LEGISLATIVE COUNCIL

Wednesday 2 March 1988

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

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

QUESTIONS

CARRAMAR CLINIC

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Health a question about the Carramar Clinic.

Leave granted.

The Hon. M.B. CAMERON: Last November I raised the matter of the Government's plans to close Carramar Clinic at Parkside as part of a general strategy of selling off prime Health Commission properties under the general euphemism of rationalisation. Carramar's employees were told by the commission that the move to close the clinic was made in view of a $350 000 renovation needed on the Greenhill Road site and because of the general unsuitability of the building for delivering rehabilitation and out-patient services in the 1980s.

The commission's estimate of renovating Carramar was questionable to say the least, particularly in view of alternative estimates which put that cost at only $50 000. Anybody who has been out to the site would know that it is in excellent condition.

The unsuitability of the centre for the treatment of patients is a matter that could be debated at length but, suffice to say, despite any supposed shortcomings, the clinic is busy enough with referrals from the psychiatric units of Royal Adelaide Hospital, Queen Elizabeth Hospital, Flinders Medical Centre and Repatriation General Hospital. It also provides crisis facilities for the Hillcrest and Glenside psychiatric hospitals. Besides this, the clinic provides a valuable service to nearby residents, as 37 per cent of Carramar's clients live in the clinic's official catchment area which takes in the Unley, Mitcham and Adelaide City Councils.

In this Chamber on 25 November, I moved a motion voicing concern about plans to sell off certain Health Commission properties, including Carramar. In response the Minister said that assurances had been given to staff at the clinic that the present services would continue. Earlier in the year the Minister, while addressing a staff luncheon at the clinic, complimented staff on the excellent services that they were providing. He said, in part:

> Carramar staff have, I know, provided excellent support services . . . I would like to see those services continuing. Community based services, such as those available from Carramar, are an essential component in the provision of adequate care for people with mental illness. I believe the next years will be important ones, not only for Carramar but also for the development of comprehensive community based care.

I think that by the general tone of such comments it would be assumed that Carramar was providing a valuable service—so valuable in fact that the level of services would be maintained together with the staffing to provide them. Earlier this month the Director of Carramar, Dr Max Bawden, advised the Health Commission of his plans to retire from 30 March 1988. It was Dr Bawden's expectation, and that of Carramar staff, that a new Director would be appointed. This was not unreasonable given Dr Bawden's role as Director. As Carramar's senior psychiatrist, Dr Bawden finds that his own caseload has averaged more than 90 registered patients, quite apart from the patients he sees during regular monthly visits to the Loxton Hospital in the Riverland. The expectation that a new Director would be appointed at Carramar was only enhanced by the Minister's past statements about the clinic's future and the maintenance of services.

However, a letter to Dr Bawden from the Commission's Executive Director of Metropolitan Health Services, Dr David Blaikie, dated 17 February says that it would be 'premature to permanently fill the position' in view of a recent decision to engage consultants to prepare a strategy for the development of mental health services in South Australia. Dr Blaikie said, therefore, that the commission had decided to let the clinic's other Senior Psychiatrist, Dr M. Narielvala, act as Director until a decision was made on whether to make a permant appointment. Dr Bawden would also be allowed to carry out psychiatric assessment and treatment on a temporary sessional basis. This means that the Acting Director and the clinic's only other psychiatrist, who was accredited 12 months ago, will now supervise a caseload of at least 425 registered patients, many of whom suffer from schizophrenia, manic depressive illness and major depression. As Dr Bawden points out in a letter to Dr Blaikie on 26 February:

> It is not possible for psychiatrists and other team members . . . to maintain this sort of caseload for any length of time.

This state of affairs is totally unacceptable to Dr Bawden, Carramar staff, the South Australian Salaried Medical Officers Association, the Royal Australian and New Zealand College of Psychiatrists and, I suspect, the clients attending the clinic who will be inconvenienced by this arrangement. It also flies in the face of assurances given last November by the Acting Director of Mental Health Services in South Australia, Miss Judy Hardy, that in the event of any staff vacancies at Carramar positions would be filled in the usual manner.

In his letter to Dr Blaikie, Dr Bawden outlined his strong objections to the commission's plans not to immediately appoint a new Director at Carramar. He said that failure to appoint a Director Senior Psychiatrist at Carramar would among other things undermine the status of the clinic, put State patients at risk, create medico-legal hazards for remaining staff at the clinic, increase the stress on all staff because of insufficient psychiatric support, and inevitably affect all agencies and general practitioners using Carramar's services.

I think the decision not to immediately appoint a new director will also have a drastic effect on morale at the clinic, which is already at a low ebb because of the uncertainty of Carramar's future. It is essential that during such uncertain times staff at the clinic have a steadying influence in the form of a Director, rather than ask staff who are already under pressure to accept even more duties and responsibilities. In fact, in his letter Dr Bawden indicates that there is not a lot of faith in the Health Commission's promise to maintain the levels of staff because already a Senior Psychiatrist level has been lost at St Corantyn's Clinic.

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: No, it is a letter to somebody else. He does not write to me, although I wish he did. Would you like a copy of the letter?

The Hon. J.R. Cornwall: No.

The Hon. M.B. CAMERON: I can provide you with copies of the letter. These things arrive in envelopes. Unfortunately, we do not have freedom of information in this State, so I have to receive things anonymously in envelopes.

It is most unfortunate that that is the case, and I will say something about that later this afternoon.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: It is a pity that you do not have a little more concern about psychiatric services and act a little less defensively, because you might then understand the problems that you create for people in the community, particularly people with psychiatric problems who have been deserted by you as Minister.

The Hon. C.M. Hill: Put it into him.

The PRESIDENT: Order!

The Hon. M.B. CAMERON: I am staggered at his defensive reaction.

The PRESIDENT: Order! There is far too much conversation, both of an interjectory and of a private nature.

The Hon. M.B. CAMERON: I agree with you, Madam President, and the Minister should keep quiet. He gets and takes plenty of time normally.

The PRESIDENT: Order!

The Hon. M.B. CAMERON: In view of the concerns that have been raised, my question is: will the Minister of Health take immediate action to ensure that the Health Commission makes arrangements to advertise for a full-time replacement of director/senior psychiatrist at Carramar, given that institution's important role in providing services to psychiatric patients, particularly to people living in the Unley and Mitcham areas?

The Hon. J.R. CORNWALL: No, I will not. Given that diatribe, maybe that ought to be as far as I go in answering the question. However, I will put on the record a number of things. I make it clear that I have no need to be defensive with regard to the Director of Carramar. Sadly, he is increasingly idiosyncratic as his retirement approaches—and one could say that about Mr Cameron, I guess, too, but I will not. Anybody who is associated with the mental health services knows that there have been ongoing discussions for many months about the best strategy that could be adopted to further upgrade South Australian mental health services generally.

One of the proposals that Mr Cameron in his most negative way opposed very vigorously was the amalgamation of the boards of the Hillcrest and Glenside hospitals. As part of that package there was also a proposal to establish the South Australian Mental Health Service. That would have been and will be, speaking prospectively, a comprehensive body that will be charged with the good conduct of mental health services and psychiatric services in South Australia. In other words, it will be charged with the responsibility for the care and support in both their community and institutional settings of the worried well and the mentally ill.

The proposition did meet with opposition from a number of people, including some senior psychiatrists. Fortunately, I know those psychiatrists on a first name basis, and I am pleased to call several of them my friends. They came to me and put the proposition that they believed that they needed more work and that more time was needed in order to round it out. They put a further proposition that more time was required for consultation. I made it very clear that, as far as I was concerned, they could have all the time in the world; that I, as Minister, was not committed to having something in place by the end of 1987 or by February 1988.

That caused some ripples amongst some of the people who had been driving the train. Nevertheless, I took the decision, as Minister, that on balance the requests that were being made were entirely reasonable. In fact, I asked the South Australian Branch of the Royal College of Psychiatrists to convene a committee that would bring together all players—all stakeholders. It was to be chaired and is being chaired by the nominee of the College of Psychiatrists and has, among its members, psychiatrists, psychiatric nurses and a very large number of other professionals who are involved in the mental health services. In fact, from memory, there are about 20 people altogether on this quite large consultative committee, so consultation regarding the new structure and the upgrading of mental health services generally is occurring almost to the point of exhaustion.

As part of this exercise, we have also funded the committee to retain senior consultants to assist in drawing together this comprehensive package which, to the extent possible, will accommodate the interests, wishes and concerns of all players. It was understandable, may I say, that concern might have been expressed. It was less understandable that mischief might have been created by Mr Cameron and some of his ilk in trying to make comparisons with the Richmond report and the effect that had had on mental services in New South Wales. My advice from people as eminent in the field as Professor Ross Kalucy is that no matter what we do, we want to ensure that it makes the existing very good system—that is Professor Kalucy's description, not mine—better. My concern is and has been for some time that, if we have a gap, it lies in the lack of support of the mentally ill in community settings—that is, those who are mentally ill, such as chronic schizophrenics who are not likely to respond in any dramatic way to treatment.

In fact, they are identifiable and they will need support, treatment and some degree of day care for the rest of their lives. So, that is an area to which I am particularly anxious to give some further attention. However, we are not about to go further down the track with some sort of radical deinstitutionalisation in the mental health services. That has never been proposed. If it had been proposed, I for one, given my experiences in the United States last year, would have rejected it out of hand.

Specifically with regard to Carramar, first of all I have already announced and re-announced that the building will be heritage listed, no matter what may happen. In other words, even if the building is sold, and it almost certainly will be, it will not be sold until we have listed it on the State heritage list. In other words, it will be preserved. Secondly, it may well suit our purposes to sell the building and lease it back in the medium term so that the present services will continue to be conducted from Carramar. In the longer term, and I have said this many times, as Mr Cameron should know, the proposition would be that you do not need a stately mansion on Greenhill Road from which to deliver community mental health services. It is entirely probable that the existing services and other services—quite possibly expanded services—will be ultimately delivered from other premises within that area. Let me also say that there is no intention that the community mental health services currently delivered from Carramar to that local area, which includes Unley, will in any way be diminished.

May I finally say that in all of those circumstances, I have specifically asked that that committee, chaired by the learned College of Psychiatrists and comprised of all of the players and stakeholders and supported by senior consultants, report to me in time for me to take a comprehensive strategy to Cabinet on or before 30 June. So, in those circumstances, it would be foolish to move immediately to appoint a replacement for Dr Max Bawden. There is no rush to do that.

I have given the assurance, and repeat it, that the services will continue at least at their present level. They may well be upgraded when the community mental health service recommendations come forward as part of the SAMHS proposition. When all of that has become clear, obviously we will be in a position to advertise and appoint a director to that service. In the meantime, any suggestion that the services that have been delivered by Carramar will in any way be diminished is quite mischievous and false.

The Hon. M.B. CAMERON: By way of supplementary question, is the Minister aware that the College of Psychiatrists has utterly rejected the view that the appointment of a senior psychiatrist at Carramar as Director has anything to do with the committee about which the Minister is talking? How does the Minister anticipate that the services at Carramar presently provided by the senior psychiatrist can be continued with a waiting list, as I understand it, of 100 people, if a senior psychiatrist is not appointed and if Mr Max Bawden, as he has indicated, will not provide the services unless the Government moves to the appointment of a senior psychiatrist director? Why, if Carramar services are to continue, is the Minister not prepared to indicate that that appointment will take place as it is essential in any new services provided to the people of Unley and Mitcham?

The Hon. J.R. CORNWALL: That is a circular argument. The only point that was not on recycle was that the College of Psychiatrists is allegedly objecting; it has certainly not objected to me. I do not think it is a matter on which the State health services are likely to stand or fall. If it has in fact been drawn to the attention of the College of Psychiatrists, I am unaware of its concern. The College of Psychiatrists is chairing the extensive committee to which I referred. There is not a great deal more that I can do. I have been so cooperative in this matter.

The Hon. R.I. Lucas: Acting out of character.

The Hon. J.R. CORNWALL: No, not acting out of character. As one that has now joined the warrior class, I only go for the trenches when necessary. I do not do it for exercise, and I certainly do not need the experience.

ROSS D. HODBY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question on Hodby.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday I asked some questions of the Attorney-General with respect to Hodby and Schiller and received some information, with more still to come. Today I raise another issue—an issue that I have been raising since 1986—in relation to Hodby and an issue that the Attorney-General has not answered. I hope he is more ready to answer it in view of the fact that Hodby's sentence has been passed. As long ago as 20 November 1986, I drew attention to the fact that for three years no audit report had been filed for Hodby's trust account, yet he was still practising as a licensed land broker. I also drew attention to the fact that the then Land Agents Board had renewed his licence, notwithstanding the failure to lodge audit reports. At that point one could ask why the board should renew the licence when in the public mind—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: He continued to practise with a licence, notwithstanding the failure to lodge an audit report.

The Hon. C.J. Sumner: That is more technically correct.

The Hon. K.T. GRIFFIN: Okay. One could ask why that should occur because in the public mind that licence gives a broker the imprimatur of the State or the Government, even if the broker is involved in finance broking—an area outside the usual activities of a land broker and, as the Attorney-General indicated yesterday, was the subject of some debate in letters to the editor columns in newspapers.

Back in November 1986 the Attorney-General said that he would investigate the failure to lodge the audit report, and when the matter was raised last Friday the media reported that he was saying exactly the same thing. In November 1986 I also drew attention to the fact that I understand that, when the Land Agents Board was considering Hodby's licence, the Department of Public and Consumer Affairs did not draw attention to Hodby's failure to lodge an audit report. I understand that the board at all times relied on supporting paperwork provided by the department in determining its attitude to Hodby's licence. One could comment that, if the supporting paperwork did not disclose that Hodby had not filed an audit report, one could then ask who was really at fault.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Let me get to the other point. One could also ask what steps were taken in each of the years when audit reports were not lodged. Did the Department of Public and Consumer Affairs take any action; did it appoint an investigator; or did it have a 'please explain' policy? I understand it is relevant not only to Hodby but also to a number of other licensed land brokers who either did not file an audit report or filed reports that were qualified. My questions to the Attorney-General are as follows:

1. Over the three years immediately prior to Hodby's bankruptcy, what action did the Department of Public and Consumer Affairs take in relation to Hodby's failure to file audit reports?

2. In respect of any obligation of the Land Agents Board was it a fact that the Department of Public and Consumer Affairs provided servicing for the board and at no stage drew the default in the filing of the audit reports to the attention of the board?

The Hon. C.J. SUMNER: This matter has been dealt with in the Council on previous occasions when the honourable member has asked questions.

The Hon. K.T. Griffin: Has been dealt with but—

The Hon. C.J. SUMNER: Well, they have been answered to a substantial extent. The first point that must be made is that it is not technically correct to refer to a system of renewal of licence. The renewal of licence was the procedure that existed prior to the amendments for a system of continuous licensing introduced into this Parliament by the Hon. Mr Burdett and passed by the Parliament. Under the old system, that is, the pre-Burdett amendments system, people had to apply each year to have their licence renewed. In other words, a positive act had to be carried out by the land broker, the land agent or whoever; they had to reapply every year for a new licence. In addition, they had to present the annual return and the audit report prior to obtaining that renewal. The previous Government was interested in a number of things in the area of occupational licensing. One of those things was so-called negative licensing, where there is no regulation at all and—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, where there is no upfront regulation at all there is a code of practice with which industry is expected to comply and, if it does not, consequences result as to whether people can practise. There are possibly consequences by way of prosecution. The previous Government was interested in so-called negative licensing.

It did not apply that to this particular industry of land brokers and land agents, but they did introduce another procedure that it was keen on between 1979 and 1982, namely, a procedure of continuous licensing, which was designed to reduce the cost and regulatory impact on business. It may be that this case has thrown up, in a very dramatic and unfortunate fashion, one of the problems of the system of continuous licensing which was introduced by the Hon. Mr Burdett on behalf—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I know. I am saying that it has thrown up the problem of whether a system of so-called continuous licensing, which was introduced by the Hon. John Burdett on behalf of the Tonkin Government, is entirely satisfactory. Until that time, in order to get a licence, a land broker had to reapply every year to have the licence reissued every year. A positive step had to be taken by the land broker and by the bureaucracy in responding to that application and in granting the licence. However, under the system of continuous licensing, the land broker or agent is entitled to continue to have the licence—they do not have to reapply every year—subject to an annual return and, in the case of a land broker, an audit report, being filed.

The complaint in this case is that Mr Hodby did not lodge a return or audit report not for three years (that is not correct) but for two years: 1984 and 1985. That point has been made previously by the honourable member, and I have replied to it. I understand that some of the victims of the Hodby frauds have indicated that they are considering action against the Government or the Land Brokers Licensing Board in relation to Hodby's failure to file an audit report in those two years. That is a matter for those persons to consider and about which they should take legal advice. However, I make two points. First, the audit report is not prepared by Government auditors. It is not a Government audit, nor is it an audit of the Land Brokers Board. There certainly seems to be some misapprehension—

The Hon. K.T. Griffin: I never said that.

The Hon. C.J. SUMNER: No, I am not suggesting that the honourable member did. I am merely saying that there certainly seems to be some misapprehension among the victims of this disastrous fraud that the Government or the Land Brokers Board was actually responsible for carrying out the audits. That is clearly not correct. It was the responsibility of the broker to have his accounts audited and for that audit to be filed with the annual return in order for the licence to be continued.

The second point that I make in this respect is that the defalcations of Hodby as they can be determined at the moment—this much at least seems clear—go back to 1979. So, from 1979 until 1983 inclusive, audit reports were filed, and those audit reports did not disclose any problem with the Hodby operation. The point that needs to be made is that the suggestion that all the Hodby frauds could have been avoided had the audit reports been lodged in 1984 and 1985 is clearly not accurate, because the frauds had been going on from 1979 to 1983, inclusive. Audit reports had been lodged and no problems had been indicated. So to suggest that the failure to lodge the audit reports in 1984 and 1985 led to the full loss that these people suffered is clearly not accurate.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: It may not be, and that is a matter that will have to be ascertained and, if necessary, litigated in the courts, if that is the course of action that the victims decide to take after they have considered the law, which is complex in this area, and whether they will have a cause of action against the Land Brokers Board. Even if they did, the question remains of what damage would flow from Hodby's failure to lodge those audit reports in those two years. In case there is any misapprehension about it, I make the point that the frauds had been going on from 1979 to 1983 and that during that time audit reports were filed.

Although I would need to confirm it, I understand that, in the Schiller case, audit reports were filed for all the years. Yet, in the case of Schiller, during all that time, the defalcations were occurring. It would be quite wrong of the victims in this case to assume that, just because audit reports were not filed in those two years, they have an automatic claim against the Land Brokers Board in the first place or that all their damage could be recovered from such a claim.

The problem is—and it is a tragic problem—that these people and others before them, I might add, set out on a deliberate course of criminal conduct. They deliberately sought to conceal their activities from their clients and, apparently, their auditors. What appears to have happened is that they were conducting their broking business through one set of accounts that was properly audited, at least for four years, and in the case of Schiller right through, but doing their so-called finance broking, investment business through another set of accounts that were not properly audited. So, it is a major problem. If people set out to deliberately deceive other people, the law can go so far and can certainly impose heavy penalties which, in this case, I am glad to see, has happened. However, the deliberate evasion of one's responsibilities or the carrying out of deliberate frauds cannot be stopped completely by regulation or by the law.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I will come to that.

An honourable member interjecting:

The Hon. C.J. SUMNER: That's all right. I am happy to answer it.

An honourable member interjecting:

The Hon. C.J. SUMNER: Well, that's not true. Yesterday I had a hard time.

The PRESIDENT: Order! I am aware of the fact that in 40 minutes we have had two questions.

The Hon. C.J. Sumner: Good questions and good answers, though.

The PRESIDENT: I am commenting not on their quality, but on their length.

The Hon. C.J. SUMNER: The question of the failure to lodge the audit reports is now on the record, and I do not think that I can take that matter any further at this stage, if for no other reason than that legal proceedings may be issued. That is a matter for the victims to consider. However, I think it would be inappropriate in the light of that for me to comment beyond what has already been put on the record about the filing of those audit reports. I can only repeat that the Government is sympathetic to the victims who have suffered horrendous losses in these particular cases. The cases are tragic, the offenders prey on the trust of innocent people; and the Government will do whatever it can to ensure that, through the Consolidated Interest Fund, proper compensation is made to the individuals. I will not repeat what I said on that; suffice to say that that question was addressed yesterday in the Council and last week in the media.

ROXBY DOWNS MOTOR INN

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the Roxby Downs Motor Inn.

Leave granted.

The Hon. I. GILFILLAN: In the South Australian Tourism News *Grapevine* of December 1987 there is a major article on the centre page entitled 'Roxby Downs Motor Inn—City Luxury in the Desert'. It is a very interesting article which I recommend to honourable members. I will read a couple of paragraphs as part of my explanation, as follows:

> The latest jewel in the crown of tourist facilities in outback South Australia will be firmly established to handle the increased tourism activity of Australia's bicentennial year. Roxby Downs Motor Inn expects to sell 10 000 bed nights in its first year of operation—50 per cent to South Australians, 40 per cent to interstate visitors and 10 per cent to overseas travellers.

The article states that visitors will see one of the biggest, richest and most sophisticated mines in the world as well as other Outback attractions. The mine will be extracting amongst copper, gold and silver 1 900 tonnes of uranium oxide annually. The article continues:

> The facilities will also provide the stepping stone for domestic and international tourists to enter a remote and fascinating region of Australia previously unavailable to most visitors. Tours will be available from the Motor Inn as will hire cars, though bookings are essential.
>
> The $3 million Roxby Downs Motor Inn will provide a true desert oasis—52 superbly appointed air-conditioned suites offering facilities not normally found in such remote regions.

I should say that again. It will also provide 'landscaped garden and courtyard below complete with spa and pool' and conference facilities. The article continues:

> Sitting in the heart of the Outback, 74 km off the Stuart Highway, Roxby Downs represents a new and unique destination for outback travellers, with the Motor Inn likely to cause ripples as a tourist attraction in itself.

Members interjecting:

The Hon. I. GILFILLAN: I think jogging could involve a certain amount of heat moisture and exhaustion factors. It is important when considering this so-called jewel of the tourist crown that quite large demands will be placed on the basic requirements to run the township. The Roxby Downs indenture spells out quite clearly that there are obligations on the joint venturers and the Government in relation to providing these facilities. I remind the Council that section 13 (4) of the indenture obliges the Government to provide 9 000 kilolitres of potable water per day, and I consider this to be provided from the already overloaded Murray River. Obviously some water is intended to be drawn from the artesian basin, and section 13 (8) of the indenture spells out the responsibility of the mining company for the extraction of underground water.

Profound concern has already been expressed about the underground water situation. That is spelt out very clearly in an article in the *Advertiser* of 26 January 1987. I intend to ask the Minister a question about that. There will also be increased electricity demands. Section 18 of the Roxby Indenture reflects on the obligation of the trust to provide power to Roxby. There will obviously be an appreciably increased power demand due to the development of this jewel in the crown of Roxby facilities. I ask the Minister:

1. In the light of the water requirement, what effect will 10 000 bed nights with a promised garden spa and pool have on the Roxby Downs water requirement?

2. Has the mining company been consulted on the extra water requirement that it will be expected to provide from the artesian basin?

3. How much will the mining company and ETSA need to increase the power supply to put electric sparkle in this so-called tourist jewel?

4. Will she launch this exciting promotion of the world's largest uranium mine by staying a night in the inn?

5. Does she regard the promotion of thousands of tourists using hire vehicles as desirable in the fragile desert surrounding Roxby Downs?

6. As the Federal Government is determined to sell uranium to France against the express wishes of the ALP, the Democrats and other thinking members of the public, will she consider promoting this inn directly to the French to boost tourist trade?

The Hon. BARBARA WIESE: The first thing I want to say about this development is that it is a private enterprise development at Roxby Downs, and I am sure that those who are associated with it are hard headed people who would have researched the project before they invested the money that was required for a development in such a remote place. I imagine that they came up with the conclusion that it will be a profitable venture over a period of time and that the investment and risk is well worthwhile. That is their decision; they have taken it, and the Government has no role to play in that matter, although I might say that Tourism South Australia is very pleased that such a development is occurring in the Roxby Downs area because there is already a demand by visitors and tourists for accommodation.

It is important to remember that already visitation to remote parts of the State following the sealing of the Stuart Highway has increased by some 42 per cent. When one has increases of that kind in remote areas, an increase in accommodation facilities of all kinds is obviously required. The motel development which is taking place at Roxby Downs is one of a number that are currently occurring or are planned to occur in remote regions of the State to meet the demands of tourists. I say also that the people who have developed this motel would be well aware of the provisions of the indenture in relation to the water, electricity and other matters, and would have been sure to cover whatever needs they might generate in any arrangements that they had made prior to building the motel. However, I cannot say that for certain because I have not had any discussions with the developers of the motel.

The Hon. I. Gilfillan: Will you find out?

The Hon. BARBARA WIESE: No, I won't find out. If you want to know what arrangements a private organisation has made prior to proceeding with a development in any part of the State then I suggest that you contact the developers themselves. If you have a concern about that matter you write to them, ring them or do something of that kind to satisfy yourself about those issues. I am sure that these people would not have embarked on such a project without satisfying themselves that their needs would be met in this regard.

With respect to the kinds of tourists who might travel to Roxby Downs, we would be happy to welcome tourists from any part of the world who might wish to visit the remote parts of South Australia and enjoy the pleasures that are to be derived in those areas of the State.

The Hon. I. GILFILLAN: I have a supplementary question. Will the Minister indicate whether she will show her enthusiasm for this project by attending the opening and spending a night in this jewel of the South Australian tourist crown?

The Hon. BARBARA WIESE: If I were invited to the opening of the motel which, to this stage, I have not been,

and if it fitted in with my program, then I would be delighted to go to Roxby Downs for the opening.

RURAL ASSISTANCE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Agriculture, a question about rural assistance.

Leave granted.

The Hon. PETER DUNN: Last week it was reported that the Rural Assistance Branch of the Department of Agriculture was broke. It expected something in the order of $37 million by way of a Federal Government grant, but was receiving only $11 million. The Federal Government has reduced its grant this year by $26 million. Rural producers need assistance for reasons that are many and varied, for instance, servicing past debt loans in relation to farm build-up, because of drought, and because of other weather related problems, such as fire. At the moment there are requests for assistance following the fire in the Mount Remarkable area. Anyone who has been there will understand the devastation that that fire caused. It denuded a lot of the areas of fencing and timber and will need extraordinary funding to replenish that. Most of these problems, whether drought or fire, are not of the farmers' making.

In December last year the Minister replied to a question I had previously asked about the method by which the Commonwealth department funds rural assistance branches in the States. The reply of 1 December states:

> The first is to apply Commonwealth allocations of funds as a direct subsidy against farmers' commercial borrowing costs. The second is for the State to borrow funds for on lending to farmers and to use Commonwealth funds to subsidise State borrowings.

That is the method that the South Australian Government has adopted. The reply continues:

> The second option has been used in South Australia since 1985-86. This has allowed the State to borrow $48 million for on lending to farmers bearing an initial interest rate of 10 per cent per annum. Commonwealth and State funds are not currently available to introduce an interest rate subsidy scheme. Negotiations are currently being carried out with the Commonwealth in an effort to obtain additional Commonwealth support during 1987-88.

We now have the situation where there are no funds to carry out the second option but enough funds to carry out the first option, that is, where there is a subsidy on interest rates. This means that property owners could go to the commercial banks and private institutions, borrow the money and receive a subsidy on that interest.

In view of the fact that no money is forthcoming from the Commonwealth, why does not the State Government now negotiate with the Commonwealth to change the system? I believe that $1 million would be sufficient to subsidise interest rates when funds are borrowed from the private sector. Will the Minister seek to have the first option put into practice now that the Federal Government will not meet (as it did in the past) the required amounts of money needed to fund weather or disaster related occurrences on rural properties?

The Hon. J.R. CORNWALL: I will refer that question to my colleague, the Minister of Agriculture, and bring back a reply.

CHILD ABUSE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Community Welfare a question about child abuse and the Justice Information System.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday I asked the Minister questions on the same topic. I was certainly interested to hear his admission that the child abuse database maintained by the Department for Community Welfare was too excessive. However, I remain troubled by his inconclusive response to my question about the incorporation of this database into the Justice Information System. To refresh the Minister's memory, the Program Estimates for the Department for Community Welfare for 1987-88 on page 303 under the heading 'Targets and Objectives' states quite boldly:

> The child protection database system will be reviewed and will be incorporated into the Justice Information System.

During the Estimates Committee of 23 September 1987 (as I noted yesterday) Mr Rod Squires on behalf of the department noted that the matter of how long notification in relation to child abuse remained on the record was being assessed by the department as a matter of priority and that the assessment would be finalised by the end of November last year. Mr Squires said that these decisions would be critical when the database was incorporated into the JIS.

Yesterday the Minister advised that this vexed issue had not been resolved by the deadline of November 1987 (as advised earlier by Mr Squires) and that it was not likely to be resolved until a white paper on the future directions of the Department for Community Welfare was considered by Cabinet, hopefully before 30 June. Will the Minister give an unqualified undertaking that the DCW database on child abuse will not be incorporated into the JIS this financial year or at any future time until the issues of what data and for how long such data will be maintained on both the notification of child abuse index and the registration index have been determined?

The Hon. J.R. CORNWALL: The department and the Minister will decide what will be put into the JIS. Yesterday I indicated that I and senior members of the department were unhappy with the current database. The new guidelines will be promulgated and go to Cabinet for formal adoption on or before 30 June. As a further safeguard, the privacy provisions recommended in the report of the privacy committee (which have been formally endorsed by Cabinet) will be scrupulously followed. The new database which goes into the JIS will be under the new guidelines, and it will be scrupulously protected by the privacy provisions.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (No. 5)

Adjourned debate on second reading.

(Continued from 24 February. Page 2993.)

The Hon. J.C. BURDETT: When I spoke last week, I referred to community feedback and I said that the Bill had only been introduced that day and had not been on the Notice Paper for very long. Also, of course, the name of the Bill—Criminal Law Consolidation Act Amendment Bill—did not necessarily indicate to members of the public that it related to the termination of pregnancy or abortion. I mentioned that, notwithstanding that, on that day I had had a communication from a community group supporting the Bill. In the meantime I have had a large number of communications by telephone and letter, and all of them were in support of the Bill.

To summarise what I have been saying, it seems to me that any way that one looks at it, the Bill does improve the Act as it stands and with the state of knowledge at the present time. As I said previously, I was not in the Parliament when the original Bill was introduced, but for those who opposed it, as I did, this Bill improves the situation. For the supporters of the original Bill on the basis that it was introduced, it still seems to me that this Bill improves the situation. It is a standard practice that, if in the course of experience, when a Bill becomes an Act and does not do what it set out to do or what it was expressed to do, or ceases to do it, then you amend it. It was clear from the debate on the original Bill that abortion was only to be available when the mother's life was endangered or she was likely to become a physical or mental wreck to the extent that that amounted to the same thing. As I said when I spoke last week, these things have ceased to apply in the way in which the Act is administered at the present time.

So, the point I am putting is that whether one started off in opposition to the original Bill and the resulting Act, or whether one started off in support of it and supported what it said it would do, then this Bill introduced by my colleague the Hon. Bob Ritson is an improvement. It is for those reasons that I support the Bill.

The Hon. J.C. IRWIN: I, too, support the second reading of this Bill and congratulate the Hon. Dr Ritson for having the courage to bring forth this private member's business in the form of this amending Bill and for the very well thought out and concise amendments he has provided. They appeal to me and that is why I am giving them my support. I acknowledge also the contribution just concluded by my colleague the Hon. John Burdett. As usual, his was a very well thought out and sincere contribution. I am sorry that my simple contribution today will be made before I have had the opportunity to hear the views of other members in this place who may be opposed to the amendments before us. I am quite prepared to listen to the views that will differ from mine. As always, I respect those who have differing views based either on Party or conscience differences.

I should say that I do not have, and have not had, a lifelong view that there should never be abortion of any kind. I do not think I had a view at all until some time in the late 1960s. In trying to come to grips with what is right and what is wrong in this argument, I acknowledge the strict moral view that abortion is wrong, and I certainly do support those people who would hold to that very strict view. However, I do not seek to denigrate those whose views are at the other end of that spectrum. My position is that there is room for abortion under certain circumstances. That is what the 1969 legislation was about, and that is what this Bill now before us is about. The 1969 Millhouse legislation tried to codify what those circumstances were or are, based on common law interpretations. I am persuaded by the Hon. Dr Ritson's argument that the 1969 legislation should be reviewed.

I am very mindful of the awful mess created by backdoor abortion which I recall was very prevalent prior to 1969. To a great extent, I hope that this has disappeared. I certainly do not want that awful situation to happen again and I believe it will not if the Hon. Dr Ritson's amendments are supported. If opposing views are put forward, and I expect that there will be, then I will listen carefully to what the Hon. Dr Ritson has to say in response when he makes his concluding remarks, because I feel there is certainly a lot that has not yet been said by Dr Ritson.

The Bill now before us does not seek to stop abortion; rather it seeks to make proper adjustments to legislation, and I think I can say 'contentious legislation' passed by this Parliament in 1969. The 1969 legislation was the result of a private member's Bill introduced by the Hon. Robin Millhouse. Almost everything we do in this Parliament seeks to amend legislation passed by previous Parliaments or to introduce and discuss the introduction of new legislation. That is the role of Parliaments throughout the world, and it is certainly the role of this Parliament in South Australia. It is proper, then, that the 1969 legislation relating to abortion should be reviewed nearly 20 years after it was first introduced and enacted.

Is the old legislation working? Is it appropriate for 1988? Have there been factors which can influence the 1969 legislation that were not apparent or applicable in that year? These are the sorts of questions we should be asking and everyone should be asking. All of these questions can be answered, I believe, by the Hon. Dr Ritson's amendments and the supporting argument already put forward and added to, I hope, by me in this debate. The argument by the Hon. Dr Ritson and others does persuade me that the 1969 legislation is not working as we would like. As the Hon. Dr Ritson said in his second reading explanation:

> ... this present law was sold to the public as a codification of the medical indications for abortion, and I do not think it is unreasonable for there to be an identifiable risk of some substance in each particular case under consideration.

After all, does not there have to be identifiable reasons for every medical practice and every medical charge raised against a patient and paid for by every person paying the Medicare levy or indeed paying taxes into general revenue? Are we not continuing to hear of medical practitioners being hounded, rightly or wrongly, by over-servicing or carrying out other practices for no good reason? Is there not very good reason for helping a patient prior to having an abortion and trying to analyse the problems arising from those who have had abortions? I put it to the Council that sufficient evidence has been presented and will be presented and is available to judge that the 1969 legislation is now not right for 1988, nor indeed for the next 20 years.

I also put it to the Council, as did Dr Ritson, that medical advances have been substantial since 1969 to warrant another good look at that legislation. Of course, I refer in this case to the viability and status of a foetus. The Bill is not seeking to revive the emotional and moral argument that life begins at conception.

By the same token, it does not prohibit that point being put forward and discussed fully. It is seeking to acknowledge the medical fact that a foetus at 24 weeks gestation has now a very good chance of surviving outside the womb. I have had the figure of 50 per cent placed on that. This chance will obviously increase as medical science advances over the next 20 years. Any debate on the subject will inevitably bring up the argument that 'I have a right to do as I please with my body'. Everyone has rights—that is acknowledged. Rights are not just confined to the body. Even I as a male and other males have a right to debate any issue and take an interest in this sort of debate. Any rights certainly should be extended to the unborn.

The 28-week foetus has rights now under the very legislation that we are debating arising from 1969. We are arguing that those rights for the foetus should now, on sustainable medical evidence, be considered at 24 weeks. The British private members' legislation, now past the second reading stage, is based on 18 weeks. As has already been said in our debate here, the final legislation in Britain is most likely to be somewhere between 18 and 24 weeks. It is appropriate here to quote some advice that I have read in a medical journal by the Associate Professor in the Department of

Obstetrics and Gynaecology in the University of Sydney, as follows:

Worldwide experience has confirmed that in skilled hands the operative sequelae of first trimester therapeutic abortion is as safe as minor surgical operations of any other type. Operative risks may be very low in the first trimester, but they increase greatly in the second trimester. The most serious risk, that of maternal death, exceeds that of full-term pregnancy when the procedure is carried out after 16 weeks gestation.

Before leaving the matter of foetus rights, I remind the Council that it has already debated and passed in the *in vitro* fertilisation legislation that a simple cluster of cell foetus has its own rights. That referred to a foetus or cluster of cells up to seven days old. We give rights in that legislation for that simple stage foetus to be protected from any experimentation being carried out on it. It seems simple logic that a much more advanced, complex and viable foetus at 24 weeks should have its rights also protected by legislation of this place in this State, unless there are very strong identifiable circumstances to permit otherwise.

Every right carries with it a responsibility and the laws of the land generally deal with responsibility, although a lot is left to individuals. No doubt legislation and penalty cut across rights. We accept that generally, because chaos would result if rights and responsiiblities were not agreed upon by the majority and put into some sort of order. Seatbelt legislation, random breath tests and driving on the left-hand side of the road are simple examples of what I am trying to say. It should go without saying that our greatest right is to life itself. Our greatest responsibility, therefore, is to produce children and to help perpetuate life on this earth. Thankfully, the vast majority of people think this way, for it leaves room for those who do not to decide that one of their own rights is not to bear children or not take part in any sort of procreation. In this place we often have to steer a course between conflicting rights and responsibilities. This legislation is trying to do that.

The *Guardian* survey in Britain at the time of the Alton Bill debate late last year showed that a substantial majority of women, young and old alike, favoured changes along the lines of the Alton Bill. It was interesting for me to read a Deborah Cornwall article in the *Advertiser* on Monday headed 'Middle Australia reveals a yearning for the days of yore'. The article was based on the latest survey of middle Australia, whatever that is. I do not know whether I am in the bracket of middle Australia, but I guess I am and that everyone here would be. The article and survey was not based, to my knowledge, on anything to do with abortion. That is not to say that people being surveyed did not take some account of this in their thinking and in the answers they gave. To be as brief as possible, I will quote selectively from the article as follows:

Middle-class Australia is pining for the good ol' days—harking back to the '50s when mum stayed home and baked biscuits and there was no such thing as a dole bludger. At least, that's according to the latest survey on middle Australians—a survey which reveals a nation which has become 'deeply conservative, increasingly insecure, intolerant and bewildered'. It shows a major swing in the 'average' values of middle-class men and women in the past five years. When asked to nominate their feelings about living in Australia in the late 1980s, most respondents saw their fellow Australians as greedy, materialistic and lacking in self-discipline and common courtesies.

Reflecting an apoliticism not seen in Australia since the Menzies era of the '50s, those surveyed rejected the notion they were 'getting the politicians they deserved'. 'Until there is honesty and decency in our leaders right at the top . . . young people are getting a perfect example of how to cheat, avoid and generally lead a dishonest life', said one respondent. Coming in a close second, the 'flower power' revolution and the media were also under attack. Young people, in particular, blamed the 'Me generation' of the '60s and '70s for many of the social and economic ills of the '80s. Other sources of major distress in the '80s—the belief that family structures were breaking down and crime rates were higher than ever—did not tally when measured against the reality of the statistics. This perception, however, together with a failing economy and unprecedented changes in the workplace, also appeared to be directly linked with a growing intolerance for the unconventional, the alternative lifestylers in our midst. Wrapping up the report. Ms Arbes concludes: 'What Australian consumers want to see is a world that (is) comfortable, caring and above all, conservative'.

No doubt exists in my mind that Australia, like Britain, is returning to conservative values and questioning as I do the values and directions taken over the past 30 years. I see nothing at all wrong with questioning values and directions taken over preceding years. What then is the statistical evidence that persuades me to support the Ritson Bill?

First, in Britain at the time of its 1967 Act, advice from hospitals and experts was that they did not expect to terminate more pregnancies than they did before the 1967 Bill was enacted. Facts have shown clearly otherwise. In 1968, 23 641 terminations were carried out in England and Wales. One year later 54 819 were carried out and in 1986 the figure stood at 172 286. How does anyone account for this phenomenal increase in so-called extreme cases? In Australia last financial year more than 80 000 women had an abortion, for which the Federal Government paid out $6.5 million. There were 240 000 births, showing that one in four pregnancies ended in abortion. In South Australia the official figure for 1986 was 4 323, making a total number of terminations reported since 1970 (after the Millhouse Bill) as 58 500. The relevance to the Bill before us is in the analysis of the figures. Of those who sought terminations last year, 20 per cent had had one or more previous terminations. That must say something for our education and our value standards.

The report to the Parliament indicated that only 87 terminations were ordered because of potential damage to the foetus or specified medical disorder. The remaining 4 237 terminations, or 98 per cent, were carried out because of specific psychological disorder. The breakdown of termination figures makes pretty chilling reading for me and, I imagine, for others. I have seen no official figures, if indeed they exist, to substantiate the extent of the physical or mental turmoil that may accompany the termination of a pregnancy. I am satisfied, however, from advice I have received that this is a growing area of concern and has increasingly been brought to the public attention through talk-back radio, public meetings and correspondence, supporting case histories of problems after termination. We have all received (in fact, we received today) a letter from the Pregnancy Support Birthline, paragraph 2 of which states:

Since 1972 we have counselled more than 30 000 girls and women who face problems related to a possible and/or confirmed pregnancy. From our vast experience we know that many abortions are being sought because of outside pressure on pregnant girls and women.

That figure of 30 000 is roughly half of the number of terminated pregnancies in South Australia since 1970. Although I have not had a chance to talk to Birthline or to analyse with experts in any great detail, I would like to think that Birthline has had considerable influence through counselling people away from abortion. I will also cite part of one of a number of letters that illustrate the suffering of a woman whose letter was published in the *Australian Medical Journal*. Apart from anything else, this letter may explain why official statistics of post termination complications are difficult to keep and record. This woman referred to the annual report on South Australian abortions by the then Chairman, Professor Cox, who said:

Although abortion is a procedure associated with a known risk factor, in 96 per cent of the abortions performed in South Australia in 1982 there were no complications.

She went on to say that she had an abortion in 1982 and, as she did not suffer haemorrhaging or damage to the uterus, she presumed that she was among the 96 per cent who suffered no complications. The letter also states:

For the first four months after the abortion, I cried more or less all day and all night. I would wake myself up sobbing in my sleep, and, if I did sleep fitfully, would have terrible nightmares about dying children. During the day I would do things like going around the house rocking an imaginary baby in my arms, or scattering rose petals over the garden. I was haunted by the fact that my baby had had no funeral, and I would play the same piece of sad music obsessively, over and over again, each time mentally burying my baby . . .

Within a month of the abortion, my hair started turning grey. I almost lost my part-time job because I cried so often at work. When I drove the car I was frequently blinded by tears, and had several minor accidents, any one of which could have been serious. I often had thoughts of killing myself and my children. Then came the terrible anger, which ate away at me for months, and finally the time of deep depression, when I just lay on the bed all day. I was absent-minded, lethargic and withdrawn.

Today, 17 months after the abortion, the grief, the anger and the depression, although diminished, are still there. I still find it difficult to cope with the sight of babies or pregnant women, I have severe sexual and identity problems, my relationship with my surviving children has been damaged, my marriage is in ruins, and I am under the care of a psychiatrist.

Please, let all doctors be aware, if they are not already aware, that abortion is not 'just a 10 minute procedure' but can have very serious and long-lasting psychological consequences.

All of this has similarities, in a way, at least to my mind, to the child abuse story through which we have progressed over a number of months. Now, of course, legislation is before us. There is no doubt that the Parliament is moving strongly and properly towards trying to address the problems of child abuse. I have not heard one voice saying that we should be doing otherwise. I still say that the causes have not been addressed and I put to the Council that the causes of post terminal trauma are starting to be addressed by the Bill that is before us.

I support the three aims of the Ritson legislation. The first is the replacement of the relative risk provision, section 82a (1) in respect of abortion with a provision requiring a substantial risk to maternal, physical and mental health, such as the British example. How do we account for the high number of terminations (4 000 in South Australia) on physiological grounds? The rate is increasing by about 6 per cent every year. Where is the accountability of doctors who make these decisions and who are paid by the taxpayer? Secondly, the legislation will provide for increased psychiatric support for women whose mental health is threatened by their having to make a decision to have a termination and thereafter. The third objective is the reduction of the statutory time of viability of the foetus from 28 weeks to 24 weeks. I urge the Council to support the second reading of this Bill so that at the very least in Committee we can test the three separate propositions contained therein.

The Hon. C.M. HILL secured the adjournment of the debate.

TOWN ACRE 86 OFFICE DEVELOPMENT

Adjourned debate on motion of Hon. Diana Laidlaw:

That the Report of the Parliamentary Standing Committee on Public Works on the Town Acre 86 Office Development (Tenancy Fitout) be noted.

(Continued from 24 February. Page 2997.)

The Hon. T.G. ROBERTS: I second the motion and I draw to the attention of those who read *Hansard* and members the fact that, in moving this motion, the Hon. Ms Laidlaw took the opportunity in an educative way to highlight the details surrounding the physical structure. Certainly, if one was to believe the conclusions drawn by the the Hon. Ms Laidlaw's contribution in relation to use of the building by the Department for Community Welfare and the Health Commission, one would think that both departments will have very lush and extravagant offices at a time when there is, I suppose, relative disquiet in the community about the allocation of resources in this field. I guess that a case can be made out in terms of the allocation of resources to community welfare and health at any time in the life of any government. Generally, allocation depends on the priorities of the Government, and I believe we will find that the current Minister (Hon. John Cornwall) who administers a budget of about $1 billion probably has good reason to be a little bit paranoid about some of the areas from which attacks come. He could be accused of being slightly schizophrenic.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: I said that he would have reason to be schizophrenic.

The Hon. R.I. Lucas: You wouldn't concede that he is?

The Hon. T.G. ROBERTS: No, I wouldn't concede that at all. The Minister is attacked constantly in this place about the administration of both his budgets. On talk-back radio this morning, it was unusual to hear a lot of discussion about some of the in-service applications, particularly of the Minister's health budget. Of the people who rang up, nine out of 10 were totally in favour of the way in which the money was being allocated and administered and how the services were being rendered, particularly at the Flinders Medical Centre.

Nearly every day in this place there is an attack on the Minister in terms of the application of his budget yet, when one goes out into the community to get an indication of how the services are received, the administration is met with general approval by consumers. Nobody is denying that there are stringencies and that diminishing budgets must be administered. Some sections in the administration of the health budget, particularly, will never be pleased, not because of any difference of opinion about the application of those budgets but because of the philosophical stance taken by some of those who are involved in the distribution of the income that is allocated by the Federal Government through the State Government back into health and welfare services.

I have been slightly mischievous in getting away from the motion, just as the Hon. Ms Laidlaw was slightly mischievous in attacking the Minister, implying that he was doing something sinister in trying to save the public money by drawing together those two departments into one physical site that would not only allow for more streamlined administration of both the portfolios but also assist in the delivery of services. With many of the services located on the ground floor of the one building, it is perhaps a case of one stop shopping for those services. I am talking about the administration of services on the ground floor. By looking at the architect's intentions in terms of the design solution for some of those problems on the ground floor, it can be seen that the Government's intentions are very practical. When they are applied, it is to be hoped that they will be met with the acclaim that they should receive from the general public. In the paragraph headed 'Design solution', the committee's report states:

The principal design philosophy has been to locate divisions of each department in a manner which will promote efficiency within the building as a whole.

The first floor will comprise staff lunch room and recreation area, staff showers, first-aid room, Adelaide community

welfare office, patient information, non-government welfare office, family maintenance office, Duke of Edinburgh Scheme, Aboriginal unit, concessions and payments, and child protection unit. These facilities will be easily accessible to the public, along with shopping and parking facilities, which will be provided in the basement. So, there is a practical application for the integration of both services where people can shop and make full use of the facilities on the first floor.

The second floor will provide executive offices, Planning and Policy Development Division and the Program and Planning Unit. The third floor has ministerial offices, the office of the Commissioner for the Ageing, a library, and the Children's Interest Bureau, among other facilities. The architects have applied planning principles to make sure that there is an integration of those facilities and that the building is located close to the work areas in which information can be collated and where work can be done with the groups that are involved in the application of that information. Members will find that adequate provision has been made for the disabled and that, once the building has been fitted out and people are aware that there is a general relocation of a lot of Government offices into one place, it will be found that consumers will generally be very happy.

The Government Office Accommodation Committee has established the need to provide new accommodation and to house in one location the headquarters personnel of the South Australian Health Commission and the Department for Community Welfare. These personnel are currently located in a number of different areas in the city, at which the committee looked, including 52 Pirie Street, the State Bank building on Rundle Mall, Hines House on Hindmarsh Square and, in the case of the Department for Community Welfare, the GRE building and the Da Costa building in Grenfell Street. It makes good administrative sense to put all those offices under one roof in the one building rather than have them scattered over a number of separate locations. It saves people going from location to location.

Members might be forgiven for thinking that the employees will be moving into flash, luxurious offices, but that is not the case. In fact some of the accommodation that the committee looked at was much more amenable in terms of working facilities and conditions than were some of the new offices that departmental staff will occupy. Many people may prefer to work in their present conditions than in those that will be available in the new building. However, that is not to say that the new accommodation will not be adequate. The staff have been involved in some of the design features of the building, particularly with respect to the ground floor, which includes showers and a small recreation area. In line with the department's promotion of physical wellbeing within offices, showers have been included so that people who jog and exercise can shower at work and not have to use public showers.

The Hon. J.R. Cornwall: How many showers are there in the entire building?

The Hon. T.G. ROBERTS: It is a small number—something like two or three in the whole building. From the Hon. Diana Laidlaw's contribution, one may have gained the impression that individual employees would have a shower each. There is adequate provision from which, it is to be hoped, employees will benefit.

Members interjecting:

The ACTING PRESIDENT (Hon. G.L. Bruce): Order!

The Hon. T.G. ROBERTS: With regard to the cost of the building, another thing that was left out of the Hon. Ms Laidlaw's report was the $1.7 million incentive rebate for the departments that take up the number of floors that will be used. If the departments had taken up the floor space in piecemeal way, I am sure that the developers would not have been able to give the same incentive rebate. However, because both the Health Commission and the Department for Community Welfare will take up the majority of the accommodation available in the building, the incentive rebate of $1.7 million takes the total amount from $6.386 million back to $4.686 million. So, it can be seen that the Government has made considerable savings.

The Hon. Diana Laidlaw: As of January.

The Hon. T.G. ROBERTS: That is quite correct; they are the January figures. There may be some expansion in the cost. Usually a contingency amount is built into the estimated cost. In this case the contingency is about 3 per cent. There may be some hidden extras because, with office furniture being relocated, one tends to underestimate the cost. However, in general terms the project should come in under $5 million. That is the figure that has been put before the Public Accounts Committee. In comparison with other States, the project managing architect has given figures in the report which show that the rate for the Town Acre 86 was $210 per square metre including outgoings. I will now give a cost comparison with other cities, for example, office rent in Sydney varies from $370 to $535 per square metre; in Melbourne it is $330 to $430 per square metre; in Brisbane the cost is $210 to $300 per square metre; Perth is slightly cheaper at $160 to $205 per square metre; and in Canberra the rent is $220 to $240 per square metre.

So, even by interstate comparisons the amount of money that is being spent in a central location, using the structure of the Town Acre 86 office development, is not an extravagant cost to Government. In fact, it is deemed to be cost neutral, and that is one of the gratifying aspects for this Government in terms of public spending. The two departments are able to be accommodated in the one building and thus hopefully provide better service, better collation of information and, hopefully, better decision making so that the public will benefit in many ways.

Some of the other findings of the committee were reasonably interesting. Finding No. 7 states:

> The exception to a completely unified shift is the Environmental Occupational Health Division, which is housed in Hinds House, Hindmarsh Square, because it contains a large amount of laboratory equipment which would be prohibitively expensive to shift and carries out activities which may not be altogether compatible with central administrative operations.

So, both departments were considered in relation to whether they would be located under the one central roof or stay in the rented accommodation in which they were already housed. It was generally believed that the plan that came before the Public Works Standing Committee to take over the occupancy of the Town Acre 86 office development and the subsequent fit-out was the best option that the Government could view.

I also draw to the attention of the honourable Chair that three members of the Opposition were on that committee and that it was a unanimous decision that the report be endorsed, although there were some arguments in relation to some of the finer detail. However, in general terms the report was endorsed by the three members of the Opposition and the three Government members and the Chairman. In conclusion, I would like to second the motion to note the report.

The Hon. R.I. LUCAS secured the adjournment of the debate.

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 24 February. Page 3002.)

The Hon. M.B. CAMERON (Leader of the Opposition): It is with some sorrow—and I guess with some anger—that I rise today to speak to this Bill because it is clear that the Bill will pass this Chamber. It is also clear—

The Hon. R.I. Lucas: I thought you would be happy about that.

The Hon. M.B. CAMERON: I am very happy about it, but I am angry because the Government has turned its back on a matter on which there should be a bipartisan approach.

The Hon. C.M. Hill: They were always champions of this cause.

The Hon. M.B. CAMERON: In fact, they were very critical of us in the 1980-82 period, and the Hon. Mr Sumner was the man who stood and pontificated in this Council on this matter. He is the man sitting opposite, the Leader of the Government, who stood up and said that he was resurrecting this matter and having a committee look at it again. That committee came back and reported—

An honourable member: Again.

The Hon. M.B. CAMERON: Yes, again. Then he said, 'It will be a matter of legislation by Christmas.'

An honourable member: Again.

The Hon. M.B. CAMERON: Again—and that was 1983-84. Where are we? We are now in 1988, and we are still awaiting some freedom of access to information for the people of this State—in a democracy! It is a matter of great sadness that this Government and the Attorney-General, the man who is the keystone of this matter, see themselves as being unable to proceed. What is the basis for that? The Attorney-General claims that it will cost too much money. Whom did he ask to find out how much money it would cost?

The Hon. R.I. Lucas: Not the Public Service chiefs.

The Hon. M.B. CAMERON: He went straight to them. He sent a letter to all the Public Service chiefs, the Sir Humphreys of this world, and said, 'How much will this cost your department?' Some departments (not all, I must say in fairness, but some of the key departments) came back with the answer, 'An incredible sum. It will be beyond belief, Minister. We will need 120 extra staff; we will have to revise our whole department in order to provide the people with the knowledge that they should have every right to have.'

Of course, it typifies the attitude of my opposite number, the Minister of Health. He would be the last person who would want people like me or members of the public to have access to information. That is a pity in a way from his point of view because, if he only realised it, if people had access to it there would not be so many leaks and it would not be so exciting for people like me and members of the press if the information we received was freely available.

Why a Government feels it has anything to hide is quite beyond me. The Attorney's own report gives the compelling case. I am not a genius in this matter. I took the Attorney's report, after he had taken so long to do anything, handed it to Parliamentary Counsel and said, 'Draw up a Bill based on this report.' There are no tricks in it, and there is nothing in it that the Attorney was not advised on. I am happy to look at any matter that the Attorney thinks might be a problem.

One day in this Council he said to me, 'If you will make it cost recoverable, we will support it.' If that is the only way we can start the matter off, I am quite happy to do that. However, it is a shame if that is the case; I think that we should make some allowance in any Bill for people who cannot afford the price. If it has to be cost recoverable, so be it. I challenge the Attorney to put the matter forward to his Cabinet on that basis. His report stated:

(1) The object of the legislation is to extend as far as possible the rights of the community to access to information in the possession of the Government of South Australia and other bodies constituted under the law of South Australia for public purposes by—

(a) making available to the public information about the operations of agencies and, in particular, ensuring that rules and practices affecting members of the public in their dealings with agencies are readily available to persons affected by those rules and practices; and

(b) creating a general right of access to information in documentary form in the possession of Ministers and agencies limited only by exceptions and exceptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by agencies.

(2) It is intended that the provisions of the legislation shall be interpreted so as to further the object set out above and that any discretions conferred by the legilsation shall be exercised as far as possible so as to facilitate and promote, promptly and at lowest reasonable cost, the disclosure of information . . .

In an attempt to evaluate the cost and resource implications of our proposals we carried out a survey of the resource implications of freedom of information legislation in 330 agencies. The questionnaire and summary of responses are contained in appendix 2.

The cost of freedom of information legislation, in manpower and other terms, is going to be directly contingent on the use of the legislation. Agencies, predictably, reached many different conclusions when responding to our question about the impact of the legislation upon themselves—

and this is the key—

There is little doubt in our minds that a number of estimates as to the likely number of additional requests for information, particularly those in the highest categories, represent a very considerable over-statement of the likely reality.

They are not my words; they are the words of the people who examined the matter. They knew that people within the system were deliberately overstating the situation. The fact is that in Victoria the only additional positions created were five positions established in the Freedom of Information Policy Branch, that all the other costs have been contained within existing departmental structures, and even in the broadest definition the research suggested that a minimum of 15 to 25 staff would be required to administer freedom of information within agencies at a cost between $600 000 and $1 million. That is very different from what this Government indicated. The report continues:

We estimate that approximately 85 per cent of Government agencies will be able to absorb the workload without establishing a separate freedom of information position . . .

In other words, 85 per cent of all existing agencies will be able to contain the costs within their existing structures. The report continues:

We are unable to comment on the ability of those agencies which are likely to require a full-time freedom of information position to absorb the functions within their existing ceilings, as was done in Victoria.

The report—not my words—under 'The Case for Freedom of Information Legislation' also stated:

The arguments for and against measures to make accessible to members of the general public information held by the Government have been debated both in Australia and overseas in many reports in the last decade. We do not propose to repeat them here. The case for openness in government is compelling.

The essence of democratic government lies in the ability of people to make choices: about who shall govern; or about which policies they support or reject. Such choices cannot be properly made unless adequate information is available. Access to information is essential in ensuring that governments are kept account-

able. The accountability of the government to the electorate is the cornerstone of democracy—

The Hon. C.M. Hill: Who wrote this?

The Hon. M.B. CAMERON: The Government, the Attorney's own people. This is the report that he received; it had nothing to do with me. I give full credit to the Attorney for having this report drawn up and for releasing it for public comment prior to the legislation being introduced. It continues:

> The accountability of the government to the electorate is the cornerstone of democracy and, unless access to sufficient information is provided, accountability disappears. Without access to information individuals are unable to participate in a significant and effective way in the process of policy making.

I must say that I agree, and I am very disappointed to find that the Attorney has thrown his own report in the waste-paper basket, after being the keystone of the whole move.

The Hon. C.M. Hill: Perhaps he got rolled in Cabinet.

The Hon. M.B. CAMERON: I don't know what happened. In a situation like that where he has put his reputation on the line I would have thought that that would have led to his resignation. I believe that he is a man of principle. Therefore, I cannot believe that he would duck for cover on such a serious matter as this. To use his report's words, it is 'the cornerstone of democracy'.

The Hon. R.I. Lucas: There is a rumour that he is considering resigning.

The Hon. M.B. CAMERON: I saw that in the paper, but—

Members interjecting:

The ACTING PRESIDENT (Hon. G.L. Bruce): Order! The Hon. Mr Cameron.

The Hon. M.B. CAMERON: The report continues at considerable length about the various problems facing people because of this lack of freedom of information. It continues:

> The working party finds the arguments in favour of legislation compelling and recommends—

and I repeat that this is the Attorney's report—

> the enactment of freedom of information legislation providing for a legally enforceable right of access . . .

It is not recommending an administrative set-up such as the Attorney is playing around with in the *Sunday Mail.*

The Hon. R.I. Lucas interjecting:

The Hon. M.B. CAMERON: That is right, and one can imagine what my little mate, the Minister of Health, would do with that. He does not even want me to go into his hospitals. The report continues:

> . . . to any document in the possession of Government departments and agencies unless that document is in a category of exempt documents to which access may be denied.

I have no problem with that. It is all laid out in my Bill, very carefully worked out. I have given the Attorney nearly 18 months to change his mind and take over this matter properly. In fact, I will make this offer to him: if he wants the credit, he can take the Bill now and call it his own.

The Hon. R.I. Lucas: The Sumner Bill?

The Hon. M.B. CAMERON: Yes, The Sumner Bill, and I will give him full credit for that. He can be, as he should have been and should still be, the architect of freedom of information. I have not done any real background work on it. I did not set up the committee. I have not done all these things—the Attorney has done them. He deserves the credit for bringing this matter to the public attention. I will just sit and wait and see. Perhaps when the Bill comes back, we will see the Attorney stand up and say, 'It was all my idea in the first place.' One can only hope. Concerning access to documents, the report continues:

> The premise on which freedom of information legislation should be based is that access to any document in the custody of the Government is a matter of right and that a decision to deny access to a document must be justified.

I would have thought we already have that problem in not having freedom of information.

> Accordingly, the legislation should provide that every person has a legally enforceable right to obtain access in accordance with the legislation to any document in the possession of an agency, other than an exempt document. There should be no requirement that the person requesting access to a document must demonstrate any special interest in viewing the document.

The report goes on at great length, and I recommend the summary of its recommendations to all members. It really is an excellent document and one that I thought the Attorney would have supported. I have one minor amendment which I have been requested to move on behalf of the Auditor-General, and I shall deal with that in the Committee stage.

In my very firm opinion, the quality of democracy should not depend as it does now on the quantity of leaks that a shadow Minister receives or that the press receives. We should not have to worry about going along to Randall Ashbourne, that excellent journalist from the *Sunday Mail,* to see whether he knows anything, or he should not have to run down to see whether we have any documents on which he might base his stories. He should be able to inform himself properly before he writes anything by going to the Government and being able to access the Government records and find out just what is exactly the background to any matter. It might be very satisfactory for people like me, because it might give me a headline occasionally about a document that I have received and have been able to leak to the press. It is really an exciting feeling—

The Hon. R.I. Lucas: We don't do it just for that purpose.

The Hon. M.B. CAMERON: No, we are only trying to assist people who have been denied by Government—

The Hon. C.M. Hill: In a democracy.

The Hon. M.B. CAMERON: Yes, in a democracy, but we do not even know that they are being denied because we cannot access the information to find out. This place is certainly not a place of freedom. People in the health system and institutions should not have to send material to me in unmarked brown envelopes. It is a ridiculous system. People who have difficulties with Government should be able to alert us so that we can go and obtain the information, but not from them. This Government, I am afraid, has reached the stage where it thinks it is in total control of the system, that it is not accountable to anybody, that it is in fact the ruler, and that it does not serve the people any longer. Time and time again we hear the Health Minister stand up and say, 'My department' and 'I am spending $1 000 million this year', 'a $1 billion department that I personally run', that 'I' do this and 'I' do that. Democracy is for the people and governments act on behalf of the people. One way of keeping little big heads in Government down a bit is by allowing people access to the information so that they know exactly what these people are doing, so that they know exactly what the Government is up to, so that they can access information.

I urge the Council to support the Bill, the Bill of the Attorney-General, because that is what it is. It is a Bill of the Attorney's; it is not mine. The Attorney-General is its architect and, as I said, I have waited very patiently for the Attorney to bring back the matter, to change his mind, to be true to his own principles and be the true democrat that he should be as the law officer of this State. If he is not prepared to do that, frankly I believe he should resign because he is the person who has backed down on a very important matter. I urge the Council to support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 27 passed.

New Clause 27a—'Documents in possession of the Auditor-General.'

The Hon. M.B. CAMERON: I move:

Page 17, after line 46—Insert new clause as follows:

27a. A document is an exempt document if it is in the possession of the Auditor-General for the purpose of an audit, examination or report under Part III of the Public Finance and Audit Act 1987.

The Auditor-General has written to me indicating that he has a problem with documents in his possession for a specific purpose, and I accepted that comment from him. I understand this new clause overcomes that problem.

New clause inserted.

Clauses 28 to 65 passed.

Schedule and title passed.

Bill read a third time and passed.

ROYAL COMMISSIONS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Royal Commissions Act 1917. Read a first time.

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

That this Bill be now read a second time.

This simple amendment to the Royal Commissions Act arises as a result of representations received from the Federal Government to implement operational changes to the Royal Commission into Aboriginal Deaths in Custody. The Federal Government has advised that Commissioner Muirhead has requested that additional commissioners be appointed to act as separate, fact-finding aspects of his royal commission to investigate particular deaths.

At present the South Australian Royal Commissions Act does not provide for commissioners to sit independently of other commissioners. This amendment will allow commissioners to sit independently and to have the same powers as if appointed sole commissioner. The amendment also updates and brings the penalty provisions of the Act into line with those divisions that are the subject of clause 4 of the Statutes Amendment and Repeal (Sentencing) Bill 1988 that is now before this Parliament. I commend the Bill to the Council and seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 3 of the principal Act which is an interpretation provision. Clause 3 repeals section 4 of the principal Act and substitutes a new provision. This section provides for the constitution of royal commissions. A commission may be constituted of a single commissioner or of two or more commissioners. It provides that if the Governor authorises individual commissioners to sit independently to conduct parts or aspects of an inquiry which is being conducted by a commission of two or more commissioners, an individual commissioner will have, in relation to those parts or aspects of the inquiry, the same powers as if appointed a sole commissioner.

Clause 4 amends section 11 of the principal Act which empowers the chairman to punish persons for certain behaviour. The maximum term of imprisonment is increased from two to three months. The maximum fine is increased from $400 to $1 000. The maximum term for default is increased from two to three months imprisonment. Clause 5 amends section 15 of the principal Act which makes it perjury to give false evidence to a commission. The amendment deletes the reference to hard labour (made unnecessary by section 31 of the Acts Interpretation Act 1915).

Clause 6 amends section 17 of the principal Act which sets out certain offences relating to the corruption of witnesses. The amendment deletes the reference to hard labour and allows for a maximum penalty of $8 000 as an alternative to a term of imprisonment. Clause 7 amends section 18 of the principcpal Act which deals with fraud on witnesses. The amendment deletes the reference to hard labour and allows for a maximum penalty of $8 000 as an alternative to a term of imprisonment.

Clause 8 amends section 19 of the principal Act which prohibits the destruction of evidence. The amendment allows for a maximum penalty of $15 000 as an alternative to a term of imprisonment. Clause 9 amends section 20 of the principal Act which makes it an offence to wilfully prevent or attempt to prevent a person from attending a commission as a witness or from producing evidence. The amendment allows for a maximum penalty of $8 000 as an alternative to a term of imprisonment.

Clause 10 amends section 21 of the principal Act which makes it an offence to injure a witness. The amendment allows for a maximum penalty of $4 000 as an alternative to a term of imprisonment. Clause 11 amends section 22 of the principal Act which makes it an offence for an employer to dismiss an employee or prejudice him or her in their employment for or on account of that employee having given evidence before a commission. The amendment allows for a maximum penalty of $4 000 as an alternative to a term of imprisonment.

Clause 12 repeals section 23 of the principal Act and substitutes a new provision. This is the regulation-making power. The amendment allows for a maximum penalty of $500 to be prescribed for breach of, or non-compliance with, a regulation.

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

HAIRDRESSERS BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to prohibit the practice of hairdressing by unqualified persons: and to repeal the Hairdressers Registration Act 1939; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

This Bill proposes the repeal of the Hairdressers Registration Act 1939. As such, it is a further significant part of the Government's continuing commitment to considered deregulation. The Bill does not simply wipe out 50 years of work and experience in establishing and maintaining professional standards, training systems and acceptable working conditions. It is one of the outcomes of a searching examination of the existing registration system. There has also been some re-organisation of administrative systems to relocate functions and eliminate overlapping of roles.

In close and long-lasting consultation with industry representatives, the Government has taken the best elements of what existed under the registration scheme, and re-organised them slightly. It has also discarded a cumbersome, outdated and relatively costly registration apparatus. To describe the registration scheme in this way is no reflection on those who have conscientiously contributed their efforts

to the administration of the Hairdressers Registration Act over the years. They have performed a valuable service, and the new arrangements will rely on people being similarly prepared to contribute their experience, their knowledge, and their commitment to professionalism in the future.

But, it is a fact that the Hairdressers Registration Act has remained largely as it was when enacted in the late 1930s; in other areas the administration of occupational licensing has been streamlined since then. That fact, taken alone, might only have supported an argument for modernising the registration system (which has been, in substance, a licensing system rather than mere registration since 1978); and it is a matter of record that, several years ago, a proposal was developed which would have brought hairdressers into an expanded and upgraded licensing system. But further consideration of the origins and purposes of the Hairdressers Registration Act, and of present and future needs, has led us instead down this more deregulatory path.

I expect it will be useful to members' consideration of this brief Bill if I explain something of the background, and of the proposed arrangements which are being developed in conjunction with the Bill. When the Hairdressers Registration Act was enacted in 1939, it was designed to deal with three major areas of concern. First, it was thought necessary to establish some independent audit of people's competence with the then new electrical equipment which was coming into use in the industry; secondly, there was concern about the potential for abuse and exploitation in some private training schemes; and, thirdly, issues of sanitation and safety in hairdressing premises were seen to need attention. These problems were addressed by establishing the registration board, which had as its most significant continuing task the conduct of practical examinations in hairdressing. The basic qualifications for registration as a hairdresser became completion of apprentice training and a pass in the board's registration examination which could be taken at or about the end of the apprenticeship.

Until 1978, registration gave only the right to call oneself a hairdresser; it was only after amendments in 1978 that registration became compulsory for all persons who performed hairdressing services for fee or reward. And it may surprise many to know that the Act has only ever applied to the metropolitan area of Adelaide, although most country hairdressers these days choose to qualify for, and take up, registration. It was with this history in mind that the recent re-examination of the Hairdressers Registration Act proceeded. Several facts emerged.

First, safety and health standards, which were among the issues leading to the original legislation, are these days comprehensively dealt with by the Industrial Safety, Health and Welfare Act and its Commercial Safety Code, by the SAA Wiring Rules, the Electrical Articles and Materials Act, and the Health Act. Secondly, the training system these days is highly developed. Apprenticeships are supervised by the Industrial and Commercial Training Commission, and the Department of Technical and Further Education conducts extensive courses which apprentices must complete successfully as part of their training.

Thirdly, the training system has produced trainees with a high level of technical competence. Complaints about injurious or otherwise damaging misuse of hairdressing treatments are very rare. When they have arisen, they have often been dealt with by officers of the Department of Public and Consumer Affairs as part of their work of dealing with problems which arise between traders and consumers. Fourthly, an industrial award exists to protect the position of qualified and trainee employees—and thereby protect the public.

In the light of these facts, the Government has concluded that the Hairdressers Registration Board is largely performing functions which are, or can be better, performed by other agencies or which are, in some cases, not necessary. The new arrangements, of which this Bill is part, will place training issues entirely with the training authorities, industrial issues within the context of the industrial relations systems, and health and safety issues in the hands of health and safety authorities. In principle, all of these things could be done alongside the maintenance of a registration or licensing system, but the Government does not believe that the expense and effort of maintaining a registration system can continue to be justified in circumstances in which there are other mechanisms supporting public safety and in which there are no indications of serious problems which require further measures for the protection of the public interest.

The Government has agreed with industry representations that a final practical examination for apprentices should be retained. Arrangements are in hand to bring that examination under the auspices of the Industrial and Commercial Training Commission as of next year, and make it part of apprentice training. There will be a training advisory committee to maintain industry involvement in the same way as that involvement is provided for in the membership of the Hairdressers Registration Board. From next year, a person who gains a Certificate of Competency in Hairdressing from the Training Commission will thereby have evidence of the same level of training as is now evidenced by a Certificate of Competency and a Registration certificate taken together.

The Bill, which is expressed to come into operation on 1 January 1989, is brief. It repeals the Hairdressers Registration Act 1939. It provides for any surplus assets of the Hairdressers Registration Board to be applied in the interests of the hairdressing profession. It requires those persons who are practising as hairdressers this year and ought to be registered to maintain their current registrations if they wish to be allowed to continue to practise in the future.

The Bill provides for other qualifications for practice to be set by regulation. The Government has given undertakings that the content of the basic qualification will be the same as is the case at present, that is, completion of the TAFE course, satisfactory completion of an apprenticeship, and a pass in the final practical exam. A provision will also be made by regulation so that anyone who is at present legally practising hairdressing but for reasons either of history or geography is not registered or does not have the formal qualifications will be able to continue to practise. Provision will also be made by regulation as it is under the existing Act to accommodate persons who bring appropriate qualifications from elsewhere to South Australia.

The Bill makes it an offence for an unqualified person to practise hairdressing. Enforcement of this requirement, which has presented the board with a problem in recent years, will be undertaken by suitably empowered officers of the Department of Public and Consumer Affairs.

The Bill also abolishes the distinction which has been made in the past between what has been called men's and ladies hairdressing. This is consistent with the organisation of the course work conducted by the Department of Technical and Further Education and, as will be well known, reflects the emerging practice of the industry. The Bill makes it possible, if necessary, to apply some restrictions to those persons whose training and experience may be narrowly based. Apart from the Bill, a wide range of transitional issues and continuing administrative requirements has been identified by a joint Government and industry working group and consultations are continuing to resolve all those

matters in time for the new arrangements to begin in the new year. I commend the Bill to members and seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the Act will come into operation on 1 January 1989.

Clause 3 repeals the Hairdressers Registration Act 1939 and provides for the vesting of outstanding assets and liabilities of the Hairdressers Registration Board in the Minister. The Minister must apply any surplus money left after discharging outstanding liabilities towards promoting the interests of the profession of hairdressing.

Clause 4 defines hairdressing in much the same way as the repealed Act, but describes modern practices. A qualified person is defined to mean a person who holds prescribed qualifications. The latter are, for a person who should be registered under the present Act on 30 June 1988 registration as at that date. For all other persons it will be qualifications specified in the regulations.

Clause 5 creates the offences of practising hairdressing for fee or reward without holding prescribed qualifications, and of employing an unqualified person in the practice of hairdressing. First offences carry a maximum fine of $1 000, all subsequent offences carry a maximum of $4 000. It is not an offence of course to employ an apprentice.

Clause 6 makes it clear that the offences under the Act are summary offences. Clause 7 is an evidentiary provision that obviates the necessity for the prosecution to prove that a particular person was required to be registered under the present Act as at 30 June 1988 but was not so registered.

Clause 8 is the regulation-making power. Regulations may be made prohibiting certain hairdressers from practising a particular branch of hairdressing for which they are not qualified. Offences against the regulations will carry maximum penalties of $500.

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

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 2753.)

The Hon. C.J. SUMNER (Attorney-General): Members of the Opposition have expressed concerns regarding the proposed amendment to section 12 of the Evidence Act. One of the concerns raised is that the new provision will apply in all cases where a child is to give evidence, not just in child sexual abuse cases. The Government has considered this matter and is of the view that the competency provisions for children should be consistent in all cases. The principles governing whether or not a child's evidence is capable of being presented to the court should be the same regardless of the type of case before the court.

The draft provision has been criticised as not adhering to the recommendations in the report of the task force on child sexual abuse. I do not accept this criticism. Although the provisions may not strictly adhere to the formula proposed by the task force, I believe that the draft covers the intention of the task force recommendations.

Lowering the age of itself would not assist young children to be able to give sworn evidence if the test of understanding the nature of the oath is maintained. Historically, the test for the reception of sworn evidence has been the understanding of the oath; that is, whether the witness had sufficient religious knowledge to understand the oath and whether he or she accepts the concepts of religion as to the nature and sanctions of an oath. The Evidence Act provides for an affirmation only where an oath is required or permitted. Where an adult does not understand the obligation of an oath, evidence is given without formality pursuant to section 9 of the Evidence Act.

The Hon. Mr Griffin has queried how a child who cannot understand the nature of an oath can fit within the criteria in the new subsection (2). I consider this to be possible because the tests are based on different criteria. The test for children has always been based on whether or not they understand the obligation of an oath. The Australian Law Reform Commission referred to it as a moral and/or religious test. This test would of itself rule out many children even though they may have a good grasp of the concepts of truth and falsehood. The task force recommended that a cognitive test be used in its place. It also recommended the introduction of a simpler oath. I consider that subsection (2) reflects both of these recommendations. A child can give the equivalent of sworn evidence provided he or she has reached an appropriate level of cognitive development and provided he or she promises to tell the truth knowing the significance of doing so (whether or not he or she understands the obligation and nature of an oath).

As recommended by the task force, unsworn evidence, that is, evidence not admitted under subsections (1) and (2), will continue to require corroboration. Members of the Liberal Opposition have taken the view that evidence received under subsection (2) should be treated as unsworn evidence and be subject to corroboration. I do not consider this approach to be in keeping with the task force's recommendations.

The Hon. Mr Griffin has called for a less complex approach to this matter. He has suggested that the age of giving sworn evidence should be lowered with the use of a simplified oath. If the oath was to be simplified, I would expect it to be based on the concept of promising to tell the truth. If the simplified oath was to be used as the basis of the competency test we would have a test similar to that already set out in subsection (2).

An alternative would be to delete subsection (1) and to allow a child's evidence to be admitted under the terms of subsection (2). However, this may not meet the task force's concerns set out at page 222 of its report regarding the undesirability of a *de facto* age of competency being maintained at 10 years of age.

Since the task force report was released the Australian Law Reform Commission has issued its final report on the subject of evidence. The commission's report sets out a test of competency based on a person's ability to understand the duty of telling the truth and on the ability of a person to understand and provide a rational response to questions. I consider that the Bill as drawn reflects aspects of the commission's report and provides adequate criteria to allow a decision on competency to be made.

Members of the Opposition have also queried the ability of judges to implement the test set out in the draft Bill. The Hon. Mr Elliott has gone so far to suggest that a panel of psychologists could be used to make a decision on the competency of a given child. I do not foresee the problems envisaged by members opposite. No doubt in the early cases where the section is used the courts will be required to

determine the parameters of the provision. However, I do not see that the decisions to be made and the tests to be applied fall outside the ability of the judiciary. Judges, as they do now, would be required to question a child with the aim of determining whether the child knows what it is to tell the truth, and whether the child can respond to questions and give an intelligible account of events. The child would then be required to promise to tell the truth.

The Hon. Mr Griffin has expressed concern regarding the presence of a support person who could also be a witness in the proceedings. The task force dealt with the issue of the support person and recommended that the support person should be a person of the child's choice. The task force did not see the need to exclude certain classes of persons, including prospective witnesses, from being a support person. In fact it considered that the child's interests in having a support person of his or her choice should be paramount. The person should be able to remain in court even when an order for clearing the court is made. The draft provision specifically prohibits the support person from interfering in the court case in any way. I consider this to be a sufficient safeguard.

The Hon. K.T. Griffin: It means they are sitting in court while other people are giving evidence.

The Hon. C.J. SUMNER: That is right.

The Hon. K.T. Griffin: The fact is they are sitting in court throughout everyone else's evidence even if they have not given their own evidence. That's what you're saying.

The Hon. C.J. SUMNER: It may be the case, and perhaps the court will have to deal with that if it arises by considering the order in which evidence is given. The honourable member seems to pick out sections of the task force report that he supports in order to criticise the Government for not having followed it to the letter.

The Hon. R.J. Ritson interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I know. The task force has considered and deliberated on this matter and decided that the support person should be able to be chosen by the child and present during the court proceedings, even if a witness. I understand the point that the honourable member made. At the end of the day, the Government's preferred position is to remain with the task force recommendations. No doubt the honourable member will consider the issue and perhaps move amendments. If he does, the Government will listen carefully to his contribution, as it always does.

The Hon. Mr Griffin has sought my views on the suggestion that there should be a minimum age below which a child may not give sworn evidence or its equivalent. I do not agree with a minimum age, nor did the task force. Any introduction of age sets up an arbitrary limit which may act against the interests of some children. I consider that, if a child is of a level of development to fit within the test, his or her evidence should not be excluded. However, this is not to say that a very young child should be encouraged to give evidence if it would clearly be against his or her interests.

The Hon. Mr Grifffin queried the inclusion of criteria to be used when evaluating the unsworn evidence of children. It has been suggested that this matter could be left to the common law. Section 13 (1) of the present Act provides that unsworn evidence given under sections 9 and 12 will have such weight and credibility as should be given to evidence given without the sanction of an oath. This test is retained for section 9. With respect to unsworn evidence under proposed section 12, the test refers to evaluation in the light of the child's level of cognitive development. The Government considered this to be a more appropriate test in relation to the evidence of children.

The Hon. Mr Griffin has also queried the operation of proposed section 34ca. The new provision is intended to have wider operation than the common law exception to the hearsay rule. The aim of the provision is to broaden the opportunity to admit the child's statement to the court. Such an exception is already used in some States of America. The provision can be used as an additional means of presenting the child's statement to the court. It would offer some assistance where a child is troubled by the courtroom environment and finds it difficult to present evidence on his or her own behalf. However, the provision expressly provides that the child must be available as a witness. This would allow for the evidence to be tested through the normal process. Further, the court retains its discretion to exclude the evidence if it is unduly prejudicial compared to its probative value.

The Hon. Mr Griffin also raised a concern regarding suppression and closure of the court. As indicated, the provisions in the Bill are set out in absolute terms in accordance with the task force recommendations. The Hon. Mr Griffin indicated that a judicial discretion should be included to allow other persons to be present in the courtroom. I am not convinced of the need for such an amendment. The Bill provides for the presence of persons required for the proceedings and for a support person for the child. I cannot see the need for other people to be able to be given access to the courtroom when a young child is giving evidence.

The Hon. Mr Griffin referred to the need for a relaxed and comfortable courtroom environment for children giving evidence. I advise members that an investigation is currently being undertaken into the issues raised by the task force in this regard, such as the use of screens in courtrooms. The Government is also investigating the possible use of an audiovisual link between the courtroom and another room within the court building from where the child could give his or her evidence. The prosecutors are also continuing to assess their procedures with a view to making the child's attendance at court less traumatic. I trust that proposals can be forthcoming which will provide greater assistance and support to child victims required to give evidence.

The Hon. Mr Elliott and the Hon. Ms Laidlaw both commented on the Government's decision not to introduce legislation to provide for an interlocutory protection procedure within the Children's Court at this time. The Hon. Mr Elliott requested an explanation as to why the task force considered that interlocutory orders were necessary when a section 99 order could be used. Obviously that is for members of the task force to respond to. However, my understanding is that the task force saw some advantage in the Children's Court dealing with these matters from the outset. The interlocutory proceedings proposed by the task force were expected to dovetail into the in need of care proceedings. However, in some cases alleged offenders would not be a guardian or person living in the same household as the child. The Government is not convinced that the Children's Court role should be extended to allow it to deal with all adult offenders against children.

The Hon. Mr Elliott requested statistics on the number of alleged offenders who are permitted to live in close contact with a child victim whilst awaiting trial. These figures are not readily available. It would be necessary to examine cases knowing the type of bail conditions imposed, the existence of section 99 orders, etc. However, the Department for Community Welfare understands that, out of 48 cases currently awaiting an in need of care hearing where abuse is alleged, the alleged offender would not be living in

close contact with the victim in any of these cases. With respect to the Hon. Mr Elliott's other query, I advise that the time lag between an initial contact and the alleged abusers being questioned by police is dependent on circumstances in a given case. However, the Department for Community Welfare and the Police Department cooperate to ensure that matters are dealt with as expeditiously as possible.

The Hon. Ms Laidlaw referred to the Crimes (Family Violence) Act 1987 passed by the Victorian Parliament. She indicated that the Victorian legislation provides a process to remove offenders from their homes in the case of domestic violence. However, on my reading of the Victorian legislation I would have thought that it is really a modified version of the South Australian section 99 order. Section 99 orders apply to all cases requiring a restraining order. The newly proclaimed Victorian provision is limited to cases involving domestic violence. The Victorian provision requires an application in the Magistrates Court, as is the case with the section 99 order. The Victorian provision allows for an order for removal of an offender, as does section 99 of the South Australian legislation. Therefore, in general terms, the Victorian legislation does not provide a procedure which is unavailable in South Australia. I thank honourable members for their support of the second reading of the Bill.

Bill read a second time.

COMMUNITY WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 February. Page 2688.)

The Hon. C.J. SUMNER (Attorney-General): The Hons Ms Laidlaw and Mr Griffin have expressed concern regarding the objectivity and independence of the Children's Interest Bureau while it remains under the Minister of Community Welfare. The Government accepts that the child advocates should perform their functions independently of the Department for Community Welfare in this area. However, this does not mean that ministerial responsiblity must be altered. Under the Children's Protection and Young Offenders Act, it is the Minister of Community Welfare who is responsible for making an application that a child is in need of care. Therefore, it is the Minister of Community Welfare who needs ready access to officers of the department and from the Children's Interest Bureau. It is hoped that in the majority of cases Department for Community Welfare workers and the child advocates would agree on what would be in the best interests of a child. However, where this is not the case, the bureau, through the child advocate, would be required to offer independent and objective advice to the Minister. The Minister would then be in a position to examine the relevant advice and make a decision accordingly. The effect of transferring responsiblity for the Children's Interest Bureau to the Attorney-General's portfolio would only serve to complicate the interaction between the Minister and his two groups of advisers.

The role of a child advocate is not limited to advising on in need of care applications in the Children's Court. The Bill provides for the bureau to provide independent and objective advice, on request, in relation to children dealt with under the Community Welfare Act or any other Act dealing with the care and protection of children. Further, the functions of the Children's Interest Bureau, as set out in the Community Welfare Act, include such matters as increasing public awareness of rights of children and developing services for the promotion of the welfare of children. On both philosophical and practical grounds, I consider that these matters fit more appropriately within the jurisdiction of the Minister of Community Welfare.

The Hon. Ms. Laidlaw has commented on the discussion in the Carney report regarding the desirability of mandatory or voluntary reporting. I note the arguments in favour of voluntary reporting. However, the Government accepts the advice of the Task Force on Child Sexual Abuse that mandatory reporting should be continued. The task force took the view that mandatory reporting offers the best protection for children. Submissions received by the task force were supportive of mandatory reporting and of the extension of the mandatory reporting provisions to a wider class of people.

The Hon. Ms Laidlaw and the Hon. Mr Griffin have commented on the need for training of persons required to report cases of child abuse. The Department for Community Welfare is aware of the needs in this area. Training is an ongoing matter. The department's Protection Unit has been given a significant role in the matter of training and community education, including that associated with the mandatory reporting provisions of the Act. I understand that the department is in the process of contacting volunteer groups whose members would come under the amended legislation to ascertain their training needs.

The Hon. Ms Laidlaw and the Hon Mr Griffin have also expressed concern regarding the inclusion of a provision to allow classes of persons declared by regulation to be subject to the mandatory reporting provisions. This is a restatement of a provision already in the Act. The Government has reincluded this provision, as it offers a degree of flexibility to the operation of the section; for example, it would allow a technical change to a work situation (such as similar work being undertaken under another title) to be accommodated without the need to resort to Parliament to amend the legislation.

The Hon. Dr Ritson has expressed concern at the methodology of assessing complaints of child sexual abuse. This area is the subject of ongoing review and refinement following the release of the task force report.

The Hon. Mr Irwin has referred to two aspects of the task force report. He has advised that the report did not do enough to show how the problem of child sexual abuse can be prevented. However, the task force dealt with the matter of prevention and alleviation through education and treatment programs. In addition, the State Child Protection Council has a specific term of reference dealing with the alleviation and prevention of child sexual abuse. Therefore, preventive measures against child sexual abuse are seen as an ongoing process.

The other point raised by the Hon. Mr Irwin relates to treatment of child sex offenders. The development of an appropriate treatment program is considered important and is the subject of examination by a subcommittee of the State council. The committee will be reporting to the Minister in due course. I assure the Hon. Mr Irwin and other members of the Opposition that the Government does not see the task force report and the passage of this legislation as the end of dealing with child sexual abuse. Rather, the Government considers that the current initiatives set up a framework to enable an ongoing commitment in this area.

Bill read a second time.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 February. Page 2691.)

The Hon. C. J. SUMNER (Attorney-General): The Hon. Mr Griffin has expressed concern at the extension of the grounds for taking an application under section 12. The extension would allow an application to be taken where a child has been maltreated by a person living in the same household. As indicated by the Hon. Mr Griffin, the new ground was included on the basis of a recommendation of the Bidmeade review. The reason advanced by Bidmeade for the extension is that the present provision focuses too much on the child's guardian rather than the child's health, development and wellbeing.

The Hon. Mr Griffin has suggested that a child could be taken from his or her guardian even if the guardian was not at fault. I note the Hon. Mr Griffin's concerns in this area, but advise that a range of orders are available to the court under section 14 (1). The court must assess what type of order should be made with the welfare of the child as the paramount consideration. The removal of guardianship from a parent would be reserved for the most serious cases where no other order would be appropriate. In the case of maltreatment of a child by another person in the same household, where the guardian is not at fault, it would be most unlikely for guardianship to be removed. However, regulation of the guardian or offender's conduct may be appropriate.

In this regard, I have received representations recommending an extension to the range of orders to allow the court to make an order against a person other than the guardian. This would require joining the person as a party to the application and would allow the Children's Court to deal with wider implications than the role of a guardian. Such a provision would allow greater protection of the child by the Children's Court. I propose to deal with this matter further in the Committee stages.

The Hon. Mr Griffin has advised that he considers notification should be given in all cases. The Government accepts that as a general rule a guardian should be advised of an investigation and possible outcomes of it. However, the Bill provides for such notice not to be given where it would not be in the best interests of the child to make such information available. The Hon. Mr Griffin has indicated that the only cases where the notification should not be given is where the court has given such a direction. The Government does not accept that such a strong provision is required. The notification to parents should not be a precondition of an application, as this would require evidence of satisfactory notification to be provided before an application could be heard. This is not to say that notification should not be given in all but exceptional cases, for example, where it is suspected that a parent may travel interstate with the child.

The Hon. Mr Griffin has raised a query about the provisions in the Bill regarding notice of application. The Bill provides that a hearing cannot be held until five working days from lodgment. The five working days was seen as a reasonable period to allow service and time for the parent to obtain legal representation. The Hon. Mr Griffin points out that the Bidmeade review referred to three days notice to parents before a hearing can proceed. The difficulty with the Bidmeade recommendation is that with multiple parties involved it would not be possible to set down a hearing date until after all parties had been advised of the lodgment of the application. This is desirable in principle but would cause difficulties in practice such that it could actually result in in need of care matters being delayed unnecessarily.

A procedure would need to be established so that the court would know when service had been effected. It would be similar to the procedure in the local court where a return date for filing a defence is built into the system. The alternative provided for in the Bill provides for a minimum period form lodgment to allow service to be effected, and so on. If a party is prejudiced by insufficient notice the court could have regard to this at the initial hearing. Therefore, it would be in the department's and the child's interest for the application to be served as quickly as possible to allow for adequate preparation by the other parties to the application.

The Hon. Mr Griffin has advised that, in his view, the provision dealing with access should be extended to cover the rights of access by persons other than guardians. The Government is opposed to such an extension. The Government accepts that the present provision in the Act should be extended to allow access to a guardian whose rights are affected by a court order. However, to extend the court's right to order access to any relative of the child could involve the court in detailed legal and factual arguments by a number of persons claiming access. This could increase the workload of the court dramatically.

The Hon. Mr Griffin has also suggested that the powers of the court should be extended. The Bidmeade review recommended the establishment of a tribunal to deal with in need of care matters. As part of this recommendation, the review recommended a range of inquisitorial powers for the court. The Government has decided against the establishment of a tribunal at this time. Therefore, many of the additional powers proposed by Bidmeade are unnecessary. Some groups have argued that the court should be specifically empowered to provide for an order of discovery and inspection. The Government opposes an extension in these terms.

The court, pursuant to section 9 (3) of the Act, can already exercise the powers of a local court. This provision allows the court to make an order for discovery and inspection where appropriate. In fact, the court has made such orders in the past. If a specific provision is included, dealing with discovery and inspection, it would cause uncertainty with respect to the scope of the operation of section 9 (3) and may, by implication, limit the present powers of the court. If discovery and inspection is to be specifically provided for, consideration would need to be given to providing for such other matters as interrogation.

If such provisions were included they would be available to all parties to the proceedings including the Minister. Up until this time, the use of interrogatories by the Minister has not been pursued because of the *quasi* criminal nature of in need of care proceedings. The Government considers that the powers of the Children's Court are adequate under the present provisions; and the Government considers it unwise possibly to limit, by implication, the present powers of the court.

The Hon. Mr Griffin has raised a query from the Law Society regarding the effect of the proposed section 22 on a court awarded order for access. This matter has been discussed with Parliamentary Counsel who is of the view that there is no conflict. The right to exclusive custody can exist independently of an order for access.

The Hon. Mr Griffin has also raised a query regarding the meaning of the word 'protection'. The term has not been defined in the Bill as it is not intended to add to the substantive operation of the Act. There was strong feeling amongst some interest groups that the Children's Court in exercising this jurisdiction does more than seek to provide adequate care for the child. By its jurisdiction and powers it is also charged with dealing with the protection of the child against maltreatment, and so on. Therefore, it was considered that an order for care or protection was a more

appropriate reference to the role of the Children's Court in these matters.

The Hon. Mr Dunn has commented on the difficulties faced where a child subject to an in need of care order transfers interstate. This does not cause a problem where a corresponding order is taken out in the other State. However, problems can arise if no interstate order exists. The problem is really one of conflict between the law of the States and the need for greater cooperation between the States. This matter has been the subject of ongoing discussions between the Department for Community Welfare and its interstate counterparts for some time.

The Hon. Miss Laidlaw has stressed the need for involvement of the guardian at the early stages of investigation of a possible in need of care case. She has also suggested that parents and guardians need to have greater access to Department for Community Welfare files.

Whilst the Government accepts that in most cases guardians should be made aware of an investigation against them and be given an early opportunity to discuss the matter with the departmental officers there are circumstances when this would be inappropriate—that is, where a criminal offence is being investigated by the police.

With regard to access to departmental records, this may not be appropriate in the matter of investigations, where a decision based on the best interests and welfare of the child may outweigh the legitimate interest of a parent or guardian to inspect the file.

The Hon. Miss Laidlaw has also queried the re-inclusion of the Director-General control order contrary to the recommendations of the Bidmeade review. The order was reincluded on the advice of the Crown Solicitor. In Australia the matter of guardianship has historically rested with a Minister rather than a Government department. This is desirable given the implications of a guardianship order. However, the intent of a Director-General order is to deal with matters of a lesser nature than guardianship. Often such an order would deal with administrative matters, such as the school a child should attend. A matter such as this is not seen as appropriate for the jurisdiction of a Minister. The court would be seen as directing the Minister on a minor matter.

Therefore, the Director-General order was retained to provide some flexibility for the court. With regard to the reference to a Director-General order rather than a Chief Executive Officer order, I am advised by Parliamentary Counsel that as the Community Welfare Act and Children's Protection and Young Offenders Act make reference throughout to the Director-General this should be retained in the Bill at this time. However, when the Acts are redrafted or are subject to statute revision the reference could be clarified to reflect the new title under the Government Management and Employment Act.

The Hon. Miss Laidlaw also dealt with the role of the Children's Bureau and its transfer to the Attorney-General's portfolio. This matter has already been dealt with in the context of the Community Welfare Act Amendment Bill.

The Hon. Mr Griffin has commented on the review provision in the amendment. The Hon. Mr Griffin has suggested that reviews should be conducted by the court or under the direction of the court. Such a provision would place an onerous provision on the court both in terms of time and resources. Section 15 of the Act provides that upon the application of any party to a prior application, the court can review the order made and can terminate or vary an order. The Government considers that there exists adequate provision for the court to review its own orders. The review proposed by the Bill would examine the progress and circumstances of the child with a view to ensuring that the child is being cared for in accordance with his or her best interests, that the terms of the court orders are being adhered to and that there is security for the child in the placement.

The Government accepts that there needs to be an independent aspect to this review process but does not accept that a full court review is warranted. Rather, the Government would see that, where practicable, the Children's Interest Bureau would be involved in this review process and to provide an independent aspect.

The Hon. Mr Griffin also raised a concern regarding the potential operation of transit infringement notices with respect to children. He has suggested that such notices should not be available for acts of vandalism or for subsequent offences dealing with fare irregularities. I do not see that the amendment proposed by the Hon. Mr Griffin would be practical.

In the case of fare evasion/irregularities, it would be impossible to know at the time of observing an offence whether the young offender was a first or subsequent offender. The practical difficulties of introducing a tiered system would be significant. Such a system does not exist in relation to adult offenders. The Government favours an approach of allowing transit infringement notices to be issued to young offenders over 15 years of age in the same case as such notices would be issued to adult offenders. The issue of a notice would be subject to a prosecutorial discretion to refer the matter to the Children's Court in the more serious cases.

On further examination of the State Transport Authority Act and regulations, it is apparent that at this stage not all offences are expiable. Accordingly, I consider that an amendment is required to the provision in the Bill to allow for the prescription of offences which will still continue to be dealt with through the screening panel system, that is, offences not expiable under the State Transport Authority Act and regulations. I thank members for their support of the Bill.

Bill read a second time.

TRADE STANDARDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 February. Page 3084.)

The Hon. C.J. SUMNER (Attorney-General): I thank the Hon. Mr Griffin for his contribution in support of this Bill. I make the following comments in response to the queries raised by him. There is nothing new about the concept of awarding compensation upon the conviction of a person for a criminal offence. Section 44 of the principal Act has contained such a provision since 1979. Clause 19 of the Bill repeals section 44 of the principal Act and substitutes a new section 44 which is simpler, clearer and in essence says the same thing.

Clause 15 of the Bill repeals section 26 of the principal Act and substitutes a new section 26 which, in addition to compensation for loss, includes compensation whereby a person to whom dangerous goods or goods that do not comply with an applicable safety standard are supplied is entitled to recover from the supplier compensation for any damage suffered by the person in consequence of the use of the goods. To say that the compensation is automatic is incorrect. It is no more automatic than the right to rescind a contract under the relevant provisions of the Consumer Transactions Act or the Trade Practices Act. In other words,

if a supplier wishes to challenge the right to rescind, he can do so through the courts, and if a person wishes to challenge a claim for compensation, he can do so through the courts.

There is nothing new about declaring goods to be dangerous. The only difference in the Bill is that this power will be transferred from the Governor to the Minister with the intent of speeding up the process of having goods declared dangerous, and therefore minimising the possibility of added danger to the public caused by slow bureacratic practices and procedures. Historically this power has been very carefully used. There has not been an occasion when the power has been used without a recommendation for its use by the Trade Standards Advisory Council, which is constituted of persons who include a representative of industry and commerce. In practice a challenge to the declaration is possible by prior consultation and discussion between the supplier and officers of the department as well as consultation with the Minister.

The Hon. Mr Griffin contemplates an amendment to allow a supplier who is faced with a claim for compensation, for the purposes of that claim only, to challenge the validity of the declaration. If such an amendment were passed and such a challenge were formally possible it should be made at the outset when the goods are declared to be dangerous and not simply at a later date because of a claim for compensation, as the honourable member suggests. In any event the honourable Mr Griffin's contention that the Minister's declaration is a *fait accompli* and that the entitlement to recover damages from the supplier is also a *fait accompli* is not correct. The supplier can always challenge the claim for compensation in a court of law. However, to win, he will have to prove on the balance of probabilities that the goods were not dangerous goods. It should also be remembered that any claim for compensation may come some considerable time after the declaration.

Contributory negligence would obviously be a factor in any claim for compensation. It would also be a factor in the investigation of any claim that goods were dangerous. If an investigation revealed that the danger was caused as a result of consumer misuse or negligence, no recommendation for even an interim ban would be made, let alone a declaration of dangerous goods.

The word 'recall' is not defined in the Bill and nor is it defined in the Trade Practices Act. The recall provisions are imported from the Trade Practices Act. So far as voluntary recall and the requirement to inform the Minister within two days is concerned, two days is ample time for providing such information where danger to the public is concerned, especially with modern means of communication such as facsimile machines. There is a view that recall, at its broadest, may extend to the process of the taking of goods off the shop floor including, for example, the replacement of goods upon expiration of their use by dates. It is clear that if the goods are dangerous and are to be removed from sale, the Minister should be informed. The passing of a use by date does not in most cases make goods dangerous. In any event the removal of goods from the shop floor on the expiry of the use by date is not a recall. It is something that the community would expect as a matter of course from any reputable retailer. It should also be noted that a reference to use by dates in relation to the Trade Standards Act is inappropriate since use by dates apply to foodstuffs and they are controlled by the Food Act administered by the Health Commission.

That a recall should be limited to the recall of goods already acquired by the consumer is simply asking for trouble. Why wait for injury or death as the result of consumers acquiring dangerous goods? There are and will be occasions where a manufacturer identifies a dangerous product which has only reached the distribution level. Clearly where such a product is identified it should be recalled voluntarily and the Minister informed. The purpose of this section is not to provide a method of notification by the authorities to the consumer. We would expect the supplier to inform his public in the first instance as a matter of common sense and duty. Many suppliers currently do so on a voluntary basis.

The notion that what happens to goods before the goods get to the consumer ought not necessarily to be the concern of any Government agency is ill founded. If goods have been identified as dangerous by the manufacturer and have left the manufacturer and gone to the wholesaler (in other words, the chain of distribution has commenced), it is certainly the concern of the Department of Public and Consumer Affairs agency because it is by no means uncommon for wholesalers to sell direct to the public.

The question of commencing proceedings within three months where goods are seized and removed under clause 8, that is, section 15 (8) *(a)*, is one which stems purely from difficulties encountered during the investigation of alleged offences. It is by no means uncommon for unscrupulous business operators (from whom members of the various industry associations wish to be protected from unfair competition) to employ delaying tactics and frustrate the investigation of alleged offences with the sole purpose of avoiding prosecution by recovering the goods that were seized as evidence. It should be pointed out that where provisions of the Trade Practices Act have been imported into the Bill, it is simply a means of extending the law which currently governs corporations to include non corporated businesses. This includes all of the new provisions relating to recall. One must emphasise that in this context we are trying to get uniformity in this area of the law in South Australia in relation to individuals as it exists throughout Australia for corporations *via* the Federal Trade Practices Act.

The Hon. Mr Griffin in concerned about clause 10 (section 18) in that, where goods or services are declared to be dangerous the Minister may recover as a debt from the manufacturer or supplier the reasonable cost of any examination, analysis or test that led to the declaration. The basis of the concern once again is that the declaration is not subject to challenge and also because subsection (5) of section 18 that a certificate apparently signed by the Minister certifying the cost will be accepted, in the absence of proof to the contrary, as proof of the cost. Earlier comments in relation to challenging the declaration still apply. If a supplier wishes to challenge the Minister's right to recover costs, he may do so in a court of law. The Hon. Mr Griffin's concern about clause 13 (section 24) again related to the fact that there is no way of challenge to the declaration made by the Minister. The earlier comments in relation to reviewing or challenging the Minister's declaration hold good for this section also.

The Hon. K.T. Griffin: I thought the Attorney suggested that it was approriate to challenge.

The Hon. C.J. SUMNER: The comments I made earlier apply to these two matters.

Bill read a second time.

LANDLORD AND TENANT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 March. Page 3180.)

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Griffin, while supporting the Bill, makes three points. First, he says that there are a number of issues related to the primary issue, that primary issue being whether or not it should be possible to have provisions in leases requiring shops to be open. One of those issues is that there should be a mechanism agreed on how shopping centre general expenses should be divided between lessees who open on Saturdays and those who do not. I agree that this issue could be dealt with, and have asked the Commissioner for Consumer Affairs to bring the parties together—the Building Owners and Managers Association, small business and others—in the hope that a code of practice can be developed on that and other issues related to leases.

Secondly, the honourable member appears to be suggesting that having a provision such as that in the Bill will make it illegal for delicatessens or pharmacies which are, to use his words 'required to open' after 12.30 p.m. on Saturdays. I do not see that this can be so. The effect of the amendment is narrow and deals with the issue of a lessor requiring of a lessee to open on Saturday afternoons. If a lessee wants to remain open, subject to any other law, he or she can do so. Thirdly, the honourable member says that he would like the Bill to be more precise. I await with interest his proposals for amendment, as I believe it is appropriately drafted and will achieve its narrow objective, namely, to make void provisions in leases which require lessees to remain open after 12.30 p.m. on Saturdays.

The Hon. K.T. Griffin: What does it mean—after 12.30 p.m. on Saturday? Is it 5 p.m. or midnight and does it include Sunday?

The Hon. C.J. SUMNER: Yes.

The Hon. K.T. Griffin: It lacks precision.

The Hon. C.J. SUMNER: We will debate it in the Committee stages. It is only designed to deal with the extended period of trading beyond the normal trading hours, but would include the requirement in a lease to stay open until 9 o'clock at night. That will not be the law. Practically, we are dealing with the trading hours that have been extended on Saturday afternoon.

Bill read a second time.

ELECTORAL ACT AMENDMENT BILL (No. 2)

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

TECHNICAL AND FURTHER EDUCATION ACT AMENDMENT BILL (1988)

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 Clauses

This Bill is intended to correct a structural contradiction between the principal Act and the regulations under the Act. In 1986, advice from the South Australian Council of Technical and Further Education was accepted concerning improvements to the formal constitution of the membership of college councils to provide for a process of establishment which would allow appropriate structures to individual colleges and flexibility to meet changing needs and emphases.

Changes to the existing regulations were proposed to formalise the process of local participation whereby each retiring council will be responsible for recommending a structure appropriate to the interests of the particular college for the next term of office and later nominate the members to fill those vacancies. However, I have been advised that regulations prescribing the membership of college councils are contradictory with the Act which provides that the membership will be determined by the Minister. This Bill is introduced to amend that one section of the Act in order to allow for the constitution of the membership of college councils to be prescribed by regulation.

Clauses 1 and 2 are formal.

Clause 3 makes the necessary amendment to section 28 of the principal Act.

The Hon. R.I. LUCAS secured the adjournment of the debate.

BARLEY MARKETING ACT AMENDMENT BILL (1988)

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 Clauses

The purpose of this Bill is to replace section 19c of the principal Act. Section 19c was inserted to protect the Australian Barley Board from claims by the holders of mortgages, bills of sale, liens or other charges in respect of barley or oats where the board makes payment to the grower contrary to the security. It is impossible for the board to establish from which property grain has been harvested and it must rely on information given to it, usually by the grower. It is therefore possible for the board, through no fault of its own, to make payment to the wrong person. Conversely it is possible that the board could make payment to a lender whose security has been discharged without the board's knowledge.

Although existing section 19c achieves this it goes further than is desirable. The effect of the section is to discharge the security with the result that the board should pay the price of grain to the grower even when it knows of the existence of a security over the grain. The new provision avoids that problem by providing that the holder of the security does not have a claim if the board acts honestly. Subclause (2) provides that the security is not discharged.

Clause 1 is formal.

Clause 2 replaces section 19c of the principal Act.

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

ADJOURNMENT

At 5.39 p.m. the Council adjourned until Thursday 3 March at 2.15 p.m.