LEGISLATIVE COUNCIL

Thursday 11 August 1988

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

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

WOOLPUNDA GROUNDWATER INTERCEPTION SCHEME

The PRESIDENT laid on the table the following interim report by the Parliamentary Standing Committee on Public Works:

Woolpunda Groundwater Interception Scheme.

QUESTIONS

MENTAL HEALTH SERVICES

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Attorney-General, representing the still non-existent Minister of Health, a question about mental health services.

Leave granted.

The Hon. M.B. CAMERON: Last November I raised two issues relating to matters of major concern about planned changes to mental health services in South Australia. The first related to the Bannon Government's plans to close down Carramar Clinic on Greenhill Road, Parkside, and the second concerned covert plans to amalgamate the Hillcrest and Glenside Hospitals at Hillcrest, and to sell off the Glenside property.

The proposal to close Carramar was particularly disturbing to people in that area, as I understand it, in that staff and clients had learnt of the impending disposal of the property but had been offered no advice on whether its services would be scrapped or continued at another site. It is worth mentioning that just nine months prior to my raising the matter of Carramar's closure the former Minister of Health had been extolling the virtues of that institution. Dr Cornwall told staff at a luncheon:

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

Yet less than nine months after making that speech the former Minister had plans under way to shut Carramar and sell the property. I am informed today that the situation at Carramar is that clients and staff are still no wiser as to the Health Commission's plans for the buildings or continuity of service provided at the clinic. I was told, 'All we know is that patients keep pouring in, we have grossly inadequate staffing, and morale is very poor.' Carramar lost its Director and Senior Psychiatrist, Dr Max Bawden, when he retired last March and he has not been replaced. In his place was sent a half-time junior psychiatrist from Glenside, but he leaves at the end of this month. That will leave one junior psychiatrist and a senior sessional psychiatrist—who works there 16 hours a week—to cater for more than 500 clients. Carramar's services are in such demand that there has been an 18 per cent rise in workload during the past 12 months.

The planned merger of the Hillcrest and Glenside Hospitals and the possible closure of Glenside was particularly disturbing because, again, the very people who should have been consulted—the medical and nursing staff at Glenside—knew nothing about the moves until they read of them in the media. Subsequently, a committee was set up in November 1987 to prepare a report on South Australian mental health services. The committee's report, 'A Strategic Plan for Development of Mental Health Services in South Australia', was presented to the former Minister of Health in June. I seek leave to table a copy of that report in the interests of freedom of information.

Leave granted.

The Hon. M.B. CAMERON: The committee came out with a series of recommendations. Among the strongest was that the merger of Hillcrest and Glenside should not go ahead. It also said Carramer should not be relocated until 'extensive consultation occurred with the highest possible regard to patient requirements'. The report also noted that, rather than there being need to close Carramar, there was in fact a 'paucity of services to the south of Adelaide' which warranted the development of further clinics. My questions are:

1. What decision or action has been taken on the committee's recommendation that the present, separately incorporated administrative structures in the Hillcrest and Glenside hospitals be retained; in other words, have the moves to amalgamate these two hospitals been cancelled forever?

2. What decision or action has been taken on the committee's recommendation that, if Carramar Clinic is relocated to another site, such relocation should only take place after extensive consultation regarding patient needs, and is the Government prepared to guarantee that that will occur?

3. What response has there been to the recommendation that due to a paucity of services similar to Carramar south of Adelaide additional clinics should be considered by the SPA?

4. What decision or action has been taken on the committee's recommendation that the present Child and Adolescent Mental Health Services should not be subject to further reorganisation?

5. What decision or action has been taken on the committee's recommendation that a Strategic Planning Authority (SPA) be set up—independent of the Health Commission—to advise on long-term mental health planning?

6. What decision or action has been taken on the committee's recommendation that bodies be formed to develop local and regional programs with the SPA?

7. What decision has been taken on the committee's recommendation that the Mental Health Act be amended so that the Health Commission's responsibility for administering that Act is made clearer, and that the statutory office of the Director of Mental Health Services be abolished and urgently replaced by a new paid position, chief specialist in psychiatry?

8. Has the Government made a decision in response to the committee's recommendation that, in the event of a delay in appointing a chief specialist in psychiatry, a temporary appointment be made subject to statutory requirements coming into force?

9. What decision or action has been taken on the committee's recommendation that somatic units (that is, units treating physical illness) for the elderly in general hospitals should be further developed by a system of joint appointments, and that joint somatic and psychiatric assessment facilities should be developed in general hospitals?

10. What decision or action has been taken on the committee's recommendation that financial resources presently

applied to the Mental Health Research and Evaluation Unit should be more widely distributed, and that further resources be made available if adequate evaluation of changing systems is to be undertaken?

11. What decision or action has been taken on the committee's recommendation that the SPA should direct particular attention to the needs of country services, and those of migrants and women?

12. What decision or action has been taken on the committee's advice that no further reviews be undertaken in psychiatric services until recommendations of the committee's report are implemented?

If the answer to the foregoing 12 questions is that no action has been taken, or that the recommendations are still being assessed, when is it expected that the Bannon Government will act on these very important recommendations?

The Hon. C.J. SUMNER: I will refer that question to the responsible Minister and bring back a reply.

HON. J.R. CORNWALL

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about the Hon. Dr Cornwall.

Leave granted.

The Hon. L.H. DAVIS: Last Thursday, the Premier (Mr Bannon) stated publicly that the Hon. Dr Cornwall had resigned as Minister of Health and that State Cabinet had accepted his resignation. However, the *Advertiser* of Friday 5 August quoted the Hon. Dr Cornwall as saying:

> The Premier agreed with me that I be judged by my peers.

He was referring to the 12 other members of State Cabinet. Of his departure from the Ministry, the Hon. Dr Cornwall added:

> It is a very, very high—a very heavy—price to pay.

The Hon. Dr Cornwall made it quite clear that he was pushed; that he did not jump. My questions are:

1. Does the Attorney-General agree with the Hon. Dr Cornwall's interpretation of events, which resulted in his ministerial colleagues agreeing that he had to quit the Ministry?

2. As the Attorney-General would be aware, this matter has been of great concern to members of the community. Given that State Cabinet decided that the Hon. Dr Cornwall should no longer remain a Minister because they could not support his conduct, why did State Cabinet agree to meet all the Hon. Dr Cornwall's damages and costs, which has been seen by many hostile members of the community as implicit approval of his conduct?

The Hon. C.J. SUMNER: The answer is that the Hon. Dr Cornwall made the statements in the course of his ministerial duties, and it was on that basis that the indemnity was given, as I have previously indicated. I think there would be major problems if Ministers were not indemnified for defamation for statements made in the course of their ministerial duties. Honourable members can adopt whatever opinion they like on the propriety or otherwise of the Hon. Dr Cornwall's remarks. No doubt they will make their own assessment of that and debate it in the community. However, the reality is that, whatever view one has about Dr Cornwall's remarks, the remarks were made during the course of his ministerial duties, and that was the basis for the indemnity that was given.

I point out again that an indemnity was given to a former Minister of a Liberal Government, Mr Dean Brown, when he was sued by the now Minister of Agriculture, Mr Mayes. Indemnity for costs in that matter was agreed to by the Tonkin Liberal Government and, I might add, honoured by the Bannon Government, despite the fact, as I understand it, that some of the agreements that were made during the Dunstan Government were not honoured by the incoming Tonkin Government. Nevertheless, the Bannon Government took the view that Mr Dean Brown had been granted or promised indemnity for costs by the Tonkin Government because he was acting in his capacity as a Minister of the Crown.

The Hon. L.H. Davis: It didn't lead to his colleagues—

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That, Madam President, was honoured by the incoming Bannon Government. It was the subject of discussion when the Mayes and Brown matter was settled. The Hon. Mr Griffin was involved in those discussions with me and a direct result of those discussions was that we agreed that we would attempt to formulate a bipartisan policy on indemnity in these circumstances. Unfortunately, after 4½ years there was really no response from the Hon. Mr Griffin.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: There was no response. No I do not. There was no substantive response.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I am not distorting the truth.

The Hon. K.T. Griffin: You are. You know those guidelines wouldn't have had any relevance.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: They would have; they would have been guidelines—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They would have been guidelines that you would know about, and you would have been able to argue your case.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Maybe! You would have been able to argue your case, pointing to agreed guidelines. Cabinet would have been able to consider the matter in accordance with the agreed guidelines. Now, those guidelines did not exist. The negotiations which were attempted by me were left to languish for over 4½ years, and you know that that is the fact.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I know. I do not need to read it again. I know what you did.

The Hon. K.T. Griffin: You do, because you're distorting the truth.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am not distorting the truth. It took you two years to respond to my first request.

The PRESIDENT: Order! I ask that interjections cease and that the Attorney address the Chair, not conduct conversations across the Chamber.

The Hon. C.J. SUMNER: Furthermore, you said you would be back to the Crown Solicitor shortly after Easter this year which was in April and you are still not back, five months later. Whose responsibility is it for not having got back on the guidelines? Clearly it is not ours. It is you. You may have had too much work to do; I don't know. But, that's your—

The Hon. L.H. Davis: Not enough research assistants.

The Hon. C.J. SUMNER: You had a lot more resources than we ever had.

The Hon. K.T. Griffin: Oh, rubbish!

The Hon. C.J. SUMNER: Well, you have. It's true. The second question I have answered several times in this House. If you keep asking it I will give you the same answer. As

to the first question, as I understand the position, the Hon. Dr Cornwall tendered his resignation to the Premier.

APPEAL AGAINST SENTENCE

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about an appeal against a sentence.

Leave granted.

The Hon. K.T. GRIFFIN: I wish to raise with the Attorney-General the matter of a criminal named Simons, who is in his early twenties. He was convicted on 1 July 1988 of unlawful sexual intercourse of a young boy and given four years gaol, and two counts of indecent assault of that boy and sentenced on each count to 18 months gaol. The non parole period was fixed at 12 months and backdated to the beginning of February 1988. This means that, within a few days (13 August), after serving eight months, the offender will be released.

The mother of the young victim wrote to the Attorney-General within three days of the sentence being handed down and asked that the Attorney-General appeal. That letter contained a lot of the background material to the particular crimes. She subsequently heard from the Secretary to the Attorney-General that there would not be an appeal. She wrote again to the Attorney-General, as follows:

> I am writing to ask you once again to appeal against the sentence handed down to Mr Simons in the Supreme Court on Friday 1 July. I wrote to Mr Jack Roper [who was the acting supervising parole officer] asking when Mr Simons is likely to be released and he said at the earliest 13 August 1988. If this is the case it will mean that out of a seven year sentence he will only serve approximately six weeks in prison from the dat. of sentencing and you must agree this is definitely not a just sentence. What is the point of giving Mr Simons a seven year sentence if he is going to be released within a few weeks.
>
> You said in the *News* on Monday night that you were concerned too many rapists were getting off lightly. I just want to see justice done. Can't you use this case as a 'test case'.
>
> Our lives have been completely wrecked because of what Mr Simons has done to my son. Apart from all the problems with my son, my health has also suffered. There must be some way to get justice done. Please will you help me and hear an appeal in this case.

I will not identify the name of the mother. The mother of the victim is a widow; she is distressed by the light sentence; she is worried about the effect on her and her family of the early release; and is fuming that she cannot get anyone to accept that the matter of the early release is serious. I am told that the offences are having a most detrimental effect on the young boy.

My questions to the Attorney-General are as follows: first, why did the Attorney-General decide not to appeal, in view of his recent promise to which the mother referred in her letter? Secondly, did the Crown Prosecutor present to the court an assessment of these crimes on the victim, and can the Attorney-General indicate what was in that assessment, if in fact it was submitted to the court? Thirdly, what support can the Attorney-General offer to the mother, the victim, and the family generally, in the light of her distress?

The Hon. C.J. SUMNER: The decision not to appeal was based on the advice of the Deputy Crown Prosecutor (Mr Paul Rofe) and the Crown Prosecutor (Mr Paul Rice). When this matter came to my attention, I referred it to those officers for a report. They provided a report and their advice was, very emphatically, that in this case an appeal was not justified and, in particular, would not succeed before the Full Court.

What has to be understood in these cases is that it is ultimately the decision of the Crown authorities as to whether an appeal should be brought against a sentence and, while the views of victims are considered, it is not an automatic response of the Crown authorities that, if a victim or a victim's relatives call for a Crown appeal against the leniency of a sentence, the Crown appeal will proceed. The Crown must make an independent assessment of the likelihood of success of such an appeal and, in this case, the decision of the two senior prosecutors in the Attorney-General's Department—the Crown Prosecutor (Mr Paul Rice) and the Deputy Crown Prosecutor (Mr Rofe)—was emphatically that there should not be an appeal.

The judge in this case, Mr Justice O'Loughlin, is a very well respected judge who is well know to the Hon. Mr Griffin and, no doubt, he considered all the factors. One factor was the material put before the court by the Crown on the effect of the crime on the victim. That is now occurring as a matter of prosecution practice as a result of the package of measures to assist victims of crime which I introduced on behalf of the Government. Those measures have generally been applauded throughout Australia. I am advised that that information was placed before the sentencing judge, and that is now the practice in relation to putting before the court the effect of a crime on the victim. I should point out that the case was not one of rape, and I have expressed concern—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: No, you mentioned my reference to a test case in relation to rape. There is no doubt in my mind—and I have expressed this view—that the sentences being imposed for, in particular, some serious violent and stranger rapes are too low. I have instructed the Crown Prosecutor, when he can, to find an appropriate test case for presentation to the Supreme Court in an attempt to lift the level of sentence in those cases. A test case was taken with respect to armed robbery and the Chief Justice has indicated that he would expect that, as a result of new section 302 of the Criminal Law Consolidation Act (where a judge must take into account the remissions that are granted in prison), there will be a 50 per cent increase in the length of sentences for armed robbery. If that is still not sufficient in terms of deterrent, I can assure the honourable member and the public that I will discuss the matter further with Crown prosecution officers and that I will take another case on appeal. Nevertheless, as a result of that test case the Chief Justice has indicated that the length of sentences for armed robbery should increase by some 50 per cent.

The Hon. K.T. Griffin: Does that include the non-parole period?

The Hon. C.J. SUMNER: I do not have details on that, but the courts know when they sentence how long a prisoner will spend in prison. On the day that Mr Justice O'Loughlin sentenced Mr Simons he knew how long he would spend in prison. There is no discretion now. Provided the prisoner is of good behaviour, he will spend the time in prison that is decided by the judge. Therefore, the judge knew that when he made this particular decision, he knew when the prisoner would be released. The parole laws have nothing to do with when the prisoner is released. If the judge had wanted that prisoner to spend longer in gaol, he could have adjusted the sentence and the non-parole period to ensure that that occurred. It must be clear that in this case the judge knew exactly when the prisoner would be released on the assumption that he was of good behaviour.

I have every sympathy for the mother of the victim and the victim in these cases, as would everyone. However, it is the responsibility of Crown Law officers, although I suppose that I have the overall responsibility in this area. I do not intervene in each individual case, but these cases are

brought to my attention and Crown appeals are normally brought to my attention. In this case I accepted the advice of the Crown Prosecutor and his deputy. There is a risk, if the Crown appeals in cases where the Crown Prosecutor believes that there is no merit, because that tends to undermine the credibility of Crown appeals before the courts and I think that that would be a very unfortunate result. If the court gained the impression that Crown appeals were being taken at the whim of the Attorney-General or the public or at the expressed and exclusive wish of the victim—irrespective of the merits of the appeal—I believe that that could have a serious detrimental effect on attempts to increase the level of sentences in appropriate cases.

With respect to this case, the other matter that must be borne in mind is that the offender pleaded guilty. I believe that, particularly in child abuse cases, judges give quite a significant discount for pleas of guilty for the very good reason that normally the children in these circumstances have been subject to significant trauma. They may have suffered some psychiatric damage and an appearance in court, having to go through a case and being cross-examined, can further aggravate that damage. It is accepted sentencing practice and I expect that in this case the court almost certainly made a discount for the fact that the offender pleaded guilty. Now, the very substantive policy reason for that is to try to avoid the necessity of putting the victim through yet another trauma—the trauma of the trial itself. Therefore, the plea of guilty must be taken into account.

The second point that needs to be made is that these offences occurred before the change to section 302 of the Criminal Law Consolidation Act, which required the judge to take into account the remissions the prisoner would get for good behaviour. Therefore, that is another factor—

The Hon. K.T. Griffin: You said earlier that he did take it into account.

The Hon. C.J. SUMNER: No, I didn't. That was in relation to when I was talking about the armed robbery case. In this particular case he did not take into account—

The Hon. K.T. Griffin: You said that earlier.

The Hon. C.J. SUMNER: Sorry, I was giving an example. The judge knew exactly how long the prisoner would spend in gaol and that is correct, irrespective of the status of section 302. It is also true—and this probably resulted in the sentence being lower than otherwise it would have been—that the offences occurred before the enactment of the section relating to remissions. Therefore, that means that the old sentencing principles applied—still certain—where they did not take into account the fact that remissions for good behaviour were given. If that case related to offences after the enactment of those changes to the parole laws then it is probable that the sentence would have been higher.

The offender had no previous convictions. Again, that is a factor to be taken into account and the end result was that the judge came to hand down the sentence that I have referred to. One other factor—and I do not know whether the judge took this factor into acccount—was that the offences were not reported for some 18 months after they occurred.

The Hon. Diana Laidlaw: That's not unusual in these cases.

The Hon. C.J. SUMNER: No, well it may not be unusual. Whether the judge took it into account or not I do not know; I do not have the judgment in front of me. Nevertheless, there was that time period between when the offences were apparently known to people other than the victim and when the matter was taken up with the police. As I said, I do not know whether the judge took that into account but that was another factor which may have affected the decision. Although, I suspect that it is not probably relevant in the sentencing process, I mention it for completeness as the question has been asked.

So, that answers the question. In simple terms the matter was carefully considered by the Crown authorities whose recommendation to me was that an appeal in this case would not be successful.

NATIONAL PARKS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism a question about developments in national parks.

Leave granted.

The Hon. M.J. ELLIOTT: Before the Council at the moment is what is becoming an increasingly heated debate about the Wilpena resort. Also hotting up are other matters such as possible developments in Flinders Chase, a chairlift proposal over Cleland Conservation Park, and the like. Parallels have been drawn to me with what occurred in the case of Jubilee Point and other marina developments where a proposal came forward and, after a great deal of money had been spent, the relative merits of the proposal were argued. In the case of marinas, the Government eventually came to the conclusion that the sensible thing was to examine the coastline in the regional metropolitan area and make recommendations as to where developments would be permissible. In that way developers have been prevented from spending a lot of money, and a lot of heat has been taken out of the whole debate.

I ask the Minister, first, whether or not she supports the setting up of such an inquiry into national parks and areas adjacent to national parks to look at the question whether or not development in national parks is acceptable; and, secondly, if such development is acceptable, where it is acceptable and, as such, protect not only the parks but also the developers.

The Hon. BARBARA WIESE: The suggestion made by the honourable member is an interesting one that, I think, should be looked at by the Government, although it is not in my immediate area of responsibility, as national parks come under the authority of the Minister of Environment and Planning.

I am certainly willing to take up this matter with the Minister to consider the merits of pursuing an idea of this kind, because I share the concern that has been expressed by various people in the community about problems that have emerged in recent times concerning certain development proposals and the opposition that has arisen following the expenditure of large sums of money by potential developers.

This is a very dangerous situation for the State as a whole because it seems to me that we run the risk, if there are many occasions when developers find that after spending large sums of money they are subsequently not allowed to proceed with developments, that investors will be frightened away from South Australia and will decide to take their money to other parts of Australia to pursue their development proposals.

As the honourable member has indicated, the Government recently took the initiative with respect to the setting up of a committee to look at the South Australian coastline to determine suitable sites for marina development and, in fact, to address the very concerns that have been raised by the honourable member. A number of proposals have come forward which, for one reason or another, at a later stage were opposed by community organisations or people who

felt, on environmental grounds, that such development was not appropriate.

It is the Government's view that, if the appropriate sites along the coastline could be first identified, some of the subsequent opposition and debate about development proposals could be avoided and that some of the environmental questions could be addressed prior to potential developers spending large sums of money.

So, I believe that that has been a successful exercise with respect to proposed marina development, and there may very well be a good argument for carrying that principle through to other forms of development in other parts of the State, particularly areas of South Australia that are environmentally significant or sensitive. National parks could well be one of those areas, although I believe that there has already been considerable discussion within Government and in the community about the desirability or otherwise of development taking place in national parks. However, as I indicated, I think that the proposal has some merit and should be examined. I undertake to refer the matter to my colleague, the Minister of Environment and Planning, and bring back a report.

APPEAL AGAINST SENTENCE

The Hon. C.J. SUMNER: I seek leave to respond to the third question asked previously by the Hon. Mr Griffin.

Leave granted.

The Hon. C.J. SUMNER: The third question asked by the Hon. Mr Griffin in relation to the Simons case was: what assistance can be given to the mother and the victim of this offence? As the honourable member knows, the victim is probably entitled to criminal injuries compensation, and that matter can be pursued by the victim in conjunction with her legal advisers. The Victims of Crime Service is available to provide counselling and assistance to victims of crime. That organisation receives some support from the Government. If that organisation is not appropriate, I am happy to refer the honourable member's question to the Minister of Community Welfare to see what additional assistance the mother and her child may need in these distressing circumstances.

The Hon. Diana Laidlaw: A restraining order might be desirable.

The Hon. C.J. SUMNER: Ms Laidlaw has interjected that a restraining order might be desirable. I understand that the parole conditions will be such that the offender is not to reside or come within five kilometres of the victim and his family.

GOVERNMENT OFFICES

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Attorney-General, representing the Acting Minister of Health and Community Welfare, a question about the relocation of the Department for Community Welfare and the South Australian Health Commission.

Leave granted.

The Hon. DIANA LAIDLAW: Most honourable members would be aware that next month the central offices of DCW and the South Australian Health Commission are to be relocated to the City Centre building on the corner of Rundle Mall and Pulteney Street. This move stems from the 'obsession' (I suppose that is the right word) of the former Minister of Health and Community Welfare to restructure both agencies. As an aside, it is rather a sad irony that the former Minister will never enjoy the new suite of offices.

The relocation exercise is estimated to cost nearly $5 million, notwithstanding the fact that the Public Works Standing Committee indicated in its report that the accommodation which both agencies occupy at present is of a high standard. For the outlay of nearly $5 million it is reasonable that officers of the DCW and the South Australian Health Commission should anticipate that the new office accommodation will provide an appropriate work environment; but this is not the case.

Last March, I raised concern in this place that the move was being pursued without regard for the minimum floor space regulations per person of no less than 3.5 metres. That standard is the same as the Government proclaimed last October under the Occupational Health, Safety and Welfare Act 1986 to apply to all commercial premises. The former Minister dismissed my concerns, which had been conveyed to me by officers within the Department for Community Welfare. The concerns remain very much alive today and I am informed—reliably so—that the Public Service Association has now taken up the issue on behalf of its members. A meeting was held last Tuesday with the Director-General of the Department for Community Welfare, the architect and other senior officers because the association is concerned on behalf of its members that the minimum floor space requirements are not those which the Government set down in its own regulations for clerical and consultative staff. I therefore ask the Attorney-General:

1. Does he believe that officers of the Department for Community Welfare and the South Australian Health Commission should be entitled to work in areas of not less than 3.5 square metres of floor space per person exclusive of furniture, fittings and equipment as insisted upon by the Government in regulations proclaimed under the Occupational Health, Safety and Welfare Act 1986 for all commercial premises?

2. Will he confirm that the working areas for South Australian Health Commission and DCW staff who perform clerical and consultancy work are no less than 3.5 square metres of floor space per person? If he is unable to do so, can he say why South Australian Health Commission and DCW officers should be allocated less floor space per person than the Government insists upon for private sector commercial premises?

The Hon. L.H. Davis: It is outrageous.

The Hon. DIANA LAIDLAW: Yes, it is outrageous.

The Hon. C.J. SUMNER: I understand that this matter has been raised on previous occasions and has already been answered.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: However, I will refer the question to the now responsible Minister to see whether there is anything to add to what has already been said.

HON. J.R. CORNWALL

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of indemnity to the former Minister of Health.

Leave granted.

The Hon. J.C. BURDETT: It has been put to me that, if Dr Cornwall had apologised without qualification and dropped his defences of justification, fair comment and

qualified privilege, the court case could have been over in two or three days instead of 15 days with substantially reduced costs and a significantly smaller damages award. My question is: in assessing what costs and damages the Government will pay for Dr Cornwall, will it reduce its indemnity by taking into account the fact that Dr Cornwall ran a 'Rolls Royce' defence and did not act to minimise the costs or damages?

The Hon. C.J. SUMNER: I have already answered a similar question. The Government will not reduce its indemnity. That has been agreed to and will be given at the appropriate time, subject, of course, to whatever might happen in the appeal. I do not know who put to the Hon. Mr Burdett that, if Dr Cornwall had conducted the case in a different way, it would have been over earlier. However, just because those matters have been put to the honourable member, that does not necessarily indicate that that is in fact the situation. I cannot speculate as to what might have happened had Dr Cornwall given a fuller apology or run a different defence. As I understand, he did tender an apology during the course of the case. The matter proceeded over the period that has been mentioned, and indemnity has been given by the Government. As everyone knows, Dr Cornwall has tendered his resignation, for the reasons stated. The information that the Hon. Mr Burdett has received about how the case might have been conducted is nothing more than speculation.

FIREARMS REGISTER

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister responsible for police, a question on the subject of the firearms registry and answers to questions.

Leave granted.

The Hon. R.J. RITSON: In April I asked the Attorney-General a question dealing with the apparently very significant discrepancy between the number of firearms that were registered under the old card index system and the number of firearms that appear to have been taken on to the electronic data base when the computerised system came into being. I made the point that, although firearms previously registered under that system were deemed to be registered and would remain so by virtue of the change to the new sets of regulations, the requirement of licensing depended on the use of the electronic system for its oversight.

It would appear from figures I quoted that a number of firearms in the community are registered to owners who are not necessarily licensed and have not necessarily had that followed up by the electronic data system. I do not know the truth or the extent of this concern but I suspect strongly that an answer to my question was drafted within 48 hours of my asking it, yet I still have not received it. I will not be unkind enough to suggest that perhaps the answer was not to the Minister's liking and, therefore, he hoped I would not follow it up. That would be very unkind of me, because there has been a recess in between. Nevertheless, during the recess, the Hon. Ms Wiese promptly and effectively answered a question that I had asked in April. I now ask: will the Attorney-General discover the answer to this question which, I believe, has already been drafted and have it brought into the Chamber for me?

The Hon. C.J. SUMNER: I will refer the honourable member's question to the appropriate Minister and bring back a reply.

HON. J.R. CORNWALL

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to Government indemnity for the Hon. Dr Cornwall.

Leave granted.

The Hon. J.C. IRWIN: Last Thursday the Premier said that an indemnity for Dr Cornwall's costs and damages had been agreed by Cabinet when the question of a settlement was explored, he thought, in 1986, not just last week when the judgment was delivered. My questions are:

1. When was an indemnity first given?
2. What were the terms of the first indemnity and what were the conditions on which it was granted? For example, was it a blank cheque; was there to be any monitoring of the conduct of the case and, if so, by whom; and was there to be an apology?
3. Were the terms and conditions of the indemnity ever amended and, if so, in what respect?

The Hon. C.J. SUMNER: There was an agreement by Cabinet to indemnify Dr Cornwall I think in 1986 when negotiations were under way for settlement of the matter. The media had indicated their interest in negotiating with Dr Humble for a settlement of the case, and Dr Cornwall was advised that it would be appropriate for him to join the media in attempting to negotiate a settlement. At that stage, Cabinet agreed to an indemnity for a negotiated settlement. They were the terms of the original indemnity and it was subject to the approval of the Attorney-General.

As members now know, those settlement negotiations were not successful. Dr Humble apparently was happy to settle with the media (for some $55 000, I believe) but refused to settle with Dr Cornwall. So the terms of the original indemnity were not met, and therefore that indemnity was not in force when the case proceeded in court because that indemnity was limited to a settlement of the case out of court. When the matter proceeded to court and judgment was given, Cabinet then reconsidered the question of indemnity and the honourable member is already aware of the decision.

TRIAL BY JURY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about trial by jury.

Leave granted.

The Hon. K.T. GRIFFIN: The Supreme Court judges in their 1987 report, tabled last Thursday, raised the prospect of having a tribunal rather than a jury to hear trials in what they say are certain exceptional types of cases which may be unsuited to trial by jury. They put into this category trials which will occupy a very long period and those where the transactions or evidence are of such intricacy or complexity that a jury cannot be expected to grasp them. This alternative is raised in the context of the judges' criticism of the option for a defendant to elect to be tried by judge alone rather than by judge and jury. In putting the alternative, the judges say:

> The judges favour a tribunal of three holders of judicial office drawn from different levels of the judiciary. Such a tribunal would consist of a judge of the Supreme Court as President, a judge of the District Court and a magistrate. The tribunal could be differently constituted for cases within the jurisdiction of the District Criminal Court. The presiding judge would be responsible for the conduct of the trial and for rulings on questions of law, including questions of admissibility of evidence. The three members of the tribunal would have an equal voice as to questions of fact and

the final verdict. Unanimity should be required, at least for a finding of guilt.

Then the judges go on to make a recommendation saying:

The judges therefore propose that the present provision should be amended to provide that trial by jury may be dispensed with only on the order of a judge who is satisfied that the case is by reason of its likely length or complexity or other surrounding circumstances, unsuited to jury trial. In such cases the trial should be by a tribunal constituted as recommended above.

Madam President, this proposition would fall foul of the Commonwealth referendum proposal which, if passed, would require a jury trial where the accused is liable to imprisonment for more than two years. Crimes such as embezzlement, with a maximum of eight years imprisonment, and fraudulent misappropriation, with seven years are the sorts of cases which might be regarded as being of considerable complexity or intricacy, and of course murder cases can result in very long, complex and contentious trials and that offence attracts life imprisonment. There are, I should say, incidentally, other areas where I have been informed the State could run into difficulty if that Federal referendum proposal is carried. My questions to the Attorney-General are:

1. Does the Attorney support the judges' proposal?

2. If the Attorney has some sympathy for the judges' proposal, will he not be prevented from implementing it or anything like it by the Commonwealth referendum proposal relating to trial by jury, if it passes?

3. Has he assessed what areas of the State criminal law will be affected by that referendum proposal and how he will deal with the problems it may create?

The Hon. C.J. SUMNER: I will answer the last question first. I have not made a detailed assessment of it but I do not believe that it would create extra problems with respect to criminal law in this State. The referendum will generally give effect to what is the position in this State, namely, for serious offences, where there may be a term of imprisonment for two years, trial by jury is the norm. There may be some cases of a regulatory nature where they are dealt with summarily and there might be imprisonment for terms in excess of two years but they are more the exception. Clearly, if the referendum is passed, those matters would have to be dealt with by a jury if the maximum penalty was in excess of two years. However, I do not envisage that having a major impact on criminal law in this State although it may, of course, lengthen trials to some extent but not, I would expect, in any major way.

The first question relates to the proposition of having a judicial panel of three people to hear certain types of case, such as complex fraud matters and forensic science cases. This idea has been floated on a number of occasions and, as the honourable member indicates, has now been floated by the Supreme Court judges. Certainly, it is a proposition that has been argued for by the Chief Justice on previous occasions. I have not given it detailed consideration. On the face of it, I support the jury system in respect to serious crimes. I think the problem that occurs with complex fraud matters and forensic science matters ought to be dealt with by better pre-trial procedures and attempts to agree facts. Nevertheless the proposition put that there is a case for doing away with juries and replacing them with a panel of judges or magistrates in certain cases is one that does have some support obviously amongst the judiciary and possibly amongst the legal profession because of the perceived problem that juries perhaps do not fully understand cases of complexity involved in complex fraud and forensic science cases. However, I have not got a considered or final view on that topic.

With respect to the second question, however, I believe that the honourable member is correct in saying that if the referendum is passed the proposal of the Chief Justice would not be possible as it would conflict with the then rights established by the Federal Constitution. If that were the case, perhaps the Chief Justice would have to modify his proposition to say that there would be a presiding judge and perhaps a jury of three or four people with some expertise in the area. The proposition of trial by jury being put at the national referendum does not, I believe, say anything about the nature of the jury, whether it has to be 12 good men and true or three good men and true—or women. Of course there are juries in civil cases in the Eastern States that comprise only four people. So presumably a jury would still be a jury in a criminal case even if it were only four people, not 12. That, presumably, would have to be a matter to be determined at some subsequent stage by litigation if the matter was ever challenged. The High Court would have to determine whether the jury in the constitutional amendment meant the normal criminal jury of 12 or whether it was open for there to be a jury of fewer than 12.

As I understand the position, the answer to the honourable member's second question is that the specific proposal of the Chief Justice would be prevented in the case of matters involving a maximum of two years imprisonment or more in the criminal courts.

CRIMINAL INJURIES COMPENSATION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Injuries Compensation Act 1978. Read a first time.

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

That this Bill be now read a second time.

In 1987 the Criminal Injuries Compensation Act 1978 was amended to increase the maximum amount of compensation payable to victims of crime from $10 000 to $20 000. It was intended that only victims injured after the amendment came into operation should be entitled to the increase in compensation and compensation has been awarded on that basis.

The question has now arisen as to whether the 1987 amendment achieved its intended effect. Both the Solicitor-General and the Parliamentary Counsel consider that the 1987 amendment only applies to causes of action arising after the amendment came into operation. However, a 1974 Supreme Court decision suggests that the amending Act applies and operates at the time when compensation is assessed, although the amendment to section 16 of the Acts Interpretation Act passed by this Parliament in 1983 (amending Acts do not affect pre-existing rights) should now lead to this case being overruled.

The doubts caused by the 1974 decision can only be resolved by litigation. To save unnecessary litigation it is preferable for the Act to be amended to make it clear that only victims of crime who were injured after the amending Act came into operation are entitled to have their compensation assessed on the basis that the maximum amount of compensation payable is $20 000. This is what was intended and is only fair to those victims of crime who have had their compensation assessed on that basis.

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

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 backdates the amendment to the commencement of the Act so that there can be no doubt that the various increases in compensation levels that have occurred over the years all only operated prospectively, not retrospectively.

Clause 3 inserts a new section that provides for the assessment of compensation to be made under the Act as in force when the offence giving rise to the injury was committed.

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

ADDRESS IN REPLY

Adjourned debate on motion for adoption.
(Continued from 9 August. Page 50.)

The PRESIDENT: In calling the Hon. Mr Stefani, I point out that this is his first speech in this Chamber and I am sure that members do not need reminding of the usual courtesies it is usual to extend in these circumstances.

The Hon. J. STEFANI: Madam President, I support the motion for the adoption of the Address in Reply. In doing so, I first commend His Excellency for his speech to open this session of Parliament and, more generally, for the manner in which he and Lady Dunstan fufil their Vice-Regal duties. They have made contact with a wide range of individuals and community groups in South Australia and they have added to the relevance and stature of their office as representatives of Her Majesty in South Australia. I reaffirm my loyalty to Queen Elizabeth II and to all the people of South Australia whom I have been elected to represent.

Since my election, all members have shown me a courtesy for which I am very grateful. Their welcome has made my task of replacing Murray Hill just a little less daunting. It is appropriate that I should first pay tribute to Murray for his outstanding contribution to public service during his long and distinguished parliamentary career. It is not possible to go very far in South Australia without meeting someone who has cause to speak in a kindly way about my predecessor. Murray's contribution to his Party, to this Parliament and to the public in areas such as local government, community relations, the arts, and housing, was outstanding. It is something I will use as my yardstick in the way I seek to fulfil my responsibilities.

Any maiden parliamentary speech is incomplete without a statement of purpose and commitment. In seeking election to this Council, through the Liberal Party, I gave a commitment to serve the people of South Australia and to use this position of influence particularly to ensure that all migrant and other minority groups in our community have their voices heard and their needs and concerns fairly addressed. I have been involved in community service throughout my life. I am conscious that I now have an opportunity to continue that service in this high forum in public life, as a Liberal member of the South Australian Parliament.

The fact that a person of my background is able to seek and secure election to this place is a reflection of the openness and opportunity which characterise South Australian society. I was born in Italy. At an early age I migrated to this State. Like many others, my family came here to seek a better future and greater opportunity. At the same time we wanted to work hard to make our own contribution to ensuring this State and our nation became an even better place for all Australians. As history has shown and, as members would be aware, South Australia, more than any other State, is a place where people have been encouraged to do this, for our State was founded as a free colony. We were not established as a gaol for convicts, nor did our colonial growth depend on the lure of gold or the romance of bushranging. Instead, uniquely, we held out the opportunity for civil and religious freedoms and social advancement.

History has also shown that our political development was strongly influenced by liberal ideas. Our early settlers brought with them liberal philosophical traditions of a socially enlightened middle-class Europe, based on values of prudence, of industry, or respectability and respect for institutions. With these shared values, our pioneers worked together in the face of tremendous obstacles—in the driest colony in the driest continent, with a lack of essential resources such as water and minerals, and huge areas of land unattractive to even the most ingenious farmer or pastoralist. Nevertheless, South Australia triumphed against the odds. We were established as a genuinely free colony.

The specific nature of Liberal philosophies which we have inherited are built from Hobb's doctrine that 'freedom is political power divided into small fragments', and from John Locke's declaration:

> The liberty of a man in society is to be under no legislative power, but that established by consent in the Commonwealth, nor under the dominion of any will or restraint of any law, but what legislators shall enact according to the trust put in them.

And so it is that throughout its development South Australia has become the home for thousands of settlers, able to enjoy freedom to worship, to speak, to choose, to be ambitious, to be independent, to be industrious, to acquire skills, to seek reward for hard work and to achieve. These are the real freedoms, for they are in essence the character of every individual.

People like me, who have come to this State seeking greater freedoms, have a special reason to value them. I was one of many who came here in the great era of post-war immigration.

That period has added to the diversity of South Australia's population represented by its original inhabitants, the Aborigines, and people from many other cultural, social and ethnic backgrounds who form the unique mosaic which is the present day South Australia. I now hope that I can use the experience of my upbringing and my career in business and community service to influence legislation and policy development which will serve the common good of all these people. I am totally dedicated to the ideas of political and religious freedoms and the dignity of people regardless of their race or creed; to individual choice; to economic freedom; to the expansion of wealth through effort and private enterprise; to applying as much of this wealth as is necessary to help the genuinely disadvantaged; to the decentralisation of political power; and to the family as fundamental to the well-being of society.

Guided by these principles, there should be no limit to what we as South Australians can achieve together. However, in recent years our confidence—the belief in ourselves which we inherited from those pioneers who had to confront so many challenges—has been shaken as we have begun to slip behind other States. Our declining economic performance can be charted by falling business investments, record levels of bankruptcies and unemployment and higher Government taxes and charges at all levels which have added to the already heavy burden of controls, regulations and interference in many areas of business and everyday life. While South Australia has been slipping behind the other

States, the national economic picture also is cause for serious concern. Australia is no longer perceived by international financial communities as a country which offers stable investment returns, and with the constant erosion in the living standards of ordinary families, we no longer can be called 'the lucky country'.

Living standards are measured not only by earnings; they are also affected by access to basic services such as health, education, transport and community welfare. Here, while families are being forced to pay higher taxes and charges to fund these services, their quality has been declining at an alarming rate. There are long waiting lists of patients at all major public hospitals while the private hospitals, which once played an important roll in the delivery of basic health care, have empty wards. Working Australians are paying three times as much for their medical cover since the introduction of Medicare, but are receiving much less in the level of medicl services.

Country hospitls, which form part of the social fabric in our regional areas, and in many instances have been built by rural communities on a voluntary basis, are being threatened with closure. Our transport systems are expensive and unreliable. Many of our country roads, often the only trade link regional centres have with Adelaide and other parts of Australia, have been totally neglected, rendering them unsafe for travel, particularly for the people who live and work in the remote areas of our State and whose hard work as primary producers continues to underpin our growth and progress as a State.

The importance of rural South Australia was mentioned in His Excellency's speech. I want to recognise the farming community. It comprises 8 per cent of our population but means a great deal more in terms of its contribution to the State's economy. Through long hours of toil and frequently against unavoidable adversity, rural South Australia earns more than 40 per cent of our export income. Rural South Australians are the forgotten achievers of our community. City-based Governments do nothing to lighten their burden. Fuel taxes and a range of State charges impose costs out of all proportion to the standard of Government services returned to these communities. This reflects Labor's traditional and continuing opposition to successful private enterprise and industrious people. Labor's economic and social policies largely are designed to penalise hard work and effort. They have created a society of increasing dependency, and this has bred other major problems.

As our young unemployed desperately try to find work and strive to build a future for themselves, they often fall victims of organised crime and the curse of drug abuse in a forlorn effort to dim their miserable circumstances. Better educational and training facilities would ensure that more of our young do not take this route but have, instead, more satisfying job opportunities. As a State, we need to have a single-minded commitment to this objective—to find the plans and projects that will create more jobs and more wealth in which the whole community can share.

The Roxby Downs project is one example of what can be done. Against many obstacles, and in the face of much opposition, the last Liberal Government fought tooth and nail to ensure that this project went ahead—and so it has. Indeed, it has created many job opportunities and wealth. It did so because of a belief in the same principles that I am exposing today. The jobs, the wealth and the opportunities which a project like this generates can help to rid us of many of our social problems.

Social problems are often the direct result of theoretical, out of touch economic management and poorly designed Government reforms which produce massive waste and unnecessary expenditure. As a result, we suffer from a restrictive system of wealth redistribution which ignores the need to create wealth first. Labor Governments have never been capable of developing truly productive and competitive cultures. They ignore history at our peril, the traditions which made us a great State and a great nation in the first place—the strong family values of self-denial, self-sacrifice and strong Christian beliefs which are the fundamentals of every successful society.

I view the role of Government as a provider of opportunities and an instrument for the efficient management of a complex business operation where waste of resources means only one thing in the private sector—bankruptcy. In times of demanding fiscal restraint these are critical factors in balancing the Government's books. Labor doctrine instead is about equality between the active and the idle; the frugal and the imprudent; the responsible and the free wheelers. This reduces the whole community to the lowest common denominator so that Labor can more easily achieve its objectives. People become easier to control. Socialism is where the real freedoms of the individual are reduced to the requirement of an ID card or a serial number. However, there are many thousands of South Australians who came here to escape restrictions like these. Their voices are once again being heard.

In the time I have in this place, I commit myself to standing for those enduring values which made South Australia a very special State in the first place. They guided our foundation as a free State. But they have just as much relevance today. In particular, I strongly pledge myself to the principle that legislation and other Government measures must be designed to fairly serve all members of our community wherever they were born, wherever they live in our State now.

I will ensure that my work in this Chamber is guided by the aim of maintaining a united, multicultural community in which everyone has an opportunity to make his or her contribution to the common good of South Australia. For that is the primary reason why I am here; that is why we all sit in this Parliament. We may have different views about how we can best represent the interests of South Australians, but there is one thing upon which we can all agree: South Australia is a State worth fighting for. We are a State which has made much in the past of limited opportunities. We have done this by making the very best of the creativity, the determination, and the enthusiasm of people with a wide range of backgrounds and beliefs. We are one South Australia in the sense that we want our State to get ahead again. As a Liberal, I believe we are most likely to succeed by encouraging individuals to seek and make the most of their opportunities, and to follow the example of our predecessors.

The Hon. R.J. RITSON secured the adjournment of the debate.

ADJOURNMENT

At 3.38 p.m. the Council adjourned until Tuesday 16 August at 2.15 p.m.