

SOUTH AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

Fourth Session of the Forty-Sixth Parliament

(1988)

Parliament, which adjourned on 14 April, was prorogued by proclamation dated 12 May. By proclamation dated 9 June, it was summoned to meet on Thursday 4 August, and the fourth session began on that date.

LEGISLATIVE COUNCIL

Thursday 4 August 1988

The **PRESIDENT** (Hon. Anne Levy) took the Chair at 12 noon.

OPENING OF PARLIAMENT

The Clerk (Mr C.H. Mertin) read the proclamation by His Excellency the Governor (Sir Donald Dunstan) summoning Parliament.

GOVERNOR'S SPEECH

His Excellency the Governor, having been announced by Black Rod, was received by the President at the bar of the Council Chamber and by her conducted to the Chair. The Speaker and members of the House of Assembly having entered the Chamber in obedience to his summons, His Excellency read his opening speech as follows:

Honourable members of the Legislative Council and members of the House of Assembly:

1. I have called you together for the dispatch of business.
2. It is with regret that I record the death on 4 June 1988 of Sir Douglas Nicholls, K.C.V.O., O.B.E., former Governor of South Australia.

Sir Douglas, recognised as a great spiritual leader of the Aboriginal people, was appointed Governor of South Australia in December 1976 and retired due to ill health in April 1977.

The contribution made by Sir Douglas to Australian life, particularly through his leadership in the Aboriginal community and his church and sporting involvement, was reflected in the award of an O.B.E. in 1968, Knight Bachelor in 1972, and Knight Commander of the Royal Victorian Order in 1977.

I know that you will join me in expressing sympathy to members of the family of Sir Douglas in their sad loss.

3. My Government continues with the proper management of the State's economy as its prime commitment, but

in the knowledge that South Australia is now able to consolidate advantages made possible by earlier fiscal responsibility.

4. The Budget to be brought down later in this session will reflect the continuing emphasis on responsible management. Along with the other States and Territories, South Australia again this year must structure its programs around a further reduction in Commonwealth moneys, of some \$100 million.

While this has meant more difficult economic decisions for my Government, calling for responsible constraint across the community, there are now encouraging signs in the key economic indicators relating to this State, and through the restructuring and consolidation of our technological and industrial base.

My Government believes this State is well placed to take advantage of this restructuring and is encouraged by the response from industry and commerce across a broad range of programs.

5. That response acknowledges the emerging new industrial strengths, and the prospects for improvements in employment, population growth and Gross State Product which should flow from these developments.

6. The largest development in South Australia for at least a decade, the \$850 million Roxby Downs project, will progressively come into production, providing more than 1 200 jobs with an important multiplier effect extending through the regional centres of Whyalla and Port Augusta to Adelaide.

7. Further regional development will include the decision by BHP to make a substantial investment in the Iron Duke ore mine near Whyalla, and the construction of a major natural gas pipeline from Port Pirie to Port Bonython and Whyalla.

8. Work continues to progress in the establishment of the Australian Submarine Replacement Program at Port Adelaide. The project is in turn helping generate investment through a whole range of specialist industries which are relocating into South Australia to take advantage of the submarine construction infrastructure, and the continuing broader emphasis on attracting new technology industries to this State.

9. My Government believes South Australia now has a much greater capability to attract defence and aerospace

industries to this State, and is undertaking a major program to promote defence and civil offsets opportunities to local industry.

Underlying these and other initiatives is a manufacturing strategy which will form the cornerstone of an economic development plan to further help identify and encourage industry in this State.

10. My Government recognises the important link between the provision of international shipping services to South Australia and the expansion of trade opportunities. To this end, under the umbrella of the Premier's visit to Japan last April, a Government and industry delegation secured the commencement of a twice-monthly shipping service between Japan and Port Adelaide.

11. My Government is also encouraged by the record level of development within the Adelaide Central Business District where major projects will continue the upgrading of facilities available both to local residents and to the growing tourist industry.

12. In the rural sector, primary production has enjoyed favourable seasonal conditions, with good to excellent rains in most parts of the State.

13. Many farmers are enjoying benefits which have flowed from the continuing recovery in world commodity prices, with a forecast 7 per cent increase in the gross value of rural production in this State during this financial year.

14. My Government plans a number of legislative proposals concerning the rural sector in this session of Parliament, including amendments to the Apiaries Act, the Swine Compensation Act, the Cattle Compensation Act, and the Stock Foods Act.

15. Following a review of the State's fisheries legislation, it is intended to introduce a Bill to amend the Fisheries Act, 1982. This legislation will increase penalties for some offences related to abuse of fishing controls, introduce an expiation system for minor fisheries offences and redefine some fishing activities in order to remove anomalies.

16. In the provision of energy supplies across the State, my Government has embarked on a number of initiatives including the announcement of a third generating unit at Port Augusta's Northern Power Station, to cost some \$450 million and due for commission in 1996.

17. The State has negotiated a long-term pricing arrangement to provide a base price for natural gas which should ensure that any increases in tariffs will be kept below the CPI. This pricing policy is also reflected in the ability to contain electricity charges below the CPI level.

18. In the continuing program to upgrade the standard of water supplied to metropolitan Adelaide, the \$85 million Happy Valley water filtration plant is due for commission in November next year, some two years ahead of schedule.

19. Major steps will continue to be taken to conserve the arid zone of the State with programs to ensure that tourist use of the desert areas is managed within a framework recognising proper conservation values.

My Government believes in encouraging tourism within national parks through the provision of high-standard visitor facilities which reflect a proper balance between the need to protect parks environment, and the responsible use of these areas by the public.

20. The pressing need to improve the range and quality of health services in country hospitals and regional areas continues to be a major goal for my Government.

Major works recently completed to broaden the range of health services in this State include the Wallaroo and Modbury Hospitals redevelopments, while major restructuring at the Adelaide Children's Hospital and a complete rebuilding of the Lyell McEwin Hospital and Health Services con-

tinues. The Noarlunga Hospital complex project is expected to commence this financial year.

21. My Government is committed to strengthening and better coordinating primary health care services throughout the State, with an emphasis on effective community involvement in health and welfare planning and decision making through the establishment of health and social welfare councils.

22. Amendments to the Mental Health Act will be introduced during this session, along with new guardianship legislation, to ensure the further protection of the intellectually disabled. Further amendments to the Equal Opportunity Act, dealing with intellectual impairment, will be introduced.

23. My Government's commitment to maintain a modern public transport system has been demonstrated by the purchase of 40 articulated buses and the order for 20 new railcars to service the metropolitan transport network.

Construction of the Paradise interchange to Tea Tree Plaza section of the North East Busway is expected to be completed by the middle of next year. This will increase the number of busway routes from 10 to 13, with extensions into the Golde Grove area.

24. My Government continues to upgrade safety equipment at level crossings throughout the State, through the installation of automatic half barrier protection at multiple-track crossings and selected single-track crossings with high volumes of road traffic.

25. In the area of law and order, my Government continues to demonstrate its concern by aiding in the development of programs on a State and national level to bring criminals to justice.

To this end, my Government will reintroduce the Telecommunications (Interception) Bill in this session in the belief that telecommunication interception is a cost-effective means of combating serious crime.

26. My Government continues a program to update prison facilities, highlighted by the opening at Murray Bridge of Mobilong Prison for medium security prisoners.

27. Three metropolitan centres and the cities of the Iron Triangle have been equipped to provide the new fine option program, to enable offenders in financial difficulties to undertake unpaid community service work.

This program will be extended throughout the State and should have a significant impact on the number of people serving short-term imprisonment.

28. My Government will continue to support the National Crime Authority and will introduce legislation to ensure that the Act under which the authority operates in this State is extended beyond 30 June 1989.

29. The rapid change in the role computers play in our lives is recognised by my Government, particularly the concern expressed over the need for the law to keep pace with computer development. Legislation will be introduced to make it an offence to obtain access or to enter a computer system without lawful authority.

30. A Victims of Crime liaison committee, chaired by a senior Police Officer, will expand the level of help available to those who suffer criminal attack. Also, special emphasis will continue to be placed on means of combating the problems of child abuse and domestic violence.

31. A Domestic Violence Prevention Unit, responsible to the Minister of Health and Welfare, has been established to implement the findings of the report from the Domestic Violence Council.

32. A financial counselling service has been established within the Department for Community Welfare to further upgrade family assistance and support programs.

33. My Government will introduce new adoption legislation to give birth parents and adult adoptees access to identifying information and birth certificates, subject to proper veto provisions and counselling.

34. In its continuing accent on improving the quality of social justice for all South Australians, my Government plans a major revision of the Community Welfare Act.

35. My Government will strengthen its program of providing affordable public housing, despite Federal funding cuts. Housing resources have been reorganised to provide a program similar to that of last year.

36. Underlying the operations of Government departments, and proposed legislative changes, is the commitment to implement the Government's Social Justice Strategy. All agencies will be required to assess the ways in which they can better address the needs of disadvantaged people to ensure the most equitable distribution of Government resources.

37. In the area of education capital works, the Department of Housing and Construction will continue with the development of the Hallett Cove School Stage III, redevelopment of Brighton High School, and will commence construction of several other schools, and Technical and Further Education projects.

This construction program recognises the need to reassess the Government school system in the light of a changing pattern of enrolment demand. Work to improve curriculum opportunities for students, more effective use of education funds, and programs to further encourage the retention of students in years 11 and 12, will continue to be high priorities for my Government.

38. Specific programs to respond to the findings of the Primary Education Review should further strengthen the quality of primary education in this State through, among other initiatives, a network of school counsellors, improvement in a range of primary school skills including science and technology, and the further development of focus centres for specialist training in mathematics.

39. My Government has approved in principle the report of the inquiry into immediate post-compulsory education. It is anticipated that measures recommended in the report will result in both reform of upper secondary education and much improved pathways between secondary education and TAFE colleges—the main educational destination of post-school students.

The Y.E.S. scheme will continue for a further 12 months during which time a thorough evaluation of the program will be completed.

40. The ongoing development of South Australia's pre-school education system remains a priority. During the past 12 months four new preschools have been completed and three are currently under construction to provide services in outer metropolitan areas from the beginning of 1989. Construction of a further three facilities is planned to begin over the next 12 months.

41. My Government will continue its program to revise the Local Government Act, with introduction of a Bill to make major amendments to legislation covering roads, recreation and other reserves.

42. Legislation concerning controls in the racing industry will be introduced as a result of recommendations of the report of the committee of inquiry into the need for a racing commission in South Australia. These amendments will include establishment of a racing industry appeals tribunal to cover appeals against decisions of stipendiary stewards from all codes and moves aimed at developing better liaison between Government and the statutory racing authorities.

43. In this Olympic Games and Australian Bicentennial Year, it is fitting that we should see the opening of an international-standard hockey/lacrosse complex at Gepps Cross Sports Park, to provide South Australia with the most up-to-date hockey facilities in Australia.

44. All South Australians will, I am sure, send their best wishes with the 27 State athletes and six support staff who have been chosen to represent Australia in the Seoul Olympic Games. They continue a long tradition of sporting excellence developed in many codes in this State.

45. I now declare this session open and trust that your deliberations will be guided by Divine Providence to the advancement of the welfare of the people of this State.

The Governor retired from the Chamber, and the Speaker and members of the House of Assembly withdrew.

The President again took the Chair.

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

NEW MEMBER

The Hon. Julian Ferdinand Stefani, to whom the Oath of Allegiance was administered by the President, took his seat in the Legislative Council in place of the Hon. C.M. Hill (resigned).

DEATH OF SIR DOUGLAS NICHOLLS

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

That the Legislative Council expresses its deep regret at the death of Sir Douglas Nicholls, former Governor of South Australia, offers its deepest sympathy to his family in their sad bereavement and places on record its appreciation of his distinguished service to the State of South Australia and, as a mark of respect, that the sitting of the Council be suspended until the ringing of the bells.

All Australians, regardless of race or ethnic background, have lost a champion for social justice with the death of former South Australian Governor, Pastor Sir Douglas Nicholls. Sir Douglas, who died in June this year at the age of 81, will be remembered for a lifetime of achievements, for reaching new goals, and for speaking out on behalf of the Aboriginal people long before this became either fashionable or even acceptable within Australian society.

Across a broader sweep of cultural and sporting activities, Sir Douglas will be remembered throughout Australia with affection and respect. Looking back through the records, one finds Sir Douglas Nicholls in the forefront of so many areas of achievement. He was the first Aborigine to receive an MBE, the first to become Father of the Year, the first Aboriginal Justice of the Peace and, of course, Australia's first Aboriginal Governor. Sir Douglas was born in New South Wales in 1906. His athletic ability led him first into a dazzling football debut with the Northcote Club in the Victorian Football Association. He later progressed to the Fitzroy Club in the VFL, representing his State several times. But his sporting prowess was not confined to the football oval—he was also a champion sprinter and even turned to boxing with Jimmy Sharman's showground troupe.

The most significant development in the life of Sir Douglas had nothing to do with sporting achievement. His mother, on a visit to Melbourne, took him to a local Church of Christ. At the age of 26, Sir Douglas committed himself to religion and became a Pastor in a small church in Gore Street, Fitzroy, catering mainly for Aborigines. He was to forever change the attitudes of both the church and its congregation through an aggressive, evangelistic style which

quickly attracted local attention and eventually made him a respected spokesman for the Aboriginal community.

Sir Douglas always adopted a very positive, individual approach. In 1963 he resigned from the Victorian Aborigines Welfare Board because of Government plans to close an Aboriginal settlement and relocate families. He did not restrict his criticism to the white population. In 1969 he attacked radicals within the Aboriginal Advancement League, of which he was a Director, for organising a visit to Australia by a black power leader. During these years Sir Douglas was awarded an M.B.E. (in 1957) and became the first Aboriginal justice of the peace (1963).

In 1972, he became the first Aboriginal to receive a knighthood and in 1977 he was made Knight Commander of the Royal Victorian Order (K.C.V.O.). A remarkable fighting spirit, obvious to those who watched him in the sporting arena, was always part of the resilient attitude adopted by Sir Douglas.

In December 1976 he was appointed Governor of South Australia. His approach to the office of Governor, and his dignified, yet affable attitude to the rigours of the affairs of State, made him popular with staff, Government and citizens alike. He distinguished both the office and his people during his time in Government House—a term tragically cut short by ill health which forced Sir Douglas to relinquish office and return to live in Melbourne. His last years were marked by continuing ill health and the death of his wife, Lady Gladys Nicholls, in 1981.

Sir Douglas was a remarkable ambassador for his people, and a great contributor to Australian society through his sporting, religious and vice-regal roles. In many ways, it is to be regretted that South Australians did not have a better opportunity, through an uninterrupted term of office, to fully appreciate the talents of this remarkable Australian.

On behalf of the people of South Australia and, indeed, today particularly, on behalf of the Government and I trust with the support of this Legislative Council, I extend deep sympathy to the family of Sir Douglas, including his five children: Mrs Nora Murray, Mr Bevan Nicholls, Mrs Lillian Tamuru, Mrs Pamela Pederson and Mr Ralph Nicholls. Their father will be remembered as not just a champion in the cause of Aboriginal rights, but as a widely respected and talented Australian.

The Hon. M.B. CAMERON (Leader of the Opposition): I second the motion and in so doing I do not intend to go through the detail of the life of Sir Douglas, as the Attorney has done that amply. We do express our sympathy to his family and I certainly support what the Attorney has said about Sir Douglas, that he was a leader of the Aboriginal people at a time when it was not very acceptable within our community. At that time, that was the task of a very brave person within his community. Even today those people need leaders such as Sir Douglas in order to restore, in many cases, a reasonable lifestyle to them. I am certain that all people in South Australia appreciated the service he gave to this State in the short time that he was the Governor and I am sure we all join in expressing sympathy to his family.

The PRESIDENT: I ask honourable members to stand in their places and carry the motion in silence.
Motion carried.

[Sitting suspended from 12.51 to 2.30 p.m.]

NEW MEMBER

The PRESIDENT: I lay on the table the minutes of the assembly of both Houses held this day to fill the vacancy in the Legislative Council caused by the resignation of the Hon. Mr Hill.

The Hon. C.J. SUMNER: I move:
That the report be printed.
Motion carried.

PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Happy Valley Water Filtration Plant—revised proposal,
Murraylands College of Technical and Further Education—new multipurpose facility,
Yatala Labour Prison—new F Division revised proposal.

The PRESIDENT laid on the table the following progress report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

The Settlers Farm School, Paralowie South West—Stage 1.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—
Industrial Relations Advisory Council Report, 1987.
Supreme Court of S.A.—Report of Judges of Supreme Court to the Attorney-General, 1987.
Remuneration Tribunal—Reports—Determinations Nos 2, 3, 4 and 5 of 1988.
Rules of Court—Local Court—Local and District Criminal Courts Act 1926—
Defences and Workers' Liens.
Pleadings and Practitioners' Fees.
Supreme Court—Supreme Court Act 1935—
Execution of Judgments.
Interstate Practitioners and Board of Examiners.
Pleadings, Endorsements and Taxation of Costs.
Regulations under the following Acts—
Boilers and Pressure Vessels Act 1968—Fees.
Criminal Law Consolidation Act 1935—The Vales Private Hospital.
Dangerous Substances Act 1979—Fees.
Electoral Act 1985—Declaration of Vote Certificate.
Explosives Act 1936—Fees.
Lifts and Cranes Act 1960—Fees.
Occupational Health, Safety and Welfare Act 1986—
Control and Removal of Asbestos.
Pay-roll Tax Act 1971—Accommodation and Travelling Allowances.
Public Finance and Audit Act 1987—Appropriation Fund and Auditor's Declaration.
Summary Offences Act 1953—
Dangerous Articles.
Photographic Retention Evidence.
Record Keeping Exemptions.
Superannuation Act 1988—General.

By the Minister of Consumer Affairs (Hon. C.J. Sumner):

Pursuant to Statute—
Regulations under the following Acts—
Births, Deaths and Marriages Registration Act 1966—
Fees.
Builders Licensing Act 1986—Fees.
Commercial Tribunal Act 1982—Fees.
Consumer Credit Act 1972—Fees.
Consumer Transactions Act 1972—
Fees.
Gas Cylinder Rental.

Fair Trading Act 1987—Commercial Tenancies.
 Fees Regulation Act 1927—Places of Public Entertainment Fees.
 Goods Securities Act 1986—Fees.
 Land Agents, Brokers and Valuers Act 1973—
 Building Societies Trust Account Fees.
 Liquor Licensing Act 1985—
 Fees.
 Liquor Consumption—Berri.
 Places of Public Entertainment Act 1913—Fees.
 Second-hand Motor Vehicles Act 1983—Fees.
 Trade Measurements Act 1971—Fees.
 Trade Standards Act 1979—Protective Helmets for Cyclists.
 Travel Agents Act 1986—Fees.

By the Minister of Corporate Affairs (Hon. C.J. Sumner):

Pursuant to Statute—
 Regulations under the following Acts—
 Associations Incorporation Act 1985—Fees.
 Business Names Act 1963—Fees.
 Co-operatives Act 1983—Fees.
 Friendly Societies Act 1919—Insurance and Loan Limits.

By the Attorney-General, on behalf of the Minister of Health:

Pursuant to Statute—
 Australian Agricultural Council—Resolutions of 129th Meeting, 5 February 1988.
 S.A. Meat Hygiene Authority—Report, 1985-86.
 Racing Act 1976—Rules—
 Betting Control Board—Licence and Registration Fees.
 Trotting—
 Claiming Races.
 General and Club Fees.
 Planning Act 1982—Crown Development Reports—
 Proposed Redevelopment of Murraylands TAFE College.
 Community Health Centre, Whyalla.
 Carparking Facilities, Smart Road, Modbury.
 Retaining Wall, River Sturt at Coromandel Valley.
 Woolpunda Groundwater Interception Scheme.
 Toilet Block, Martindale Hall.
 Regulations under the following Acts—
 Bills of Sales Act 1886—Registration and Discharge Fees.
 Commercial Motor Vehicles (Hours of Driving) Act 1973—
 Authorised Log Books.
 Sleeper-cab Design.
 Controlled Substances Act 1984—
 Declared Poisons—Organochlorine Insecticides.
 Expiation of Simple Cannabis Offences Form.
 Pesticide—Pest Control Code of Practice.
 Possession of Poisons—Licensed Pest Control Operators.
 Crown Lands Act 1929—Fees.
 Dentists Act 1984—Registration, Qualifications, Fees and Annual Returns.
 Drugs Act 1908—Deletion of Sale of Poisons.
 Fisheries Act 1982—
 Exotic Fish, Fish Farming and Fish Diseases—
 Undesirable Species.
 Gulf Waters Experimental Crab Fishery—Blue Crabs.
 Lakes and Coorong Fishery—Licence and Net Registration Fees.
 Marine Scale Fishery—Licence and Net Registration Fees.
 Northern Zone Rock Lobster Fishery—Mussels and Razor Fish.
 Restricted Marine Scale Fishery—Licence and Net Registration Fees.
 River Fishery—Reach Fishing.
 Southern Zone Rock Lobster Fishery—Mackerel, Mussels and Razor Fish.
 Squid Jig, Berley and Netting.
 Food Act 1985—Standards and Codes.
 Health Act 1935—Deletion of Pest Control Powers.
 Meat Hygiene Act 1980—Pet Food.
 Motor Vehicles Act 1959—
 Registration and Licence Fees.
 Towtruck Fees.

National Parks and Wildlife Act 1972—Permit System.
 Pastoral Act 1936—Fees.
 Planning Act 1982—
 Display Advertisement.
 Thebarton Joint Development Committee.
 Real Property Act 1886—
 Fees.
 Form of Instruments and Certificates of Title.
 Land Division Fees.
 Strata Plan Application.
 Strata Titles Revocation.
 Registration of Deeds Act 1935—Registration, Deposit and Enrolment Fees.
 Road Traffic Act 1961—
 Blood Analysis Certificates.
 Certificate of Inspection.
 Inspection Fees.
 Orroroo and District Hospital.
 Photographic Detection Devices.
 Roads (Opening and Closing) Act 1932—Survey Plan Fee.
 Sewerage Act 1929—Examination and Registration Fees.
 Soccer Football Pools Act 1981—Prescribed Fee.
 South Australian Health Commission Act 1976—
 Central Linen Service.
 Strata Titles Act 1988—
 Fees.
 Strata Plans.
 Surveyors Act 1975—Fees Revocation.
 Waterworks Act 1932—Examination and Registration Fees.

By the Minister of Tourism (Hon. Barbara Wiese):

Reports—
 Roseworthy Agricultural College—1987.
 Senior Secondary Assessment Board of S.A.—1987.
 State Opera of South Australia—1987.
 Teacher Housing Authority—1986-87.
 Forestry Act 1950—Proclamations—
 Mount Burr Forest Reserve—Hundred of Riddoch, County of Grey.
 Penola Forest Reserve—Hundred of Young—County of Grey.
 Regulations under the following Act—
 Gas Act 1988—Gas Quality, Testing of Meters and Registration.
 Mines and Works Inspection Act 1920—Fees.
 Mining Act 1971—Fees.
 Technical and Further Education Act 1976—Expiation Fee.
 Tertiary Education Act 1986—South Australian Institute of Language.

By the Minister of Local Government (Hon. Barbara Wiese):

Regulations under the following Acts—
 Building Act 1971—Fees.
 Dog Control Act 1979—Registration Areas.
 Local Government Finance Authority Act 1983—
 The Institute of Municipal Management Inc.
 Waste Management Act 1987—Licence and Extract Fees and Prescribed Wastes.
 Corporation By-laws—
 Brighton—No. 1—Bathing and Controlling the Foreshore.
 Campbelltown—No. 42—Repeal of Certain By-laws.
 Port Adelaide—
 No. 5—Parklands.
 No. 6—Foreshore.
 No. 12—Repeal of By-laws.
 Woodville—No. 62—Dogs.
 Berri—
 No. 1—Repeal of By-laws.
 No. 3—Cemeteries.
 No. 5—Motor Vehicles.
 No. 7—Reserves and Public Places.
 No. 9—Street Traders and Street Musicians.
 Mannum—
 No. 1—Permits and Penalties.
 No. 2—Streets.
 No. 4—Fire Prevention.
 No. 6—Parklands.

Warooka—

- No. 1—Permits and Penalties.
- No. 2—Street Traders.
- No. 3—Obstructions to Vision Near Intersections.
- No. 4—Garbage Containers.
- No. 5—Bees.
- No. 6—Animals and Birds.
- No. 7—Dogs.
- No. 8—Caravans.
- No. 9—Tents.
- No. 10—Parklands.
- No. 11—Repeal and Renumbering of By-laws.

QUESTIONS

HON. J.R. CORNWALL

Hon. M.B. CAMERON: When Cabinet agreed today to indemnify the former Minister of Health for all legal costs, damages and other proceedings in respect of his defamation case, what estimate did Cabinet have before it of the cost to taxpayers so far; does the decision extend to any appeal and, if so, what is the additional estimated cost to taxpayers; and has any limit been placed upon this further indemnity, given that the matter could go as far as the High Court, in which case total costs could amount to several hundred thousand dollars?

The Hon. C.J. SUMNER: I think that the last move mentioned by the honourable member is not likely to eventuate. As the honourable member knows, the judgment was for \$75 000 and \$5 000 interest, together with costs, which presumably will be taxed by the court in order that the defendant pay the plaintiff's costs. In addition, there are the costs of Dr Cornwall. The Cabinet decision was to indemnify Dr Cornwall in respect of the costs and damages in this matter and that applies to any appeal proceedings that may be taken, or at least the initial appeal which I understand Dr Cornwall intends to institute to the Full Supreme Court and of which he has already given notice. At this stage I do not have a precise estimate of the costs, but for \$80 000 damages, the figure is likely to be about \$40 000 for both lots of costs. As I say, it is not possible to quantify it.

An honourable member interjecting:

The Hon. C.J. SUMNER: No, \$20 000 for each side.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: If you want to tax the costs, you tax the costs.

The Hon. L.H. DAVIS: Even your back bench knows how expensive it is.

The Hon. C.J. SUMNER: You tax the costs. All I am saying is that obviously we are aware of the judgment. There is an order for costs. The decision was to meet the costs ordered against Dr Cornwall and to pay Dr Cornwall's costs. The costs for both the plaintiff and Dr Cornwall have to be certified by the Crown Solicitor as being appropriate; and that is the normal procedure for these sorts of situations. The initial estimate of that amount is about \$40 000; it may be more, or it may be less. In addition, there is the potential cost of the appeal proceedings.

The Hon. M.B. CAMERON: Will the Attorney-General indicate whether he will recommend to Cabinet, in the event that Dr Cornwall proceeds to the High Court, that it consider indemnifying him against further costs, or will he rule that out at this stage so that the taxpayers may at least know that they will not be up for several hundred thousand dollars?

The Hon. C.J. SUMNER: Obviously, what you are talking about at this stage is the cost of an appeal. The costs

of an appeal are not anything like the costs of an original trial. As I understand it, the trial went for over two weeks.

The Hon. K.T. Griffin: Fifteen days.

The Hon. C.J. SUMNER: Mr Griffin says 15 days. An appeal would not occupy anything like that time. One would expect, for the moment, that the indemnity relates to any appeal that Dr Cornwall decides to take. Of course, the first appeal is from the single judge.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: If you will just keep quiet you will get an answer. At this stage the appeal relates to the decision of the single judge, and that will go to the Full Supreme Court. That is the only appeal that is in contemplation at this stage, and that is the extent of the indemnity. It may be that if the case goes to the High Court the indemnity would apply to that as well. However, that is a hypothetical situation at the present time. Clearly the only appeal in contemplation is an appeal from the single judge to the Full Supreme Court. I would have expected that honourable members would concede that Dr Cornwall, having had the findings that he has had made against him by a single judge of the District Court, is entitled to exercise his rights of appeal, if he sees fit to do so, to the Full Supreme Court.

CABINET VACANCY

The Hon. L.H. DAVIS: Madam President, I seek leave to make a brief explanation before directing a question to the Attorney-General on the subject of the Cabinet vacancy.

Leave granted.

The Hon. L.H. DAVIS: I refer specifically to the Cabinet vacancy created following the resignation of the Hon. Dr John Cornwall. For the past 35 years the State Government of the day has had a minimum of three Ministers in the Legislative Council. Since 1953 there have been three Ministers in the Legislative Council. In that year the Playford Government increased from two to three the size of the Ministry in the Legislative Council. That was in a Cabinet of only eight.

However, this morning the Premier, in announcing the Hon. Dr John Cornwall's resignation from the Ministry, said:

The vacancy created by the Minister's resignation from Cabinet would be filled from the Lower House.

In other words, Madam President, for the first time since 1953 there will be only two Government Ministers in the Legislative Council. Of course, in the past 35 years the number of Cabinet Ministers has increased from eight to 13. Indeed, there was a brief period during 1985 when the Labor Government fielded four Ministers in the Legislative Council. Many would see the reduction to only two Ministers in the Legislative Council as a downgrading in the status of the Council. However, the Premier, in his statement this morning, also said:

When the next vacancy in the Cabinet occurs with the retirement of the Transport Minister, Mr Keneally—

I interpose here to say that that will obviously be in the next few months—

Dr Cornwall will be entitled to make himself available for election to the new Ministry along with other candidates from the Upper House.

So, we have a situation where an Upper House vacancy is being filled in the Lower House and, when Mr Keneally, a member of the Lower House, retires in a few months time, that vacancy, according to the Premier's statement, could well be filled by a member from the Upper House.

So, given that the Government has taken the unprecedented step of reducing the number of Government Ministers in the Legislative Council to only two in a Cabinet of 13, and in view of the Premier's statement today, do these facts taken together confirm the view of many people that a deal has been done with the Hon. Dr Cornwall who, after cooling his heels for a few months, will be re-elected to the Ministry following the retirement of the Hon. Gavin Keneally?

The Hon. C.J. SUMNER: The answer to the question is clearly 'No'. No deal has been done with respect to Dr Cornwall.

The Hon. L.H. Davis: Why have we only got two Ministers?

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Well, it is obvious that the Premier feels that the talent on the front bench is pretty good because he has left a vacancy and he has left me and the Hon. Ms Wiese to do the work of the front bench in the Legislative Council. Certainly no deal has been done which would see Dr Cornwall automatically return to the front bench in the Legislative Council. However, it has been decided that the vacancy caused by the resignation of Dr Cornwall will be taken by a member in the House of Assembly and that when Mr Keneally resigns—as is anticipated within the next six months or so—the vacancy created by his resignation will be filled in the Legislative Council. That decision has been taken. Of course, when a ballot occurs to fill Mr Keneally's vacancy, any member of the Legislative Council will be able to contest the vacancy, including Dr Cornwall of course.

The Hon. R.I. Lucas: And the President?

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Of course, including the President, Dr Cornwall, the Hon. Mr Feleppa, the Hon. Trevor Crothers, the Hon. George Weatherill, the Hon. Carolyn Pickles, the Hon. Gordon Bruce and the Hon. Terry Roberts. They will all be able to contest the vacancy in the Legislative Council, but certainly no undertakings have been given by the Premier and by Caucus that the position that will become vacant within six months will be filled by Dr Cornwall. He will be able to throw his hat into the ring at that stage, if that is his wish, and at that stage his candidature will be dealt with on its merits and one would presume that by that time the appeal proceedings, which I understand Dr Cornwall intends to take, would probably have been disposed of.

Certainly there is no question of downgrading the Legislative Council. I did not notice the Hon. Mr Davis asking a question some 12 months or so ago when there were in fact four Ministers in the Upper House. I did not hear him asking a question, 'Why has the Government upgraded the status of the Legislative Council?'

The Hon. R.J. Ritson: He was satisfied.

The Hon. C.J. SUMNER: Well, he was satisfied, that is right. We went from three to four for a period—not permanently—at that stage and we have now gone from three to two temporarily in the Legislative Council. Of course, if the question whether we have Ministers in the Upper House is indicative of the status of the Upper House, then the people who want to downgrade the Legislative Council the most are in fact certain members opposite, including particularly the Hon. Mr Lucas who does not want Ministers in the Upper House. He is firmly on the record, in several speeches in the Parliament since he came into the Council,

going on about how there should be no Ministers in the Upper House.

Despite Mr Lucas's comments, we have the Hon. Mr Davis saying today that the only criterion for deciding on the status of the Upper House is whether it has two or three Ministers. That is quite clearly absurd. He ought to have asked the Hon. Mr Lucas first what his views were with regard to the number of Ministers in the Upper House. He wants none. Of course he is a hypocrite because he has now taken a position as a shadow Minister. If the Liberal Party won Government, would the Hon. Mr Lucas turn down the offer of being a Minister in a Liberal Government, despite the fact that he is in the Upper House?

The Hon. T.G. Roberts: We'll never know.

The Hon. C.J. SUMNER: You are dead right! We will never know.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Will the Hon. Mr Lucas stand by the principles of his maiden speech about this House of Review and how it is not a place in which there should be Ministers, that it should deal with issues devoid of Party and independent of Government. That was his point of view. Now we have the Hon. Mr Davis talking about the number of Ministers in this Council. The fact is that the Hon. Mr Lucas has taken the job as a shadow Minister and presumably would take the job of a Minister in this Council, despite the fact that his committed principle as espoused several times in this place is that there should not be any Ministers in it.

HON. J.R. CORNWALL

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

1. Did the Crown Solicitor today or at any earlier time recommend that the Crown should indemnify Dr Cornwall against his costs and any damages award? If so, when?

2. Did the Attorney-General today or at any earlier time recommend that the Crown should indemnify Dr Cornwall against his costs and any damages award? If so, when?

The Hon. C.J. SUMNER: It was not a decision of the Crown Solicitor; it was my decision. I made a recommendation to Cabinet. I would like, now the honourable member has asked the question, to indicate the history of this matter because it is quite clear that the indemnity that has been given to Dr Cornwall is consistent with previous undertakings given, at least in some cases. I refer particularly to the case of Mayes (now the Minister of Agriculture) and Dean Brown (formerly a member of Parliament and a Minister in the Tonkin Government). The reality is that in March 1982 the then Liberal Government agreed to pay the costs of both parties in the case of *Mayes v Brown*. I would say that that undertaking of the Tonkin Government was in fact honoured by the Bannon Government when it came into office, and furthermore I would say with respect to the history—

The Hon. K.T. Griffin: He was acting in the course of his ministerial duties.

The Hon. C.J. SUMNER: And so was Dr Cornwall.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: What do you think he was doing? He was at a press conference called by his staff. He was involved in the middle of a dispute relating to Medicare. To say he was not acting as a Minister of the Crown is ludicrous.

Members interjecting:

The PRESIDENT: Order! I have called for order.

The Hon. C.J. SUMNER: In any event, on 29 November 1983, Mr Dean Brown as he then was, the member for Davenport, still in the Parliament at that stage before the debacle of 1985, wrote and requested the Government to continue to indemnify him as to legal costs. He said:

The precedent for this request has been established both within this State and federally. For example, the previous Government agreed to indemnify the Hon. J. Wright against legal costs for an action against him as the former Minister of Labour and Industry. The same applied to the Hon. E. G. Whitlam.

Following discussions which occurred, some of them in Parliament, and including, I might add, the Hon. Mr Griffin, the matter was settled. An apology was tendered by Mr Brown to Mr Mayes, and the Bannon Labor Government undertook to meet the costs in accordance with the decision taken by the Tonkin Government.

At that stage a contribution of \$1 000 towards Mr Mayes' costs was decided upon. A sum of \$3 153.31 for costs incurred by Mr Dean Brown was paid by the Government at the request of Mr Brown with the full support of Mr Griffin—the full support of Mr Griffin.

I would now like to refer to what I consider to be a very serious aspect of this matter and which in my view reflects very poorly on the shadow Attorney-General, Mr Griffin. I believe that he has behaved in dereliction of his duty and in dereliction of a specific undertaking that he gave at that time and which he has not stuck to. The reality is, as he knows, that in the discussions that occurred partly in this Council he undertook that we would discuss a bipartisan approach to this issue. The reason for that was that in the past there had been some examples where indemnities had been given by a Government and then a new Government came in and repudiated the indemnities and sent the various defamation cases back to the individuals. That could have occurred with respect to Mr Brown but, no, the Bannon Government had enough integrity to say that it would honour the commitment given by the Tonkin Government to Mr Brown—and we did. As part of the discussions relating to that settlement to overcome the problem of incoming Governments repudiating and changing previous deals—and I had a discussion with Mr Griffin at that time—we agreed that we would attempt to negotiate a bipartisan policy in this respect. The Cabinet decided that the Attorney-General be authorised to hold discussions with the shadow Attorney-General with a view to formulating a bipartisan policy as to the indemnity of Ministers and former Ministers in respect of actions brought against them subject to any such policy being thereafter referred to Cabinet for approval. Cabinet agreed to that policy at the same time as it agreed to pay the costs of Brown and Mayes, which I have indicated in accordance with the decision of the previous Government. On 22 March 1984, over four years ago, I wrote to the Hon. Mr Griffin, and said:

For some time respective Governments have endeavoured to establish a policy as to the circumstances in which the Crown Solicitor should act for Ministers and former Ministers of the Crown who are personally involved in litigation. Until the present time this policy has varied for one reason or another from Government to Government.

Earlier this year following discussions with Mr Dean Brown MP, who in turn discussed the matter with you, Cabinet agreed that I should hold discussions with you with a view to formulating a bipartisan policy as to the indemnity of Ministers and former Ministers in respect of actions brought against them and taken by them, subject to any such policy being thereafter referred to Cabinet for approval. These discussions were proposed during negotiations which led to settlement of the *Mayes v Brown* defamation case.

To facilitate the discussions I am prepared to make available relevant documents from the Attorney-General's docket subject

to them not being used publicly. Could you please let me know if this is acceptable to you so that negotiations can commence?

That is my letter of 22 March 1984 to the Hon. Mr Griffin. He then noted on the letter 'This basis is acceptable' and signed it on 22 March 1984. What happened? Nothing! Two years elapsed.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Two years elapsed with nothing from Mr Griffin.

The Hon. K.T. Griffin: So what? You didn't send anything to me.

The Hon. C.J. SUMNER: That is not true; the material was sent to you.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: That is the letter. He said that the basis was acceptable and the documents were sent down to Mr Griffin.

The PRESIDENT: Order!

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: I sent the documents to him with the letter to discuss the matter. You would expect a reply.

The Hon. K.T. Griffin: I wrote a letter.

The Hon. C.J. SUMNER: And then I sent you the material to consider.

The Hon. K.T. Griffin: You gave it to me in the Council.

The Hon. C.J. SUMNER: That is right, and then there was nothing for two years. You know that I raised it with you several times informally in this Chamber, but I will not get into that. Mr Griffin has basically breached an undertaking, and he ought to be brought to account for it. Let us listen and let independent observers be the judge because there is more to it. I wrote to Mr Griffin on 9 September 1986.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The letter states:

I refer to earlier correspondence with respect to the formulation of a bipartisan policy as to indemnity of Ministers and former Ministers in respect of defamation proceedings.

I remain anxious to negotiate with you such a bipartisan policy for submission to Cabinet for its approval. I earlier provided you with certain relevant documents from the Attorney-General's docket.

I had given him the docket which was to form the basis of the discussions. The letter continues:

Enclosed herewith is a copy of the minute to me from the Crown Solicitor dated 22 December 1985 which recommends certain policy decisions with respect to the legal representation of Ministers and public employees respectively in defamation proceedings. As with the other material provided to you this document is made available to you on the basis that it is not used publicly.

If it would be of any assistance to you in formulating views on the appropriate policy to be adopted in respect of the indemnification of Ministers and former Ministers in defamation proceedings I would be happy to direct the Crown Solicitor or one of her staff to discuss the matter with you.

So, he does nothing from March 1984 to September 1986. I reminded him again and sent more correspondence. On 15 September Mr Griffin replied as follows:

Dear Mr Sumner,

Thank you for your letter of 8 September 1986 with respect to indemnity of Ministers and former Ministers in respect of defamation proceedings.

This is almost two years ago. The letter continues:

I have not had time to consider the earlier papers—

whose fault is that—

which you handed to me some months ago—

Some months ago? It was over two years before, and this is a man who pretends to have the capability and capacity to be a Minister of the Crown. He states:

I have not had time to consider the earlier papers—

This is despite the fact that as part of that settlement, as Mr Griffin knows and Mr Brown and Mr Mayes knew, he gave an undertaking that he would negotiate with me about a bipartisan policy and I attempted to put that into effect. He states:

I have not had time to consider the earlier papers which you handed to me some months ago, but if you could request the Crown Solicitor to discuss the matter with me I would be pleased to give further consideration to the matter.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I just want to put on the record what you did for four years—nothing.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They are answered in this correspondence. You can answer them, but I refer you to the correspondence. You have done nothing for four years. Mr Griffin stated:

I suggest that the discussion with the Crown Solicitor occur in a non-sitting week.

Here is the *coup de grace* from the Hon. Mr Griffin, the shadow Attorney-General:

The earlier correspondence which you provided to me is somewhere in my office. To save time I would appreciate it if you could let me have a further copy of the relevant material.

Lost it! That is the attention he gave to the matter. Another 12 months have elapsed and, despite the fact that he says there ought to be some discussions, nothing happens.

Finally, the Crown Solicitor who has been asking for answers because it is a problem for the Crown Law Office if it does not know the guidelines, makes contact with Mr Griffin in September 1987, and further discussions are held. She sends down another redraft for Mr Griffin's consideration on 7 December 1987. What happens then? Again, nothing! Nothing happens until 28 January when the Crown Solicitor writes to Mr Griffin as follows:

I refer to my letter of 7 December 1987 re the draft guidelines for defamation proceedings. I would be pleased to learn whether or not you find this draft satisfactory.

The honourable member's reply of 8 March 1988 was that he apologised for not having responded to the Crown Solicitor, four years after negotiations were started, because:

... the document arrived at the latter part of the parliamentary session in December. I was then away for some weeks, and since my return I have been heavily committed during the parliamentary sittings.

This letter is dated 8 March 1988. That is four or five months ago. The letter continues:

I hope to be able to give you a final review of the document if not by Easter, some time after.

Easter was 1 April. Five months later, there is still no contact from the Hon. Mr Griffin. I only mention that because it is unacceptable behaviour, particularly in the light of the discussion that we had when the Brown and Mayes case was settled, during which there was specific agreement between us to negotiate or attempt to negotiate a bipartisan policy. To say the least, I am disappointed in the honourable member. He made no attempt to negotiate anything. He lost the first lot of papers that we sent down. He said in April that he would reply soon, and he still has not entered into the negotiations. It is disappointing. I also think that it is in breach of an undertaking that was given at the time the Mayes and Brown matter was settled.

As to the payment of costs and damages for Dr Cornwall, I believe that it is consistent with the guidelines that were being prepared, in any event. It must be accepted that the Minister was acting in his ministerial capacity, and there are very substantial reasons in principle to accord protection to the Minister in respect of those actions.

The Hon. Diana Laidlaw: Are you really saying that that is acceptable behaviour?

The Hon. C.J. SUMNER: That is not the point. Are you saying that what Mr Brown did was acceptable behaviour? Was it?

Members interjecting:

The Hon. C.J. SUMNER: He apologised to Kym Mayes.

An honourable member interjecting:

The Hon. C.J. SUMNER: I am not getting into that because that is the subject of further litigation by way of appeal. The reality is that he was clearly acting within his capacity as a Minister of the Crown. Any other employee of the Crown is indemnified. The Crown is liable for the tortious acts of its employees, whether it be defamation, negligent misstatement, or negligence on the road.

The Hon. K.T. Griffin: He is not an employee.

The Hon. C.J. SUMNER: I know that he is not technically an employee of the Crown, just as members of Parliament are not technically employees. Nevertheless, the situation is analogous, and I believe that, on the basis of the guidelines that are in the course of preparation, the payment is justified.

The Hon. K.T. GRIFFIN: Under Standing Order 452, I call upon the Attorney-General to table the papers from which he has quoted during the course of that explanation.

The PRESIDENT: Is that a motion?

The Hon. K.T. GRIFFIN: I will move it, if I have to.

The Hon. C.J. SUMNER: I am happy to table the material to which I referred, except the Cabinet submission, although there is nothing in that particularly, either, except the principle. The documents to which I referred were, first, the letter from Mr Brown; secondly, the letter by me to Mr Griffin; thirdly—

The Hon. K.T. Griffin: I called for the papers from which you quoted.

The Hon. C.J. SUMNER: —the letter from me to Mr Griffin on 9 September, which I quoted; the letter from Mr Griffin to me; I did not quote from the memo from the Crown Solicitor; the Crown Solicitor's correspondence from which I quoted and which is attached to the letter; and the letter from the Hon. Mr Griffin to the Crown Solicitor. They are the documents from which I quoted.

The Hon. K.T. GRIFFIN: I seek leave to make a statement, not a personal explanation. If it is not granted, I will move that Standing Orders be so far suspended to enable me to make it.

The PRESIDENT: Is leave granted?

Leave granted.

The Hon. K.T. GRIFFIN: The Attorney-General has quite obviously sought to deflect any scrutiny of his action in recommending that the Crown make a payment for Dr Cornwall's costs and damages by reflecting upon the issue which he referred to me in relation to the possibility of an agreed set of guidelines to deal with the question of Ministers being indemnified by the Crown. It is not relevant in any way to the question that I asked, nor is it relevant to the whole issue as to whether this is an appropriate case for taxpayers' money to be spent in bolstering up the costs and damages awarded against Dr Cornwall.

In relation to the request that the Attorney-General made to me, I would quite fiercely reject his assertion that I am in breach of an undertaking. One has to remember that the first letter to which he referred was dated March 1984. I certainly heard nothing from the Attorney-General subsequent to that for at least two years.

The Hon. C.J. Sumner: I gave you the papers.

The Hon. K.T. GRIFFIN: Of course the Minister gave me the papers, but he was to make the Crown Solicitor

available to discuss it. That did not happen. In September 1987—

The Hon. C.J. Sumner: You lost the papers.

The Hon. K.T. GRIFFIN: They were mislaid. The Minister and the Government give the Opposition a one-fifth share in a secretary, no other resources, and we are expected to give priority to the things that the Government wants to deal with, when, in fact, there are other priorities for the Opposition. I make no apology for the fact that, in many of these issues, there is delay because there are other issues of greater importance to the Opposition with which we must deal with the limited resources available to us. We have to make assessments of priorities. We do not have hundreds of lawyers and public servants waiting to do our summons at our beck and call. We do not have the sort of resources that the Government has to undertake research on difficult and important legal questions.

The Hon. T. Crothers: You did have it until you dropped the ball.

The Hon. K.T. GRIFFIN: We haven't got it at present. What the Attorney-General has said must be put into perspective.

The Hon. C.J. Sumner: Four years!

The Hon. K.T. GRIFFIN: Four years, so what! It is irrelevant. The Premier raised this in his press statement yesterday, that if this had been agreed it would have solved all the problems. That is absolute nonsense.

The Hon. C.J. Sumner: It would have helped.

The Hon. K.T. GRIFFIN: It wouldn't have helped in any way, and you know it. The fact is that the guidelines that I discussed with the Crown Solicitor in September last year resulted in some amendments being forwarded to me in the middle of December at the end of the parliamentary session. I was away in January, and then we were thrown into yet another busy parliamentary session, again with no resources. It is all very well for the Attorney-General to say that we should be giving greater priority to this sort of issue. As the Attorney-General has quoted from all of the various background documents to this, let me read the final draft that the Crown Solicitor forwarded to me in December.

The Hon. C.J. Sumner: It's confidential.

The Hon. K.T. GRIFFIN: It is not confidential.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: That is not.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner: I did not quote from the draft guidelines.

The Hon. K.T. GRIFFIN: Let me quote the Attorney-General's letter to me dated March 1984 and, in particular, the last paragraph which reads:

To facilitate the discussions, I am prepared to make available relevant documents from the Attorney-General's docket, subject to them not being used publicly. Could you please let me know if this is acceptable to you so that negotiations can commence?

I have endorsed that as follows:

This basis is acceptable.

What I am about to read from is not part of any Cabinet document or any of the documents that were made available to me on the basis that they should not be used publicly. The recommendations that the Crown Solicitor worked on and revised as a result of discussions with me are as follows:

(i) The Crown Solicitor will not act for a Minister of the Crown (or former Minister) to institute or conduct defamation proceedings in which the Minister is plaintiff.

(ii) Generally speaking the Government will not provide an indemnity to a Minister of the Crown in respect of the legal costs of defamation proceedings in which the Minister is plaintiff. However, such an indemnity may be granted with Cabinet approval, where the proceedings involve a Crown interest which

goes beyond the reputation of the individual Minister concerned. Such an indemnity will be granted on condition that the Minister, if successful, will repay from any award of costs or judgment costs incurred on his or her behalf by the Government.

(iii) Where a Minister becomes involved, or appears likely to become involved, as a defendant in defamation proceedings arising out of the performance of his or her ministerial duties, the facts of the matter should be referred immediately to the Attorney-General. The Attorney-General will determine whether the Government should provide assistance to the Minister with respect to the defence of the proceedings. Such assistance will not be provided where the publication complained of did not reasonably arise from the performance of ministerial duties.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner: Is that the bit you put in? He won't answer. Is that the bit you put in?

The Hon. K.T. GRIFFIN: I haven't got that detail, but they came back from the Crown Solicitor.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I call the Council to order.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! I call the Council to order, Mr Attorney.

The Hon. R.I. Lucas: Throw him out.

The PRESIDENT: Order! When I call the Council to order, that includes you, Mr Lucas, as much as every other member. There is far too much noise and carry-on regarding this matter. The Hon. Mr Griffin has the floor. I ask all members to listen to him and then to any subsequent remarks. I remind the Council that there is seven minutes left of Question Time.

Members interjecting:

The PRESIDENT: Order! Of the customary time.

The Hon. K.T. GRIFFIN: The recommendations continue—

The Hon. C.J. Sumner: Come on!

The Hon. K.T. GRIFFIN: You cannot take it when it is dished out, can you?

The Hon. C.J. Sumner: You took four years to negotiate.

The Hon. K.T. GRIFFIN: You give me a chance to reply.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The document continues:

(iv) Where it is decided that assistance will be provided to the Minister, the Attorney-General will determine whether the Crown Solicitor should conduct the Minister's defence or whether the Minister should be indemnified against the reasonable costs of engaging private lawyers. Circumstances in which the Crown Solicitor will be instructed to conduct a Minister's defence in defamation proceedings will be rare.

(v) Where it is decided that assistance will be provided to the Minister the Government will normally agree if requested to do so—

(a) to arrange for private lawyers to be instructed;

(b) to meet any order for damages and costs made against the Minister or agreed to in a reasonably negotiated settlement.

(vi) Any agreement to indemnify a Minister against the cost of engaging private lawyers and against damages and costs payable to the plaintiff will be subject to the following conditions—

(a) that the indemnity will extend only to costs reasonably incurred;

(b) that the indemnity may be terminated if, in the opinion of the Crown Solicitor, significant unreasonable costs have been or will be incurred;

The Hon. C.J. Sumner: When were these sent in?

The Hon. K.T. GRIFFIN: In December.

The Hon. C.J. Sumner: What's the date now?

The Hon. K.T. GRIFFIN: I am not worried about that.

The Hon. C.J. Sumner: Eight months later he hasn't even replied!

The Hon. K.T. GRIFFIN: The Premier has argued that these would have made a material difference. The document continues:

- (c) that the attention of the private lawyers is drawn to the provisions of the Treasurer's Instructions Nos 330.05-330.07;
 - (d) that the cost of retaining Queen's Counsel will only be met where the Crown Solicitor has certified in advance that the case is one in which the retaining of a Queen's Counsel is appropriate;
 - (e) that the Crown Solicitor is kept informed as to the progress of and the circumstances surrounding the proceedings, including any settlement negotiations; and
 - (f) if any award of costs is made in the Minister's favour all reasonable steps will be taken to recover those costs subject to the reasonable legal costs thereby incurred being met by the Government.
- (vii) Any Government expenditure incurred in respect of defamation proceedings in which a Minister is involved will come from funds appropriated to a department administered by the Minister concerned.

Whether or not the Government has agreed officially to those guidelines, the fact is that the Premier cannot say that they would in any way have helped in overcoming the present controversy surrounding the decision made by the Attorney-General to recommend the payment of Dr Cornwall's costs and damages award and the subsequent approval by Cabinet of that course of action, because that assistance would not, by any reasonable and objective assessment, be regarded to have arisen from the exercise and performance of ministerial duties in some way which was reasonable.

The Attorney-General is arguing that, if Dr Cornwall or any Minister of the Crown goes to a press conference on a particular subject and decides gratuitously to abuse and defame an individual citizen in a context unrelated to the particular issue for which the press conference was called, that Minister is then entitled to an indemnity. The Attorney-General also argues that the Government adopts and embraces the defamation which Dr Cornwall has uttered and that it has reached the conclusion that it was in the course of his ministerial duties. If that is the case, then it represents a new low in ministerial behaviour and responsibility to ordinary citizens of South Australia.

The Hon. C.J. Sumner: He's resigned. What are you talking about?

The Hon. K.T. GRIFFIN: Resigned! You know that you have set him up to come back here. The fact is this: there are quite significant differences between the case of Mr Dean Brown, to which the Attorney-General referred, and the case of Dr Cornwall because, in Mr Brown's case, he was acting as Minister of Industrial Affairs in the context of an industrial dispute where Mr Mayes was then Acting General Secretary of the Public Service Association and was promoting—

The Hon. C.J. Sumner: He was defamed by Mr Brown.

The Hon. K.T. GRIFFIN: He wasn't defamed.

The Hon. C.J. Sumner: He sent an apology.

The Hon. K.T. GRIFFIN: The statement was—

The Hon. C.J. Sumner: An apology.

The Hon. K.T. GRIFFIN: There was no admission that it was ever made. The statement complained about was as follows:

A militant clique within the leadership of the Public Service Association had been spoiling for next Friday's strike for a long time... the leaders of... this push had been engineering the strike for weeks and they had spent thousands of dollars on advertising to orchestrate yesterday's meeting... the key spokesman of the Public Service Association was the Labor candidate for the seat of Unley in the next election and he appeared to be trying to embarrass the Government. His motives had to be seriously questioned.

That is not defamatory and, if it was and the statement was made, which was denied, of course there was the defence of qualified privilege or fair comment.

In the case of Dr Cornwall, the judge clearly found that he was not entitled to rely on qualified privilege and that there was no public duty upon Dr Cornwall to make those abusive and defamatory statements about Dr Humble. Therefore you cannot argue that Dr Cornwall was acting in the course of his ministerial duties by embarking upon gratuitous defamatory abuse. That is the difference between that case and the Brown case.

Members interjecting:

The Hon. K.T. GRIFFIN: Dr Cornwall did not even know Dr Humble. Dr Humble was not even in the political forefront of any action in relation to Medicare. He was unknown to Dr Cornwall—

The PRESIDENT: Order! I would remind the honourable member that, although an appeal has not been lodged, we have been informed that it will be. I would agree that technically the matter is not *sub judice*, but we are given to understand that it will be, and I would ask the honourable member to bear that in mind in his comments regarding this particular case, given that there is further legal procedure to be gone through on this matter.

The Hon. K.T. GRIFFIN: I will certainly keep that in mind, Madam President. However, what I have indicated is in fact contained in the judgment and, of course, the Attorney-General himself raised what he regarded as the similarities between the Brown case and the Cornwall case. I was really endeavouring to clearly indicate that there are major differences between the two cases and that it could not be argued, even on the basis of the judgment, that Dr Cornwall was in fact acting in the course of his ministerial duties when he embarked upon the defamatory statements referred to in that judgment.

Madam President, I hope that then puts the whole issue into perspective in response to the Attorney-General. He can make some smart comments about delay and about the fact that I did not give this, and the Opposition did not regard this as, a high priority. We do not resile from that. I have admitted that. But, I do say that he cannot rely upon that to deflect criticism from himself and the Government about the way in which they have handled this issue.

The draft guidelines to which I have referred do not in any way help the Premier, the Attorney-General or the Government. I think it needs to be kept in mind that whatever fault there might have been on my part has in no way contributed to the public controversy relating to the Government's decision to indemnify Dr Cornwall and in no way created the sort of problems to which the Attorney-General has referred.

In relation to the guidelines, I agree that we should, at some stage, try to reach an agreement as to the way in which they will be promulgated. However, that will not eliminate the potential for disagreement in relation to interpretation of those guidelines. That will always be there. However, I think we must ensure that it is as clear as possible what the guidelines are so that we do not, in fact, have the sort of decision made by this Government to spend taxpayers' money indemnifying Dr Cornwall.

ABUSE OF MINISTERIAL POSITION

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking the Attorney-General a question on the subject of abuse of ministerial position.

Leave granted.

The Hon. M.J. ELLIOTT: Madam President, with the current furore before us, I have had a number of people approach me. Their concern has been not in relation to granting of indemnity as such but in relation to when it is granted. They have expressed some concern about the particular Minister involved and several actions in which he has been involved, both inside and outside the Parliament. They have suggested that he has abused—

The Hon. C.J. SUMNER: On a point of order. If that sort of accusation is to be made about a Minister or a member, then it is a reflection on a member and is one that ought to be dealt with in the appropriate way, and that is not to make the specific accusations, particularly as the honourable member is not here and—

The Hon. R.I. Lucas: Well, he ought to be here. Where is he?

The Hon. C.J. SUMNER: Well, he is cleaning out his ministerial office, if you really want to know, and I would have thought that that was quite a reasonable proposition.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: As he has resigned, I would have thought it was quite reasonable for the honourable member to be doing what one would expect him to do, which is to clean out his office. The point I am raising is a proper point—

The PRESIDENT: It is a very proper point and I am very happy to give my ruling which is that, under Standing Orders, no reflections can be made on a member of Parliament or the judiciary, etc., except as part of a substantive motion. So, if the honourable member wishes to make allegations, he needs to give notice that he will move a particular substantive motion in private members' time relating to accusations.

The Hon. M.J. ELLIOTT: I will try to obey your instruction, Ms President.

The PRESIDENT: You will.

The Hon. M.J. ELLIOTT: Well, I will try. The Minister of Health in this place accused members of the AHO of being urban guerillas. He has accused people at the Christies Beach Women's Shelter of many things including being bully girls, sexual harassment, misappropriation of funds, and physical intimidation. That was under parliamentary privilege. Outside this place, in the press conference which has led to the debate that has occurred in this place today and outside this place, he referred to a doctor as a robber baron and scurrilous fool, among other things. The questions that are being raised and the questions that I wish to put to the Attorney-General are: just what level of language is acceptable inside this Chamber, particularly about private citizens; is the Government willing to indemnify a Minister for any defamation; where does personal liability or personal responsibility take over from ministerial responsibility; and, finally, is such indemnity now available to all members in the Parliament?

The Hon. C.J. SUMNER: If something is said in the Parliament, then privilege attracts to it. So, there is no question of giving any indemnity to any member of Parliament for whatever he or she says in the Parliament. As to what is acceptable language in the Parliament, that is governed by the Standing Orders and the practice directions that have been given from time to time by successive Presidents in this place and Speakers in another place and Speakers in Parliaments that have adopted the Westminster tradition. If the honourable member wants to edify himself a little on this topic, I am sure there is a large number of examples in Erskine May's *Parliamentary Practice*. I am sure that the honourable member could procure a copy of

that and he will see the principles that are applicable. Essentially, it is a matter for the President to give rulings on what is acceptable language within the Parliament, and those rulings have been given from time to time where objection has been taken, particularly by members. I am not sure whether that answers all of the honourable member's questions.

The Hon. M.J. Elliott: Where will you draw the line?

The Hon. C.J. SUMNER: Where you draw the line is whether or not the Minister is acting as part of his ministerial duties in his ministerial capacity. Clearly, in this case it was a press conference called by his staff in the context of the disputes that arose about the introduction of Medicare, and he was clearly giving the press conference as Minister of Health. He was not giving it as John Cornwall but as Minister of Health. If you want to have the distinction in broad terms, if a Minister went to the football as a private citizen and was on the outer and defamed the umpire or a player or questioned the morals of a player or of someone—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER:—who was in front of him at the football, clearly he would be doing that in his private capacity.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis: Open season!

The PRESIDENT: Order!

The Hon. C.J. SUMNER: You cannot have open season in the sense that, if what you say is defamatory, the people who think they are defamed can take action against you.

An honourable member: And the Government pays.

The Hon. C.J. SUMNER: The Government pays if the action occurs, if the words are uttered, during the course of the Minister's duties as Minister of Health.

The Hon. L.H. Davis: He can say anything he likes?

The Hon. C.J. SUMNER: Of course he cannot.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Talking about standards, I think you need to realise, because you seem to have forgotten, that the Hon. Dr Cornwall has accepted the highest standards of ministerial propriety in this matter by doing what a lot of people have not done in the past in Australian Parliaments, and that is to resign. He has tendered his resignation and it has been accepted.

Members interjecting:

The Hon. C.J. SUMNER: That is, to say the least—if members opposite stop their cat-calling and baying—an enormously heavy penalty—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER:—for a Minister to have to pay for actions he took some four years ago at a press conference which he called as part of his ministerial duties. The court has found that what he said—

Members interjecting:

The Hon. C.J. SUMNER: No, obviously it does not give you a licence to say whatever you like. So, from the point of view of whether he ought to be indemnified by the Government, the question is whether or not he was acting in his ministerial capacity, and clearly he was. If you are not going to indemnify Ministers, then you have real problems, because Ministers will be constrained in arguing their

case when they may need to do it out and about in the public as part of their duties.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: If a public servant defamed someone while acting within his employment, he would be indemnified by the Government—that is the fact of the matter. If agriculture advisers give advice which is negligent and it causes loss, then the Crown is responsible. Of course, there will be difficulty in drawing the line exactly where a person's ministerial duties finish and his private life takes on. Clearly, in this case you cannot say he was not acting as a Minister. He was. He was at a press conference called by him. He was discussing issues relating to the administration of hospitals and the introduction of Medicare. If, however, as I said, he was acting personally at the football or at a social function or whatever where it had no connection with his ministerial duties, then no indemnity would apply.

The Hon. M.J. ELLIOTT: As a supplementary question, will the Attorney-General not distinguish between a Minister calling a press conference and saying that a doctor is wrong for the following reasons and the doctor being called a scurrilous fool and a robber baron? Is there no difference?

The Hon. G.L. Bruce: This is not a court to try him. He has been tried.

The Hon. C.J. SUMNER: That is a fair point.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: What has to be distinguished is when an indemnity ought to be given and when it is not appropriate to give an indemnity. It is not a question of whether the Minister defames someone. As the court case stands at the moment, he clearly did. Now, it seems to me what members opposite are saying is that if Ministers have press conferences and make defamatory remarks, acting in the course of their duties as Ministers, then they ought not to be indemnified. That happens to be a position that the Government does not accept.

ACTING JUDGE BOWEN PAIN

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about Acting Judge Bowen Pain.

Leave granted.

The Hon. R.I. LUCAS: Earlier this morning a television news cameraman was telephoned at home on his silent number by the Press Secretary to the former Minister of Health. The Press Secretary indicated that she had reason to believe the cameraman had gone out with a girl whose surname was Bowen Pain. The Press Secretary then asked if the cameraman was aware whether the girl he had gone out with was in fact the daughter of Acting Judge Bowen Pain. The Press Secretary then inquired whether he was aware of Acting Judge Bowen Pain's political affiliations and specifically 'if he was a Liberal'. The cameraman was upset and embarrassed by the call, which indicated to him that it was part of an attempt to undermine the independence of the Acting Judge. My questions to the Attorney-General are:

1. Will the Attorney-General investigate whether an officer (in particular the Press Secretary of the former Minister of Health) made inquiries to determine whether or not

Acting Judge Bowen Pain, who deliberated on the Humble/Cornwall case, was a Liberal?

2. If that was done, does that not indicate gross contempt of court?

3. Does the Attorney-General condone such action by an employee of the Government?

4. Will the Attorney-General guarantee that the Government does not question the independence or impartiality of His Honour Acting Judge Bowen Pain of the District Court?

The PRESIDENT: Before calling on the Attorney-General, I point out that the second question asked by the Hon. Mr Lucas is a request for a legal opinion. That is not permitted under Standing Orders and is out of order.

The Hon. C.J. SUMNER: I am happy to make inquiries whether any such inquiry was made. Obviously the Government does not reflect in any way on the independence of Acting Judge Bowen Pain; in fact I recommended his appointment as a Master of the Supreme Court, and of course he has been also an acting judge. I suppose that, theoretically, if a judge were a member of a political Party and was dealing with a case involving a prominent member of another political Party, there would be the potential for conflict. Certainly, Mr Elliott Johnston, when he was appointed to the Supreme Court bench, resigned his position as a member of the Communist Party. I am not sure whether all judges have resigned their positions as members of political Parties when they have taken office. I assume they have. If Mr Bowen Pain was a member of the Liberal Party—and I do not know whether he was, although, to be fair, that rumour was certainly circulating amongst the press yesterday, and indeed at a press conference yesterday—

The Hon. R.I. Lucas: It was started by Cornwall's secretary.

The Hon. C.J. SUMNER: I do not know who started it, but certainly yesterday, in an interview that was given by Dr Cornwall, an impromptu interview (as I understand what they call a door-stop interview), he was asked specifically whether he had any comment on whether the judge was biased and he said, 'No, of course not,' he did not say that, or whether the decision was politically motivated and he of course did not indicate anything, did not make an affirmative statement to that, either. However, the impression I gained was that those questions were asked because in the rumour mill in this particular town and particularly amongst the press and politicians, the question had been raised amongst the media and that, as I understand it, was probably the genesis of those questions.

As far as I am concerned, I have no knowledge whether Mr Bowen Pain was ever a member of the Liberal Party. If he was, and continues to be at the present time, then obviously that would create a difficulty in terms of this case and I think anyone would accept that that is so. But I assume that if he had been a member of any political Party, he would have resigned as indeed did Mr Elliott Johnston, as I assume did Mr Robin Millhouse, as I assume did Mr Len King, etc. It may be that in the past, when perhaps there was not as much attention given to these matters, judges did keep their membership of political Parties. I suspect in the past there were probably more judges with Liberal sympathies than with Labor sympathies. Mr Burdett nods in assent. It may well be that they kept their tickets; I do not know. It is obviously not a proper course of action and it is not one which conforms to modern principles about conflict of interest.

Obviously speaking in theoretical terms, if a person was a member of a political Party or indeed had been recently a member of a political Party and was then called on to adjudicate in a case involving a member of the opposite

political Party in what might be called a highly charged political case, I think there would be a case for that judge to say, 'Well, I ought not to hear this particular matter.' That is in general; of course I am not indicating anything with respect to Acting Judge Bowen Pain except to say that that rumour to which the honourable member has referred in relation to a specific inquiry, was certainly around yesterday and I imagine it probably led to those questions that I saw in the *News* that were asked of Dr Cornwall. So there was no approach, from what the honourable member has said, made by anyone to the judge. He says that a press secretary made inquiries of a cameraman. Well, Dr Cornwall has resigned and I assume that the Press Secretary has gone with him.

An honourable member: He's a public servant, isn't he?

The Hon. R.I. Lucas: She.

The Hon. C.J. SUMNER: She is probably a ministerial officer. When Ministers go so do their personal staff, so as things stand at the moment I assume she has gone with the Minister. Whether she will be re-engaged by the new appointee or not, I do not know.

The Hon. R.I. Lucas: Do you condone inquiries being made by Government employees about political applications?

The Hon. C.J. SUMNER: It depends on what you are saying. What has happened is that the rumour has been around. She has made inquiry, apparently, from what the honourable member says, of someone who may have had some information. As I have said, I will certainly ascertain what happened. I do not believe that that in any way reflects on the independence of the judge in this case of course, because I have no evidence apart from the rumour to suggest whether he has been a member of the Liberal Party or whether he is at the present time.

The Hon. R.J. Ritson: It would be a surprise to all of us.

The Hon. C.J. SUMNER: It would be a surprise to me, too. It would be a surprise to me if he was now. Whether he was in the past or not I do not know.

The Hon. R.I. Lucas: He could have been a member of the Labor Party.

The Hon. C.J. SUMNER: I do not think he was a member of the Labor Party. I did not see him in the Labor Party. I saw him in court, I used to have a lot of cases in court against him. I was acting for the workers and he was generally acting for insurance companies, although not exclusively. I knew him, but I did not know him as a member of the Labor Party. Whether he was a member of the Liberal Party I have no idea. I do not know whether he was or not. He may have been, but if he was it is irrelevant unless, of course, he still is. I cannot comment on his particular situation; all I am saying is I will carry out an investigation as the honourable member has requested. Certainly, the Government does not in any way query the independence of Acting Judge Bowen Pain.

As I said, his appointment was recommended by me and that recommendation was accepted by Cabinet. Clearly, there are theoretical situations where, if a judge has been a member of a political Party in the past, he ought to disqualify himself from hearing a case involving a member of the opposite political Party in what I might call a charged political environment. That is a matter of principle that I think every lawyer in this Council would agree with and, I suspect, every reasonable person would accede to, but I am certainly not applying that to the case of the learned acting judge.

HON. J.R. CORNWALL

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

Leave granted.

The Hon. DIANA LAIDLAW: Over the past 24 hours the former Minister of Health, Dr Cornwall, has been at great pains to explain his inability to pay for damages of \$80 000 plus legal costs which arose from the defamation case launched by Dr Peter Humble. The former Minister made it quite clear that he believed that the Government—and therefore the taxpayers of this State—should pick up the tab for his undisciplined behaviour. I understand that today the Government has agreed to pick up those costs and damages.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: I have tediously listened to you for some time, Mr Attorney. The Government has also agreed to pay the appeal costs. Yet, I am also informed that the former Minister on several occasions over the past five years has considered himself to be the aggrieved party in defamation suits and has sued individuals and organisations for alleged defamation, including one radio station. I am also informed that there have been instances where Dr Cornwall has instructed that a writ not be issued, but has subsequently settled the dispute out of court.

The Hon. M.B. Cameron interjecting:

The Hon. DIANA LAIDLAW: Yes, he made considerable money out of such instances. I therefore ask the Attorney:

1. On how many occasions did the former Minister of Health, Dr Cornwall, issue writs or indicate that he would issue writs to individuals or organisations?

2. On all such occasions what was the extent of the former Minister of Health's financial gain either by the issuing of such writs or the threatened issue of writs which were subsequently settled out of court?

3. In respect of the financial benefits that the former Minister of Health derived from such actions, what steps will the Attorney-General and the Government take to ensure that that money is paid into the Treasury as a way of offsetting the quite considerable sums that are now being spent to indemnify the former Minister?

The Hon. C.J. SUMNER: Frankly, I do not know the answers to the questions. As I understand, the Government has not been involved in cases—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: I do not think that Dr Cornwall has had the Crown Solicitor acting in any matters.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I do not think that the Crown has indemnified him in relation to costs in any of those matters. I will check, but I do not know of any indemnity that has been given to Dr Cornwall at any stage. He may have taken private legal proceedings in relation to defamation actions, but I am not privy to them. With the rumour mill one hears of actions that members take. Some are a bit coy about them and others broadcast them to the world. I will check and confirm this for the honourable member, but I do not believe that there has been any indemnity for Dr Cornwall in any action that he has taken for defamation against other parties.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: No, he has taken all the cases, as I understand.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: I do not know what cases he has taken, and I do not know what money he has collected. This matter does not fall within my ministerial capacity. I suppose you could ask him if he was a Minister, but some of you seem to have forgotten that the poor fellow has resigned. I will confirm what I have told the Council, if it is any different to what I have stated, that the Crown Solicitor has not acted in any of those cases, and Dr Cornwall has not been indemnified for his costs in relation to any proceedings that he has taken for defamation.

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of further cases against Dr Cornwall.

Leave granted.

The Hon. R.J. RITSON: In view of the recent judgment and the surprisingly large costs to the taxpayer, the matter of further costs arises because the Australian Society of Orthopaedic Surgeons has publicly commented that it is seeking legal advice and considers itself and its members to have been defamed repeatedly by the former Minister, particularly by his reference to them as robber barons. In addition, the staff at the Christies Beach Women's Shelter, which was closed last year, are aggrieved by public comments made by the Minister, and are apparently considering legal action.

In view of these moves and the potential further damage to the public purse given the indemnity policy of the Government, will the Government take steps to minimise its own costs in this matter by apologising on behalf of the Government and negotiating with those two groups for a reasonable settlement before we find ourselves in another situation like this?

The PRESIDENT: It sounds a very hypothetical question and if it is not hypothetical it is *sub judice*. It is *sub judice* if those groups have taken action, but if they have not it sounds like a rather hypothetical question.

The Hon. C.J. SUMNER: The situation is that no consideration has been given to that matter, and if it arises it will be dealt with on its merits. I know nothing of the facts to which the honourable member refers, so it is not a matter that I can address in any way at this stage.

The Hon. J.C. BURDETT: My question is directed to the Attorney-General as follows: Following the Premier's press statement this morning that 'at all times Ministers must exercise discretion and responsibility' are taxpayers to assume that the Premier believes Dr Cornwall acted in this way in calling Dr Humble 'a scurrilous fool', 'a robber baron', and 'a wild man', in view of the fact that this Government is going to force them to foot the bill for the former Minister's behaviour?

The Hon. C.J. SUMNER: One factor seems to have been overlooked in the debate this afternoon, and that is that the Hon. Dr Cornwall has paid the highest price of any Minister for actions taken during his ministerial duties—he has resigned. In the best traditions of the Westminster system in this case, Dr Cornwall has resigned. I would think that that answers the Hon. Mr Burdett's question. What Dr Cornwall has done by tendering his resignation is to act—and indeed the Government itself has acted—with due propriety in the matter. A Minister has resigned over this issue. He has accepted the responsibility—subject to what might happen in an appeal—and resigned. Surely that is the important fact that members should take into account.

Surely that is an incredibly severe penalty for any Minister of the Crown to have to be subjected to. He has subjected himself to it for reasons of which everyone is

fully aware. That being the case, I think that answers the honourable member's question.

MOUNT GAMBIER TAFE COLLEGE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question in relation to the provision of tertiary education in regional centres.

Leave granted.

The Hon. M.J. ELLIOTT: Since Adam was a boy, certainly for some time, the question of the provision of tertiary education in country areas has been a major issue. In fact, I recall as a lad in Mount Gambier discussion that there could be a university or a college of advanced education. That option seemed rather exciting, that we would not have to leave home and travel 300 miles to get an education. I need to report to this place that there is still no tertiary institution, other than the TAFE college which offers good courses, although they are very restricted in their range. Recently, Mount Gambier TAFE college has been running a pilot scheme in cooperation with the Warrnambool Institute of Advanced Education whereby that institute has funded the equivalent of 15 full-time places in one of its degree courses. It is now being negotiated that there be a further 30 places in two other courses. Concern has been expressed to me by people at the TAFE college that, in the longer term, the scheme will not be maintained because the money is coming out of the Victorian tertiary education barrel. The South Australian Tertiary Admissions Centre (SATAC) needs to recognise the Warrnambool institute as a provider of education in South Australia, otherwise the courses that are now being offered by the Mount Gambier TAFE college will disappear. My questions are:

1. Will the Minister intervene in this particular case to encourage SATAC to allow these courses to be offered in Mount Gambier, because it is one of the rare opportunities that has come about for such courses to be available in regional centres?

2. Will the Minister encourage the tertiary institutions of South Australia to look at extending their courses to the various TAFE colleges in rural South Australia?

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

SELECT COMMITTEE ON AVAILABILITY OF HOUSING FOR LOW-INCOME GROUPS IN SOUTH AUSTRALIA AND RELATED MATTERS

The Hon. CAROLYN PICKLES: I move:

That the select committee have power to sit during the present session and that the time for bringing up the report be extended until Wednesday 12 October 1988.

Motion carried.

SELECT COMMITTEE ON ABORIGINAL HEALTH ORGANISATION

The Hon. CAROLYN PICKLES: I move:

That the select committee have power to sit during the present session and that the time for bringing up the report be extended until Wednesday 12 October 1988.

Motion carried.

**SELECT COMMITTEE ON ENERGY NEEDS IN
SOUTH AUSTRALIA**

The Hon. I. GILFILLAN: I move:

That the select committee have power to sit during the present session and that the time for bringing up the report be extended until Wednesday 12 October 1988.

Motion carried.

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

The Hon. CAROLYN PICKLES: I move:

That the select committee have power to sit during the present session and that the time for bringing up the report be extended until Wednesday 12 October 1988.

Motion carried.

**SELECT COMMITTEE ON CHRISTIES BEACH
WOMEN'S SHELTER**

The Hon. CAROLYN PICKLES: I move:

That the select committee have power to sit during the present session and that the time for bringing up the report be extended until Wednesday 12 October 1988.

Motion carried.

SESSIONAL COMMITTEES

Sessional committees were appointed as follows:

Standing Orders: The President and the Hons G.L. Bruce, M.B. Cameron, K.T. Griffin, and C.J. Sumner.

Printing: The Hons Peter Dunn, M.S. Feleppa, Carolyn Pickles, R.J. Ritson, and T.G. Roberts.

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

That for this session a library committee not be appointed.

Motion carried.

JOINT PARLIAMENTARY SERVICE COMMITTEE

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

That the Hon. J.C. Irwin be appointed as a representative of the Legislative Council to the Joint Parliamentary Service Committee in place of the Hon. C.M. Hill (resigned).

Motion carried.

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

That a message be sent to the House of Assembly informing it of the aforementioned resolution.

Motion carried.

ADDRESS IN REPLY

The **PRESIDENT** having laid on the table a copy of the Governor's speech, the Hon. C.J. Sumner (Attorney-General) moved:

That a committee consisting of the Hons M.B. Cameron, T. Crothers, M.S. Feleppa, J.F. Stefani, and C.J. Sumner be appointed to prepare a draft Address in Reply to the speech delivered this day by His Excellency the Governor and to report on the next day of sitting.

Motion carried.

ADJOURNMENT

At 4.15 p.m. the Council adjourned until Tuesday 9 August at 2.15 p.m.