy development.

Of course, when the courts are criticised the Chief Justice has indicated on several occasions that, because the judges are unable to respond publicly to criticism, that response ought to be delivered through the Principal Law Officer of the Crown, namely, the Attorney-General.

The second principle which we believe ought to be incorporated in the legislation of the sort now before us is that the administration of justice must be open to public scrutiny. The third principle is that the public interest in the proper administration of justice must be recognised. This may be a difficult concept to put into words but, as a democratic society, there are those who take an interest in politics, those who take an interest in voting and those who take an interest in what goes on in our courts (some may take a somewhat bizarre and obsessive interest but nevertheless they take an interest), and others attend courts and take an interest in what happens in them—both civil and criminal—and that is appropriate. Not only must the courts be open to public scrutiny but the public interest must be maintained and guaranteed.

The next principle, which is important and which is a key principle, is that the defendant charged with criminal offences must be guaranteed the right to a fair trial. In that context, that right must be paramount. As I say, it is a key principle of our judicial system, of our society, and many—jurists, civil libertarians and others—have said that it is better for a guilty person to be acquitted than for an innocent person to be convicted.

Therefore, in that context, with the onus on the Crown, generally speaking, to ensure that its case is proved beyond reasonable doubt, the defendant's right to a fair trial must be assured. That is the fourth principle that I would want to ensure is recognised in the legislation. I would suggest that the Attorney's Bill does not recognise all of these important principles and, because of that, I will be seeking to move amendments which, I hope, will be regarded as simple amendments to ensure that, in this area of suppression orders and in the interests of the administration of justice, those four principles are recognised. In addition, I will seek to give some protection to witnesses and victims and to distinguish between criminal and civil cases.

I think it is quite legitimate to distinguish between witnesses or victims of crime on the one hand and defendants on the other hand. While victims are the unwilling parties in any criminal trial, witnesses are frequently unwilling participants. Witnesses may find that they are at risk in giving evidence; threats may deter them from giving evidence. They may also be deterred by the awesome prospect of appearing before a judge and jury and, in the presence of an accused person, giving evidence which might be sufficient to convict. It may be that, in effect, those witnesses are innocent bystanders who nevertheless will receive some prominence when they give their evidence. There may be legitimate reasons for ensuring that their names are not published.

Only recently Mr X, who finally became a willing witness for the Crown, gave evidence under a pseudonym. Whilst perhaps he may be less entitled to protection than others, nevertheless, I think that there are occasions where the courts ought to have the power to be able to protect witnesses and victims. Also, a distinction should be made between criminal cases and civil cases. Civil litigation may be of great public importance. For example, some of the great commercial cases are of considerable importance to the commercial community as well as to the investing community (such as small shareholders) and to others who are concerned for justice and equity. Nevertheless, other civil cases may appear to us to be ordinary litigation seeking the recovery of property which has been detained by another person. It may relate to some interfamily or neighbourhood dispute. It may also have some immediate public interest which, if it does occur, would create considerable hardship to the participants. The community does not seem to follow those cases as intensely as it follows criminal cases, and one can understand that.

The great criminal trials in Australia, the United Kingdom, the United States, Canada and other countries are notable; they create their own publicity and there is an intense public interest in the outcome. In those sorts of cases it would be of little value to consider something like a suppression order. However, I believe there are some good reasons why the court should have some power at least to grant suppression orders. It is in that context that I will seek to move amendments which I believe will emphasise the right of an accused person to a fair trial and also recognise the public interest and the desirability of keeping the administration of justice open and for the consequent right of the media to publish. I suggest that no-one of any political persuasion could logically object to ensuring that these principles are enshrined in our legislation.

This area of the law, as we all know, is very controversial. There are wide differences of opinion in the community—from the view of the Law Society through to the ALP's

official view, to a view where there ought to be no suppression orders at all. From a regime of about 200 suppression orders per year under the existing legislation, it really cannot be argued that the total suppression of names until committal or conviction can be implemented. I suggest that in the 10 years or so that the existing section has been in operation (or a similar section) there have been quite extensive limits on suppression orders and one can now go to the regime that the Law Society proposes.

We must find some balance. I suggest that the sorts of amendments that I will put on file and which have taken some time to consider and draft will achieve that balance. The Liberal Party indicates that it supports the second reading of the Bill and does so to enable various amendments to be considered during the Committee stage.

The Hon. I. GILFILLAN: Members will be aware that I intend moving that this Bill be referred to a select committee. The more I hear and think about the matter, the more I am convinced that that is the only appropriate way to deal with it. I do not think that any member of this place can claim that they have received adequate comment, opinion, background and discussion about this matter to make a balanced decision about such an important issue that is, in the current timetable, likely to have to be decided in the next day or two.

It is desirable that this matter be discussed in a select committee because, of nearly all the matters one has to consider, this is one that is the most highly influenced by the media. The media has mounted a campaign of attack to remove the use of suppression orders in this State, and from time to time I have made critical comments about this matter to the media. I believe that I am not alone when I say that my decision to make those statements was in part influenced by the fact that they would curry favour and probably receive a favourable response from the media. I make that statement as simply as I can, because it is my suspicion that quite a lot of the public reaction of both the Attorney-General and the shadow Attorney-General in relation to challenging suppression orders has been at the beat of the media drum.

The media, posing as the champion of freedom of information, has been voracious for material that it believes will help it sell papers or hold audiences through the electronic media. I do not necessarily condemn it for that, because that is the way the economic and commercial media works. However, in relation to justice and fairness to individuals, this Parliament should not bow or even be mildly influenced by that serious pressure when deliberating the proper way for suppression orders to be implemented in this State.

Amongst a host of other material—a lot of it very serious—that needs to be considered at this stage, this matter is very high in priority. I have with me some of the papers that have been sent to me in relation to it. There is a multipage document from three people who, I believe, are eminently capable of commenting on it—that is, Mrs M.E. Shaw of Rose Park Chambers, Mr M.A. Griffin of Elston and Gilchrist and Mr D.W. Smith of Jeffcott Chambers.

I have had letters—not a lot—from some private individuals, including one who has actually served as a juror. Also, I have some written notes (because I did not have the time to talk directly with him) from Mr Barry Jennings of the Legal Services Commission. The situation is that I believe I am only at the threshold of getting a grasp of the issues which should be considered in deliberations on this Bill.

Another piece of written material was the editorial of the April edition of the *Adelaide Review*—a very eloquent argument for suppression until committal for trial. I hope members will take the opportunity to read this editorial. That line of thought is one which is almost identical with the successfuly ballotted position of the Democrats' State policy. It has some complications and problems, as I believe has almost any proposal that I have heard put forward to date. The extremes of complete openness as compared to complete suppression on each end of the scale have logical arguments to support them. They have practical aspects of impossibility, and clear cases of grievous hurt to individuals which can occur either way.

In what I thought was a good and substantial contribution to the debate, the Hon. Trevor Griffin has outlined many of the problems involved in trying to get the right piece of legislation into place. Because of that, I believe I am right that in spite of what has been the public face of the Attorney and the shadow Attorney in this matter, they both have serious misgivings about how any suppression order legislation will be applied. For that reason I plead with members of this Chamber to refer this Bill to a select committee where calm deliberation can be given to it away from any media pressure or undue influence. The media would certainly be invited and would be most welcome to provide a contribution to such a select committee.

From my point of view—and I assume other members share this with me—I do not have enough experience with the way the law operates to be able to discuss the differences and significances of the matters raised by the Attorney and the shadow Attorney and by the Bill itself. From my private conversations to date, I do not have grounds for being optimistic that a select committee will be appointed. I hope I am wrong and I keep pleading that this request be treated seriously.

Just a few minutes ago I completed giving instructions to Parliamentary Counsel for a form of amendment to provide for complete suppression until committal for trial. However, I am not comfortable with it. I have had two attempts at it: the first obviously did not achieve what I was aiming for, and I have not had a chance to read the second. Members know that the Attorney wishes us to sit at 11 o'clock tomorrow morning. We still have matters of enormous moment on the Notice Paper to consider. If we rush to get any legislation through this Chamber in the timeframe we are talking about, we stand a very good risk of passing legislation which will backfire and cause just as much, if not more, pain and hurt to people and/or put at risk the right of the public to knowledge and the maintenance of the openness of our public justice system.

One of the big anomalies in our system is that, although suppression orders may be invoked, with the open court system, which I do not want stopped, we still have this incongruous situation where many people in the community know the very information and can speak first-hand—or, if not first-hand, they have heard it from reliable second-hand—about the exact details of the material that the court has ordered to be suppressed.

There is no such thing as a completely successful suppression order. That makes me more uncertain about the further extension of suppression orders, but the reverse—open slather—would have incredibly painful effects on many innocent people in our community who, because the media can never be relied upon to balance the publicity given to accusation, charge and acquittal, will never receive even-handed treatment from the media.

I believe that a select committee should address this issue. It may be that some legal obligation can be imposed on the media. If there are certain emphases on the accusations and charges laid against an individual and that person is later

acquitted, perhaps there should be a minimum requirement of publicity honoured by the media giving details of that acquittal.

The Democrats' position is ambivalent. We just do not know. On that basis, and with the serious consequences that this piece of legislation would have on thousands of people in this State, we plead with this Chamber to refer the Bill to a select committee. I remind members that that is the motion that I shall be moving immediately after the Bill is read for a second time. It is difficult for me to decide how we would react to the second reading vote on the matter, because we are uncertain and we do not have adequate time and information to make a proper and balanced judgment on it.

The Hon. R.J. RITSON: I support the second reading of the Bill, but have deep concerns about some aspects of it. However, I support the Bill so that it may be dealt with in the Committee stage and improved.

Essentially, the Bill does two main things. It removes as a ground for suppression orders the element of hardship to people, and, in a somewhat declaratory way, it enshrines the role of the media. It enshrines the right to publish, although I cannot see that that right to publish, according to law, has not always existed and will not continue to exist. Nevertheless, if passed, it is a declaratory statement that the media are an important part of society. Therefore, I want to talk about the role of a free press in society and about rights, and one cannot talk about rights without talking about duties.

The fact that we can debate in this place and enjoy our freedom of speech would be meaningless unless the press were free to report it. We could talk all day, but it would be to no avail if the press were not free to report us. We have a function that goes beyond that of Government or legislation. Parliament, as I said in an earlier debate, has the role of calling the Government to account. It has the role of expressing the complaints of its constituents. It has an educative role to the extent that it helps the public to know what is going on and what the Government is planning to do. Those functions of Parliament would be to no avail but for a free press. Much as different members might from time to time grizzle about the press because it either does not report us as we would wish to be reported or, even worse, does not report us at all, that is the lesser of two evils, the alternative being a Government-controlled press.

I want to make quite clear from the outset that freedom of the press is a very important ingredient in the Western style of liberal democratic government. That freedom is important also in the administration of justice. If the courts were closed, or if the courts were open but could not be reported at all, all sorts of perhaps undesirable practices, and even corruption, could over a period of time develop within the judicial system without the public knowing about it at all. In that regard, quite clearly, open courts with free reporting are an important part of the freedom that we enjoy in Western democratic society. That really goes without saying; we all know that, and we probably do not have to state it in a statute.

Nevertheless, since the Government proposes to state it in a statute, I think it is fair to talk about the duties that go with those freedoms. I am concerned about some of the consequences of coupling that freedom, without any declaration of duties, with the removal of the hardship ground in this Bill. My colleague the Hon. Mr Griffin has referred to a number of areas where hardship may occur: it may occur to witnesses or it may occur to victims of blackmail who have to detail their misdoings, if you like, that have led to the blackmail in order to give evidence against the accused.

I am also concerned about people who are wrongly accused and may suffer widespread adverse publicity very early in proceedings. It might be at a very early stage, where shortly afterwards and before the trial takes place, or even before a committal hearing takes place, further facts may emerge to demonstrate that a person has been wrongly, accidentally or maliciously accused. But at that stage the damage has been done. This is a quite separate issue from the question of a fair trial and prejudice to the course of justice, as that only has to do with the result of the trial.

If the hardship ground is removed, that other ground will remain, but the hardship can be very severe on a person who is wrongly accused and never tried. In that situation one can hardly say that the publicity is prejudicial to a fair trial. It is just devastating to the rights of the individual concerned—that is, the right not to be publicly pilloried for something that he did not do. It has been said that the worst thing that can happen to a citizen is to be convicted of a crime and that the second worst thing that can happen is to be acquitted of a crime. But equally damaging is to be accused of a crime and never tried. So, I have some sympathy with the view that proceedings of bail applications and preliminary hearings ought to be suppressed. However, on counting the numbers, and so on, I do not know whether that is achievable; indeed, it is something that we probably would not be able to come to grips with unless we gained government.

There are grave dangers in our passing the Bill in its present form, because it declares the right of the press to publish without declaring its duty to be responsible. Previously, the right to publish under most circumstances was understood and the right to be responsible was taken for granted, but in some cases the proposed legislation could enlarge the rights of the press to publish, causing hardship, as long as they do not prejudice the outcome of justice. I think it would be fair enough if some duties were declared in the Bill and I look forward to amendments to that effect.

I do not think there is a lot more to say about this issue. It is a matter of two principles. It could be said that the press has an altruistic devotion to Western democracy and open government. I agree that without the free press we could not have the style of democracy that we have. Whilst the press in its editorials may claim that as its motive for lobbying for the passage of the Bill in its present form, one cannot help noting that a commercial interest parallels the altruistic interest.

This does not mean that the commercial interest is always bad. If one looks at matters of widespread public interest, such as the flight of Colin Creed, the warrants for his arrest and the search for him, which was vigorously reported as a matter of national interest, and if one considers the fact that the press might have made money out of reporting those matters, one concludes that this does not mean that that is bad and should not have been done: there was a parallel public interest.

On the other hand, I think the case of the gentleman who was arrested and charged with manufacturing an illegal drug, and brought before a magistrate before the substance was analysed and found to be related to a hobby and not an illegal drug, is very sad. Perhaps the press has a duty to ask enough questions, such as: has the substance been analysed? If the substance has not been analysed the press should restrain itself from reporting the matter until such time as it looks at more of the evidence to decide whether to report it.

I suppose we are being a bit tough on the press in expecting it to be that careful. The daily newspapers are under great pressure for deadlines—one has to hit it today, tomorrow will be too late. I understand that, but nevertheless I think the matter is resolvable here and now by the Council's looking at the question of the rights and importance of a free press in a Western society. We should look at the rights of individuals who may be wrongly or maliciously accused or arraigned on careless evidence to ensure that their rights are not unduly harmed before enough questions have been asked to make sure that the press is right.

I do not think that a select committee is needed to do this. This matter does not involve the sorts of complex issues of psychiatry and evidenciary matters involved in the matter of child abuse which was debated earlier. There are only two or three conflicting principles and I think it is possible to amend the Bill in Committee to state duties as well as rights and perhaps to protect individuals a little more than it does at present against personal damage, particularly in the areas mentioned by the Hon. Mr Griffin, such as in relation to witnesses and certain civil cases.

I personally would like to see the ground of harm to people extended to criminal cases, that is, virtually back to the *status quo*. Whether or not that is possible I do not know but I think that is resolvable in the Committee stage tonight without a select committee. I support the second reading with reservation, and with the expectation that some of these matters will be addressed by amendment. If they are not, I will oppose the third reading. I oppose the notion of a select committee, because this is not a case of heaps of technological matters needing to be solved by interviewing expert witnesses. It is a matter of deciding two or three basic principles.

I commend the second reading to the House so that these matters may be canvassed in Committee, and I will oppose the third reading if the Bill emerges from Committee without satisfactory attention to those points.

The Hon. C.J. SUMNER (Attorney-General): I note the comments of members and seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SUMMARY OFFENCES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 2717.)

The Hon. J.C. BURDETT: I support the second reading of this Bill, which creates a new offence of operating computer systems without proper authorisation. It thus makes illegal the practice of hacking. The law at the present time, as the Attorney said in his second reading explanation, does not recognise this kind of privacy, so that, if we have other records not on computer tape but manual records such as, say, in the form of books or files, there is no specific offence in regard to people gaining access to them. As was pointed out by the Attorney-General, in effect, most people who obtain unauthorised access to those kinds of records commit some other offence. They break and enter or they are unlawfully on premises. The analogy that he drew to this offence which is created in the Bill between being unlawfully on the premises and the offence which is created is quite a valid one. The penalties are $2 000 where it is a simple offence, and $2 000, in effect, and/or six months imprisonment where some benefit is gained from it or some person is disadvantaged. For a low key offence and for a start, that seems to me to be reasonable.

It has been pointed out that there is no specific offence at the present time for accessing private information. This Bill is necessary because modern computer technology makes it possible to access data of this kind without being unlawfully on premises and without breaking in—just through the facilities that are available through the technology. So as a start and on a low key basis, this seems to me to be perfectly reasonable.

The Attorney, in his second reading explanation, referred to the Scottish Law Commission computer crime report. I found that that was not available in the Library, and I have not had time to obtain access to it from any other source in the time available.

The Library did make available the proceedings of the Institute of Criminology Report No. 59 on computer related crime. At page 28 one of the offences proposed was unauthorised access to the system through terminals. At page 44 it refers to unlawful entry to premises and unlawfully accessing a computer or its records by inputting entries or extracting information. At page 55 it refers to unauthorised use of a computer and at page 68 to the offence of unauthorised access to a computer. So it seems that the Bill at this stage is a reasonable attempt to impose some penalty on accessing computer information systems without authority. Putting it on the same basis with the same sort of penalty as for being unlawfully on premises is a reasonable way of going about it.

In future we may have to go very much further and be more sophisticated about it by working things out in a better and more sophisticated way. But, as a start, this seems a commendable way to go. The Attorney-General pointed out that similar legislation was passed in Victoria last year. I noticed an article on page 18 of today's *News*. Headed 'Hackers to be hit in new computer laws', it states:

> Sydney: Computer hacking is to become a crime in New South Wales, with hackers facing fines of up to $50 000 and 10 years gaol.
>
> New South Wales Attorney-General Mr Dowd today told Parliament there would be three new offences including 'unlawful access to a computer, unlawful access with aggravating circumstances, and damaging data in a computer'.
>
> Legislation similar to that currently being drafted by the Federal Government should be introduced in the next few weeks.
>
> 'The harshest penalty of $50 000 or 10 years gaol or both would apply to those "intentionally, without authority or lawful excuse, destroying, erasing or altering data in a computer" ', Mr Dowd said.
>
> People 'innocently' entering a system 'just to have a look', were not innocent 'in the same way as being a peeping Tom is not innocent', he said at a news conference, and would be fined $5 000 or six months gaol or both.

There are harsher penalties than those proposed in this legislation, but in this new stage of looking at these aspects of computer crime, I would like to take it gently like this and take a low key look with some penalty. If necessary we can introduce harsher penalties and more sophisticated provisions. I would rather do it in the way that the Attorney is proposing, and for those reasons I support the second reading of the Bill.

The Hon. G.L. BRUCE secured the adjournment of the debate.

FRIENDLY SOCIETIES ACT AMENDMENT BILL

In Committee.

Clauses 1 to 10 passed.

Clause 11—'Public Actuary may require withdrawal of certain advertisements.'

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

Page 2—
Line 22—Leave out 'society that' and insert 'person who'.
Line 23—Leave out 'the society' and insert 'a society or a foreign friendly society'.
After line 29—Insert new subsections as follows:
(1a) The Public Actuary may, by notice in writing served on the person, vary or revoke a notice under this section.
(1b) A person may appeal to the Minister against a requirement imposed on the person under this section and, on any such appeal, the Minister may confirm, vary or set aside the requirement.
(1c) The institution of an appeal against a requirement imposed under this section does not operate to suspend the requirement.
Lines 30 to 32—Leave out subsection (2) and insert subsection as follows:
(2) If a person fails to comply with a requirement imposed by notice under subsection (1)—
(a) where the person is a society (but not a foreign friendly society)—every member of the committee of management of the society is guilty of an offence;
and
(b) in any other case—the person is guilty of an offence.
Line 35—Leave out 'society's' and insert 'person's'.
Line 36—Leave out 'society' and insert 'person'.
Page 3—
After line 9—Insert new subsection as follows:
(5) In this section—
'foreign friendly society' means a body that is registered or incorporated as a friendly society in another State or a Territory of the Commonwealth.

The amendments cover the two concerns raised by the Friendly Societies Association and the Opposition during debate in the other House and earlier in this Chamber. They provide for the Public Actuary to have powers over advertising material of interstate friendly societies as well as local societies. They allow for an appeal to the Minister by societies against directives of the Public Actuary regarding advertising material. The amendments are supported by the Friendly Societies Association and the Public Actuary. I believe that they answer the queries raised by the Hon. Mr Davis and other Opposition members.

The Hon. L.H. DAVIS: The Opposition is prepared to accept the Government's amendments, covering as they do the matters raised during the second reading debate. I have had the opportunity of taking advice from the friendly societies which I understand are happy that this covers the point raised previously, namely, that there is a fear that friendly societies registered in Adelaide could be disadvantaged in advertising as distinct from friendly societies registered or incorporated interstate which come into Adelaide (either domiciled in Adelaide or advertising in the national or local press) but which would, as the Bill originally stood, be beyond the reach of the advertising clause that was debated. Therefore, in a spirit of compromise at this late hour, I will not proceed with my amendments, as I am satisfied that the amendments moved by the Attorney-General cover the situation.

Amendments carried; clause as amended passed.

Clause 12 and title passed.

Bill read a third time and passed.

POLICE PENSIONS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 2864.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading. The Bill seeks to amend the Act to curb what the Government describes as double dipping in superannuation and WorkCover benefits. The Government says that without the amendment a police officer who retired due to ill health and who is also entitled to a WorkCover disability pension would be able to receive an aggregate pension of up to 150 per cent of salary, plus a lump sum of 150 per cent of salary. The Government has indicated that the so-called principle being applied in the amendment has already been introduced into the main State superannuation scheme under the Superannuation Act that we passed last year.

Having checked that Act, I find that some aspects of the principle are reflected there, although it is not in identical terms. The Bill also seeks to provide for a reduction in pension where a former contributor earns income from remunerative activities and the income so earned plus the pension would exceed the salary which applied from time to time to persons holding the same position as he or she held before retirement, although that is not specifically defined in the Bill.

I have referred the Bill to the Police Association and the Secretary has indicated that he can see no objection to the Bill, but there are a number of issues that I wish to raise. I understand that these matters were raised in another place, but the difficulty is that the *Hansard* pulls for that debate are not yet available. They were not available earlier this evening, so I will raise the questions again now in the hope that the Attorney can reply in the second reading stage or in Committee.

The first issue is that I do not believe that remunerative activities are defined. It may mean activities resulting in income from personal exertion or it may be physical or mental work, such as giving advice or royalties on a book. It is not clear whether the description is meant to include interest, dividends, profits from partnership activities, and so on. What does 'remunerative activities' include, and is it not appropriate to have it defined in the Bill?

Secondly, if the income from remunerative activities and the pension exceeds salary, the pension is to be reduced or, in some instances, suspended. So far as I am concerned, the curious aspect of this provision is that it fixes the salary level to that position which the retired officer held before retirement. It does not seem to make any allowance for possible improvement in his or her position that would have occurred had the person remained in the Police Force. I suggest that the way in which that provision is drafted does not really consider the fact that the police officer, who may have retired, in effect has made some contribution to the pension scheme and is being denied access to it.

Thirdly, it is not clear to me whether the new section is meant to extend to any award for non-economic loss under the WorkCover legislation. Ideally, I would like to see the postponement of this Bill, but I can appreciate that, because it is the end of the session, the Government is anxious to have it passed. I understand that one police officer is double-dipping. If it is only one, it probably would not hurt to leave the Bill on the table for another three or four months. However, if there are others in the pipeline, the matter must be addressed. My concern is that this Bill immediately removes an existing right. It does not matter how advantageous that right might be at the present time—this Bill seeks to remove that right. As a matter of natural justice, I do have some concerns about that. Perhaps the Attorney-General can address that matter during the course of his response.

Subject to those matters, I support the second reading. If pensioners are on WorkCover benefits or receiving compensation or even other income, there is not the same dedication in the private sector to ensure that they are kept

at a low level pension payment. It seems to me that what is happening with the State superannuation scheme as well as this police pension scheme is that members of the two schemes are being treated in that respect more harshly than may be the case with respect to those in the private sector. I make that point in passing. I do not think that much can be done about it at this stage, but that issue should be addressed at some time in the future.

The Hon. C.J. SUMNER (Attorney-General): The honourable member has raised three questions. The answer to the first question about his concern that remunerative activities are not defined is as follows: the principal Act defines remunerative activity in relation to an invalid pensioner as 'any employment, trade, business calling or profession from which the invalid pensioner gains an income'. Clearly, the intention is that only income derived from an occupation, the labours of which are remunerated, will be taken into account in assessing whether a superannuation pension will be reduced or suspended.

Interest and dividends from investments will not be taken into consideration. The second question related to the fact that, if income from the remunerative activities and the pension exceeds salary, the pension is to be reduced or, in some instances, suspended. The Hon. Mr Griffin said that the curious aspect of this provision is that it fixes the salary level to the position that the retired officer held before retirement and makes no allowance for possible improvement in his or her position had the person remained in the Police Force. He further said that it does not take into consideration that the police officer has, in effect, made some contribution to the pension scheme and is being denied access to it.

The response is that it is simply not possible to make an assessment of what a police officer's salary (that is, rank and band) would have been in the future if he or she had not retired on ill health. The officer may have moved to a higher rank, may have resigned, or even moved voluntarily to a lower rank and banding. The provision is based on the most reasonable approach. The salary used is the salary that is applicable to the actual position held at ill health retirement. As the salary of that position is increased, so the entitlement to earn other income increases.

Members of the scheme contribute towards a benefit at age 60, and there is no deduction made for invalidity insurance. If a member goes on ill health benefits, it is an extra from the scheme. At age 60, the former officer would be entitled to the normal pension that other officers enjoy at that same age. The provision does not deny any member the age 60 retirement benefits provided they reach the age of 60. It must be remembered that there will be no reduction in invalidity pension under the current provisions until a situation where the former officer is employed virtually half time in some other occupation.

In his third question the honourable member indicated that it was not clear whether the section was meant to extend to any award for non-economic loss under the WorkCover legislation. The response is that the provision will only take into account pension payments made under WorkCover legislation and will not take into account any lump sums paid for non-economic loss.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Effect of other income on pensions.'

The Hon. K.T. GRIFFIN: I appreciate the response of the Attorney-General which largely clarifies the issues I raised. Is the Attorney-General able to indicate the extent of any consultation with members of the fund in respect of these amendments?

The Hon. C.J. SUMNER: I am advised that there has been consultation with the Police Association which has given in principle support to these amendments.

Clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 2865.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this simple Bill to enable the Government to avoid paying tax on superannuation to the Federal Government, as I understand it. Anything that retains funds in this State would always have the support of the Opposition. It is a pity that we find it necessary to make these artificial changes in law to protect the revenue of South Australia.

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

TAXATION (RECIPROCAL POWERS) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Bill seeks to introduce reciprocal powers of investigation beyond State borders to combat tax avoidance and evasion. It provides powers enabling investigations by interstate Taxation Commissioners or their delegates into matters relating to the taxation Acts of a participating Taxation Authority to be carried out within South Australia by the interstate Commissioner or by the South Australian Commissioner on behalf of an interstate Taxation Authority.

In 1982, the Treasurers of the States and the Northern Territory met with the Commonwealth Treasurer to discuss cooperative measures that might be taken to reduce the scope for tax avoidance and evasion. A working party of State and Commonwealth officers was established which presented a report to Ministers. This Bill is consistent with recommendations made in that report.

The Commonwealth, Victoria, New South Wales, Queensland and the Northern Territory have enacted legislation of a similar nature to that provided in the Bill. In the Australian Capital Territory sections 65 to 67 of the Taxation (Administration) Ordinance have been enacted and deal with the question of reciprocal powers although not in any great detail. A Bill has been prepared in Western Australia.

Although evasion and avoidance of State taxes occurs mainly within the relevant State, there has been a growing tendency to evade/avoid taxes by operating across State borders, thus avoiding the jurisdiction of a particular State

or making detection very difficult. In addition, certain taxation statutes require submission of returns and self-assessment of taxes or duties and it is common for these returns to be prepared and submitted from interstate while relating to South Australian transactions. A cooperative approach between States to investigation is seen as a flexible and effective means of identifying and dealing with avoidance/evasion practices as they arise and in ensuring compliance with taxation Acts.

The Bill will apply to the taxation laws of the Commonwealth and participating States and Territories which are declared to be corresponding laws.

The Bill provides that in relation to a corresponding law a Commissioner of another State or Territory which has reciprocal arrangements may, in writing, request the South Australian Commissioner to undertake an investigation in South Australia on his or her behalf. The South Australian Commissioner may delegate the power of investigations to permit an interstate Commissioner to carry out investigations in South Australia. In general the investigation would be carried out by interstate inspectors under the delegation power included in this Bill.

The specific powers of investigation are set out in the Bill. The South Australian Commissioner and interstate Commissioner can agree on terms and the investigation must be undertaken subject to these terms. This agreement can be varied by further agreement between the parties to it or be terminated by either party.

An important feature of the legislation is that by permitting investigation in this State, the South Australian Commissioner would be given reciprocal powers to investigate taxation matters in the other participating States.

The South Australian Commissioner or interstate Commissioner under delegation would have power to require for inspection the production of any records, to enter any place at any reasonable time where it is suspected such records are held, to require a person to give evidence before the South Australian Commissioner or interstate Commissioner, and allow for search warrants to be issued in particular circumstances. There is also power to remove and retain goods or records. Secrecy provisions have been inserted to limit the use to which gathered information can be put.

The inspection and secrecy provisions included in this Bill are consistent with those commonly included in existing South Australian State taxation legislation.

A copy of the Bill was released on a confidential basis to the Taxation Institute of Australia (South Australian Branch), the Law Society, the Institute of Chartered Accountants and the Australian Society of Accountants. Extensive submissions were received which were evaluated and many were incorporated into the Bill. The Government is most appreciative of the contributions made.

Clauses 1 and 2 are formal.

Clause 3 provides definitions of terms used in the Bill. The definition of 'the South Australian Commissioner' accommodates the fact that we have an office of Commissioner of Land Tax being the office responsible for the administration of the Land Tax Act 1936 and an office of Commissioner of Stamps being the office responsible for the administration of all other taxing legislation.

Clause 4 provides the mechanisms for setting up an investigation.

Clause 5 sets out powers of investigation in relation to records. This and the other empowering clauses of the Bill bestow power only on the South Australian Commissioner. However, clause 12 enables the South Australian Commissioner to delegate these powers to his own officers or to a corresponding Commissioner who in turn can delegate the powers to his officers. Clause 3 (2) ensures that references to the South Australian Commissioner include references to a person acting under delegation.

Clause 6 provides for powers of investigation in relation to goods.

Clause 7 requires that force can only be used in an investigation pursuant to a warrant and also that premises can only be searched pursuant to a warrant. However, a warrant can be dispensed with if the Commissioner has reason to believe that urgent action is required.

Clause 8 sets out general investigatory powers.

Clause 9 is a general provision relating to investigations. Subclause (1) requires a person undertaking an investigation to produce on request a certificate as to his authority to undertake the investigation. Subclause (4) protects a person from the requirement to answer an incriminating question if the answer could be used against that person in criminal proceedings in the corresponding jurisdiction.

Clause 10 provides that an incriminating answer given in the course of an interstate investigation relating to the enforcement of a South Australian Taxation Act cannot be used in South Australia in proceedings for an offence against the law of this State. This provision compliments provisions in interstate legislation that correspond to clause 9 (4) of this Bill.

Clause 11 is an evidentiary provision.

Clause 12 provides for delegation.

Clause 13 is a secrecy provision.

Clause 14 provides for immunity from liability where the investigator acts honestly.

Clause 15 provides that the offences under the Act are summary offences.

Clause 16 provides for the making of regulations.

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

LIBRARIES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

BARLEY MARKETING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Following an approach from the United Farmers and Stockowners of South Australia Inc., the Australian Barley Board (ABB) supports the introduction of a permit system for feed barley.

Under the current legislation no barley can be bought or sold or delivered to any person without the written approval of the board. The board has the authority to issue permits but not to charge a fee for service.

Under the proposed arrangements, domestic prices for feed barley sold under permit would not be administratively determined, but would be determined by negotiation between growers and buyers.

The major advantage of a permit scheme is that a greater range of marketing options would be available, and both growers and users would have some freedom to choose the particular trading opportunity which is most appropriate to their circumstances. Growers not wishing to negotiate with stockfeed users the sale of their barley, and those who prefer to have all marketing and distributional services provided for them as part of a single marketing package, would be able to continue delivering their barley to the ABB.

The second amendment relates to a change brought about by the passage of the Commonwealth Rural Industries Research Act 1985 which refers to the Barley Research Trust Fund rather than the Barley Research Trust Account.

Clause 1 is formal.

Clause 2 amends section 14 of the principal Act which creates the offence of selling or delivering barley to a person other than the Australian Barley Board. The clause amends the section by adding to the list of exceptions to the offence barley sold to a person authorised to purchase it in accordance with a permit issued by the board under proposed new section 14b (for which see clause 4).

Clause 3 makes another amendment that is consequential to the proposed new section 14b.

Clause 4 provides for the insertion of a new section 14b. Proposed new section 14b provides that the board may, on application and payment of such fee as the board may determine, issue a permit authorising a person to make, during a specified season, purchases of barley from growers for stockfeed purposes. The clause provides that a permit may contain such terms and conditions as are fixed by the board and may be revoked or suspended by the board upon breach by the holder of any such term or condition.

Clause 5 makes corrections to certain references in section 19b required as a result of the replacement of the Barley Research Act 1980 of the Commonwealth by the Rural Industries Research Act 1985.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

CREDIT UNIONS BILL

Returned from the House of Assembly with the following amendment:

Page 66, after line 13, insert new clause 114 as follows:

Power of the board to borrow

114. (1) The board may borrow money from the Treasurer, or, with the consent of the Treasurer, from any other person for the purpose of carrying out any of its functions under this Act.

(2) Any liability incurred with the consent of the Treasurer under subsection (1) is guaranteed by the Treasurer.

(3) Any liability incurred by the Treasurer under a guarantee arising by virtue of subsection (2) may be satisfied out of the Consolidated Account which is appropriated to the necessary extent.

Consideration in Committee.

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

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

This amendment confirms a money clause that was in erased type when the Bill was considered by the Council previously and about which there was no dispute.

The Hon. K.T. GRIFFIN: There is no dispute. This is a money clause. It is appropriate for the board to have this power as part of its functions in overseeing the credit unions. Accordingly, I support the amendment.

Motion carried.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

ADJOURNMENT

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

That the Council at its rising do adjourn until 11 a.m. tomorrow.

The PRESIDENT: Before stating that the Council stands adjourned, I should like to thank all members for their cooperation and tolerance over the past three years.

Motion carried.

At 12 midnight the Council adjourned until Thursday 13 April at 11 a.m.