LEGISLATIVE COUNCIL

Wednesday 26 July 1995

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

PUBLIC TRUSTEE BILL

Her Excellency the Governor, by message, intimated her assent to the Bill.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

The Hon. DIANA LAIDLAW (Minister for Transport): I move:

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Transport (Hon. Diana Laidlaw)—

District Council By-laws—Mallala—
- No. 1—Permits and Penalties.
- No. 2—Moveable Signs.
- No. 3—Streets and Public Places.
- No. 4—Garbage Removal.
- No. 5—Foreshore.
- No. 6—Fire Prevention.
- No. 7—Caravans and Camping.
- No. 9—Bees.

SOCIAL DEVELOPMENT COMMITTEE:

The Hon. BERNICE PFITZNER: I bring up the interim report of the committee on an inquiry into prostitution and move:

That the report be printed.

Motion carried.

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): With some pleasure I bring up the report of the committee, together with minutes of proceedings and evidence, and move:

That the report be printed.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the twenty-ninth report 1994-95 of the committee and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON: I bring up the thirtieth report 1994-95 of the committee.

QUESTION TIME

SOUTHERN SCHOOLS PROTEST

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about protests by southern schools.

Leave granted.

The Hon. CAROLYN PICKLES: The Minister recently met representatives from six Southern Vales high school councils who expressed their concerns to the Minister about cuts to school resources that have resulted in increased class sizes, reduced subject choice, reduced support for teachers, reduced support for parent groups and reduced communication with parents. Following that meeting the chairpersons of Aberfoyle Park, Blackwood, Christies Beach, Hallett Cove, Morphett Vale, Reynella East, Willunga and Wirreanda High Schools wrote to parents, and I quote that letter of 23 June addressed to parents and caregivers as follows:

The school councils of Aberfoyle Park, Blackwood, Christies Beach, Hallett Cove, Morphett Vale, Reynella East, Willunga and Wirreanda are taking this special step to write to all parents of our schools to report on our most recent meeting with the Minister for Education at which we expressed our serious concerns at the State Government's attitude and approach to high school education. We, as parents and school council members, strongly support the public education system that has served South Australia well for many generations. We informed the Minister that, given the most recent decisions, we doubted his commitment to public education. On Friday 9 June we, the Chairpersons, met with the Minister, Rob Lucas, to appeal for a change to the formula which calculates the number of teachers and support staff in schools. We pointed out that parents, up to now, were not fully aware of the difficulties faced by teachers in conducting classes with less resources. Effects of the staff cuts include: increases in class sizes; reduced subject choice; reduced support to teachers to teach; reduced support for parent groups; and reduced follow-up and communication with parents.

These problems are of particular concern in the senior years of schooling when students are preparing for further education at TAFE, university or entry into the work force. Teachers and school leaders, through their professionalism and commitment, have worked to minimise the effects on our students. These efforts have been most intense over the last 18 months. We made it clear at our meeting that the department was abusing the goodwill and professionalism of teachers with its lack of understanding of the needs of staff and management in our high schools. We also told the Minister that the level of participation in bans and strike action was not indicative of the anger and dissatisfaction of staff. School principals are prevented by departmental regulations from directly informing you of details behind industrial matters. We failed to convince Mr Lucas that our concerns and the problems faced by students and teachers were real. We concluded that when a decision has been made any further discussion is futile, in spite of the consequences for our children. School councils do not necessarily support everything the teachers' union (SAIT) decides and does. But we do share the belief every effort should be made to cause the department and the Minister to rethink policies and decisions to ensure children's education comes first.

We left our meeting with the Minister most disappointed that, in our view, he did not seem to take public education seriously. In all, our eight high schools will lose over 450 hours each week of support staff time. This will apply for 1996 and is in addition to previous cuts. We need to now hear from you about how your school might cope with this reduction.

It is signed by the Chairpersons of the councils of the schools to which I have previously referred. What action is the Minister taking to address the concerns of the Chairpersons of the six high schools in the Southern Vales and the matters raised in their correspondence?

The Hon. R.I. LUCAS: First, I want to correct the statement that in some way the Government's decision to

reduce the number of school service officers will lead to increased class sizes. That was a claim originally made by the Leader of the Opposition (Mr Rann): that in some way a reduction in the number of school service officers would lead to increased class sizes. That is not correct. I believe that most principals and teachers are aware of that. Sadly, some school councils have been misinformed by the Leader of the Opposition that in some way the reduction in the number of school service officers will lead to increased class sizes.

In the most recent budget, the classroom teaching formula was not changed; it was protected. The reductions proposed at the end of this year will occur in school service officer and in non-classroom teaching formula positions. I think it is important to highlight that, because parents have been, through no fault of their own, misinformed by the Leader of the Opposition in terms of this particular—

The Hon. K.T. Griffin: As usual.

The Hon. R.I. LUCAS: The Hon. Mr Griffin says, 'As usual.' It is disappointing, because parents obviously are busy people and are not in a position to be able to keep themselves up to date with all the information. They are obviously being provided—

The Hon. M.J. Elliott: They are not stupid.

The Hon. R.I. LUCAS: I do not think even the Hon. Mr Elliott would suggest that a reduction in the number of school service officer numbers will increase class sizes.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Exactly. The Hon. Mr Elliott agrees with me: even he would not suggest that a reduction in school service officer numbers—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: You raised that issue. You read it out to me.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Leader of the Opposition read out to me two sections referring to increased class sizes. Even the Hon. Mr Elliott, by way of interjection, has agreed with me that a reduction in school service officer numbers will not lead to increased class sizes.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is important to make that point known. In their response to the Government's difficult budget decisions, parents need to be fully informed rather than being misinformed by the Leader of the Opposition. In relation to the second point, I acknowledge the concerns of parents regarding the difficult budget decisions that the Government has taken, and I explained that to the Chairpersons of those councils. I meet with that group on a regular basis. Whilst they are unhappy that the Government is not prepared on the basis of their meeting with me to reverse its whole budget strategy and decision—clearly they are disappointed with that and have made that known to parents—they nevertheless continue to be pleased that they have direct access to me as Minister on a regular basis and will continue to do so, as we discuss—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: They win a few and they lose a few. If you speak to the Chairpersons of—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Exactly. On that one they were unable to get the Government, in the week or two after the budget, to reverse its whole budget decision as a result of its meeting with them. The Government does not enter into budget decisions lightly. It does so—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I didn't say it was from happy people.

Members interjecting:

The PRESIDENT: Order! The honourable member had a chance to ask her question.

The Hon. R.I. LUCAS: I did not say that it came from happy people or satisfied people. I said that they were disappointed.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Exactly. They were disappointed that the Government was not prepared to change its whole budget strategy as a result of the meeting with them and with me as a result of their concerns.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Well, the Government makes its budget decisions in the full knowledge of the effects that it will have on schools. The Government does not enter into these decisions blindly; it knows the concerns that will be raised by parents, teachers and principals in relation to the decisions. I will not go over the detail of why we must find somewhere between $35 and $137 million for the Institute of Teachers' pay and conditions claim, but that is the reason why the Government has to make some difficult budget decisions, so that we can meet that union claim for changes to pay and conditions. All I can say, as I said to those Chairpersons, is that I acknowledge their concerns. I know that in most respects they are genuine concerns. As I said, I have corrected the misinformation with which they were provided by the Leader of the Opposition in relation to class sizes—I think that is important.

The other issue is that on this occasion the Chairpersons were unable to convince the Government to change its mind, but on a previous occasion when they met with me a number of the issues that they raised were issues on which the Government subsequently took action. One such issue was the new sport and physical education strategy, which was an issue of great concern to that group of school councils. Whilst, again, we did not agree with everything that they put, they have acknowledged that the Government's position on that was in part a response to the position that that group of Chairpersons put to me as Minister in that area.

There are one or two other smaller examples as well. As I said, on occasions they win a few and on occasions they lose a few, and that is just common practice when parents or school communities meet with Ministers or Governments. We do not always agree, but the difference on this occasion is that we happily continue to work with representatives of school councils and will continue to do so.

BUSHFIRES

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Infrastructure, a question about bushfire safety.

Leave granted.

The Hon. R.R. ROBERTS: In the 1980s South Australia was unfortunate enough to suffer a number of horrific bushfires. As a consequence of those bushfires legislative changes were required to the regulations and to legislation to avoid the danger of a repetition of those fires. It was quite clear from investigations which took place at that time that some of those fires were started by trees coming into contact with transmission lines. As a consequence of that, a regula-

tion was enacted and a number of inspectors have been employed with ETSA for some years. Their job is to go out and inspect the transmission lines prior to the bushfire season to ensure that they are safe. They regularly patrol those lines.

In the Port Pirie-Gladstone district over the past four years there has been a process of reconstruction of the operations of ETSA. Between Gladstone and Port Pirie in that time there has been a reduction of 18 ETSA linespersons and other ancillary staff servicing that area. This has given rise to some public safety concerns amongst constituents, who have raised the matter with me. I have received a report that last Easter, when there were unusual storms in that area, linespersons were working for up to 24 hours without breaks, and concern was raised about public safety. Some of the people who are involved in this type of work use large vehicles, cherry pickers and other equipment that is required to be driven on roads, causing some danger to the public.

The greatest concern at present is a report being circulated in industry circles suggesting that ETSA intends to shed at least half of its inspectors after this bushfire period. It has been asserted to me that they will be employed until this bushfire season is concluded and until those inspections take place. However, people who regard themselves as having reliable information, also assert that ETSA intends to cut the inspectorial staff on bushfire safety by at least half. In the light of the history of bushfires in this State, that raises a great deal of concern not only by those who are engaged by ETSA but by people in rural South Australia who are obviously in more danger from bushfires than those in the metropolitan area. My question is: is it true that ETSA will shed at least half of its line inspectors after this bushfire season and that the Government intends to legislate/regulate to remove the requirement to have all transmission lines inspected and cleared prior to the bushfire season?

The Hon. R.I. LUCAS: I suggest that, if the honourable member wants to come into the Chamber and ask a serious question, he does not wear a tie like the one that he is wearing today.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Leader of the Opposition becomes very defensive now.

The Hon. Carolyn Pickles: It's a wonderful tie.

The Hon. R.I. LUCAS: I have to say that it is the source of much speculation on this side of the Chamber.

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: I do not know whether it is tasteless: the Hon. Barbara Wiese suggests that it is. I would not go so far as to suggest that it is a tasteless tie, but there is some speculation whether it is a young Ron Roberts or, indeed, a young James Dean. I shall be delighted to refer the honourable member's question to the Minister and bring back a reply as expeditiously as possible. Of course, it is unlikely to be available before the Council rises, so I am sure the Minister responsible will seek to try to provide a response during the break leading to the next session.

ROADSIDE VEGETATION ADVISORY COMMITTEE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question about the Roadside Vegetation Advisory Committee.

Leave granted.

The Hon. T.G. ROBERTS: I do not have to point out to you, Mr President, and members in this Chamber the importance of roadside vegetation to the total ecology of this State, particularly in the South-East, the Mallee, the West Coast, Yorke Peninsula, northern areas, and so on. It plays a role by people being able to identify those species which once grew wildly in their geographical regions; it provides a basis for seed collection for rehabilitation of degraded land in those areas; it provides education for university students to carry out work on their theses and courses; and it also provides necessary refuge for native species from being completely plundered.

There are abuses of roadside vegetation in some areas for various reasons, but, in the main, most people living in those regions acknowledge its importance. However, as I said, some individuals and councils go overboard in their weed-spraying excesses by using inappropriate sprays and thereby damage some of the roadside vegetation. Also, there is over use of burning off, particularly at inappropriate times. I have been made aware of landowners who on the odd occasion start fires in the roadside vegetation to get rid of what they call nuisance vegetation. Fortunately, there are not too many of them.

We are finding that the Roadside Vegetation Advisory Committee, which used to advise the previous Government, is not meeting and, I understand, has not met for some considerable time. There has been a prosecution of one council in this State by a group action, and that was successful. I do not want to allude to that, other than to say that it is an indication that the roadside vegetation legislation is being misused. My question is: when will the Roadside Vegetation Advisory Committee be reinstated so that it can give advice to the Minister on some of the problems associated with roadside vegetation, with respect to both maintenance and clean-ups?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

LOCAL GOVERNMENT REFORM

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question about local government reform.

Leave granted.

The Hon. M.J. ELLIOTT: The report by the Ministerial Advisory Group on Local Government Reform, released yesterday, largely ignores one metropolitan council, the Adelaide City Council. Concern has been raised that, with its very low population base, the Adelaide City Council is making decisions which impact on the whole metropolitan area and, in fact, have ramifications for the whole State. The report recommends that the population of the City of Adelaide council remain at 12 000. However, in the report, all other metropolitan council areas were recommended to have much larger populations. In fact, the largest was to have 165 000. It was recommended that the smallest of the six inner city councils would have a population of 110 000, which is almost ten times larger than that for the Adelaide City Council. Some of the outer metropolitan councils had populations of about 60 000, but clearly have the room for growth within their boundaries.

The question has been asked: why did not the arguments that apply to all other councils apply equally to the Adelaide City Council? It is public knowledge that the Adelaide City Council has for a long time been heavily factionalised. It has been suggested that one reason is the commercial and resident interests are fairly evenly balanced at this stage, but it does lead to a great deal of confrontation within the council. The report admits that the city council represents the interests of a wider population than only its ratepayers and provides significant services to the areas which surround it. The Ministerial Advisory Group even at one point suggested there were arguments to actually reduce the size of the council area by taking away North Adelaide. However, on balance, it believed that the council remained 'the exception'. One reason given was that there were no 'natural limits' to the city, even though that limitation was not applied to any other of the councils in the metropolitan area.

I also note that the Ministerial Advisory Group report refers to taking into account a consultant's advice to the group. It was after taking that advice that it was recommended that the Adelaide City Council remain unchanged. I ask the Minister three questions:

1. Why, of all the councils in the metropolitan area, is Adelaide the only council left untouched, and it is significantly smaller than other councils?

2. Was the consultant referred to in the Ministerial Advisory Group retained by either the Government or the Ministerial Advisory Group itself?

3. Is the Minister prepared to release that consultant's report?

The Hon. DIANA LAIDLAW: As a resident of North Adelaide, I am rather tempted to convey my views on the MAG report, but I will resist. I indicate, however, that the consultants were engaged to look at a variety of options for the City of Adelaide. I recall that one such option took the boundaries of the City of Adelaide out to Regency Road in the north, and equivalent distances east, south and west. In terms of who retained the consultancies, those questions must be answered by the Minister, and I will refer those matters to him.

I recall that a few years ago what is now the Employers Chamber of Commerce and Industry was advocating strongly that the boundaries be extended so that the residents' vote would be balanced a little by other ratepayers who had a commercial interest in the city. It appears that that submission has not won favour at this time. There will be much interest in the MAG's assessment of the Adelaide City Council's standing alone in its current form, and it will be one of the interesting matters to be debated by many people in the next few weeks following the Government's assessment of the report.

STATE SLOGAN

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the State promotional campaign.

Leave granted.

The Hon. BARBARA WIESE: As members will be aware, there has been considerable controversy in past days about the Government's promotional campaign, and particularly the chosen slogan 'Going All The Way'. When I raised the issue of the slogan last week and suggested that there was community outrage, particularly among women, many members opposite, such as the Hon. Legh Davis, scoffed and demanded to know how many people had complained about this slogan. If the honourable member, or any other member of the Government, needed any convincing of community attitude on this matter they had only to listen to radio talkback programs during the past few days to get an idea about public response. In the meantime, of course, the State has become a national laughing stock, with news stories broadcast nationwide about the infamous slogan and threats of Liberal Party backbench revolt against it.

The Hon. M.J. Elliott: SA—up the duff.

The Hon. BARBARA WIESE: As the Hon. Mr Elliott points out, it is a bit like the State—up the duff. The Premier, in customary style, leapt into panic mode, called an emergency meeting over the weekend with Liberal MPs and their spouses, and then promptly canned the slogan's use—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —on motor vehicle numberplates.

The PRESIDENT: Order! The honourable member is getting into a great deal of comment. I suggest that she paraphrase her question to the degree that she leaves out the comment.

The Hon. BARBARA WIESE: If these events were not enough to convince the Government that its campaign was doomed to failure, the display of its advertisement on television last night must surely do so. Last night, I had the opportunity to view the advertisement and I could not believe my eyes when the opening shots of this workmanlike but dull advertisement, purporting to promote the State and its wares, filled my television screen with a street umbrella advertising Cinzano—a very pleasant but foreign alcoholic beverage, which I understand is imported into Australia by a New Zealand company: not even a South Australian company imports this foreign beverage. If such an appalling error in judgment had been made in promotional advertising when Labor was in power, then members opposite would have been calling for someone's resignation. My questions to the Minister are:

1. In view of South Australia's reputation as Australia's Premier wine State, why did the Government allow the promotion of an overseas-made beverage in its promotional advertising and lose the opportunity to promote South Australian wine, which is one of our major and best known export industries?

2. Were the Ministers for Tourism and Industry, Manufacturing, Small Business and Regional Development consulted in the preparation of the advertisement, and did they request any change to that particular aspect of the advertisement?

3. Does the Government now agree that its campaign has turned out to incorporate such a large number of blunders and embarrassments for the State that it should cut its losses and withdraw it?

The Hon. R.I. LUCAS: It is very sad to see the Hon. Barbara Wiese following the leadership of the Hon. Mr Rann in another place in relation to anything the Government tries to do to lift morale after the years of destruction and the financial debacle that the Labor Government left South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: After finally getting the financial monkey off the State's back in terms of the State Bank mess,

the Government is trying to do something to lift the spirits of the people of South Australia to try to turn around the very poor image with which the previous Government left the State of South Australia. I can assure the honourable member that nothing could be worse than the mess with which she, her Cabinet and her Government left the South Australia in relation to the financial mess—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: The bankrupt State, as my colleague the Hon. Mr Davis indicates—and a variety of other descriptors.

Members interjecting:

The Hon. R.I. LUCAS: The only people who turned South Australia into a national laughing stock were you lot, the members of the Labor Party. You were the only ones who turned South Australia into a national laughing stock, because you left the State of South Australia in a mess after 10 years of ineptitude and financial incompetence. Every other State and group of business leaders were laughing at South Australia, because they did not want to invest in South Australia because of what you had done to the State. The true test of any marketing campaign will be with the passage of time and will be with the question of financial and economic performance and whether other companies in other States commence investing again in the State of South Australia.

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: The Hon. Barbara Wiese says that this will not work. Frankly, having looked at her performance for 10 years, we do not place much weight on her judgment on anything, in terms of tourism marketing, financial competence or handling her own portfolio. We certainly would not place any weight on her financial judgment or competence in any area at all. We will say that the effectiveness or otherwise of any marketing campaign, whether it be for the State or any product, will be with the passage of time and will be when we see results in the future. Then and only then will we be in a position to make a judgment as to whether or not the campaign has been successful. It is as simple as that.

You can have your own views at the moment, but they count for nothing. The views of the Hon. Barbara Wiese and the Hon. Carolyn Pickles count for nothing, because their judgment has been discredited over 10 years of incompetence. They count for nothing and mean nothing to this Government in relation to what ought to be done. The views of the Hons Barbara Wiese and Carolyn Pickles mean nothing in terms of competent decision making. We will make the judgment. The Premier will make the judgment about the effectiveness of this campaign when it has been given an opportunity to demonstrate its performance.

The honourable member would not yet have seen the full range of commercials that are to be used over the coming years. I can assure the honourable member that the prominence and importance of the wine industry in South Australia do and will feature prominently in the overall package of advertising and promotion for the State of South Australia. Those of us on this side who have seen the television commercials, which are designed, written and sung by South Australians and produced in South Australia with South Australian talent and expertise, will confirm the importance of that campaign. The following package of commercials highlights the importance of not only the wine industry but also the car industry, the components industry and the resource based industries of South Australia and indeed the range of industries that are critical to the future development of South Australia. I have to say that I saw the commercials last night and I was proud to be a South Australian when I saw them. When I first heard the lyrics and the singer, who goes by one name; he is a proud South Australian—

Members interjecting:

The Hon. R.I. LUCAS: No, he is not Kamahl, but he is so well known that he has only one name instead of two, a bit like Sting or Madonna. He is a proud South Australian.

Members interjecting:

The Hon. R.I. LUCAS: Exactly, but this one is not. I thought the man singing and the song were absolutely terrific. In a group that I was with last night—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: A prominent footballer in South Australia, whom I will not name but who was in the group I was with last night, said that when he heard that song it sent shivers down his spine in terms of patriotic pride for South Australia. That was the response from a very prominent footballer in South Australia, who was delighted at the promotion.

Members interjecting:

The Hon. R.I. LUCAS: No, he is not a member of the Liberal Party.

Members interjecting:

The PRESIDENT: Order! I think the Minister should wind up.

The Hon. R.I. LUCAS: Thank you, Mr President. I assure the honourable member that the wine industry will be a prominent feature of the promotional marketing campaign for the State Government.

ABORIGINAL ARTWORKS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for the Arts a question about Aboriginal works of art.

Leave granted.

The Hon. CAROLINE SCHAEFER: As you would know, Mr President, I have some contacts with Aboriginal communities throughout the State. It has been alleged to me today by an Aboriginal woman that a white Caucasian family is falsely producing Aboriginal works of art and selling them to Tandanya Aboriginal Arts Centre, from where they are being retailed as genuine Aboriginal artefacts. Will the Minister have this allegation investigated? Is there any mechanism for the authentication of Aboriginal works of art and, if not, why not?

The Hon. DIANA LAIDLAW: I will certainly have the allegations investigated. I understand that Tandanya seeks to adhere to a strict policy, in terms of authentication of works and sensitivity in purchasing works, that respects Aboriginal design. I also know that, through Ministers for the Arts, Aboriginal Affairs and Justice at the State and Federal levels, a lot of work has been undertaken in recent years to determine whether we could establish in Australia an authentication system for works of art, similar to that which applies amongst the American Indians and Eskimos. There is no question that when such work is authenticated its value in terms of the return to indigenous people is great.

Also, there has been much discussion in terms of copyright law. At the recent cultural Ministers conference I learnt that again officers are discussing this matter with representatives of the Aboriginal and Torres Strait Islander Commission, but it appears to me that little progress is being

made. This was the view of the Federal Minister, who asked for more effort to be made in terms of change to the copyright law, because there is abuse now, and until we address copyright issues—either through a separate Act or through amendments to the current Act—these problems of respect for indigenous culture and traditional symbols will continue to be abused.

That is not in the interests of the indigenous people of Australia. It is certainly not in their cultural interests or in terms of their financial return on the extraordinary art work which they are now producing and which is winning so much acclaim overseas for Australia at present. As soon as possible, and hopefully by tomorrow, I will seek an answer to the allegations that have been made in this specific instance in regard to Tandanya and its retailing practices.

CULTURAL DEVELOPMENT ADVISORY COMMITTEE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the Community Cultural Development Advisory Committee.

Leave granted.

The Hon. ANNE LEVY: Yesterday the Minister sent a letter to all members of the Community Cultural Development Advisory Committee which they received this morning, sacking them. They have been summarily dismissed from their positions.

The Hon. A.J. Redford: You're not gilding the lily and drawing a long bow?

The PRESIDENT: Order!

The Hon. ANNE LEVY: They are told that they will cease to exist as a committee in five days' time. Their terms of office extended until 31 December this year, so they have been sacked five months early before their terms of office ended.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The committee was next week to meet with all the clients who have applied for general purpose grants within this area; that is, today week they were to meet with those clients and then deliberate and determine their recommendations relating to general purpose grants for all community arts organisations in this State. It is obvious—

Members interjecting:

The PRESIDENT: Order! The Hon. Ron Roberts.

The Hon. ANNE LEVY: It is obvious that a new committee cannot be installed by next Wednesday. So, the meetings with clients and the allocation or determination of general purpose grants may be delayed. It may be that peer group assessment is to be abolished for this round and that the decisions will be made bureaucratically. It may be that decisions will have to wait until a new committee is appointed, inducted and learns the ropes of how the advisory committee system operates. Of course, this will cause anxiety to the client groups that have applied, as they will not know the results of their application until much later than normal.

There is also a considerable difficulty because the timing of grant announcements is integrated with those of the Australia Council, seeing that many organisations apply to both their State funding bodies and the Australia Council. There is an interrelationship and consultation between the two granting bodies in determining grants which affect particular organisations.

I understand that the Minister's excuse for sacking the committee is that she wishes to develop new guidelines 'which reflect a more integrated policy for community cultural development and community radio'. This apparently ignores the fact that the Community Cultural Development Advisory Committee has had its own sub-committee dealing entirely with community radio, so that it was not as if community radio was ignored by the committee, even though it was not consulted before the Minister made her decision to axe grants to community radio.

It also raises questions as to who is developing new guidelines. To what will these new guidelines refer? Are the guidelines being developed by people involved in this area of the arts, or are they also to be determined bureaucratically? I ask, first, why the Minister has sacked her committee so peremptorily with only five days' notice and no advance warning. Secondly, who will be developing these so-called new guidelines? Thirdly, who will be determining this round of general purpose grants in this area? Will it be done by peer group assessment and, if so, when? What effect will the delay have on client organisations, or will it be done bureaucratically? Fourthly, why did the Minister not agree to meet with members of the committee when she was requested to do so on several occasions recently? Why did her CEO, Winnie Pelz, also not respond in any way when members of the committee asked to have meetings with her?

The Hon. DIANA LAIDLAW: The committee has been advised that there will be a change of form and procedure in terms of the determination of grants that they considered in the past and, therefore, it is appropriate to look at a new structure. They have been advised of such. In terms of peer group assessment, the grants will be considered on such basis as have all grants traditionally in this State. The honourable member asks when they will be considered: the timetable will remain the same, and there will be no delay despite her beat-up suggestion that that will be the case. There are no difficulties in terms of timing for groups that seek to apply for such funds. As to why I have not agreed to meet people, so far as I know I have never received an invitation to do so, and I will refer that question to Ms Pelz and she can reply if she wishes to do so.

UNIVERSITY GOVERNANCE

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made by the Minister for Employment, Training and Further Education in another place on the subject of the Working Party on University Governance.

Leave granted.

NATIVE TITLE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about native title claims.

Leave granted.

The Hon. R.D. LAWSON: It is reported today that the Mirning Aboriginal people have lodged a claim with the National Native Title Tribunal over some 200 000 square kilometres of ocean and land in the far west of South Australia and into the State of Western Australia. The South Australian portion of the claim includes land in five pastoral leases. Legislation passed in this Parliament has vested in the courts of this State jurisdiction to determine native title

claims. The courts are empowered to sit with native title commissioners. I think I am correct in saying that this jurisdiction in this State has not yet been exercised. My questions to the Attorney are:

1. What progress has been made in facilitating South Australian determinations on native title issues?

2. What action is the State taking in relation to this substantial native title claim?

The Hon. K.T. GRIFFIN: I will deal with the second question first. I think this is the sixth claim in South Australia that has been lodged with the National Native Title Tribunal. Not all of them have yet been accepted by the tribunal. Acceptance by the tribunal does not mean that they will automatically be granted, but I think it means that there is some *prima facie* case which, on the face of it, appears to have been established. The National Native Title Tribunal undertakes mediation, and certainly does not resolve disputed claims.

The Government has been monitoring the various native title claims that have been lodged in South Australia. We have been doing tenure history searches to establish the tenure history of land over which the native title claim has been made, and we have also been doing some other work in relation to the claims. Much of that information is being provided to the National Native Title Tribunal as well as to the State Government, because it is not information about which we have any need to maintain any confidentiality. It is information generally on the public record; it is just difficult to put it together. So, we are taking some interest in the claims, and there will of course be some involvement if the claims ultimately reach the stage of being arbitrated.

In terms of the claim over the South Australian-Western Australian border area and the Great Australian Bight, I do not think it is appropriate to pursue the merits of that in the answer to this question. However, I must say that I am surprised that the claim should be offshore to the extent of 175 kilometres, a very substantial area offshore. I find it very difficult to see how that can ever be regarded as water subject to native title. But that is a matter for the future.

The Hon. T.G. Roberts: In New Zealand there are claims.

The Hon. K.T. GRIFFIN: But New Zealand has nothing to do with the native title legislation in Australia.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: There are different rules in New Zealand. It has the Treaty of Waitangi, the basis on which most of its Maori claims are being made, and there are totally different circumstances in New Zealand from those which exist in Australia and which existed at the time of colonisation. Members will know that we have passed legislation which provides an alternative right to negotiate in this State and which provides also for the ERD Court to adjudicate on claims. Under the Commonwealth Native Title Act, that must be approved by the Commonwealth before we can actually bring those provisions into operation. My officers have been working in conjunction with the officers of the Commonwealth—

The Hon. T. Crothers: That is the offshore claims?

The Hon. K.T. GRIFFIN: No, we are talking now about the ERD Court and the alternative right to negotiate under part 9B of the Mining Act. My officers have been working in conjunction with the Commonwealth officers in relation to an appropriate submission to the Commonwealth Special Minister for State. I have met the Commonwealth Minister in relation to what we want to do and at least to give an initial briefing in relation to that, in the hope that there will be some speedy recognition of the South Australian provisions. The Commonwealth is, I think, supportive of what we are trying to do.

I expect that within the next month or two we will be in a position to finalise that alternative right to negotiate in South Australia and the vesting of jurisdiction in the ERD Court. We are giving it some priority because it is a matter of importance for this State, and if we do get that up we will be the first State or Territory in Australia to get up an alternative system that provides a greater level of certainty and less confusion than the Commonwealth Native Title Act.

MEMBER'S REMARKS

The Hon. L.H. DAVIS: I seek leave to make a personal explanation.

Leave granted.

The Hon. L.H. DAVIS: During a question on the State logo, the Hon. Barbara Wiese claimed that I had made certain comments in a question she had asked on 20 July. I have actually examined the *Hansard* record and I find no record at all of it. There is certainly reference to members interjecting, and specifically reference that the Hon. Robert Lucas was interjecting, but there is no reference to any of the words that the Hon. Barbara Wiese alleged that I said. I think that it is disappointing that someone of her experience and her aspirations would seek to impugn me with those remarks that appear nowhere in *Hansard*.

MATTERS OF INTEREST

BOARD MEMBERSHIP

The Hon. A.J. REDFORD: When the Brown Government was elected in December 1993, it was elected on a promise that by the year 2000 some 50 per cent of positions on Government boards and committees would be given to women. Given that only 22 per cent of board members in the State in December 1993 were women, the Government is faced with an enormous challenge. It is a difficult challenge and one that should be embraced with some vigour. I am sure that every honourable member in this Parliament would agree that the objective of the Brown Government is admirable.

However, in the 18 months that Dean Brown and his team have held the reins in this State we have managed to make only marginal gains and to lift to 27.5 per cent the proportion of women on Government boards and committees, despite an enormous effort on the part of the Minister for the Status of Women (Hon. Diana Laidlaw) and the Premier.

The Minister's record is a proud one: at least half the staff of the newly created Passenger Transport Board and of her personal staff are women. I know that the Hon. Anne Levy opposite would agree that the task is difficult but must be confronted. In looking for directors and board members of the various enterprises under the responsibility of the Government, a number of qualities and characteristics are sought. In relation to executive directors they should have in-depth day-to-day familiarity; be in possession of current company information; be able to communicate information accurately;

and be competent in their areas of expertise. In relation to non-executive directors, the requirements are total independence, experience and maturity, interpersonal skills and the input of knowledge and experience.

Experience would show that board members have previously come from various sources, including: nominating from within the board (albeit that there is a significant risk of the board's becoming an old boys' club); requesting a list of company directors from the Australian Institute of Company Directors (and there is a risk of criticism that that again is an old boys' club); general advertising; and consultants' search.

The fact that more women should be appointed to both businesses and Government boards has been the subject of considerable discussion and consideration. Despite the general view that it should occur, progress has been inordinately slow. Many reasons have been put forward. This Government has kept a registry of women board candidates. I believe that it is useful but I do not believe that it should be the sole strategy. It is my view that the Government should go further and be far more active in searching for positions and ensuring that they are filled where possible by women. Women should not be tokenised by the register approach.

I draw members' attention to the recent Telstra business awards which provide us with an enormous opportunity to seek out and identify appropriate women to be members of boards. The winner of the award, Sue Vardon, is the Chief Executive Officer of the Department for Correctional Services. No doubt members opposite are familiar with her and her skills, particularly when she was Chief Executive Officer of the Department for Family and Community Services. In her role as Chief Executive Officer of the department she has saved the State over $30 million in workers' compensation payments with a settling of outstanding claims, and she is currently responsible for a budget of $84 million. Under her guidance her team has introduced measures to reduce the cost per prisoner from $50 000 per head to a projected $31 000 by June 1996. How disappointing it is when members opposite seek to undermine the enormous efforts she has put in by calling for a select committee and criticising her and the Government's program of privatising prisons.

Other category winners were Fij Miller, the Company Secretary of Kidsbrook. She commenced a career as a business owner in the Murphy Sisters Bookshop. She is a member of numerous boards in Australia. When one looks at her *curriculum vitae* it is important to note that she has been a housewife, has raised a family, played and coached competitive sport, worked for the TAB, pumped petrol, and cleaned fish in a factory, and she was a telephonist for the PMG for a year in Ceduna—a broad and diverse experience, indeed. Obviously, people of Fij's quality and calibre ought to be considered. One should also take into account the important and varied experiences she has had through life.

The winner of the Private Sector Award (for companies with fewer than 100 employees) was Adrienne Ward, who supervises fewer than 100 employees with the St Francis Winery Resort. Her management style has been described as one of teamwork and of looking for a spirit of cooperation and encouragement. She does not ignore her home life. Her commitment to encouraging women to succeed is evidenced in a highly involved role in establishing 'Enterprising Women'. Another recipient was Vivienne Hayles, Project Manager of Tundish Repair Area. She won an award for a company employing more than 100 employees. Time does not permit me to do justice to all of these women but there are many women who are suitable for appointment to boards.

The PRESIDENT: Order! The honourable member's time has expired.

WOMEN PRISONERS, MENTAL HEALTH

The Hon. CAROLYN PICKLES: I address my remarks to the mental health needs of women in prison. I refer members to a research paper prepared by Dr Craig Raeside and others on the prevalence of post traumatic stress disorder in the female prison population. The research was carried out in October 1993 at the Northfield Women's Prison. Eighty per cent of the prisoners there at that time took part in the research. I suppose most people would assume that incarcerated women would have problems apart from the imposition of imprisonment itself. The statistics obtained from this research are quite staggering. According to standard psychiatric definitions, over 80 per cent of the female prison population were found to be suffering from post traumatic stress disorder.

It is important to note that we are dealing here with individual responses to stress which go far beyond the degree of distress which most people can cope with. When internal coping mechanisms break down, external and internal stresses can lead to the psychiatric disorder known as post traumatic stress disorder. It will be to the eternal shame of this Government, and especially the Minister for Industrial Affairs, that those suffering from post traumatic stress disorder have been belittled by Ministers of this Government during debates on the Opposition's Private Member's Bill aimed at restoring lump sum compensation entitlements for workers who develop anxiety disorders and post traumatic stress disorders from their work. That Bill was unceremoniously dumped by the Government. The Government tried to make 'stress claim' a derogatory term, and workers with these afflictions were deemed unworthy of lump sum compensation.

It is against that background that I must make the point that these stress disorders are serious and undoubtedly recognised throughout the psychiatric profession. Most of our female prisoners suffer from this type of disorder. Part of the research focused on the traumatic events experienced by these women. Over half had been victims of child sexual abuse; over two-thirds had been raped; over three-quarters had witnessed violence to such an extent that they were traumatised by it; and nearly 90 per cent suffered from major depression. The need for adequate and comprehensive counselling and treatment for female prisoners in this State is obvious. I hope that the Minister for Correctional Services will take note—and just as importantly I hope that he will work with the Minister for Family and Community Services—because it is clear that the psychiatric problem of the prison population begins in the community. For the record I want to paraphrase some of the recommendations of this research paper.

1. Greater efforts must be directed at reducing the incidence of child sexual and physical abuse and domestic violence. (It is interesting to note that this Government is running down the community welfare system which deals with the whole issue of child sexual abuse. A unanimous report of a select committee in this Chamber which I chaired several years brought down very clearly that this was a very serious issue and caused long term problems in the future. Clearly, if this Government cannot address the issues of child

sexual abuse now we are buying ourselves a very serious problem somewhere down the track.)

2. Services for victims of crime (especially sexual assault victims) need to be expanded.

3. Psychiatric assessment should be undertaken for all women upon imprisonment.

4. A system for diversion of offenders from the criminal justice system to the mental system should be developed and supported.

5. Adequate psychiatric treatment for female prisoners should be provided.

6. Further research into the prevalence and characteristics of psychiatric disorders of women prisoners should be undertaken; and

7. Decriminalisation of illicit drugs needs to be reviewed.

I urge all members to read this report. When people are put into prison they have offended against the law and they deserve, in the majority of cases, their punishment. The loss of their freedom should be punishment enough. Serious psychiatric illnesses are overlooked and not treated, which I think is an absolute disgrace, and I urge the Minister for Correctional Services to deal with this matter promptly.

RURAL WOMAN OF THE YEAR AWARD

The Hon. CAROLINE SCHAEFER: I wish to speak quite briefly on the ABC Rural Woman of the Year Award. As most members would know, this award was initiated by the ABC last year and the inaugural winner of the award was South Australia's finest, Mrs Debbie Thiele. She has proven to be a fine ambassador for rural women and, indeed, for South Australia. I was privileged this year to attend the presentation lunch for the new winner of that award, Mrs Jo Gemmell, who is a dairy farmer. I was also at two of the regional lunches where regional winners were announced at Port Lincoln and at Port Augusta. In all cases the women who were finalists for the State award and, indeed, regional finalists, were an outstandingly talented group of women who ranged from pastoralists who manage large pastoral areas on their own, such as Mary Oldfield, to rural counsellors.

The ABC has done a great deal to promote this award, and in doing so has sought assistance with prizes and sponsorship for the lunches. This year's finals winner in South Australia received an Apple Mac computer and a very advanced mobile phone from Telstra—to mention only a few things. Orlando Wines provided the wines for the lunches and South Australian flower growers presented flowers. This award has done much to raise the profile of rural women and, indeed, to raise the morale of rural women in difficult times. It has done so in an unobtrusive and very acceptable manner. It has raised the profiles of a number of women. It has highlighted the things that they do for their communities and, indeed, their great community involvement in all of these areas.

There would be no more apt organisation to promote such an award than the rural section of the ABC which, incidentally, this year celebrates 50 years of the *Country Hour*. Most people who live in country areas listen to and watch the ABC almost exclusively. I think that harks back to the time when that was the only thing they could get. As I said, most of them do that and they also rely heavily on ABC Rural for information. Therefore, it is most appropriate that these organisations should have instigated and promoted the Australian Rural Woman of the Year.

Last year I was in Melbourne at the inaugural World Conference on Rural Women where the finalist was announced as Mrs Debbie Thiele from South Australia. It was a great moment for those of us who were there. It is with great concern then that I have learnt that this award is under threat, not because the ABC or any of the sponsors are unwilling to go on with the award, but because there is a legal loophole whereby the ABC may not be involved in sponsored events, even though the ABC has never sought to make any profit out of this and has simply sought this kind of sponsorship to lift the profile of the award. Therefore, I hope that such a narrow and nitpicking attitude will not see the demise of such an outstanding award.

INNOVATIVE PRACTICES

The Hon. M.S. FELEPPA: An article in the *Sunday Mail* last week prompts me to take part in this grievance debate today. The Institution of Engineers holds that Australia is depriving itself of trade at home and export opportunities because businesses and academics together are loath to promote changes and the development of new ideas and designs. Academics at universities and TAFE colleges have failed to encourage the transfer of knowledge learned in their institutions into innovative activities as students emerge from their studies to take their place in the work force. Those who have potential are thought to be quite unusual.

Businesses do not encourage them by taking up their ideas and innovations properly. For instance, business resisted changes which the Institution of Engineers holds is the main reason why Australia is slipping behind the rest of the world, and business is failing to create new trade and, above all, to develop innovation to improve exports. Senior executives and heads of Government departments should admit the need for change and to implement some innovations. They need to have an open ear and mind rather than a suggestion box connected to the waste paper basket.

The future of Australia depends on trade, as members would readily realise, but, above all, on exports in both goods and patented ideas and processes if the economy of Australia is to be lifted out of its stagnating woes. How many times have we seen good ideas and innovations, for instance, discovered by good, hard-working, inventive Australians offered here and sadly rejected and then successfully taken up overseas from where they had to be imported here?

I believe that unless we can increase trade within the country and properly develop export markets, none of the measures to relieve the economy, such as tax relief, training schemes, marketing assistance, and so on, will advance the economy of our country. Professor Murray Gillin, the spokesperson for the Institution of Engineers, also holds that Australian business leaders and academics have relegated innovation to a chance occurrence. Innovation is there and should be recognised. Finally, Professor Gillin has called on the Government to pressure business and the universities to change their approaches and be more forward thinking with regard to innovative ideas, design, products and markets generally.

MS AUNG SAN SUU KYI

The Hon. BERNICE PFITZNER: I have a brief matter of importance to raise regarding the release of Ms Aung San Suu Kyi. A fortnight ago there was tremendous news that the Burmese Opposition Leader, Ms Aung San Suu Kyi, had

been released after six years of house arrest. Not since Nelson Mandela has such a change given so much hope for a country, Burma, now renamed Myanmar.

Ms Suu Kyi comes from a political family. Her father was General Aung Sun, the founder of Burmese independence. She was only two years old when her father, General Aung Sun, was shot dead by an unidentified gunman in Rangoon in 1947. He has had a deep influence on her philosophies.

In 1988 Ms Suu Kyi's group held a pro-democracy gathering in Rangoon. However, a group of Burmese generals, possibly feeling very threatened, moved in a bloody coup and suppressed the pro-democracy movement. Burma is now governed by these generals under the name of SLORC—State Law and Order Restoration Council.

In 1989 Ms Suu Kyi was put under house arrest for 'endangering the State'. She has never been charged or tried. In 1990 her National League for Democracy Party won a landslide victory, even though she, the Leader, was under house arrest. The junta ignored the result and gaoled a number of newly elected MPs. Others fled to rebel-held areas along the Thai border.

Ms Suu Kyi was later awarded the Nobel Prize for her stance. However, she must be admired for her commitment to her position of pro-democracy as she was offered the opportunity to be released many times on condition that she left the country. She has a husband and two children in England and she could easily have succumbed to be reunited with her family and thus have an easy and comfortable life. She is reported as saying that her biggest personal regret was not being around as her teenage sons grew into young men, now 17 and 22, but she chose the hard way for the sake of her country, Burma.

Ms Suu Kyi has stayed under house arrest for six years so that she could continue to promote, encourage and support democracy for her country. We know that the path will be long and difficult, but for the time being she has reiterated a statement from her release notification which requests her 'to help towards achieving peace and stability in the country.'

The Government—the State Law and Order Council—has suppressed any news of Ms Suu Kyi's release locally. They have drawn up new legislation in the constitution that will prevent nationals who are married to foreigners or who have lived outside the country during the past 20 years from taking senior political office. Obviously that is directed at Ms Suu Kyi. The ruling generals appear confident that they now have the power. Further, there is a hidden agenda that the present Government is looking for foreign investors for their 'Visit Myanmar Year 1996'. For the time being, Ms Suu Kyi is being cautious and advising dialogue and reconciliation. We in Australia hope that she will not be released only to lull her into a false sense of security so that she might make a move that will give the generals an excuse to put her more firmly under house arrest again or even into prison.

We hope that Ms Suu Kyi will continue to move to show the wisdom and courage to slowly and, unfortunately, painfully lead her people on the path of a democracy based Government. We must surely admire her determination and the Australian Federal Government must try to show moral support for a person with such integrity. I am sure we all wish her the very best.

RURAL SERVICES

The Hon. R.R. ROBERTS: I wish to address some remarks concerning the provision of services to people in rural South Australia. Recently announcements were made about the unemployment figures in most States. Unfortunately, South Australia's figures are lagging behind. This is despite all the rhetoric the Government has been putting around about its renewal policy and how it is doing all sorts of things. The federal member for Grey, Mr Barry Wakelin, in commenting on the figures in Grey, said he was disappointed at the Federal Government and that unemployment was not dropping in his State whilst it was dropping in every other State.

I would ask Mr Barry Wakelin to consider talking with his State colleagues, the members for Flinders (Liz Penfold), Eyre (Hon. Graham Gunn), Frome (Rob Kerin) and Custance (Ivan Venning), because I would assert that much of the unemployment that is taking place in country areas is because of policies of the South Australian Government, not the least being the closure of Government offices. Mr President, I am sure that in your capacity as a rural member you would you have struck this. We have lost people from ETSA, the Highways Department and other Government departments. There are cutbacks in education and the list goes on.

I will address some remarks about something which I think is indicative of the problems faced by rural people. I stress at this point it is not necessarily a direct policy of the Government, but I wish to address some remarks in respect of BankSA closures. Most members would have received in the past couple of days notices from BankSA about the restructuring of its branch networks. Those documents point out there are a number of metropolitan branches and one country branch of BankSA. I am advised there are only two banks in Snowtown: one is the ANZ and the other is BankSA. These BankSA closures have been announced, the press releases have been put out, and I am advised there has been no consultation with the major customers in Snowtown. People like Mr Phil Crickman at the hotel; in the supermarket; John Reinke, the agricultural agent; in the electrical stores; and most of the farmers in that area are all customers of that bank. I am advised their accounts are worth millions of dollars per year, yet there has been no consultation.

My constituents in Snowtown are extremely upset that the bank is being closed. They are not impressed that the bank points out they can access other branches in South Australia. They are in a reasonably isolated rural area, and it is not just a matter of jumping into a car and moving around the corner. It will mean they will probably have to change banks. For various reasons they are not confident with the ANZ Bank.

I am also advised that Mr Trevor Darling, an officer from BankSA, is in Snowtown today and, despite efforts by television stations, he will not talk to reporters to explain BankSA's policy. I am told there is a meeting at the school at 3 p.m. today, which my constituents were prepared to attend and seek advice from Mr Trevor Darling. He has said that if they turn up at the school the meeting will be cancelled. My constituents are extremely frustrated about BankSA and they are extremely critical of the fact there was no consultation with the community. They are anxious to try to get some relief and information.

I find it appalling that a senior officer from BankSA is in Snowtown today and is prepared to talk with the children of the town but is not prepared to put BankSA's point of view to business houses and substantial customers of BankSA but has taken what I believe is an outrageous decision. Whilst people in the community are prepared to come along and have a meeting with him whilst he is in the town, he has flatly refused to explain the situation to my constituents and has

said he will boycott any meeting. This is indicative of some of the problems that face rural constituents in South Australia with a cutback in services—in particular, Government services. Again, I condemn many of the policies of this State Government in respect of the provision of services to country people.

MARION COUNCIL LAND

The Hon. R.D. LAWSON: I move:

That Corporation of Marion by-law No. 3 concerning council land, made on 27 April 1995 and laid on the table of this Council on 30 May 1995, be disallowed.

This motion is brought to this Council on the recommendation of the Legislative Review Committee. That committee has recommended that by-law no. 3 of the City of Marion be disallowed. This by-law is one of four by-laws recently passed by the council of the City of Marion. The by-law deals with council land, which means all parklands, reserves, foreshores, public places, etc., and includes all streets and roads in the City of Marion that are under the control of the council.

It is the view of the Legislative Review Committee that one aspect of the by-law is objectionable in point of law. The matter is rather complicated and I should state the committee's objections in some detail. The purposes of this by-law are to consolidate a number of council by-laws relating to council controlled property and to impose certain new controls. As I just mentioned, this by-law deals with council land, and the by-law deals with a number of topics in a perfectly unobjectionable manner. For example, it deals with vehicles on parklands, the sale of goods on council land without permission, the placing of beehives on council land, the controlling of camping, the playing of dangerous ball games and the like.

The part of the by-law to which the Legislative Review Committee takes exception is clause 2(3). The report of the Marion council on the by-law describes this clause as follows:

Clause 2(3) controls the parking of vehicles for advertising purposes. It specifically exempts taxis, council vehicles, vehicles with signs identifying that vehicle as belonging to a business. Also exempted are buses and vehicles with sunscreen advertising. A limitation on the latter exemption ensures that shop or business proprietors will not use advertising banners as sunscreens in the vicinity of business premises.

This clause 2(3) is a provision controlling the parking of vehicles for advertising purposes. Therein lies the difficulty which has led the committee to recommend disallowance. The difficulty arises because councils have only limited powers in relation to parking matters. In particular, local councils do not have the power to make by-laws for the control of parking.

To understand this difficulty, it is necessary briefly to go into some history. Prior to 1978, local councils had power to make by-laws regulating parking. In 1978 the Local Government Act was amended and the legislative regime in relation to parking was changed. A new section 475a was inserted and that section gives to the Governor the power to make such regulations—and I emphasise 'regulations'—as are necessary for the purpose of regulating, restricting and controlling the parking or standing of vehicles in public places. The reasons for this new regime appeared in the second reading speech of the then Minister for Local Government (Hon. G.T. Virgo) in another place, when he described the object of the amendment as:

To provide a completely new scheme for the regulating of parking throughout council areas. As the Local Government Act now stands, individual councils have power to make by-laws regulating parking within their areas.

The Hon. G.T. Virgo went on to say:

It is proposed that the whole matter will be dealt with by way of regulation, as this will provide greater flexibility for amendment and will provide a complete code of offences and penalties. Councils will have the power to decide upon the way in which various streets and roads, etc. will be regulated in their own areas, but the method of such regulation will be governed by the regulations made under this Act.

In the other place, the then member for Mitcham, Mr Robin Millhouse, claimed that the amendment was 'to get Mr Gordon Howie', the well known campaigner against local government parking restrictions, and he was probably correct in this assessment.

Regulations pursuant to the power granted by section 475a were duly made. They are called the Local Government Parking Regulations of 1991. Under those regulations council may, by resolution—and I emphasise 'by resolution'—establish parking zones, and a resolution establishing a parking zone may limit the class of vehicles that may be parked in it or impose other specified conditions. One requirement of the regulations is that each zone must be denoted by signs or pavement markings which comply with an Australian standard.

That is the current regime with regard to councils' powers in relation to parking. Section 370 of the Local Government Act does give local councils the power to make by-laws relating to moveable signs. The Legislative Review Committee believes that section 370 gives councils adequate power to control and regulate signs on vehicles. However, that section itself provides that a council cannot make a by-law prohibiting the placement of signs unless the council is specifically satisfied that:

Prohibition is reasonably necessary to protect public safety or that it is reasonably necessary to protect or enhance the amenity of a particular locality.

In other words, the council must specifically direct its mind to those issues before enacting a by-law under section 370. The Legislative Review Committee has not lightly recommended the disallowance of by-law no. 3 of the City of Marion. As this committee and its predecessors have said in the past, it is unfortunate that the committee does not have the power to recommend disallowance of part of a by-law or power to recommend that a by-law be amended: it is all or nothing. Much of the Marion by-law is unexceptionable, but the committee regards this issue as an important point of principle. Parliament would be remiss if it did not require local councils to conform to the scheme of the Act.

The committee did receive and carefully consider a written submission from the solicitor for the council who was responsible for the drafting of the by-law but, notwithstanding the force of that submission, the committee felt that it was appropriate in the circumstances to recommend disallowance. Regrettably, the matter is of some urgency because the by-law will have completed its 14 sitting days during this session, and this being the last Wednesday of sitting in the current session the motion for disallowance will lapse if not carried before the end of the session. I should say that the

members of the Legislative Review Committee were unanimous in recommending the passage of this particular resolution, and I commend the motion to the House.

Motion carried.

AYTON REPORT

The Hon. R.R. ROBERTS: I move:

That the Attorney-General have leave to give evidence to the Joint Committee on the National Crime Authority in relation to the receipt and disclosure of the Ayton report, if he thinks fit.

This Parliament, over the past couple of years, has discussed the Ayton report. The aim of this motion is for the Parliament to authorise the Attorney-General to give whatever evidence he may have in relation to the illegal disclosure of the Ayton report to the appropriate Commonwealth authorities. I do not wish to go over too much of the ground that has led me to this motion. However, I will explain briefly the background to the matter, particularly for those newer members who may not be aware of the background to the release of the Ayton report.

Early in 1991 the National Crime Authority committee, a committee of both Houses of the Commonwealth Parliament, charged with overseeing the activities of the National Crime Authority decided to inquire into legal casinos and any alleged links with organised crime. On 31 May 1991, the committee received a confidential submission in relation to these matters from a Western Australian police officer, Superintendent Ayton. This submission was circulated to members of the committee on a confidential basis. On 4 March 1993 the Attorney-General, then in Opposition, tabled in this place a copy of Superintendent Ayton's report as part of an ongoing campaign being waged at the time by the then Opposition against Genting—advisers to the Adelaide Casino and the State Labor Government.

The same document was extensively quoted from in another place by the now Premier and Deputy Premier, again as part of a political campaign aimed at embarrassing the State Labor Government. A subsequent inquiry, by Ms E.F. Nelson QC, was held into Genting and the allegations made by the current Premier, Deputy Premier and Attorney-General, allegations which were partly based on the Ayton report. Ms Nelson's inquiry found that the allegations made had no foundation. However, the leaking of the confidential Ayton submission from the National Crime Authority committee remained a matter of concern to that committee and, I would have thought, to all parliamentarians and legal officers throughout this nation.

In March 1994 the Deputy Chair of the National Crime Authority committee, South Australian Liberal Senator, Amanda Vanstone, formally raised a question of improper disclosure of the Ayton submission, and an inquiry was implemented by a Privileges Committee, chaired by South Australian Liberal Senator, Baden Teague. This committee reported upon its investigations in June of this year and noted that the Ayton submission:

. . . was improperly disclosed and that such disclosure constituted a serious contempt.

I understand that this contempt could be an offence against section 13 of the Commonwealth Privileges Act regarding the illegal publication of *in camera* evidence, which attracts a penalty of some $5 000 or imprisonment for six months, or even an offence of conspiracy contrary to section 86 of the Commonwealth Crimes Act, which attracts a penalty of three years imprisonment. Quite clearly, a serious offence occurred with the illegal disclosure of the Ayton report. The beneficiary of this disclosure was the then Liberal Opposition in South Australia, which used this illegally gained submission for political purposes in the South Australian Parliament.

The Commonwealth Parliament's Privileges Committee was unable to ascertain who was responsible for the leaking of this document or its distribution, and the committee was not assisted in its investigations by the three South Australian parliamentarians, including the Attorney-General, who refused to give evidence to the committee by claiming that they had received material as members of State Parliament and therefore their privileges as State parliamentarians could not be overridden by the Commonwealth. The Attorney-General, in response to a question from me on 20 July, quoted extensively from the report of the Privileges Committee to try to explain why he and his ministerial colleagues did not provide any information to the committee in relation to how they came to be in possession of the Ayton submission. In particular, he quoted from paragraph 1.6 of the report, which stated:

In refusing the NCA committee's request, Mr Griffin advised that 'unless authorised and directed by the South Australian Parliament, the South Australian Ministers could not be required to, and will not, give evidence to the joint committee in relation to any aspect of the receipt or disclosure of the documents. This advice accords with similar advice given to the NCA committee by Mr Dennis Rose, QC, then Acting Solicitor-General.'

Quite clearly the Attorney-General argued that he was prevented from providing any evidence to the National Crime Authority committee because he had not been authorised and directed by the Parliament. This motion seeks to authorise the Attorney-General to do so, but it does not seek to direct him to do so. I am wise enough to realise that there is a matter of the privileges of individual members of State Parliaments to be considered here and no member should be compelled to appear before a Commonwealth committee of inquiry if they do not wish to.

However, the Attorney-General has claimed that he is prevented from appearing before the NCA committee because he is not authorised to do so. His argument almost implies that he would like to appear but the State Parliament is preventing him from doing so. This motion will authorise the Attorney-General to appear before the NCA committee if, and only if, he thinks fit. It is worded in the same fashion as motions authorising Ministers of this Legislative Council to appear to give evidence before the House of Assembly Estimates Committees and, as such, will authorise the Attorney-General to appear before the National Crime Authority committee.

If this motion is successful, it will then be up to the Attorney-General to make up his own mind whether he wishes to appear. If he does wish to appear, he will do so with the blessing of the South Australian Parliament. If he does not wish to appear he will have to explain to the people of South Australia why as our State's senior legal official he refuses to give evidence to a committee investigating a serious criminal act.

In answers to questions in this place the Attorney-General has claimed that he did not and does not know the identity of the person or persons who illegally obtained and distributed the Ayton report, although he also claimed that it did not come directly from a member of the NCA committee. It appears that the Attorney-General knows from whom it did not come. The Attorney-General has also claimed that at the time the report came into his possession and was tabled in

this place he was not aware that the report had been obtained illegally. This may well be the case.

The Attorney-General now knows that a criminal act took place, and he must now realise that he cannot hide behind his proclaimed ignorance of the event. I do not wish to call into question the veracity of Attorney-General's claims. However, surely if the Attorney-General has any information that may assist the National Crime Authority committee to track down the person who committed this offence, he is duty bound to provide whatever information he can. I am also sure that the Attorney-General would realise that, whilst he may not know the name of the person who stole the report, he may well have information that could assist the Commonwealth authorities in their investigations.

The Attorney-General seems to argue that the use of the leaked report to do a little political damage to the Labor Party in South Australia is enough for him to claim privilege and refuse to assist the National Crime Authority committee in its investigations. But what if a leaked report or leaked information were used for financial gain by a member of Parliament or others? Would that, too, attract privilege? Would the Attorney-General then claim that the State members of Parliament should not assist in the investigation of criminal matters? Given the Attorney-General's record, I think not.

The Attorney-General's wishes to split hairs and make a distinction between one type of criminal activity and another. The Attorney-General may have been wittingly or unwittingly used in an exercise to attempt to cause political damage to the then Labor Government by people who had committed a criminal act. The Attorney-General could probably live with any judgments made in this place or in the community about the appropriateness or otherwise of his behaviour in tabling a document in the Parliament from an unknown source whose credibility could not be ascertained. However, how did the Attorney-General even know that the document was *bona fide*? How did he know that it was not a fake? He claims that he did not know the source of the material, so how did he know that it had not been tampered with?

But, then, those were the days of Opposition, when any actions could have been forgiven in search of political victory. However, the Attorney-General is now in government, and the public has a right to insist that the senior legal officer of this State act in a manner that is appropriate and proper. If this motion is successful, the Attorney has the opportunity to prove that he is above grubby little games for political advantage and that he can show the community that he does not wish to hide behind a privilege that is not provided to protect criminal activity. He can go to the National Crime Authority committee with the blessing of this Parliament and answer whatever questions it wishes put to him and, if at the end of the day it is no closer to finding the culprit in this criminal act, so be it. The Attorney-General will have done what is right and he will have earned the respect of the South Australian community and this Parliament for having done the right thing.

I commend this motion to the Council and make the suggestion that, if it is the will of this Council that the Attorney-General be empowered to give evidence if he deems fit, it may well be a recommendation from this Council to the House of Assembly that it afford the same privileges to the Premier and Deputy Premier if they deem fit to exercise their option to assist the National Crime Authority committee in tracking down the perpetrator of this crime. I commend the motion to the Council.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

ETSA CORPORATION

The Hon. SANDRA KANCK: I move:

That the regulations under the Public Corporations Act 1993 concerning the ETSA Power Corporation, the ETSA Energy Corporation, the ETSA Transmission Corporation and the ETSA Generation Corporation, made on 29 June 1995 and laid on the table of this Council on 5 July 1995, be disallowed.

In moving this motion, I flag the Democrats' concerns over several aspects of these regulations and the processes involved, which appear to be an attempt to bypass this Parliament. My concerns relate primarily to the fact that these regulations seem to be at odds with the recommendations of the Audit Commission relating to accountability and also the structures that were set up in the Electricity Corporations Act.

The Commission of Audit identified a number of shortfalls in the Corporations Act under which these regulations are proclaimed, and one of these is the fact that the Act does not cover the process of corporatisation. The structure proposed in the regulations is one of a parent company, ETSA Power Corporation, with three subsidiaries. I am not aware of any other State adopting this type of corporate structure, and its merits are not immediately apparent to me.

Last year the Electricity Corporations Bill set up the ETSA Corporation and allowed the establishment of an electricity generation corporation and an electricity transmission corporation. An ETSA corporation with other subsidiaries was not what was set up in the legislation. I was quite surprised to see these regulations. Remember, it is an ETSA corporation, an electricity generation corporation and an electricity transmission corporation, which at the time seemed to be three separate bodies of equal ranking.

Of the regulations that appeared earlier this month, No. 135 sets up the public corporation, ETSA Power Corporation; No. 136 sets up the public corporation, ETSA Energy Corporation; No. 137 sets up the ETSA Transmission Corporation; and No. 138 sets up the ETSA Generation Corporation. So, four corporations have been set up, when the legislation as we passed it last year envisaged only three. I do not know what the Government is up to, but I am very suspicious.

When the Electricity Corporations Bill was debated, the Minister stated that he was not entirely happy with the structures for the electricity industry proposed by the national competition policy. Perhaps now is a good time for the Government to tell South Australians what it intends. Page 372 of the Audit Commission report, which deals with Government businesses, states in part that institutional and legal arrangements need to be clear and provide transparency. The Audit Commission's specific recommendations in relation to ETSA including the following:

15.1 The Government should clearly define its objectives for competing in the national grid.

15.3 In preparation for the new structural arrangements, ETSA should continue to introduce a more commercial approach by. . . reviewing internal structure to reduce overheads.

None of these recommendations appears to have been addressed by the Government in this instance. The Government has adopted a 'trust us' approach. It seems that overheads will be increased under the model proposed in the regulations, because there will now be four boards, not three, with all the accompanying support services instead of one.

In other legislation before the Parliament, the Government intends to increase the number of directors on the ETSA board. Members may recall that, last year when we debated the Electricity Corporations Act, this Council reduced to four the number of members on the three boards. So, despite this Council's amending the Bill back then to reduce the size of the boards, in another piece of legislation introduced in this place yesterday the Government is in the process of increasing the size of the ETSA board back to the original seven members.

So, things are happening around here, particularly with ETSA, that just do not gel. One year before it expires the Government has bought back the lease on the Torrens Island Power Station. It has cost a lot to do that. Why did the Government not wait the 12 months and save us the money? I must say that I do not trust this Government and if, as I suspect, the Government is preparing parts of ETSA for privatisation, the public should know in advance what the Government's plans are. This Government has clearly shown South Australians that it will put its privatisation agenda ahead of public opinion and, some might say, public interest.

I feel it may be more appropriate that the Act be amended if the Government wants to make changes of such importance. While I hold more general concerns about the implications for South Australia of the Hilmer reforms, including what I see as the State's being on a $70 million hiding to nothing in relation to the whole deal, it is what we in South Australia have to come to terms with. It is up to the South Australian Government fully to explain its intentions.

I realise that this motion will lapse at the end of this week when the sitting finishes, but I am using this opportunity to invite the Opposition to look more closely at what is going on and to put the Government on notice that, if it is intending to privatise ETSA via regulation, it will not be getting away with it quite so easily.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I oppose the Hon. Sandra Kanck's motion to disallow these regulations. Advice provided to me indicates that, as the Hon. Sandra Kanck said, the structure envisaged for ETSA Corporation underneath the regulations that she is discussing will incorporate an ETSA Corporation holding company and, underneath that, four subsidiary companies: ETSA Transmission, ETSA Power, ETSA Generation and ETSA Energy.

The Hon. Sandra Kanck: That's not the structure that was put in the Bill last year.

The Hon. R.I. LUCAS: No, but the honourable member will concede that the Minister in another place indicated that he believed that we needed to be flexible in terms of how we responded to the national challenges that are occurring in relation to power generation and transmission.

The Hon. Sandra Kanck: Parliament should decide.

The Hon. R.I. LUCAS: And Parliament will decide. The process we are going through is the Parliament deciding. The Hon. Sandra Kanck is a participant in the Parliament's deciding whether or not the proposition that the Minister is putting should be accepted. If the Hon. Sandra Kanck has a majority of support, then her view will prevail. If she does not, the Minister's view will prevail. So, it is the Parliament's deciding: that is our whole regulation-making procedure under our system of government. There is an opportunity for any member to disallow and, if he or she can get the support of the majority in either House, the Parliament does decide. If he or she cannot get that support, then the Parliament decides not to support that particular member. So, the honourable member should concede that the Parliament is deciding.

The Hon. Sandra Kanck: In a sort of a fashion.

The Hon. R.I. LUCAS: The honourable member grudgingly concedes 'in a sort of a fashion'. There is no other fashion by which the Parliament can decide. Either it does or it does not.

The Hon. Sandra Kanck: You could actually introduce some legislation to amend the Act.

The Hon. R.I. LUCAS: In effect, this will change the position, or it will not change the position. Under our legislative framework we can change either the legislation or the regulations. There is a process, and we are going through the process now of considering a change by way of regulations which not even the honourable member is suggesting is beyond the power of the Act. If the honourable member was arguing a legal position that in some way this contravened the Act or was beyond the powers of the Act, that would be a point that she could argue on other occasions. However, she is not arguing that in relation to this matter. She is arguing that she would have preferred to see legislative amendments as opposed to regulation, and that is her preference. But, there is nothing that prevents the Minister, within the powers of the Act, in terms of introducing the regulation.

It is now the responsibility of the Parliament to decide whether or not it agrees with the Minister. The honourable member is moving a disallowance and is now having the opportunity to hear from the Government that it disagrees with that position. We will soon hear from the Labor Opposition as to its attitude to the regulations as well.

It is important that on behalf of the Minister I place on the record the division of responsibilities between the four subsidiary corporations, because the honourable member has raised some questions about what these corporations will be doing and, to use her phrase, about what the Government is up to. Therefore, it is important that I place on record the Minister's understanding of the new structure proposed for the ETSA Corporation.

ETSA Transmission will be responsible for transmitting electricity, coordinating operations of the generation, transmission and distribution facilities of the SA electricity system, controlling the security of the SA electricity supply system, operating and administering wholesale market trading arrangements for electricity, trading in electricity, carrying out research related to the corporation's functions, providing consultancy and other services within areas of the corporation's expertise, commercial development and marketing of the products, processes and intellectual property produced or created in the course of the corporation's operations and any further function conferred on the corporation by ETSA.

The second group is ETSA Power, which will distribute, supply and retail electricity. It will meet obligations to ensure security of electricity supply to customers. It will generate electricity on a minor scale or local basis. It will trade in electricity and fuels, carry out research and works directed towards any energy conservation and actively encourage, advise and assist customers and potential customers of the corporation in energy conservation and in the efficient and effective use of energy. I should have thought that the honourable member would be delighted at that term of reference.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: The Hon. Sandra Kanck claims that the Minister has in effect heeded her calls in doing that. That is an indication of the Minister's listening to the honourable member and incorporating, as any good Minister in government would do, sensible suggestions from members in terms of changes to regulations. ETSA Power will carry out research and development related to the corporation's functions, provide consultancy and other services within areas of the corporation's expertise, commercial development and marketing of products, processes and intellectual property produced or created in the course of the corporation's operations and any other function conferred on the corporation by ETSA.

As the name suggests, ETSA Generation will generate and supply electricity, will carry out research and works, including exploration and mining, to develop, secure and utilise energy and fuels, trade in electricity and fuels, provide consultant and other services within areas of the corporation's expertise, commercial developments and marketing of products, processes and intellectual property produced or created in the course of the corporation's operations and any other function conferred on the corporation by ETSA.

ETSA Energy will trade in fuels including gas, new sources of energy and energy services. It will also carry out research and development in relation to new and renewable sources of energy. I presume—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: This sounds very much like something the Hon. Sandra Kanck has asked the Minister to undertake. Again, the Minister in that spirit of responsiveness and openness has responded so that ETSA Energy will have a major task in the sorts of areas that the Hon. Sandra Kanck and other Australian Democrat members before her have long argued in terms of alternative sources of energy, whether it be solar, wind or whatever, and renewable sources of energy. Our ETSA Energy corporation ought to be involved in looking seriously at these alternative energy services or sources.

In that change there is now a particular group, ETSA Energy, which is different from the first structure about which the honourable member was speaking and which has as one of its prime responsibilities this important area for which the honourable member has long argued. I would have thought that, at least on this aspect of the changes, it is very much in line with what the honourable member has argued passionately for in this Chamber and, before that, in the wider community; that is, the need for our electricity generating corporation to be more responsive in these areas. The Minister has tried to respond to the honourable member's pleas and entreaties, and this is the response that the Minister gets from the honourable member when he seeks to provide a response to her in this area. ETSA Energy will also be involved in commercial development and marketing of products, processes and intellectual property produced or created in the course of the corporation's or ETSA's operations, will provide consultancy and other services within areas of the corporation's or ETSA's expertise, and any other function conferred on the corporation by ETSA.

The honourable member raised an issue in relation to board structures and numbers. I am advised that under the Electricity Corporations Act there would have been three chairpersons and 18 members, with a total therefore of 21 in that structure. The advice provided to me is that under the new subsidiary corporations proposal there will in effect be a total of only 15, a reduction of six. The advice provided to me is that there will be a chair plus six persons at the corporate level, which is seven, and that for two of the other subsidiaries there will be a chair plus three which, therefore, gives us four and four, which makes eight, and eight and seven is 15.

The Hon. Sandra Kanck: By the time we got through the Bill last year we had a total of 12. You have actually managed to increase it back up to 16 all told.

The Hon. R.I. LUCAS: I am not sure about the 12, because the advice provided to me says that, under the Electricity Corporations Act, there would be three chairpersons and 18 members, which is 21. I am not sure whether the honourable member is looking at the one and the two backwards, but the advice provided to me is that it is 21 members under the Act and that under this new proposition we are reducing it from 21 to 15. The other two subsidiaries will have common membership with the board, so that the persons elected to the board will serve on the subsidiary corporations, and that is why we have 15 rather than 21. I cannot respond in detail—

The Hon. Sandra Kanck: It is not exactly a lean and mean 15.

The Hon. R.I. LUCAS: It is leaner and meaner than 21.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Exactly. I guess it is all relative. It is leaner and meaner than 21 and it is a significant reduction of almost 30 per cent. If we can reduce things by 30 per cent, that is a significant reduction, significant change and significant saving. I do not intend to delay the proceedings of the Council any longer. I indicate there the Government's position on behalf of the Minister. I understand and respect the honourable member's position, whilst on this occasion I cannot agree with her. I can only conclude by saying that, whilst there might be some aspects of this proposition that she might be unhappy with, should she be unsuccessful in disallowing the regulation I am sure she will concede that there are many very attractive aspects of this proposition that are entirely consistent with her past pleas to the Minister.

The Hon. R.R. ROBERTS: The Opposition will not be supporting the motion. It causes me some pain to do that, because the Hon. Ms Kanck has been very consistent with her approach to these matters. I have a particular view about corporatisation-privatisation, and I have had long discussions with the shadow Minister for Infrastructure (Mr Foley). We, like the Hon. Ms Kanck, are concerned that these regulations were trotted into the Parliament yesterday with very little time to do very much to alter them or to make some alternative arrangements which may satisfy the Hon. Ms Kanck and which would allay some of the fears that I hold. However, we are all wrapped up in a situation in the power industry. We are being guided by the Hilmer report and, as far as I am led to understand, there will be a meeting of Infrastructure Ministers, chaired by the Federal Government, within one month.

Therefore, it is the understanding of the Opposition from briefings that we have received that it is essential we have some of this in place because of the requirements of the Federal Government, so that we in South Australia can receive our share of the competition compensation payments that are available for Governments involved in the restructuring of the power industry. It is somewhat disturbing, and that may well not have even been enough to convince me or my colleague the member for Hart. However, I remind members in this place that the general principles of this structure were

agreed, by and large, by this Chamber after amendment. I take the point that the Hon. Ms Kanck has made: there have been some additions to what this Chamber believed would take place, but we will have the overriding corporation and, instead of three committees sitting under that, there will now be four.

During that debate the Opposition expressed its concern that we were just being set up for privatisation, and during the debate, especially in the House of Assembly, we sought assurances from the Government before we would go to the second step in this restructuring, from the steering committees down to independent corporations which, it could well be argued, would be setting the thing up for privatisation. The explanation that has been given to us is that those four particular units need to be transparent in their operations, to be seen quite clearly as competitive, and that would then accord with what is happening in all other States.

It is my view that it is unlikely that South Australia will be too involved in the generation and transmission side of this four part proposition, because one of the problems we have in South Australia is not that we have power to sell but that we need to buy power or to generate more power and, in a competitive environment, when we have the infrastructure that is available from the eastern seaboard, from the major producers, it is unlikely that we will get into too much generation and distribution. For South Australia to participate in these competition compensation payments, we need to have this in place. In response to requests from the Opposition that, before we reach the stage of setting up these new, independent, stand-alone mini corporations, if you like, there would be a full and proper debate in the Parliament and that any of those alterations would be subject to the scrutiny of both houses of this Parliament, the Hon. J.W. Olsen on 16 November in the House of Assembly (*Hansard*, page 1095) stated:

> It is difficult to be precise, but I should have thought the second phase would be three to five years away. If the honourable member [the member for Hart] is seeking some clarification of the Government's objectives at this stage, there is no proposal in the life of this Government to set up the additional corporate structures.

So, according to the Minister—and we can only take him at his word—we are looking at three years down the track. The Minister for Infrastructure has said that that will not take place until there is a full and proper debate in the House of Assembly and, indeed, it must pass this Chamber. Just recapping, we are concerned at the way this Government has gone about this exercise. We feel that it is unacceptable in the last three days of this sitting to bring regulations into this place of such magnitude and of such importance to the future power needs of South Australia. However, given all the circumstances that I have outlined, I indicate to the Council that the Opposition will not be supporting the motion of disallowance.

The Hon. SANDRA KANCK: I am disappointed to hear that the Opposition will not support me in disallowing these motions. The Hon. Ron Roberts mentioned that magic word 'transparency' which is so beloved by this Government. My concern is that what is happening is not transparent: we do not know what this Government is up to. When we have a complete change in the structure compared to what the Bill originally envisaged, when we have the buying back, at considerable taxpayer expense, of the lease on the Torrens Island Power Station one year before it was due to expire and when we see an expansion of the ETSA board we know something is up. I do not know what it is and I am surprised, therefore, that the Opposition is prepared to allow this to go through in this form.

I recognise, however, that I do not have the numbers at this stage but during the break I will correspond with the Opposition to ask it to reconsider its position on this, because the 14 days available in which to disallow regulations will still carry over to the next session of Parliament when we resume in September.

Motion negatived.

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

> That the report of the Select Committee on the Redevelopment of the Marineland Complex and Related Matters be noted.

I must confess that when I agreed many years ago to serve on the Marineland select committee I did not anticipate that more than five years later I would be standing on this side of the Chamber as Leader of the Government in the Council and as Chair of the committee reporting some 5¼ years later. It must be a South Australian record and perhaps a national record, and possibly a world record, in terms of length and duration of a select committee on any issue. I intend to address some comments about that and the reasons for that during my contribution this afternoon. My judgment and the committee's judgment of the Marineland financial debacle is summarised simply as a sorry saga of Labor Government incompetence—further evidence and follow up to Labor Government incompetence demonstrated through the 1980s and the early 1990s with the State Bank, with SGIC, and with the Timber Corporation investments in timbermills in New Zealand, in Scrimber, in Africar, and in a variety of other wondrous things that the Timber Corporation thought might have been useful during that period of the 1980s.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: That is true. There is a very sorry saga of the financial incompetence of the previous Labor Government, and to that you must now add at last the definitive record of incompetence in relation to its handling of the Marineland financial debacle. In simple terms the taxpayers of South Australia have had to pay out in one form or another some $10.2 million as a result of the financial incompetence of the Labor Government that represented South Australia for that period of 10 or 11 years.

Those who take the opportunity to read the report of the select committee or any press or media reports about it will see a tragic story of one family's dreams for themselves, their future and for the future of South Australia in a significant tourism development being destroyed at least partially or significantly by the incompetence and ineptitude of a Labor Government and the actions it undertook during that period.

In the lead-up to the establishment of the select committee I personally was not actively involved in the Marineland issue and therefore did not know much more I guess than the average member of Parliament or the average member of the wider South Australian community. Other members on both sides, but I guess more significantly amongst the then Liberal Opposition, were more actively involved than I. There were some community members who are now members of Parliament who were actively involved in the issue and who know much more about the early days of Marineland.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: The Hon. Terry Roberts puts a sobering thought on it: there are some members of Parliament who are now members of the wider community. I guess there has been a role reversal because of the duration of time from the start to the end of this committee. I entered the Marineland select committee, having been asked to do so by my Party, with very much an open mind in terms of the evidence that was to be outlaid before us. I want to spend some time talking about the evidence and the cooperation or lack of it from some. This is not an issue that has really been addressed in detail by committee members.

I developed an enormous sympathy for the plight of the Abel family in what they sought to do for themselves but also for South Australia. In my personal judgment—and other members will have made their own judgments in terms of serving on the select committee—I believe that in the evidence they presented to the select committee they assisted the select committee to the very best of their recollection and to the very best of their ability. I acknowledge, and the report acknowledges, that there is some evidence that will be on the public record that is critical of some of the actions of members of the Abel family during that period. There are a number of reports from chartered accountants and various other reports which raise questions about the actions of the Abel family during that period.

I want to put on the record that, as a member of the committee and in the past 12 to 15 months as Chair of the select committee, I believe that when the Abel family and their representatives appeared before the select committee they assisted the operations of the select committee to the best of their ability and to the best of their recollections. I place on the record the fact that I believe that in their evidence to the committee the Abel family provided greater assistance to the operations of the committee, irrespective of what view members had, than a number of other witnesses who presented evidence to the select committee. In my contribution this afternoon I want to indicate my enormous frustration over five years at what I saw as the attitude of some witnesses who appeared before the select committee in what I saw as a deliberate attempt to not cooperate with the operations of the select committee in a number of very significant and important areas.

At the outset I place that on the record, because whilst I cannot know what other members will say I believe that there might be an attempt by some members to seek to discredit the Abel family and the evidence they presented to the select committee. As I said, I cannot prejudge. I can make judgments, and only time will tell as other members put on the record their recollections or thoughts in relation to this long, drawn out select committee. As I speak first I therefore place on the record my judgment as one member of the committee about the integrity of the degree of cooperation that the Abel family tried to provide to the select committee as they sought from their viewpoint justice and justification for the actions that they had taken during that period.

I turn now to what I saw over five years as a deliberate campaign of attempting to frustrate the operations of the select committee. I say, without fear or favour, that the previous Labor Government deliberately tried to ensure that the select committee would not report prior to the last State election. I believe that the previous Labor Government knew that when this select committee reported, in whatever form, it would be enormously politically embarrassing for that Government, for senior Ministers and, in particular, for the then Premier, the Hon. Lynn Arnold. Therefore, I believe that, during the four years of the past parliamentary term, we saw an attempt to ensure that we did not report prior to the last State election.

I want to put on the record some detail for holding those very strong views. Members will recall that when the committee was first established the Government and Ministers of the day were asked to provide to the select committee all evidence within their files relating to Marineland. In the first bunch of documents we received what was known as 1 000 pages of evidence. It was not very long after that, with further probing and questioning and looking at cross-referencing of documents, that, lo and behold, we found there had been a filing problem within Government departments and agencies and ministerial offices and that 500 pages had not been published in that first brush. So, the second round of documentation was another 500 pages of evidence.

Over those first six months, basically, we worked through all that documentation. In June 1990, I found references to other documents in the 1 500 pages that we had that also had not been presented to the select committee. I was curious. I did not know what the documents were and I did not know what was involved within those documents, but I knew in looking at the cross-referencing of those 1 500 pages that we had not been provided with documents which may or may not have been significant to the operations of the select committee.

On 2 June 1990 I wrote to the then Minister, Hon. Lynn Arnold, and said, 'What about this particular document; why has it not been tabled; where is it?' It was only as a result of that letter that, late in 1990, I received a copy, and then tabled a copy of that particular letter and a number of others with the select committee. It was only as a result of the actions of the then Opposition, in effect, highlighting the fact that further documents had been kept from the select committee, that we got one particular document and a couple of others as well. I want to refer later to the significance of the document that was not provided to the select committee until we pursued it. Eventually, we got those documents in late 1990.

On 16 July 1991 we had the then Minister, the Hon. Lynn Arnold, together with his ministerial adviser at the time, Kevin Foley (now the Labor member for Hart), present evidence. I will return to those two persons later, but they provided evidence to the select committee. It was only through questioning by Liberal members of that Minister and his senior adviser that again we established that further documents had not been provided by the Minister to the select committee.

That was the saga of this select committee trying to get hold of all the evidence relating to Marineland. We had to wring it out of Ministers and the Government drip by drip by drip. We had to establish that further documents had not been tabled; we had to question the Minister or his advisers and demand copies of those particular documents. These were not documents for which Cabinet or Crown privilege was being sought; these were not documents about which there was some challenge or difference of opinion as to whether they could or should be provided to the select committee: they were documents which existed within departmental records but which were not being provided to a duly constituted select committee of this Chamber in terms of the operations of the Parliament.

If a Minister had said, 'We are going to table this document but there are other documents that we will not table for whatever reasons and for which we seek Cabinet privilege,

or whatever,' we would have jumped up and down, but at least that would have been an open and honest way of going about it. They could have said, 'We are not going to give you this,' through whatever device they chose, but that was not the approach adopted by that Government. The approach was one of concealment, of deception and of trying to ensure that the select committee did not have a complete record of all the evidence within departmental files.

Upon election to government and upon nomination as the Chair of the select committee, in the fifth and sixth years of the operation of the Marineland select committee we were still finding documents that had not been provided by the previous Government to the select committee.

The Hon. T. Crothers: But were still on file?

The Hon. R.I. LUCAS: But were still on file, because new Ministers under the new Government, when we highlighted it to them, in effect, provided the committee with those documents. I do not believe that the documents in the fifth and sixth years were as significant in terms of finalising committee members' positions as were some of the earlier documents that were concealed from the committee. But that is beside the point. It is wholly unsatisfactory for the operations of the committee system of the Parliament to have a duly constituted committee being deliberately frustrated by non-provision of documents to it. I draw a distinction where a Government or Ministers say, 'We have documents that we are not going to provide because they are commercially confidential,' or whatever it may be. We can argue about the role of the Cabinet, Executive Government, the Parliament, and all those sorts of issues, but that is not what we are talking about here. Irrespective of the attitude that members take in relation to this issue—and we take differing attitudes in relation to the findings of this committee—I raise a broader issue of greater importance, and that is the degree of cooperation by Governments with the operations of select committees.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Leader of the Opposition can remember that. I believe that the degree of cooperation has to be much more open and transparent than occurred during the four to five years of the previous Labor Government with the Marineland select committee. That is one important reason why I believe there has been a deliberate campaign to delay, frustrate and ensure that this committee could not report prior to the last election. This is not part of the committee's report, but the other enormously frustrating part of the operations of this committee in my judgment was the fact that there were a number of significant witnesses who chose not to cooperate with the operations of the Marineland select committee. Because of the passage of time, two of my colleagues were new members on the committee and therefore, whilst they read all the evidence and had all the evidence and transcripts available to them, did not experience first hand the evidence of some of the key witnesses earlier on.

I intend to turn now to some examples of where I believe some senior officers, the Minister and advisers chose not to cooperate with the operations of the select committee. We had a combination of selective amnesia, in my judgment, of people forgetting who wrote documents, forgetting who signed documents and, in effect, suggesting that other people signed documents. As I said, I will return to the fact that there were various hidden documents that we were only able to establish after some years of digging around and questioning.

I will give one example of this frustration. It is in relation to a document called the Marineland Action Plan. This was a significant document, in my judgment, which raised a number of important issues to which I will refer in a moment. I tried for five years on that select committee to find anybody who would put up their hand, within Government or within the department, and own up to the fact that they wrote that document. We went through every witness conceivable, although we did not interview the receptionists, stenographers and typists within the department—maybe they wrote it. But we interviewed every senior person involved in the Marineland project, and we could not get anyone to put up their hand to own up to the fact that they had drafted the Marineland Action Plan. I will refer to some of the evidence.

We interviewed people including Henry Oh, John Frogley, Rod Hartley, Sandra Eccles, the Minister, Kevin Foley, Bruce Guerin and a range of others in relation to this document. Henry Oh's evidence was, 'I did not write it and I have no idea who did.' John Frogley's evidence was that he did not write the document. He believed, 'It was not inconsistent with the style of Mr Rod Hartley, the then Director of the department. It may well therefore have been written by Mr Rod Hartley.' I will turn to Mr Hartley's evidence in a minute, but he did not recall reading it or commenting on it. He got into a little trouble later on in terms of questioning on that. I will return to his evidence in a minute.

Ms Sandra Eccles, then Deputy Director, also believed that Rod Hartley, the Director, may well have written the draft. She certainly said it was not in her style and she had not written the document. She believed she might have seen it and been asked to comment on it. She believed John Frogley might have seen it and been asked to comment on it. Mr Frogley said—previously or after, I cannot remember the sequence—that he had not seen it or commented on it, although Sandra Eccles thought he had. When we spoke to Mr Rod Hartley, he said he had never seen it before, and it '. . . certainly was not in my style to have written this document', even though we had others of his senior officers saying, 'This looks like Rod Hartley's style.' Rod Hartley said, 'No, it is not my style; I have never seen this document. I do not know what it is about.'

I want to turn to this document and some of the issues that it raises. At the bottom of page 2 of the document, it says:

> The Premier's office wishes to announce the end of Government support for Marineland and the broad outline of the possible new hotel/convention centre complex at the end of the week. The aim would be to make the Saturday *Advertiser*, and that a contingency press release would be drawn up before that time to ensure we are prepared if one or a number of the parties talks to the press.

The second part of the document on page 3 states:

> The statement needs to cover many aspects, including the Government's changed views on the keeping of dolphins in captivity, the uncertain viability in the longer term of the Marineland complex, the magnitude of the direct losses incurred by the Government in making a decision to end Marineland, and the size and scope of the new tourism development.

Ms Eccles—and remember that her evidence is that she believed Rod Hartley had written it—in relation to that aspect of the Marineland Action Plan, when asked whether she can explain the reference to the changed views of the Government, says:

> No, I cannot. The Government's view was not changed. The only change of which I was aware was the transfer of the rights to take dolphins in the wild when necessary from one company structure to the new Tribond structure.

The evidence further states:

To the best of your recollection, Mr Hartley wrote the document and you and Mr Frogley commented upon it. If that is your view and you commented upon it, if it is an incorrect statement, now why would you have not pointed it out to Mr Hartley at the time? Are you suggesting that perhaps you did point it out and that he either changed it or chose not to change it?—(MS ECCLES) I cannot say why it was written or why it was not amended. The only reason I can think of is that we were not careful enough in the writing of or scrutiny of the document.

Do you recall advising Mr Hartley that that aspect of his draft plan was incorrect?---No, I do not recall. Then if I do not recall precisely who wrote the document and who commented on it, I am not going to recall a detail like that.

I will not go on to indicate the rest of the tenor of the evidence presented by Ms Eccles, but I can assure members that the nature of it, in my judgment anyway, was very similar to that all the way through.

On that same issue, I want to turn to the evidence of Mr Frogley. Again, Mr Frogley was asked about this Marineland Action Plan. As members will recall, I indicated Mr Frogley was not aware who had written it. He thought perhaps it might have been Mr Rod Hartley. The questions and replies relating to Mr Frogley were:

If your director gave you a copy of the Marineland Action Plan which was mapping out an important strategy of how to cope at that difficult time for the Government, the department, the developers and everybody else, and asked you and Sandra Eccles to comment on it, do you not think he would want you to read it closely and identify any errors rather than just saying that you were action oriented in considering what you would have to do as a result of that?---I do not recall and I do not believe that he asked me to comment on it.

Can you clarify that?---I do not recall and I do not believe I was asked to comment on it.

I thought you indicated that you did?---No, I do not think I said that. I said I have seen it.

But you did not comment on it?---I do not recall commenting on it.

So your evidence to the committee is that you were given a copy of the document, presumably by Mr Hartley or Ms Eccles?---I have seen the document at sometime in the past. Whether I saw it at the time it was prepared or subsequently, I am not sure. If there was an action plan in existence, it would be unusual if I did not receive it.

But you received it and interpreted it as needing to be looked at but not commented upon?---I interpreted it as being a document that set out my responsibilities in terms of delivering certain parts of the action plan.

Again, I do not intend to go on for the rest of the evidence. I give that as a detailed example, and there are many other examples of documents which, from the perspective of members of the committee, made it enormously frustrating when trying to get to the bottom of who was prepared to own up and take responsibility as having written the document.

One understands that, with the passage of time, if something is said by way of verbal discussion it sometimes will be difficult for one to remember the detail thereof. But we are not talking about that here: we are talking about authorship or otherwise of important documents in relation to the operations of the select committee. In this situation we found that no-one was prepared to own up to the fact that they had written these important documents, so we were not in a position to ask those officers or advisers why they were advising the Government at that time in that way.

It therefore meant that we were unable to pursue those lines of inquiry to their end point. I do not know, and I guess we will never know, where those lines of inquiry might have taken us because a combination of Ministers, advisers and some senior officers meant that we were unable to establish authorship; we were therefore unable to pursue those important lines of inquiry.

I now turn to the document to which I referred earlier and which we established existed by way of cross-referencing. I wrote to the then Minister seeking a copy of that document. The key dates upon which the operations of the select committee centred were 2 and 3 February 1989, and one of the key issues upon which the select committee has reported is the issue of who made the decision not to continue with the dolphinarium component of the development at Marineland.

It is the committee's judgment, as the report indicates, that the Government and the Minister did not want that section of the development to proceed and, through senior officers of the department and Government, made that quite clear to the developer, Zhen Yun. I will return to that point in a moment in some detail. Whilst that is the committee's view there is, of course, a dissenting opinion from Labor members who believe that the decision to withdraw was taken voluntarily by Zhen Yun. This issue of who made—

The Hon. R.D. Lawson interjecting:

The Hon. R.I. LUCAS: That is a very interesting interjection from the Hon. Mr Lawson, and I am sure he will comment on that. The issue of who made the decision is critical to the operation of the select committee's deliberations. A critical period was a telephone call on 2 February 1989 from the then Minister, Lynn Arnold, to Mr Lawrence Lee from the private company, Zhen Yun. There are differing versions and interpretations not only of that phone call but also the proceedings through that week. On that afternoon of 2 February, after that phone call, a critical fax was sent from Zhen Yun direct to the Minister, Lynn Arnold, in relation to Zhen Yun's interpretation of that phone call. The fax of 2 February states:

Dear Mr Arnold,

Thank you for your telephone call earlier this afternoon. I would like to take this opportunity to confirm the following: that the Department of State Development and Technology will take appropriate steps to stop the development of Marineland and, pursuant to such steps, Zhen Yun Australia Pty Ltd is therefore requested not to proceed to acquire the shares of Tribond Developments Pty Ltd.

That critical fax was not tabled by the Government or its Ministers to the select committee in the original 1 000 pages; it was not tabled by the Ministers and the Government in the second load of 500 pages of documentation. That fax was located, as I have indicated, only by way of letter from me to the Minister demanding a copy of that document. It was only as a result of that inquiry that I, and then the committee, was provided with that document.

Irrespective of what final decision members on the committee take about who made the decision to withdraw, I do not believe any member of the committee could say that this was not an important document with which the committee should have been provided. I challenge any member of the committee, Labor or Liberal, to stand up and say that the committee should not have been provided with that document right from the outset and that it should have been kept from the select committee and from its deliberations. That fax from Lawrence Lee is clearly saying to Lynn Arnold, 'Thanks for your call, and I'm confirming our understanding of that phone call.'

When we produced that fax to the select committee, I will not use the colloquial expression in terms of how it galvanised various officers, Ministers and advisers in terms of denying all knowledge of ever having received it, of ever having seen it, of ever having accepted it, or of ever knowing anything about it. It was one of those parentless documents.

In this case it was not a question of who had written it; it was a question of who knew anything about it—who had ever seen it. Again, it is a significant indication of how the operations of this select committee were frustrated over five years in terms of trying to carry through its investigations on critical documents and on critical lines of inquiry.

It is interesting to note that the Labor Government's, and I guess that of the Labor Opposition, defence in relation to that document is that one day later, the next day after that fax was sent to Mr Arnold, a fax was sent from the Department for State Development in effect indicating its interpretation of the telephone call, which surprise, surprise, was completely different to the fax that had been sent by Lawrence Lee to the Minister the day before.

It is important to get the sequence right: on 2 February the fax is sent from Lawrence Lee to Mr Arnold; then, the next day later, a fax or a letter—I cannot remember what it was—was sent to Zhen Yun from the Department for State Development, giving a completely different interpretation of the telephone call.

The Hon. Anne Levy: It was a fax.

The Hon. R.I. LUCAS: The Hon. Anne Levy says that it was a fax. On the next day, 3 February, the document is used by the then Minister and the then representatives of the Government to indicate that their version of that critical telephone call on 2 February was correct. But there is further evidence about that telephone call. I do not have that part of the evidence with me at the moment, but either a number of other people were sitting with Mr Lee when he took the telephone call or a number of other people met with him soon after he took that call and they then took various actions. One of those was Mr Ellen of the company Elspan, which had been associated with the development.

Documents provided to the committee from Elspan's files provide a different perspective again from the views of the then Minister, Mr Hartley and Ms Eccles and supports the view of Mr Lawrence Lee. A letter from Mr Ellen to Mr Lee on 3 February 1989 refers to a meeting held on 2 February 1989 attended by Mr Lee, Mr Ellen, Mr Gary Chapman and Mr Jeff Kirkby. That letter states:

> The progress of the West Beach development was discussed and we were informed that the South Australian Government had decided against the Marineland dolphin ocean development but that the hotel and conference centre project would proceed.

A note dated 9 February in Mr Ellen's files refers to a telephone conversation with Mr Hartley in which Mr Hartley stated that there had been pressure on the Government not to allow this to go ahead. According to the note, Mr Hartley also stated that the Government agreed it had a moral obligation by its reversal of policy to help the Tribond people not to be financially hurt.

One other bit of evidence earlier than that—a memo from Ms Eccles to the Minister dated 26 January 1989—mentions a conversation between Mr Lee and Mr Virgo, where Mr Virgo indicated that Zhen Yun should consider building the hotel only and not Marineland. In evidence, Mr Virgo denied ever making this suggestion.

There are a number of other examples of evidence to support the view to which the select committee eventually came, namely, that the then Government did not want that part of the proposal to proceed and that, in their advice, senior officers and those associated with the Government were encouraging Zhen Yun not to proceed. As the report indicates, Zhen Yun believed, rightly or wrongly, that it wanted the consent (and it interpreted 'consent' in terms of approval) of the State Government to proceed with that part of the development. It believed that, whilst it had had that approval in late 1988, it had lost it in early 1989, and for those reasons Mr Lee then wrote to the *Advertiser* and others later. It is for those reasons that Zhen Yun then went through with that process of removing the dolphinarium part of the project at Marineland.

There is one final broad area to which I want to return, and that is compensation and the pressure that was placed upon the Abel family on that Saturday, 9 or 11 February 1989, when they were called in to conclude the discussions in relation to compensation. I do not want to go through all the detail, because it is outlined in the select committee's report, but the final conclusion, even conceded by the Deputy Director of the department, Sandra Eccles, was that unnecessary pressure had been brought to bear on the Abels on that afternoon to conclude the agreement. The financial threat was held at the head of the Abels. Sandra Eccles conceded that she did make some statement along the lines of the question which I put to Sandra Eccles, as follows:

> Did you say to the Abels on the Saturday meeting, 'If the document are not signed, tonight (Saturday night), the Government's offer of compensation will lapse and you will all be faced with paying the $4.5 million.'?

Sandra Eccles replied:

> I am not sure that I said that: I would have pointed out that if we could not reach agreement their position on compensation would be jeopardised.

There is another page of questioning, and finally she was asked:

> Do you deny saying at that meeting, 'If the documents are not signed tonight, the Government's offer of compensation will lapse and you will all be faced with paying the $4.5 million.'? You were saying that it might not lapse tonight, but that it would lapse very soon thereafter?

Ms Eccles replied:

> I do not deny saying words of that kind. Certainly, the facts as I understood them were that if we did not reach agreement they would be liable for the losses and the payments to creditors that would need to be made, but I am not sure about the figure of $4.5 million.

The Hon. Diana Laidlaw: Was she acting under instructions?

The Hon. R.I. LUCAS: That is a very important point. We were unable to establish who had made the decision to say that the Government's offer would lapse by that Saturday night if the Abels did not agree. Sandra Eccles said that it was beyond her responsibility to make those sorts of decisions and that it must have come from higher up. When she was asked how much higher up—whether it went to the Minister, to the Minister's adviser, Mr Foley, or to Mr Hartley—she was unable to say where the decision would be taken. When we spoke to Mr Hartley we got a similar story. No-one could remember who had made the decision to authorise Sandra Eccles to say that the Government's offer would be withdrawn that Saturday evening if agreement was not reached. Yet, Sandra Eccles was saying that she could not have made that decision on her own and that someone further up must have made it.

When we explored further up, again, no-one was prepared to put up their hand and indicate that they had made that decision to say, 'You either sign up by Saturday night or the offer is withdrawn and you are potentially exposed to $4.5 million in terms of costs and damages.' I do not know whether that figure is correct, but it was the figure that was

used in the evidence that was presented to the select committee.

In concluding my comments on that part of the evidence and bringing to a conclusion my comments on the select committee report, I want to refer to the transcript of the evidence of a former member of the select committee, the Hon. Ian Gilfillan, who was then parliamentary Leader of the Australian Democrats. I spent a lot of time with the Hon. Mr Gilfillan in that lead-up to 1989, and I think it is fair to say that there had been broad agreement between the then Liberal members of the committee and the Australian Democrat member of the committee in terms of our key findings on the Marineland select committee.

As it eventuated, for some of the reasons I have outlined we were unable to bring the select committee's findings to a conclusion prior to the 1989 State election. But, just as one indication of the flavour of Mr Gilfillan's frustrations at the time, which were similar to mine (I do not suggest that he agreed with everything I said or currently say, because he would be the first not to accept that), on the day we questioned Sandra Eccles, Mr Gilfillan said:

> I am not particularly questioning the quality of your memory, Ms Eccles; I am simply making the point—and you can agree or disagree—that it is extraordinary that such an important decision was carried out by you as the senior person present, and you have no recollection of who was involved in arriving at that decision. I am just saying that it is amazing. That is not a question, it is a comment. You can comment back if you want to. I am still unsatisfied. We still do not have a clear explanation as to why that decision was made and implemented by you.

I will not quote again further transcripts of the Hon. Mr Gilfillan but, in quoting that, it is a clear indication that the Hon. Mr Gilfillan felt the similar frustration that I have outlined this afternoon at, in effect, the selective amnesia and the inability to recall key documents or find them on occasion or remember who wrote them and who made decisions that frustrated the operations of the committee over that period.

I conclude by saying that I have not endeavoured to revisit all the recommendations of the committee this evening. We have a busy agenda. I did want to address issues that were not primarily part of the committee's findings. I place on the record my frustrations and concerns as to the operations about the committee. I place on record my acknowledgment of the work of the Hon. John Burdett in the early years of the committee. John, if he is up there looking down upon us, will be comforted I am sure by the fact that eventually the committee has reported. Tragically, he was unable to be part of the final report of the committee.

I have moved that the report be noted. There will be further extensive debate not only in terms of what went wrong with Marineland but there are important recommendations about what can be done in the future to prevent similar occurrences. I have already flagged publicly, but I will not discuss it today, that I believe that this Council should consider what are the options available to it to ensure that this does not recur in relation to a select committee of the Council. In particular, we might have to consider (I have not discussed this with anyone) that if a committee has been going for a reasonable period and if an election comes up, perhaps the committee might be asked by the Council to produce an interim report prior to the election so that we do not end up with a position where any Government can seek to frustrate, delay and prevent what might be a politically embarrassing report from surfacing in the months leading up a State election.

The Hon. ANNE LEVY: I support the motion, but I am sure the Minister will not be surprised if that is about the only point of agreement between us. I have a number of remarks I wish to make about the select committee and I hope that I can do so in less than the 49 minutes that the Minister has taken for his comments. I wish to discuss a number of matters and respond to some of the comments made by the Minister. Like the Minister, I had no previous knowledge of the issues before being appointed to the committee in 1990. I was not a Minister at the time of the events we were inquiring into and I certainly was not party to Cabinet or Government discussions. In fact, I was President of this Council at the time and my knowledge was no greater than that of any other member before the establishment of the committee.

The length of the committee has certainly established a record. It was established on 21 March 1990 and it is now reporting on 26 July 1995, a period of five years, four months and five days. I hope that this will stand as a record and that there will be no select committee which will ever attempt to break that record. I point out that when the committee was established in 1990 it was the first committee established with five members, after a long period of six members on all Legislative Council committees, but the then Opposition and the Democrats insisted that Standing Orders be reverted to and that members of all select committees should number five only and consist of two from the Government, two from the Opposition and one from the Democrats. Indeed, it was the Minister who argued very strongly for that, which is unlike his attitude on the same question only a few days ago.

The Minister commented that the Abels were witnesses who did all they could to assist the committee. I certainly concur with that remark but in my view all witnesses who appeared before us attempted to assist the committee to the best of their knowledge and ability. That applied not only to those who were specifically concerned with the detailed terms of reference but those who were looking at broader issues such as the question of keeping dolphins in captivity, plans for release or non-release of dolphins in Marineland and various other related issues. While this was not directly relevant to some of our terms of reference the committee was appreciative and grateful to all witnesses who came before it. I thank all of those witnesses who did their best to assist the committee.

I reject the Minister's comments that there were people who were not cooperative. Everyone attempted to assist the committee but we were inquiring about events that had occurred a number of years previously and it was quite legitimate for people not to have a detailed recollection of fine details of matters that had occurred three, four or five years before. I respect people when they are honest enough to say that they do not recall such details. It would be extraordinary if people could remember all the details of something that happened many years previously. Had they pretended to know all the details, one might have doubted their veracity, as it seems unlikely that people can have such detailed recollections. The various witnesses who appeared before the committee were frequently asked at the end of giving evidence, 'If we would like to ask you further questions, would you be prepared to come back?' Unfailingly, they indicated that they would be happy to return if we had further questions to ask of them.

One or two lots of witnesses did return on different occasions. Not once did a person refuse to return upon the Minister's suggestion that they return so that he could question them further. Not once did the committee refuse to

have someone return upon the Minister's asking that they be asked to return. Any suggestion by anyone that they wished to give evidence or from a member of the committee that they wished to hear further evidence from someone was always acceded to, and witnesses indicated that they would always be happy to return. I also refute the suggestion that there was any deliberate attempt to prevent the committee completing its work in 1993. There were many witnesses; the committee was taking evidence until late in 1993; and our Research Officer was doing his best to keep track and to prepare reports on the vast amount of evidence that had been received. The very fact that it is now 19 months since the election and only one lot of witnesses has appeared before us in that 19 months indicates the complexity of the matter. It has taken nearly all those 19 months to sort through the material, the pre-existing material plus the small amount of new evidence, and prepare the final report. To suggest that that could have been done before the election in 1993 is plainly ridiculous.

I would like to turn to the report itself, which is what this motion is about. The report is not uncritical of many individuals and of actions that were taken, but in general it does so in a balanced and careful manner. Anyone who reads the report will find that it is divided into chapters, each consisting of a discussion followed by conclusions. Except for one of the many chapters, which I will note later, the discussions were unanimously agreed by the members of the committee and the conclusions, with one exception, were also unanimously agreed. These discussions and conclusions were based on the evidence that had been presented to us. I have no criticisms whatsoever of the way in which the select committee went about its business in receiving evidence, considering it, drawing up the discussion in the various chapters, discussing this and considering it and, as I say, in every case arriving at unanimity in the discussions and with all chapters and, except for one, unanimity in the conclusions. I will say more about the conclusions at a later stage.

There are criticisms of the West Beach Trust: that it sought reports on IOD, as it then was, from Dun and Bradstreet and from Peat Marwick, which it received, but it did not follow their recommendations. If I can quote from the report, Peat Marwick recommended that West Beach Trust:

> . . . take steps to gain an understanding of the way in which IOD anticipate raising the funds required to develop Marineland Park before any agreement is signed between the two parties.

Despite that warning from Peat Marwick, West Beach Trust did not follow it up, did not assure itself that IOD had the financial capabilities or the ability to raise finance for the project it was wishing to undertake before signing the letter of intent with it. Likewise, the Dun and Bradstreet report, which was requested, was received and indicated that the total assets of IOD were $10. This report was received after West Beach Trust had signed a letter of intent with IOD, as it then was. The report is also critical of IOD and Tribond, which it later became: that it had not adequately assessed the site before it signed the letter of intent; that, while it had examined some aspects of the site, it had not undertaken a full examination. It did not know what exactly it was signing up for, and the responsibility was on it to assess whether the then Marineland site fulfilled its requirements. That was its responsibility; it did not adequately undertake it, and we had the situation where two groups rushed into signing a letter of intent, starting a chain of events without either of them adequately preparing themselves for the project they wished to undertake.

At a later stage there was considerable controversy between Tribond and West Beach Trust over the question of the secondary filters for the water system. In desperation they eventually went to the Ombudsman whose conclusion was that both parties were at fault; that they were unable to see the wood for the trees; and that they ought to put such squabbling behind them and get on with the job. The Ombudsman would not use words as colloquial as 'squabbling', but that was clearly the gist of his conclusions. So, initially, certainly, there were faults on both sides and, while the committee felt it was not always able to judge the credibility of witnesses for itself, where there were conflicting accounts the discussions report the differences, and the conclusion is that there were misunderstandings and faults on both sides.

I quote from one of the conclusions in the report, dealing with the question of the water filtration system. The committee was unanimous in saying:

> The committee is not in a position to resolve conflicts between differing accounts given by the witnesses. However, the lesson to be learnt from the overall circumstances suggests that the attitude and actions taken by both parties made it extremely difficult to resolve matters in the businesslike and professional manner which a project of the importance of Marineland merited.

Another area where the committee was unanimous in its conclusions related to the report prepared by the Department of State Development for the Industries Development Committee of the Parliament. We must remember that the guarantee which was given by the Government to this project was given on the recommendation of a bipartisan committee of this Parliament with Government and Opposition members from both Houses. The committee is so structured and its rules so laid out that a recommendation must be approved by members of both major political Parties. Recommendations approved by members of one Party only are not a valid recommendation. The IDC recommended the Government guarantee which meant that members of both Parties agreed that this Government guarantee should be provided, and it was on that recommendation that the Government provided the guarantee.

In the report there is criticism of the documents provided to the IDC by the department. The critical question of visitor numbers, which would determine the financial viability of the project, was not emphasised in the body of the report but was placed in an appendix so that the IDC's attention would not have been drawn sufficiently to the critical numbers of visitors required for viability. The wildly differing numbers which have been estimated at times, particularly from the proponents of the project, Tribond, were not supported by a cooler assessment by the Department for Tourism which gave a much lower estimate of visitor numbers such that the financial viability of the project would have been very much on the borderline.

It is true that Tribond was in deep financial trouble by April 1988. The report was provided by the Ferguson Company on the financial operations of Tribond, and the report from Ferguson found that financial reports (this relates to Tribond) for the previous eight months had to be prepared from scratch so that Ferguson could undertake an analysis, because there were no such financial reports. Monthly financial reports had not been prepared on a timely basis nor had comparisons with budgets been made. There was a lack of proper financial systems and reports and, therefore, financial performance and operations could not be monitored. Expenses were greater than the budget, trading activities failed to reach the profit expectations and the revenue was

less than had been budgeted for. Tribond had exceeded banking arrangements by $195 000—this was by April 1988. In fact, a later report from the Auditor- General stated that it should have been evident that Tribond was experiencing financial troubles as early as June 1987 though it is, of course, always easy to be wise in hindsight.

Another matter which was considered in great detail by the select committee was the question alluded to by the Minister as to why Zhen Yun decided not to proceed with the Marineland part of the development and, consequently, not acquire the shares of Tribond. (I have now moved forward about 10 months chronologically, and this deals with events which occurred in January and February 1989.) The Minister makes great play of the telephone call and fax he referred to. The telephone call on 2 February from the Minister to Mr Lee of Zhen Yun was a short one, and there is not really a great deal of argument as to its content. The then Minister, Mr Arnold, gave evidence to the select committee as to the content of that telephone call as did his officers who overheard it. Evidence was also given to the select committee by Mr Lee from Zhen Yun which concurred with the evidence given by Mr Arnold. Mr Lee told the committee that he had made his decision not to proceed with Marineland before the telephone call took place. He regarded the telephone call as a courtesy telephone call only and that prior to that telephone call he had made his decision.

The mystery fax to which the Minister referred in his contribution was not one which was withheld by Government from the committee. The Minister's office, the departmental officers and all people associated gave evidence that such a fax was never received. There is no evidence of its ever having been received either in the Minister's office or in the department's offices where records are kept of all incoming and outgoing faxes. The Hon. Mr Lucas did not tell us how we eventually received a copy of that fax. It came from Zhen Yun's solicitors who provided it to the Crown Solicitor's office relating to a totally different matter. So, the fax came to light and as soon as it did it was provided to us. The Minister, his officers and the departmental officers were unanimous in maintaining that that fax was never received by them. I must admit I have thought I have sent faxes which have not arrived—that has occurred to me on occasions and I presume it happens to other people too.

I do not believe that there was a gigantic conspiracy involving all the people in the Minister's office and all the people in the department that that fax was to be concealed. When they all state it had never arrived and when they all state there was no record of it ever having come through on the fax machine I am inclined to believe them. This may have been a fax which Zhen Yun was considering sending, and they sent it to their solicitors for legal advice before sending it—that is a possibility. I believe the Minister and the department when they say it was never received. For the Minister to pretend that it was deliberately withheld from the committee is a complete misstatement of the facts.

The Hon. Mr Lucas spoke of his frustration in not being able to get documents. It is true that there were in the early stages some documents which were not produced but which were readily produced as soon as an indication was given that they existed. It may be more a commentary on how different matters are filed in different areas that they were not brought to light in the first place. I agree with the Hon. Mr Lucas that in nearly every instance these documents added absolutely nothing to the information we already had. They were reiterations of matters which were already before us in documents; they contributed very little, if anything, to our additional knowledge. They were confirmations of what we already had. I suggest that the frustration of the Hon. Mr Lucas was due to his not being able to get the proof that he wanted of the preconceived ideas that he had and that he felt annoyed at not being able to get proof of these preconceived but wrong ideas.

With regard to the cancelling of the Marineland component of the development by Zhen Yun, there was unanimity among the witnesses in saying that Zhen Yun had taken that decision by itself without pressure. The Minister indicated that he had applied no pressure whatsoever and that the decision was Zhen Yun's. It may be that the Hon. Mr Lucas does not wish to believe what the Minister said. However, officers of the department likewise said that Zhen Yun itself had taken this decision without any pressure being applied to it. When Mr Lee from Zhen Yun appeared before the committee, he said exactly the same thing: he said that he had taken the decision not to proceed with the Marineland development and that no pressure had been applied to him to take that decision. So, when we have all the people involved unanimous in their view, it seems extraordinary that some members of the committee could reach a different conclusion, a conclusion which happens to be politically nice for them, but which does not tally with any of the evidence from all the principal parties who gave evidence to the committee.

The Hon. R.D. Lawson: Why did the then Government make a payment to Zhen Yun of $3.3 million?

The Hon. ANNE LEVY: I will come to why compensation was paid later. On that question the committee was unanimous, as it was on so many of the matters before it.

The Hon. A.J. Redford: Why did the Crown advise on it?

The Hon. ANNE LEVY: I suggest that the Hon. Mr Redford should read the report before he makes comments. There was no Crown advice regarding compensation. If he had read the report before making his interjection, he might have known that. I suggest that he should not comment until he has studied the entire document. I should like to quote from one chapter where there were majority and minority conclusions. Following the unanimously agreed discussion, the minority conclusion was: There is no evidence that actions taken by the Minister and officers of the department were significant factors in the Marineland development not proceeding.

The Hon. A.J. Redford interjecting:

The Hon. ANNE LEVY: That does not refer to the compensation. I think you will find that refers to something quite different. The quotation continues:

> The Minister, his officers and Mr Lee himself were unanimous in stating that the decision was Zhen Yun's alone, without pressure being applied. Mr Lee told the committee he had made his decision before his telephone conversation with the Minister, which he regarded as a courtesy call only.
>
> There was considerable public debate and media controversy at the time regarding the keeping of cetacea in captivity and taking them from the wild. There was also the threat of a union ban from one union leader, which could have appeared serious to those not well versed in union matters. Mr Lee was kept fully informed of these events by his Adelaide lawyers, by Peter Ellen and by officers of the department. It would have been irresponsible for the officers not to have drawn the controversies to his attention and suggest he take them into account. This media campaign was probably the most important factor in influencing Zhen Yun to not proceed with the Marineland development.
>
> On the issue of 'consent' there appears to be a difference of understanding based on different cultures. Zhen Yun wanted Government 'consent' to their plans, though there was no formal consent the Government could give. The Government did, however,

give strong support and encouragement which never changed or wavered.

To suggest that Government support changed is based on no evidence whatsoever. All parties agreed that the Government's stand did not alter and that the decision came from Zhen Yun alone. The quotation continues:

> On balance, we agree with Mr Oh from the department that 'the Chinese have viewed all the information given to them from a commercial viewpoint and made that decision from a commercial viewpoint.'

I seek leave to conclude my remarks before moving on to the next topic.

Leave granted; debate adjourned.

[Sitting suspended from 5.58 to 7.47 p.m.]

The Hon. ANNE LEVY: Before the dinner break, I was discussing the report and had dealt with the question of the decision by Zhen Yun not to take over Marineland as part of its development. I would like now to turn to the question of the compensation which was paid to various people, including the individual members of the Abel family, their company Tribond, Peter Ellen and associates, and other companies involved.

I think it important to draw to the attention of anyone who is interested in this report the unanimous conclusion on the part of all members of the committee, set out on page 33 of the report, that there was no legal requirement for the Government to pay compensation to the Abels. That is the unanimous conclusion of the committee: there was no legal requirement for the Government to pay compensation to the Abels. The decision to do so was partly a moral concern that they should not suffer financially and partly a desire to ensure that, on the Government's own assessment, its best interests were protected.

I stress this conclusion since, by way of interjection, the Hon. Angus Redford suggested that compensation was paid on the advice of the Crown Solicitor. That is not true. There was no advice that compensation should be paid, and the unanimous view of all members of the committee was that compensation was not legally required. The decision to do pay compensation can be viewed as an altruistic act on the part of the Government.

The unanimous conclusions were also that the Abels were placed under unnecessary pressure to conclude the agreement on Saturday 11 February, when there was no legal or financial imperative for that deadline. Given the stress of the impending receivership of Tribond which the Abels were experiencing, the departmental officers should have handled the matters more sensitively.

The third conclusion, dealing with compensation (and recorded on page 33), was that it was not unusual commercial practice from agreements to include a confidentiality clause, and there was no evidence that such a clause was specifically requested or deemed necessary by the departmental officers. I repeat: that was a unanimous conclusion on the part of all members of the committee. In fact, if members turn to page 37 of the report, they will see a summary of all the conclusions reached by the committee, on 22 of which the committee was unanimous. These cover a wide range of matters. There is criticism of the West Beach Trust; there is criticism of IOD (later to become Tribond); there is criticism of Mr Rod Abel; and there is agreement with the Ombudsman's comments. A wide range of matters are considered in these 22 different unanimous conclusions.

Following that is the summary of conclusions, both the majority and minority, concerning one specific chapter which I have already discussed relating to how the decision was taken by Zhen Yun not to proceed with the Marineland development. But then we come to the extraordinary section in the report entitled, 'The General Majority Conclusions'. This is most unusual, in both form and process. In form, it contains introductions and backgrounds which I would have thought were adequately covered by the chronological history of events and the discussions to the various chapters which occur earlier in the report.

In terms of process, as indicated in the general minority conclusions, the six pages of majority conclusions were produced at a late meeting of the select committee with the indication that it had been agreed to by the three Liberal members of that committee and, consequently, it would not be changed in any way at all. In consequence, there was no point in the committee's even debating it.

This is certainly not the normal procedure for a select committee, and in my 20 years' experience in this place it has never occurred previously on any select committee of which I have been a member. General conclusions have always been debated in select committees, and while there may be majority and minority views they have always been discussed prior to the writing of that particular section of the report.

In this case, we were presented with a *fait accompli*. It was made perfectly clear there was no point whatsoever in discussing it because the three members had agreed to this and merely presented it to the committee. This is a complete misuse of the procedures of the select committee and, as I indicate in the minority conclusions, much of what is there could well have been written before the select committee had met even once. It is not based on the evidence which was presented to the committee. It does not relate to the evidence. It refers to events on which no evidence whatsoever was taken, one way or another, and on which no questions were ever asked of witnesses by any member of the committee; and it contains many assertions relating to motives and actions which cannot be substantiated by any evidence that was put to the committee.

As I say, it could have been written before the select committee took any evidence, and may well have been written at that time and retained until the end when it was produced. In response to this extraordinary set of conclusions the minority prepared a rebuttal, which is printed in the report on page 45. It is only two pages long instead of the six pages which were presented by the Liberal members, and deals with a number of the assertions which were made in the majority conclusions.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I do not wish to read through the entire minority conclusions, but it is worth indicating some of its main points. The committee was unanimous in criticisms of West Beach Trust and its lack of consideration of IOD's financial standing before signing the letter of intent in January 1987, but the report unanimously balances this with the Abels' lack of attention to and evaluation of the Marineland premises before they too signed the letter of intent. It is a principle of law that any buyer or lessee of second-hand goods has an obligation to make their own assessment of the condition of the goods. 'Buyer beware', is a very ancient adage.

If property owners are to be held responsible for the financial failure of any of their tenants, then shopping centre

owners would be considered culpable for any failure of small businesses to whom they rent premises, and that is plainly ridiculous. Furthermore, the Government was in no way involved in the original agreement between IOD and West Beach Trust, and to assign any blame to it is a complete nonsense.

The minority agreed that the departmental report to the bipartisan Industries Development Committee did not give sufficient weight to the attendance numbers required for financial viability or the projected attendance figures. It is very important to note that the IDC is not a rubber stamp, and both Labor and Liberal members of that committee recommended a Government guarantee for the proposed Tribond redevelopment of Marineland. Three members of this Chamber have been members of the IDC, including the Hon. Legh Davis, and I am sure would agree that the IDC is not a rubber stamp. While it receives support from the department it can make any investigations it wishes at any time, call any witnesses it wants to hear, and may—

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: I was not a member at the time this guarantee was recommended, but the Hon. Mr Davis was, as was another Liberal member from the Lower House and two Labor members. It is a bipartisan committee and members of both Parties must agree before a recommendation can go forward. To treat the IDC as a rubber stamp, which does exactly what it is told, is to completely misunderstand the functions or the process of the IDC. I am sure all ex-IDC members will agree with me that they take advice where ever they wish and come to their own independent conclusions.

Another matter in the minority conclusions which I should draw to the attention of the Council is that we certainly do not agree with the comments in the majority conclusions that the costs of the receivership were excessive and that consequently this means there was bad management. The main contributing factor to the costs of the receivership was the cost of the maintenance and care of the dolphins and the other animals until a home could be found for them. The alternative, which would certainly have kept costs down, would have been to kill the animals, and the receiver told the select committee that had he had his away he would have had the animals shot within a week.

The Hon. J.F. Stefani: He was appointed by the Labor Party.

The Hon. ANNE LEVY: He was appointed as a receiver, which job he undertook. He told us that, had he not had an instruction to keep the animals alive, he would have had them killed within a week to save money. It is important to note that, while this would have saved money, the community as a whole does, luckily, have values other than money, and keeping the animals alive was something which was obviously desired by the bulk of the people in the community, and this is what contributed to the costs of the receivership. To suggest that it was bad management to keep the animals alive until a home could be found for them in Queensland is, I submit, completely heartless, showing no compassion or sympathy for the animals, and is an indictment on those who call this bad management. It was humane and considerate on the part of the Government, and no-one in the community would have disagreed with the action it took.

I also wish to draw to the attention of the Council that the majority conclusions contain many statements regarding the final settlement with Zhen Yun, and in the minority we make no comment whatsoever on this. It occurred long after the select committee was originally established; it was not part of the terms of reference of the committee; and no evidence at all was presented to the select committee on this matter either from the Government's or from Zhen Yun's point of view.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Members may have noticed that when the Minister was making his contribution to the debate there were no interjections other than purely factual ones when he was unsure of his facts. One interjection was made at that stage. It is a pity—

The PRESIDENT: Order! The honourable member has my protection if she proceeds with her speech.

The Hon. ANNE LEVY: I thank you for your protection, Mr President, but so far it has not prevented many interjections.

The PRESIDENT: Order! The honourable member is not reflecting on the Chair, I hope.

The Hon. ANNE LEVY: I am not reflecting on the Chair, Mr President; I am commenting that so far I have had many interjections, unlike the Hon. Mr Lucas when he made his contribution to this debate. That is a fact. The terms of reference of the select committee did not cover the eventual settlement between the Government and Zhen Yun. This occurred long after the select committee was even set up, so it could not have been part of the terms of reference. There was no evidence to the select committee on this matter, either from the Government's point of view or from Zhen Yun's point of view. When the Minister came to the committee, no questions were asked of him relating to this. When Mr Lee from Zhen Yun came to the select committee, no questions were asked of him relating to that point.

We felt very strongly that the select committee should make no comment at all on this matter but should restrict itself to issues on which it took evidence and made inquiries. Had the Liberal members on the select committee wished to investigate this, they could certainly have come back to the Legislative Council and asked to have our terms of reference extended so we could investigate this matter, but they took no such action in the select committee, and it is totally incorrect for them to comment on matters on which no evidence has been taken or even requested.

The Hon. R.D. Lawson: Apart from the letter from C.J. Sumner.

The Hon. ANNE LEVY: The Hon. C.J. Sumner did not give evidence to the select committee.

The Hon. R.D. Lawson: He wrote a three page letter.

The Hon. ANNE LEVY: He did not appear before the select committee and was not questioned on any matter, nor were any questions sent to him by the select committee as a result perhaps of his letter—

The Hon. R.D. Lawson: He provided information.

The Hon. ANNE LEVY: —on which no questions were asked. He was not asked to appear. I am sure he would have appeared had he been requested to, but no member of the select committee requested that he be asked to appear.

Members interjecting:

The Hon. ANNE LEVY: I thank you for your protection, Mr President.

The PRESIDENT: It is rapidly disappearing.

The Hon. ANNE LEVY: We certainly do not concur in the so-called recommendations which form part of the general majority conclusions. They in no way follow from the report which precedes them. They are based on ideology, not on fact or logic. One of them states that governments should not be

involved in commercial activities, to which we comment that whether a Government should be involved in commercial activities should be decided on a case by case basis, judging each situation on its merits, not on ideology. Successive governments and their instrumentalities have indeed most successfully undertaken entrepreneurial activities. An example is the Adelaide Festival Centre Trust. Is anyone saying that that should be closed down because there is Government involvement in it? Of course not. It is judged on its merits as a worthwhile activity for Government involvement. To make statements based on ideology without considering the facts in each case is an absolute nonsense.

What is of fundamental importance is that the general majority recommendations completely ignore the purpose and reality of Government guarantees and a function of the Industries Development Committee of this Parliament. The IDC was set up many years ago by the Playford Government to provide an independent and bipartisan overview of Government guarantees. It takes evidence from all interested parties and can request advice from any source which it considers relevant or desirable, and in my time on that committee it certainly did so. It makes recommendations for Government guarantees, knowing quite well that these are provided when finance from other sources is not otherwise available. There is obviously an element of risk in any Government guarantee. If no risk were involved the guarantee would not be required, because finance would be available from elsewhere.

Statistics which the IDC has collected on various occasions show that not all businesses which are given Government guarantees actually succeed. Marineland was not the first failure; nor will it be the last. But, in general, the IDC has far more successes than failures to its credit, and South Australia has benefited enormously from the businesses which have been given the boost of a Government guarantee after recommendation from the bipartisan IDC. If the IDC never had any failures, it could be said that it was being too cautious in its approach and would probably be rejecting applications which could result in successful business activity. On the other hand, if there are too many failures, the IDC is not being cautious enough with taxpayers' money. The IDC has to draw a very fine line indeed, and in general it does this well and has served this State most competently.

The Hon. Carolyn Pickles: Over 50 years.

The Hon. ANNE LEVY: Over more than 50 years. It is regrettable that the Marineland guarantee was not one of its successes, but we certainly feel that it is unfair to criticise the IDC, the Government or the guarantee system as a whole because of an isolated, though costly, incident of failure.

I wish to make a couple of other remarks. I would very much like to extend my thanks to the research officer of the committee. Mr Phil Hanson was research officer to the committee throughout the five years. He did a most admirable job. He worked extremely diligently, and computerised the information with the nearly 2 000 pages of documents with cross-references so that when he was asked a question by any member of the committee he could in very little time produce the appropriate reference and information which had been asked for. The committee owes him a tremendous debt, and I place on record my appreciation for the extremely competent job which he performed most diligently for the committee.

I would briefly like to mention two other matters. One is the establishment of the committee in 1990. As I indicated earlier, it was the first committee established with five members after many years during which there were always six members of select committees, but the council decided at that time—in early 1990—that we should revert to Standing Orders and that select committees should have five members only, consisting of two members from the Government, two members from the Opposition and one from the Democrats on the crossbenches. This select committee was set up along those principles. It was the first such committee established and all subsequent committees have followed that procedure. However, when early in 1994 the committee was re-established and only three of the previous members were still members of this Parliament, the pattern changed. It was again five members but, instead of being two:two:one, the Democrats, although voting for the establishment of the committee, refused to serve on it.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Thank you, Mr President. The Democrats refused to serve on the committee and it was set up with three Government members and two Opposition members. That was the first time such a committee had been established by this Council. At the time, and it is my opinion now, I criticised the Democrats for voting for the establishment of a committee on which they were not prepared to serve. If one is not prepared to serve on a committee, as a matter of principle one should not vote for it.

Members interjecting:

The PRESIDENT: I suggest that the honourable member ignore the interjections.

The Hon. ANNE LEVY: I am happy to ignore interjections, but I find it hard to speak over them so I wait for them to cease, Mr President. There is one other matter that I wish to raise with regard to this committee. During the proceedings of the committee Mr Rod Abel at one stage sent a letter to the committee which accused me of acting in an unprofessional and biased manner and with gross impropriety. As soon as the committee received this letter I promptly sent a letter to the committee myself refuting the allegations made against me and explaining the events which had occurred to which the letter referred. Those two letters were tabled in this Council as required by Standing Orders.

I point out that in 1969 a witness sent a letter to a committee of this Parliament making allegations against a member of that committee which were not nearly as libellous as those in the letter from Mr Rod Abel. At that time the Legislative Council became extremely indignant and called the person involved to the bar of the Council and created a furore throughout the community, as it would have been within the Council's power to send that person to gaol for implying a lot less than was implied against me in the letter from Mr Rod Abel.

Members interjecting:

The Hon. ANNE LEVY: It was the Hon. Murray Hill who was impugned in that way quite undeservedly, but many people judged that the reaction of the Legislative Council was extreme and that calling the letter writer to the bar of the Council under the threat of imprisonment was going too far. It might even have been going all the way, but that did not occur. However, on this occasion although the libel was far worse the committee did not take that action and I am sure all members of the committee will agree that not once did I suggest that the Legislative Council should proceed along that path or take such action as had been taken in 1969.

As I say, the matter was tabled in the Council and has been available for anyone to read, though I doubt if anyone

has, but I certainly hope that if anyone reads or comments on the letter from Mr Abel they will also read and comment on my response, as to take one without the other would be regarded as being biased. While this letter to the committee had qualified privilege and consequently was not justiciable, if any comments of a similar nature are uttered about me without parliamentary privilege, I will not hesitate to take the appropriate action. I support the motion.

The Hon. R.D. LAWSON: I, too, support the motion. Previous speakers have commented on the fact that the committee was established in March 1990, five years and four months ago. The report may have been a long time coming but, in my view, it is a much awaited report and it is well worth waiting for. This inquiry into Marineland was reluctantly called by the previous Government. I notice in the editorial of the late lamented *News* of Monday 18 December 1989, under the heading 'Marineland fiasco needs an inquiry', that the editorialist was saying what the Liberal Party was saying at the time and I think he said it well:

> A dentist has an easier time extracting teeth than the public has getting accurate information about the Marineland fiasco. . . Fortunately there is one channel by which the facts could be ascertained and made public. It has been identified by the Liberal Opposition and it should be pursued with vigour. Provided they have the support of the. . . Democrats—and they deserve to have it—they could use their Legislative Council numbers. . . to establish a select committee. This should be unnecessary. The Government and the West Beach Trust should have been candid from the outset. But matters are getting worse, not better. . . We can only speculate about what else has yet to be revealed.

Speculate one could, and it was clear from the evidence presented over a long period that there was much that was hidden by the Government and there was much to be revealed. I continue the quote:

> The Opposition Leader. . . says the public is owed a full explanation. That is putting it mildly. The explanation should begin with an answer to the simple question: How on earth did the redevelopment of one of the best pieces of beachfront real estate in Australia become such a mess in the first place?

A mess it was. The previous Government spent over $10 million in attempts to redevelop the Marineland site, yet not one brick was laid. Nothing was shown for it to the public of South Australia. It was a monstrous waste of money.

The Hon. A.J. Redford: What's there now?

The Hon. R.D. LAWSON: Nothing is there now. After $10 million they had nothing to show.

The Hon. T.G. Roberts: The Opposition and the *News* wanted the select committee and now you blame the then Government for setting it up.

The Hon. R.D. LAWSON: And the public is waiting for the report and now they have got it. The terms of reference, in summary, were that the committee was to consider and report on the extent and nature of negotiations by the Government and the West Beach Trust which led to a lease of West Beach Trust land to Tribond Developments; the extent and nature of negotiations between Tribond and other parties and relating to the payment of compensation; all other matters and events relevant to the deterioration of the complex and proposals and commitments for redevelopment. And the sting in the terms of reference was:

> with a view to determining the extent, if any, of public maladministration in these events and to recommending action to remedy any such maladministration.

So, the purpose of the select committee was to determine the extent of maladministration and to recommend action in relation to such maladministration. In the majority report the public will see an analysis of the extent of maladministration in these events, and they will see also some recommendations from the majority to remedy such maladministration in the future. If they examine the much vaunted minority report—vaunted I should say by the Hon. Anne Levy—they will find—

The Hon. R.I. Lucas: No-one's to blame.

The Hon. R.D. LAWSON: —no-one to blame, no maladministration, no recommendations for remedy, no purpose, no function in the inquiry at all.

Members interjecting:

The Hon. R.D. LAWSON: Those recommendations contain no mention of maladministration. The Leader suggests that the unanimous conclusions of the reports speak of maladministration. I invite her to point out to me the particular clauses. It should be noted at the outset that this inquiry required an examination of relationships between the Government and the West Beach Trust, both of which were involved in ill fated attempts to redevelop Marineland. The West Beach Trust, although legally a separate entity, was a body under the general control of the Minister of Local Government. At all material times it was under the general control and direction of the Minister, and its Chairman happened to be the Hon. Geoffrey Thomas Virgo, who had been a member of this Parliament for many years, was Minister of Transport from 1970 to 1979 and Chair of the West Beach Trust from 1984 to 1993.

So, the West Beach Trust was a creature of the Government, a body that was subject to the general control and direction of the Minister, and at all material times it was chaired by a very prominent member of the Government Party. So, there was little distinction in point of fact, although there might have been some distinction in point of law, between the Government on the one hand and the West Beach Trust on the other.

The Hon. A.J. Redford: They wanted to distance themselves from Mr Virgo; is that the story?

The Hon. R.D. LAWSON: Precisely. In section 9 of the report, which was unanimously agreed by all members, a definition of 'maladministration' was adopted. It was noted that the members of the committee accepted Professor Wheare's comment in his Hamlyn Lectures many years ago, that it may be difficult to define maladministration, 'but most of us believe that we could recognise an example of it if we saw it'. We certainly saw it, and it was there for all to see, in relation to the Marineland fiasco. It was there for all to see, but only the majority of the committee apparently had eyes to see it and were prepared to state their conclusions in a clear way.

The Hon. Anne Levy has taken the opportunity to distance herself and her colleague the Hon. Trevor Crothers from the general majority conclusions that appear in section 10 of the report. I feel bound to defend those conclusions which, contrary to the assertions of the Hon. Anne Levy, were all based upon the evidence presented to the select committee, either oral or written or, alternatively, were the reasonable inferences and conclusions to be drawn from the evidence that was presented.

The first of the conclusions that the majority reached, on the subject of the background to this affair, was to note the fact that in 1973 the Minister of Local Government took over the failing business of Marineland, which was then being conducted by the entrepreneur who had established it. As early as 1973, the Minister then directed that the West Beach Trust take over the business, and the West Beach Trust took

it over at Government direction. The business was not successful at the time of the takeover and the trust was unable to turn it around. It spent almost $1 million on improvements but was unable to arrest the decline. The West Beach Trust, through Mr Virgo, was not averse to distancing itself from Marineland by getting some other entrepreneur to take it over. The seeds of this fiasco, in the view of the majority, were sown when the Government and West Beach Trust got into the business of operating an aquarium and performing dolphin facility. The original entrepreneur could not make a go of it, and there was absolutely nothing to suggest that the trust could do any better, and the decision of the—

The Hon. T. Crothers: What was the original entrepreneur's name?

The Hon. R.D. LAWSON: The name of the company was stated in the report.

The Hon. T. Crothers: His name was Porter, and he died.

The Hon. R.D. LAWSON: The honourable member is referring to Mr Porter, who was the General Manager of the West Beach Trust. He was not the original entrepreneur.

The Hon. T. Crothers: The one you were referring to died before the takeover.

The Hon. R.D. LAWSON: Whatever the history of it, the original entrepreneur did not make a go of it, there is nothing to suggest that West Beach Trust could, and there is even less to suggest that the Government could. And the decision of the Government to foist Marineland onto the West Beach Trust rather than to sell it to another private entrepreneur at that stage was its first act of maladministration.

In 1986 the Abel family came into the picture. The Leader of the Government in this place mentioned the personal tragedy of the Abel family, with its involvement in Marineland, and the personal dimension of that tragedy cannot be overlooked in the wider context. I make no comment, nor did the authors of the report make any comment, on the litigation that I understand from newspaper reports the Abels have initiated against the Government.

However, the focus of the select committee was not on the personal aspects of this matter; rather, the appropriate focus of the report was on aspects of public administration or maladministration. The Hon. Anne Levy was keen to allege that the Abels themselves had been less than diligent in their initial inspections of the facility. That may be the case; it may not be the case. But it was hardly the business of the select committee to concern itself unduly with that. The select committee was concerned with maladministration by the Government and its organs. If the Abels were not diligent in protecting their own interests, that was their affair. But there is no public interest in that. There is absolutely no doubt that Mr Abel and members of his family were highly experienced and very well credentialled people in the field of animal husbandry and in the technical aspects of operating marine parks, but the reports obtained by West Beach Trust, first from Peat Marwick and then from Dun and Bradstreet in 1986, contained warnings. But West Beach Trust, contrary to the warnings and quite precipitately, entered into binding legal arrangements with the Abels.

In relation to the Peat Marwick report obtained in July 1986, recommendations were made by Peat Marwick. It cautioned against granting a long-term lease before obtaining certain information, but West Beach Trust, having asked and paid for the information, went ahead and acted against it. It ignored its only advice by entering into a letter of intent in January 1987. It requested a credit report from Dun & Bradstreet, the well-known credit agency. Before the report was received the West Beach Trust entered into its arrangement with Mr Abel's company.

The Hon. T. Crothers: When was the report received?

The Hon. R.D. LAWSON: Fortunately, the members of the report included a full chronology to which I refer the honourable member, and the date is there revealed. Through its department, the Government was aware that Mr Abel's company did not have substantial financial resources. On the very day after Mr Abel's company took control of Marineland in January 1987, an application pending to a departmental committee for Government financial assistance was rejected.

It is clear, and the majority of the committee conclude, that the Government and the West Beach Trust paid insufficient attention to the financial capacity of Mr Abel and his companies to undertake the redevelopment. The seeds of the disaster continued to be sown and did not take long to bear fruit. Marineland was taken over by the Abels in January 1987 but by May 1988 (in only 17 months) Marineland was closed and never reopened. For barely 17 months the Abels operated the facility, but it was closed because of the financial difficulties they reached.

The majority conclude that the departmental report, which supported the application for a Government guarantee to the IDC, was unduly optimistic in its projections. It was a report which the Government wanted, and that is clear. The Government wanted this facility to be taken over. Mr Abel was the only person on the horizon who had any prospect of taking it over. The Government was anxious to see the deal done and was anxious to get Marineland off its books.

The departmental report did not scrutinise with sufficient vigour Mr Abel's capacity to bring to fruition this multi-million dollar development that was then under consideration; nor in the view of the majority did the report pay sufficient attention to the fact that Mr Abel relied upon the continuing cash flow from the existing Marineland facility.

The department ought to have given closer consideration to the question whether that cash flow could be maintained in face of the fact that the facilities at Marineland were deteriorating and that the attendances were declining, as they had been declining for some years. This was a replay on perhaps a small scale of something that frequently appeared in the State Bank Royal Commission. There were many examples of cases where servants of the bank, of Governments and of semi-Government instrumentalities, in their enthusiasm for a particular project, exercised insufficient vigour; there was too much hope, too much blue sky, too little scepticism and too little rigour in their reports. The authors of many of these reports obtained at that time were gullible.

The compensation agreements which were entered into and to which reference has been made were undoubtedly concluded in extraordinary circumstances and with extraordinary haste. They were concluded on a Saturday afternoon, and the circumstances of their conclusion were described in paragraph 7.2 of the report. In this short time the Government agreed to pay more than $1 million to the Abels, their companies and their associates. In addition, the Government agreed to pay Tribond's creditors, the creditors of the company.

The Hon. Anne Levy criticises the majority for reaching conclusions about motives. It is true: the majority reached a conclusion about the motive—why it was that this agreement was entered into with such extraordinary haste. There was evidence before the committee that there was a meeting of Cabinet on the following Monday and that the Cabinet—

The Hon. R.R. Roberts: We wouldn't have paid them.

The Hon. R.D. LAWSON: We might well have paid them but it would have been after a detailed and considered consideration of that—not in a rush—and not with a view to getting an announcement out on the following Monday when Cabinet was meeting and was anxious to make an announcement that the Abels were off the scene and that a new investor, Zhen Yun, had come into the picture.

The Hon. Anne Levy criticises the majority for drawing the conclusion that that was something the Government wanted done. There is not only the circumstances of the negotiations and of the Cabinet meeting the following Monday, but there is also the circumstance of the Government only two days later unveiling the new Zhen Yun proposal amongst a great deal of political fanfare and with appropriate political kudos. It is entirely appropriate that an inference be drawn. The inference is open on the evidence and a conclusion can be drawn.

The Hon. Anne Levy would criticise the majority for saying, 'Well, there is no evidence of that.' What evidence do you expect of motive? Do you expect there to be some Cabinet papers to say that we are doing this for the purpose of satisfying political requirements? Of course no evidence can be obtained of that—it is reasonable to draw conclusions. In the absence of confessional evidence or some other admission, there are rarely statements about motives for doing anything. There is no evidence for motive in many cases.

It was the view of the majority that those compensation agreements not only in the haste in which they were drawn but also in respect of the self interested motive of the Government in entering into them displayed bad management which amounted to maladministration. The majority concluded, again on the basis of evidence, that pressure was exerted on Zhen Yun, as Zhen Yun claimed, by the Government to exclude the dolphinarium from one of its proposals for redevelopment.

The Hon. Anne Levy says in relation to the receivership that the criticism of the majority was unjustified. She would regard as a reasonable expense the $1 675 000 for a receivership of this kind: a small company for whose creditors the Government and some other third party had paid all the creditors out. The honourable member used the rather emotive argument that had that amount not been spent the dolphins would have been killed. It is of interest that in July 1989 the Auditor-General who examined the question of the receivership was critical of the Government for paying all the costs, including the ongoing operation of Marineland. The fact that the Auditor-General was critical is something that the majority of members picked up and, in my view, were perfectly entitled to pick up and adopt.

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: It is not a question of the dolphins. We are talking about maladministration and spending over $1.5 million.

The Hon. Anne Levy: Most of it to feed the dolphins.

The Hon. R.D. LAWSON: In the end the dolphins were removed to Queensland, so they could have been removed a great deal earlier. This receivership was protracted in the political interests of the Government. The decision by the Government to pay all the creditors of Tribond was absolutely extraordinary. As the receiver said, he recalled no case when an indemnifying party was paying all the creditors.

The Hon. Anne Levy: What would you have done about the dolphins?

The Hon. R.D. LAWSON: The dolphins could have been sent to Queensland a lot earlier.

The Hon. Anne Levy: No, they could not.

The Hon. R.D. LAWSON: They were not transferred until April 1990. Next, I turn to Zhen Yun and its ultimate withdrawal from the Marineland redevelopment proposals. The Hon. Anne Levy said that Zhen Yun's withdrawal was really no part of the terms of reference and that there was no evidence on it at all. Contrary to that assertion, the secretary to the select committee wrote to the Attorney-General of the day (Hon. C.J. Sumner) seeking information about the payments made by the State Government to Zhen Yun in so far as that settlement pertained to the terms of reference of the committee.

On 29 June 1992 the Hon. C.J. Sumner provided a detailed response in a letter of three pages in which he set out all circumstances including, 'In the result the total payment by the Government to settle the litigation was $3.3 million.' In approving the settlement of the claims the Government was advised by the Crown Solicitor 'that the settlement is appropriate'. That was to settle a claim concerning the proposed redevelopment of Marineland—

The Hon. Anne Levy: Not of Marineland, the village.

The Hon. R.D. LAWSON: Of the Marineland site—in which it was alleged by Zhen Yun that the State was guilty of negligent misstatement, misrepresentation and liability under the Fair Trading Act. The substantial allegations made against the Government are set out in the Hon. C.J. Sumner's letter. It is clear why Opposition members wish to have excluded from the report the final wash-up in the Marineland saga.

Members interjecting:

The Hon. R.D. LAWSON: But it was still a loss; it was still maladministration arising out of the same thing.

Members interjecting:

The Hon. R.D. LAWSON: It was an ongoing scenario. I turn next to the general minority conclusions. A number of comments made in those minority conclusions, which were repeated by the Hon. Anne Levy, ought to be refuted. In the opening paragraph of section 10.4 it is asserted that the general majority conclusions were produced without any prior discussion in meetings of the committee, contrary to normal procedure, and 'they were stated to be not for consideration by the committee.' That is not correct.

The Hon. Anne Levy: It is.

The Hon. R.D. LAWSON: The fact is that drafts of the majority conclusions were presented to the whole of the committee for discussion. They were presented and discussion was not closed off on them at all.

The Hon. Anne Levy: We were told that they were unalterable.

The Hon. R.D. LAWSON: Members were not told that they were unalterable.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: The Chair of the committee certainly did not state that these conclusions were not for consideration. He did say, with some prescience, that you probably would not agree with them, but he did not say that they were not for consideration by the committee generally. They were considered. In fact, all members of the committee took away the drafts for discussion and consideration.

The honourable member criticised the presentation of the conclusions. It is a matter of style and taste that they consist of an introduction and discussion under various headings,

which the honourable member says is hardly appropriate. In my view, all this is nothing to the point. The issue is whether the conclusions were valid, whether they were appropriate and whether they were supported by the evidence. In my view, they were.

It is next said that the conclusions contain assertions as to motives and actions which cannot be substantiated by the evidence received by the committee. As I said earlier, motive is invariably a matter to be derived from inferences and conclusions to be drawn from other evidence which is available. The majority conclusions and the motives attributed to the various players were quite modest, understated, conclusions.

Next it is said by the minority that two of the three members who were responsible for the majority conclusions were not members of the committee throughout the hearing of witnesses and the perusal of thousands of pages of documents presented in evidence and that their knowledge was thus secondhand. They were aided by a Presiding Member who had the benefit of hearing the witnesses in so far as that was necessary. As all members of the committee concluded, it was not possible to draw inferences as to the truth or otherwise of some of the evidence that was given by various parties. There are clear conflicts of evidence which all members of the committee read.

The Hon. T. Crothers interjecting:

The Hon. R.D. LAWSON: I did not say that. I said it was not possible in certain circumstances to resolve the conflicts. The substance of what I was saying is that there were conflicts and they could not be and were not resolved. Those members of the committee who did not have the undoubted benefit of hearing and seeing witnesses give their evidence were not forced into saying, 'I believe or disbelieve particular witnesses.' They were not in that disadvantageous position.

It is suggested in paragraph 2 of the numbered paragraphs, commenting upon the majority conclusions, that the departmental report to the IDC was a report '. . . that the Government wanted'. It was suggested that this was a gratuitous comment and one that is pure assumption. Well, assumption it may be, but it is assumption based upon evidence.

The Hon. Carolyn Pickles interjecting:

The Hon. R.D. LAWSON: We drew no conclusion from the IDC. We drew a conclusion by examining the departmental report which went to the IDC, and it was clearly a report—

The Hon. T. Crothers interjecting:

The Hon. R.D. LAWSON: I made no comments, and the majority made no adverse comment against the IDC or any member of the IDC. The criticism was criticism of the departmental report.

Members interjecting:

The PRESIDENT: Order! There will not be conversations across the Chamber. The Hon. Robert Lawson.

The Hon. R.D. LAWSON: I do not propose to go through all the adverse comments that are made, other than to say that, in my view (and, I think, the view of anybody who reads this report objectively), the minority did not land any leather in their attack on the majority's conclusions. It is said in relation to the conclusion and the recommendation that the Government ought not be involved in commercial activities of this kind:

> Whether the West Beach Trust should have been running Marineland or not is to be decided on its merits and it is not a matter on which we make any comment.

It is suggested that the report of the majority was something that is based upon ideology and not on the merits of the particular case. Quite the contrary, Mr President; it is quite clear in this case that the evidence established in the whole $10 million worth of sorry saga shows that the West Beach Trust should not have been engaging in a dolphinarium or—

The Hon. Anne Levy: It was not the trust which lost the $10 million—it was the Abels.

The Hon. R.D. LAWSON: It was not the Abels' money: it was the South Australian community's money which was paid, willingly aided, abetted and funded by a supine Government. The conclusion of the minority is that the allegations and conclusions of the majority are politically motivated and in no way supported by the evidence. Quite on the contrary, Mr President. These are conclusions that were supported. In fact, they were irresistible conclusions. They were proved beyond all doubt. They were in fact the only reasonable conclusions open on the evidence available. I, too, add the thanks of the members of the committee to the work of the research officer and to the staff of the committee. I commend the report and the motion.

The Hon. T. CROTHERS: I really was not going to speak at all, but having heard the hype—

Members interjecting:

The Hon. T. CROTHERS: I did listen with considerable interest to the Hon. Mr Lucas, and I must say he made a very good fist of what he was saying. But there is many a quirke of fate that turns up in all sorts of contributions made in this place, and I want to set the record straight for the Hon. Mr Lawson. The West Beach Trust is not an arm of Government. What the Government did in the days when Virgo was Chairman was to appoint the chair, and the three local councils each elected a representative. So, there was one Government appointee—

The Hon. Anne Levy: Two.

The Hon. T. CROTHERS: Two, and three from local council who were beyond the reach of Government.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: We can make all these caustic, smart comments, and I will come to some that you have made. That was the position of the West Beach Trust. We heard the Hon. Mr Lucas today refer to the way in which documentation came to us, and I have to agree that that was right, that it did not come to us in its totality first up, but it came in two fairly heavy waves. Then, Ministers whom you would not expect to be in possession of documentation went through files or had their files gone through and also came up with bits and pieces of documentation.

The last one we received arrived at the very last meeting that we had of the West Beach Trust committee. It was on West Beach Trust letterhead, under the signature of Geoff Virgo, then the Chair of the West Beach Trust, and whilst I realise much has been said maligning Geoff Virgo, the contents of this letter which was supplied to us, I might add, from the files of a Liberal Minister after a 25 day search in respect of this particular missive—

The Hon. R.I. Lucas: At least he found it.

The Hon. T. CROTHERS: He certainly did. It is one of the only things he has found in recent times, but he certainly found this. The letter is dated 23 April 1986, and again the Hon. Mr Lawson is in error. He cannot get it right, because he says that Mr Abel and his family came into contact with the West Beach Trust sometime in 1986. In fact, that is not true. This letter shows it was late in 1985. When we hear the honourable Leader of the Government in the Council today in his contribution endeavour to make great mileage out of

one day's difference, what are we to make out of a difference of four or five months in respect of the statement just contributed by the Hon. Mr Lawson?

I think the letter, by the looks of it, was addressed to Don Hopgood, and I will read part of it, because poor old Geoff Virgo was much maligned at one stage by the committee. It is worth reading, because this letter almost gives him absolution with respect to that malign. It states:

> Following a recent meeting I had with the Deputy Premier, I am advised that Cabinet will, on Monday next, be asked to decide if a limited number of dolphin may be taken from State waters sufficient to provide breeding stock for a remodelled Marineland. The following information is provided to assist Ministers in the discussion of this matter.
>
> In the past six financial years—

and the financial statement of Marineland is attached to this letter—

> Marineland has suffered considerable losses in four of them and, unfortunately, this present year will see yet another loss which appears likely to be considerably greater than any previous loss incurred.

It is taxpayers' money, you see. It continues:

> Rescue operations have been mounted, but all without lasting success. The losses just get bigger and bigger, and Marineland's closure gets nearer and nearer. A summary of Marineland's financial results is attached. Late last year—

remember the date of this letter is 23 April 1986—

> I had an approach from the Managing Director of International Oceanaria Development Company, Mr Rodney Abel, with a suggested redevelopment proposal. He subsequently came to West Beach, inspected our facility and was provided with full details of attendance, stock, staff, procedures, etc. On 6 January 1986 he wrote to me (a copy of his letter is attached), indicating that, after studying the material he had gathered on his visit, his impressions of the potential for redevelopment remained undiminished.

It bears repeating, for the sake of the Hon. Mr Lawson's futuristic understanding of the matter, that the Marineland complex was not just simply a dolphinarium, or a Marineland simply for cetacea. A large accommodation hotel was to be attached to that site. When one looks further at the history—and I come back to the letter of Mr Virgo—one finds that the first opposition that was mounted to the then Labor Government in respect of Marineland from the then Liberal State Opposition was relative to the date of indenture under which Marineland, it was said, was held: it was held for the public and therefore no development really ought to be put on what was, after all, lands held by the indenture in perpetuity for the South Australian public.

That was the first time the matter was raised by the then Liberal Opposition in a concerted fashion. That barrier was, after a period of time, surmounted, but it was not the only time when the then Opposition embarked upon a tactical program of disruption to developments at West Beach, as I shall later show. The letter from Virgo to the then Government Minister, Don Hopgood, I think, talks about Rodney Abel approaching Mr Virgo. The letter states:

> On 6 January 1986 he wrote to me (a copy of his letter is attached), indicating that, after studying material he had gathered on his visit, his impression of the potential for redevelopment remained undiminished.

Here is an individual—not just the IDC and not just the bipartisan committee of this Parliament believing that it would be money well invested to develop the program—with much experience in respect of areas where cetacea could be exhibited to the viewing public. That is what Mr Abel said. In the opinion of Mr Abel there was considerable potential for redevelopment, and that view remained undiminished, in the words of Geoff Virgo. But, before he spent considerable sums in preparing a detailed proposal together with the feasibility study, he required assurances regarding car parking and his ability to obtain dolphins for a viable breeding stock, and that is important and I will return to that. Here is the experience and the CV of Mr Abel, in relation to which Virgo states:

> I should point out that Mr Abel has had 20 years experience in the design and management of marine parks. He served for five years as General Manager of Marineland in New Zealand and, for six years, was design and development manager of Hong Kong Ocean Park. His company was responsible for the design and start up of operations of the Atlantis Marine Park in Western Australia, which won the Sir David Brown Tourism Award in 1982. He has been a consultant to marine parks in Taiwan and Malaysia.

Members will recall that many rumours were floating around that the ALP, at its annual convention, had carried a resolution in respect of putting bans on the keeping of wild cetacea in captivity in this State. If I remember the timing and chronology of those events they emanated from a Federal Senate committee of the Federal Parliament, chaired by an ALP Senator, George Georges. A recommendation of the Georges' committee was that no cetacea in Australian waters should be allowed to be taken for captive exhibition purposes.

The consequence of that related not just to the Marineland project here that was under consideration for development but to a project that was being considered by the then Cain Labor Government in Victoria which, of course, would have been larger than ours because Victoria's population, as we all know, is three times that of South Australia. The potential in Victoria, obviously, if it were developed properly, would have been greater than the potential here. The Abels first contacted Virgo, according to his letter, in the latter part of 1985, yet their expression of interest lay, for the want of a better word, dormant for some eight or nine months, as I recall.

After the release of the Federal Senate Georges committee report in respect of keeping captive cetacea, the Cain Government indicated that it would not go on with its marineland project in Victoria. I have no evidence to suggest that that is what brought the Abels family hotfoot to the only marineland park left within their native country. From that point everything seemed to gain momentum and was done in haste. No matter what the supporters of the majority report say, they cannot get over the fact that the very first time support from the Government for the development of the West Beach project was considered was by the Industries Development Committee of this Parliament.

I have heard members, particularly Mr Lawson—not so much Mr Lucas—say, 'Well, don't worry about that. Cast that to one side. The Government won it and the Government got it.' Is he suggesting that of the four MPs appointed to the committee—two Liberal and two Labor—his two Liberal colleagues were prepared to go along with a Labor Government in respect of something that they wanted? I was in the Parliament at that time, I think, and it certainly was not my experience that the Opposition was prepared to do that at any time. It was a very effective Opposition and plotted its course with great tactical care and skill, and I will come to that in a moment or two.

As I have said, one cannot get over the fact that the IDC, consisting of two Liberal and two Labor MPs, was at the coalface of having given first recognition and recommendation to the fact that the State Government should provide a guarantee for the development of the proposal of the marine

park, the attached hotel and, from memory, other attached motel units and restaurants; that that guarantee should be entered into by the State Government, and that that would be the situation for anyone who managed to get in on the ground floor as part of the development for that proposal.

I wish to return to something I touched on briefly. There is no doubt about it; I was at the ALP annual convention where a resolution was carried that was in keeping with the findings of the Georges committee. But the State Cabinet was so determined to get the matter up and running because of the many jobs that would be provided in this State, where employment is hard to attract, that it defied its own supreme governing body of the Party and, after a couple of stuttering starts, determined that it would permit cetacea to be taken from the wild in order to fuel the cetacea ponds of a futuristic Marineland. I might add that that decision of the annual convention was subsequently reversed, some months later. Of course, the rumour mongers who were seeking to do mischief to the welfare of any development down at West Beach were not finished there, because the next thing we were told was that there were union bans on the site with respect to the building of the hotel and other related buildings on the whole of the property. Evidence taken by the committee from the United Trades and Labor Council by way of letter from the secretary, John Lesses, and certainly evidence taken from the secretary of the union which would have been one of the unions involved if building had taken place (Benny Carslake, who was the secretary then and is still the secretary today), refuted that there were any union bans on the site at all.

You had to be in this Chamber to witness what was going on by all sorts of elements with respect to trying to turn the Government's decision upside down so that it would be another strike against the Government. It is that sort of negative approach to politics that I think we are witnessing today by the Federal Leader of the Opposition and his shadow Cabinet colleagues. I might say that for mine it is the South Australian syndrome, because I think it gestated down here and was born in this State. It is not entirely coincidental that we saw Alexander Downer, a South Australian, and Senator Robert Hill become Leader of the Federal Senate and the Federal House of Representatives respectively—both from South Australia, both elected because people thought the sort of negative approach that had got the Liberal Opposition into Government in this State could be transferred into the Federal arena and utilised to get a never more desperate Federal Opposition into power.

I had not necessarily intended to speak at all, as I am mindful of the workload of this Council and the lateness of the hour. However, I am one of the three original members of the five person committee. Given the duration of this select committee, I suppose that if we could turn the clock back to 1914 we might well have the same phrase coined for us as the Kaiser coined for Britain's small regular army which went to France: 'the old contemptibles'. Certainly, as one of the old contemptibles, I feel I should make some contribution to the whole of this matter. I must say, however, that the only difference between the first world war and the select committee inquiry into Marineland is that, in spite of the carnage and slaughter that occurred during the first world war, the Marineland select committee took some eight or nine months longer to reach its final conclusion.

The Hon. R.D. Lawson: The right result in the end: the goodies won.

The Hon. T. CROTHERS: As one of my colleagues, Mr Keneally, said at one time, you can have the logic: give me the numbers. Is that what the Hon. Mr Lawson means? I suggest that it is: you can have the logic, but give me the numbers. That is what it was all about: there were three of you and two of us, again, a breaking away from the Westminster tradition which is being eroded away so much by the negativism of some members of the Party opposite, both here and in other Parliaments around Australia. One would have had to be a member here to witness the tactics of the lame Liberal Opposition in this place with respect to Marineland and other matters. As it is Marineland that we are dealing with, that is what I will consider, but I could say much more. Day after day when I sat opposite, where the Hon. Mr Stefani sits, I witnessed ferocious attacks from the lame Liberal Opposition in Question Time with respect to the fallacious nature of Marineland, and the cruel, wicked Bannon Government. I watched it expand before my eyes, and the Opposition well knew that the media, never slow to grab a story that would fill up their electronic air time or the space in the print media, picked it up and ran with it.

The Hon. R.D. Lawson interjecting:

The Hon. T. CROTHERS: The Hon. Mr Lawson was not here, and I will come to that again, if I may, junior. I watched it unfold day after day. If members opposite are honest, they will have to agree with what I am saying. Much of the problem with the development of Marineland was the negative campaign run by the media in this State, fuelled quite deliberately by elements in this State, amongst whom I would have to say were the then State Opposition. The story was picked up, run with continuously, campaigned continuously and, as a consequence, all sorts of little groups sprang up, as is now the wont of society. If I were to grow rhubarb in the passageways of this Parliament, I would have a three or four member—

The Hon. R.D. Lawson interjecting:

The Hon. T. CROTHERS: You would be one of the members—anti-rhubarb group developing overnight. The group we had that was given all the representation on television and everywhere else was the Friends of the Dolphins from whom we took some evidence and who got so much cover from us that it was beyond the belief of any person with a rational, logical mind. I understand that there were all of 35 members in the Friends of the Dolphins club, and that was yet another irresponsible element, along with the then State Opposition, that led to the difficulties that later expanded relative to the development of the project at West Beach.

We have rebutted the fact that there were union bans. The majority report was decidedly silent about that today, after making much of it. We have dealt with the Friends of the Dolphins. My colleague and I from the minority report have repeatedly, *ad nauseam*, endeavoured to explain to the Government, particularly those newer members of the Government who are members of the committee, what the IDC is all about. It does not appear that we have got through. One of the things I want to say to the Hon. Mr Lawson who, when he was practising law, had reached the highest pinnacle it is possible to reach in this State—

The Hon. R.D. Lawson interjecting:

The Hon. T. CROTHERS: No, listen carefully; do not jump in again, as you normally do. He reached the highest pinnacle of the discipline he was practising. Forget about judges and others, but he would know much better than I do—basically I only went to primary school— because of his

training in law that, as he said, nothing can be deduced in any definite way from the evidence led over hundreds of pages of evidence, and he is right. So, if one is to use deduction to reach a conclusion, one has to rely on what jurists call the balance of probability. Therefore, how in all that is wonderful can the Hon. Mr Lawson and the Hon. Mrs Schaefer—and I do not wish to demean them, because they are people for whom I and all of us normally have a lot of time—come to a firm conclusion if for almost three-quarters of the time the committee sat they were not even members of this Parliament, never mind being members of the committee.

The Hon. R.I. Lucas: Are you saying they shouldn't have voted?

The Hon. T. CROTHERS: I am not saying anything. I am saying what are facts and you can say what you suspect I am saying and I will continue to say what I am saying. If the Leader wants to use his crystal ball as he has done before today to try to second guess me as a minority supporter of the minority report, he can do that, but do not put words in my mouth or act as a seer or a divine in respect of trying to foretell that which I may or may not believe. It did not work when you introduced the report and it is not working now. I know that the Hon. Mr Lawson will not agree with me if he has to expose his public face, but I have to say that he is a QC and that the Hon. Mr Lucas is right: the next step up is to the Supreme Court, the Federal Court or even the High Court, but the Hon. Mr Lawson knows better than I do that, if you have not witnessed the evidence being given, there is a shortfall in one's capacity to put the triweights on the scales of balance in determining probability and possibility relative to reaching a conclusion. The Hon. Mr Lawson knows that, the Hon. Mrs Schaefer knows that and the Hon. Mr Lucas knows it. I suspect that the Hon. Mr Lucas dragooned his two junior colleagues into supporting the majority report, but there can be no doubt in anyone's mind that if one does not listen to and see evidence being delivered then in spite of all the capacity one has to read transcripts one will never fully comprehend what the evidence is totally about. How one can draw conclusions as members opposite did in those circumstances is more than I as an innocent layman can ever hope to understand.

I want to make a couple of more comments in conclusion. My colleague Anne Levy did a lot of work with great integrity and I want to thank her for that. It was a pleasure serving with her on the committee and, if I did get bored that the committee was reconstituted, my heart was gladdened somewhat that the Hon. Anne Levy was to be my other colleague to sit on the side of truth, justice and the Australian way.

Finally, this committee and its ultimate end result has tarnished all that select committees have ever stood for in this place, and I have served on a few. It has been used as an end to justify a means. I am as awake to that fact as any of the other four members who served with me on the committee. Members opposite, by reaching conclusions that I do not think could have been reached under the evidence tendered, have simply demeaned the structure futuristically of how select committees can be used in this place. If you want to use them as a political tool, you destroy the capacity of committees to reach inward and drag out the truth. It is not possible for that to happen.

In respect to the Abels, I have utter sympathy for them. Let me say to show that I am unbiased and not afraid of fronting the truth even if it is damaging to my own side, unlike other people I could name, I am totally appalled as a former union official at the treatment that was meted out to the Abels as to how their compensation was determined and over the time that they had to make decisions about that matter. I am appalled about that. If that had happened to one of my union members I would have closed down the Government or whoever was responsible and I refuse to believe—unlike my colleague—that somehow or other the Government was not involved in that. That appals me absolutely. I do not want to say too much more because there may be matters that are *sub judice*.

Members interjecting:

The Hon. T. CROTHERS: No, I am just keeping being honest and I urge you to look at me. I do not wish to take up any more time of the Chamber. It is a pity I had to speak at all, and I had not intended to, but the Hon. Rob Lawson rushed in to defend the majority report and got a number of things wrong. I have pointed out several of the matters in respect of that report and the criticism I made of the Hon. Mr Lawson and the other newer member of the committee, the Hon. Mrs Schaefer, was not, is not and will never be intended to demean their capacity. Their capacity and ability is considerable but, on this occasion, like all of us when we are new to something, we learn by our mistakes. I commend the motion to the Council.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions to the noting of the report. Having been 5½ years in the making, I daresay it deserves a little time in the Parliament having various members' views noted. I want to respond to four issues, two raised by the Hon. Mr Crothers. First, the Hon. Mr Crothers did not take up the opportunity of responding to my challenge of what was the logical extension of his argument that the Hon. Mr Lawson and the Hon. Mrs Schaefer had not had the opportunity to listen to the evidence, even though they had the opportunity to read all the evidence, and that in some way it reduced their capacity to make a decision.

I ask the Hon. Mr Crothers what is the logical extension of what he is arguing: that the Government could only have proceeded with one member on the committee because my colleague the Hon. John Burdett had passed away and could no longer serve, or should have re-heard all the evidence?

The Hon. T. Crothers: You reconstituted it. It wasn't the same committee. It was two different committees.

The Hon. R.I. LUCAS: The Hon. Mr Crothers' argument, then, is that the Government's endeavours to have the committee not report before the election would therefore have been successful—

The Hon. T. Crothers: I don't agree with that.

The Hon. R.I. LUCAS: I know you don't agree with the Government's—

The Hon. T. Crothers: If that was so, I had no part to play in that, and I think I would have known.

The Hon. R.I. LUCAS: There was a touch of 'honourableness' towards the end of the honourable member's contribution, which I greeted warmly. But the Hon. Mr Crothers was saying then that, given that the Government had successfully prevented, after four years of sitting—

The Hon. T. Crothers: I didn't say that. I would not agree with that.

The Hon. R.I. LUCAS: No, but you are suggesting that, given that it had not reported prior to the election, it never report. That is the logical extension.

The Hon. T. Crothers: No, I am not arguing about your right to set the committee up.

The Hon. R.I. LUCAS: But then who sits with me on the committee?

The Hon. T. Crothers: You could have done it by ministerial inquiry, the same as the Hon. Mr Baker did over another matter, could you not?

The Hon. R.I. LUCAS: That is not a committee, then. I say that the logical extension of what the Hon. Mr Crothers is arguing is that either the committee does not continue and, therefore, the previous Government has successfully prevented its reporting at all on this embarrassment, or that what occurs is what happened in this case, that is, that new members are appointed and they have to read all the evidence, involve themselves in discussion and, indeed, change the report.

One of the issues that the Hon. Ms Levy raised was that, because we have spent 15 months or so resolving this issue, in some way that meant that we could not have reported prior to the last election. That is nonsense. The reason we have taken some time is that we have had two new members on the committee who had to acquaint themselves with the evidence and who did influence the final shape and structure of the report, because the report that would have been concluded with the Hon. Mr Gilfillan and me prior to the election would have been different in significant parts from the report that is now before us.

That is properly so, because we have had two new members who, having acquainted themselves with the evidence, wanted to have their views incorporated as part of the final report. That is the reason why it continued for 15 months or so after this last election.

The second issue the Hon. Crothers raises is in relation to select committees. All I can say is that I look forward to the Hon. Mr Crothers' not supporting his colleagues in their continuing endeavours to establish select committees on every political issue in which the Government engages in relation to outsourcing or contracting. The Hon. Mr Crothers has already supported, as has the Hon. Anne Levy—

The Hon. Carolyn Pickles: The public has a right to know.

The Hon. R.I. LUCAS: The public has a right to know about Marineland, too, and members opposite cannot have their cake and eat it, too. The Hon. Mr Crothers and the Hon. Ms Levy cannot say that the Marineland select committee with five members was a political committee when they seek to and do establish select committees on privatisation at Modbury and on outsourcing at the EWS. I will welcome the Hon. Mr Crothers' crossing the floor against his colleague the Hon. Mr Roberts when he seeks to establish another committee to inquire into a tendering process in relation to the Mount Gambier prison.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: No, that is the point. There is no difference at all. If you want to claim the high moral ground as an individual member or as a Party, you criticise and oppose Marineland but you then cross the floor and vote against Modbury, tendering at Mount Gambier prison and the EWS outsourcing. You cannot have it both ways.

The suggestion that in some way the Marineland select committee was the only committee ever established by this Chamber that had any ounce of politics in its establishment or its operation is absolute nonsense. And, with the possible exception of the Hon. Anne Levy—because I do not believe that even the Hon. Trevor Crothers believes what he is saying—no-one in this Chamber would believe that nonsense.

Quite simply, as the Hon. Mr Crothers knows, all that members opposite are interested in regarding tendering at Mount Gambier, at Modbury or, indeed, in the EWS is wringing every last ounce of politics that they can out of those issues.

Members interjecting:

The Hon. R.I. LUCAS: That is all right. But you cannot claim the high moral ground—

Members interjecting:

The Hon. R.I. LUCAS: No, you can't; not when you are down there supporting all these select committees can you claim the high moral ground. You cannot have it both ways.

There are two other issues to which I wanted to respond. The first was the claim by the Hon. Anne Levy that I as Chair of the committee tabled amendments to the select committee and, in effect, prevented any discussion at all of those amendments. The Hon. Rob Lawson has already debunked that, and I want to do so again myself and indicate that that is a figment of the honourable member's imagination. There is no evidence at all and no support for that contention from the honourable member. As the Hon. Rob Lawson has noted, I did indicate that it was my judgment that the Hon. Anne Levy, given her performance over five years on the select committee, was highly unlikely to agree to much at all in the conclusions that three members of the committee were suggesting. I will indicate that after five years of the committee I was keen, I confess, to bring the matters to a conclusion. I was not prepared to go on for years, as the Hon. Anne Levy was, with the committee: I wanted to bring it to a conclusion. I brought down some recommendations in consultation with my colleagues. The Hon. Anne Levy did, in effect, comment on those recommendations, but I indicated to her that it was my judgment that she was unlikely to want to support those recommendations.

In the end, we voted on all those recommendations and she had the opportunity to debate or to discuss and, indeed, in the end vote against them, as she did and, as I said right at the outset, I suspected she would. So, it is a figment of the honourable member's imagination ever to suggest that in some way she was prevented from discussing this issue.

The last issue that I raise is the Hon. Anne Levy's contention that no evidence at all was taken, or there had been no discussion at all, in relation to the $3 million compensation figure for Zhen Yun. Again, the Hon. Robert Lawson has debunked that claim by the Hon. Anne Levy. I received correspondence, we received correspondence and we discussed it on a number of occasions. If one looks at the transcripts of evidence, as I have just done, one sees that there were questions that I raised of Mr Lawrence Lee in relation to compensation and representation and whether or not we were transgressing particular parts of his court action.

So, it is simply not true for the Hon. Anne Levy to stand up in this Chamber and state that not a question was asked and that no evidence was taken on this issue. I am surprised that the honourable member would stand up in this Chamber and make that claim, knowing it to be untrue and knowing that not more than 15 feet away is documented evidence that the issues had been discussed, I had raised questions, we had received—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: You can argue that, but that is not what you said.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: That is not what you said. You said there was no evidence in that committee; there was no evidence taken at all; and no questions were asked. It is on the *Hansard* record. That is what the honourable member claimed, and she knew it to be untrue. In my judgment it does the honourable member no good at all to be making claims that she knows to be untrue when there is documented evidence to indicate that.

I conclude by thanking not only Phillip Hanson, who was thanked before by a number of members, but also Trevor Blowes, who put up with us for 5½ years with great patience. He, more than probably all the members, because he has equally lasted with the three serving members and outlasted some others, has persevered and has been an invaluable part of the select committee's proceedings. I place on the record all members' thanks to Mr Trevor Blowes for his work and to Mr Phillip Hanson for the work that he did as research officer to the committee.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: PROSTITUTION

The Hon. BERNICE PFITZNER: I move:

That the Interim Report of the Social Development Committee on an Inquiry into Prostitution be noted.

In moving the motion, I thank and acknowledge the 39 witnesses to date who personally attended and the 32 who gave written submissions. In particular, I thank the witnesses who gave oral evidence as they all gave freely of their time under strong scrutiny. I would also like to thank the staff of the Social Development Committee: the Secretary, Ms Robyn Schutte, and the Research Officer, Ms Anna McNicol. They 0must have found it difficult at times to observe the stirring discussions with equanimity. I also thank the members of the committee who possibly, like I, were buffeted between one extreme and the other with interesting reactions. It has been and continues to be an emotive issue involving as it does prostitution and the ways and means that this committee can address this issue with balance, fairness and with compassion while trying to divorce oneself from the long term ingrained prejudices, philosophies and moralities. It is indeed hard.

This, our interim report, is the easy part, as the report seeks to inform all those who have an interest in the subject on the major options that are available to control prostitution or, indeed, not to control the service at all. Even this report, on which it was relatively easy to reach a consensus, took a lot of discussion. The final report and its recommendation will not be an easy task. It will take a lot of soul-searching to come up with an option which will seek to provide understanding and compassion for the prostitutes or sex workers and, on the other hand, uphold the philosophies and moralities which are dear to each individual committee member. We have been told time and again by all groups that there must be some change.

Last Saturday we noted that the *Advertiser* described a nine page report prepared by the South Australian Bureau of Crime Intelligence for Police Commissioner Hunt. I now find that the nine page report was part of a report requested by Assistant Commissioner Leane of crime intelligence and that part of the nine page report was discarded due to inaccuracies. A full report has now been written entitled:

A police assessment of—
1. Contemporary prostitution in South Australia.
2. Current prostitution laws.

The report was written by Detective Senior Constable A. Ransom, Strategic Development Branch. We are still questioning the relevant police officers about this 20 page document.

The original terms of reference for the current inquiry were referred to the committee by the Legislative Council on 29 April 1992. At that time the Hon. Ian Gilfillan had before the Council a Private Member's Bill for an Act to regulate prostitution. After some debate the Council voted to withdraw the Bill and refer it with other issues relating to prostitution to the Social Development Committee for its report and recommendations.

In February 1993 the committee at that time took a day's evidence from Law Professor Marcia Neave. Professor Neave gave evidence about the committee's HIV-AIDS reference as well as prostitution. The prostitution inquiry was then postponed while the committee addressed other terms of reference, including HIV, family leave from employment, unemployment and rural poverty.

The committee resumed hearings of the inquiry only on 15 February 1995, with further witnesses scheduled to appear before the committee well into September this year. Therefore, although the Social Development Committee received the prostitution terms of reference three to four years ago, full substantial evidence was not obtained until February this year. At this stage the committee has heard evidence from 39 witnesses and received 32 written submissions from a wide variety of organisations and individuals, including academics, legal professionals, prostitution industry representatives and support groups, members of the South Australian Police Department, health groups, concerned members of the public and prostitutes themselves.

In May I travelled to Melbourne, Sydney and Canberra with two other committee members, namely, the Hon. Sandra Kanck, a member of the Legislative Council, and Mr Michael Atkinson, the member for Spence in another place. We talked to prostitutes, brothel managers, State Government legislators and regulators and sexually transmitted disease clinic managers. We visited brothels and street beats. I remind the Council that the three of us went out on our own expense.

In addition, five members of the committee visited four Adelaide brothels where they talked to operators, receptionists and prostitutes. The committee found that, despite the wide range of opinions offered by witnesses with regard to prostitution laws, there has been a consistent view that the current laws need to be changed. However, the committee has not concluded taking evidence and is therefore not yet in a position to make recommendations concerning what those changes should be.

Before determining what is to be done about prostitution we must first determine what prostitution is. Most people have a general idea which usually takes the form of something like 'sex for money' or even more general like 'sexual services for material gain'. In fact, defining prostitution is not such an easy thing. Current South Australian legislation does not provide a definition of the term, but a look at interstate legislation highlights the difficulties of a definition.

Other jurisdictions in Australia are careful to ensure that not only intercourse is included: masturbation, oral sex and even sexual acts that do not involve physical contact all fall under the various interstate definitions. Some jurisdictions provide very narrow definitions while others have a very general definition.

The committee will look at the broad range of activities that can be classified as 'prostitution', as well as related

activities, when writing its final report. The committee received evidence of three forms of prostitution in South Australia: brothel prostitution, escort agency prostitution and street prostitution.

The Hon. Carolyn Pickles: This is breathtaking information!

The Hon. BERNICE PFITZNER: This is detailed information. The police estimate that brothel workers, including those working in so-called 'massage parlours', provide about 25 per cent of prostitution services in South Australia while the other 75 per cent of services are provided by escort agency workers. Police report that the level of street prostitution in South Australia is relatively minor. Most of the evidence so far has focused on brothel prostitution. This is partly because brothels tend to be the major targets for police and, thus, the most affected by current legislation.

The committee has heard evidence about public nuisance factors of brothels in residential areas, with families being subjected to verbal abuse and excessive noise generated by clients. However, the committee also heard that brothels provide the safest working environment for prostitutes. Brothel prostitutes are less likely to be subjected to physical violence from clients and find it easier to insist that clients use condoms than do escort or street workers.

Prostitutes working for escort services provide the great majority of prostitution services in this State. The committee has also received a small amount of evidence relating to escort agencies, but it intends to obtain more information as the inquiry continues. Contrary to popular belief, escort agency operators and associated workers, such as receptionists and drivers, do break the law in South Australia. They can be charged under section 26 of the Summary Offences Act, which makes it an offence to live on the earnings of prostitution. However, the police have indicated that workers in escort businesses are far less likely to be subjected to police attention, first, because of the general lack of public complaints about the industry and, secondly, because of the difficulties attached to obtaining convictions against operators and associated workers. Current legislation was put in place prior to the invention of the mobile telephone, a tool which now plays a large role in the running of escort agencies and further compounds policing in this segment of the industry.

The final form of prostitution that the committee has received evidence about is street prostitution. Compared to Melbourne and Sydney, Adelaide does not have a large street trade. The police report that the major area targeted by street prostitutes is the Hindley Street precinct. Street prostitutes include women who have been refused employment in brothels because they are drug dependent and consequently unreliable. In addition, a number of opportunistic homeless youths are found working on the street.

The committee has also been told of bar prostitutes—women who solicit from public bars, nightclubs and strip joints in the area. The police have identified the Adelaide Casino as a venue used for public soliciting. Although Casino staff are under instruction to evict known prostitutes, this is obviously difficult to do. Finally, the committee has been told that a number of juvenile males work as prostitutes from Veale Gardens on South Terrace, Adelaide.

The report goes on to outline the current position in South Australia with respect to prostitution. At present, offences relating to prostitution include soliciting for the purposes of prostitution, keeping a brothel, receiving money paid in a brothel in respect of prostitution, living on the earnings of prostitution and procuring a person to become a prostitute. However, recently the most frequent charge used by the police against prostitutes is occupying premises frequented by prostitutes, commonly referred to as 'being on premises.' This charge is used as a catch-all against prostitutes, receptionists and clients.

Operation Patriot is the name of the unit currently assigned by the South Australian Police Department to target the prostitution industry. During the period September 1993 to January 1995 inclusive, Operation Patriot charged 1 130 people with a total of 1 344 offences relating to prostitution and brothel activities. Of these, 1 170 charges were directly related to prostitution with over 70 per cent of the charges falling under the 'being on premises' offence.

The officer in charge of Operation Patriot has told the committee that it is currently the practice of officers to caution prostitutes and customers the first time they are caught, with their name, address and date of birth being recorded. Members of Operation Patriot carry a register of these details with them on visits to brothels. On the tenth occasion that an individual is found on premises, they are reported and summoned and, if convicted, are generally required to pay a fine between $25 and $150. On the eleventh offence the person is arrested, detained in the City Watchhouse and bailed pending a court appearance.

In actual fact there is no evidence of a customer being arrested for the eleventh offence of 'being on premises,' primarily because customers spend less time on brothel premises compared to prostitutes and are therefore less likely to be on premises during a police visit. Although prostitutes and their clients are subjected to the same process, the police find it difficult to obtain evidence to convict clients. Prostitutes are unwilling to give a statement against a client as it is bad for business. In addition, often men found on premises are able to offer a lawful reason for their presence and no action is taken. Customers are also able to move around the brothel or switch to escorts or to street trade to avoid the police.

The report provides a brief overview of the legislation in other jurisdictions in Australia. The committee has provided details of how the issue of prostitution is approached in other jurisdictions while attempting to remain non-judgmental about the effectiveness of each approach. The act of prostitution itself is not illegal in any jurisdiction in Australia, although a wide range of approaches has been adopted with respect to associated activities.

The report then looks at previous attempts to change the law relating to prostitution in South Australia. Major features of the Millhouse, Gilfillan and Pickles Bills are outlined along with general criticisms of these Bills. A short summary of the progress on and the main characteristic of the current Brindal Bill is also provided. The committee feels that, in view of the Prostitution Regulation Bill currently being debated in another place, it is important to release information that will ensure that members are fully informed of possible options for changes to prostitution laws.

The interim report outlines five theoretical options for possible changes to South Australian law on prostitution. We feel that it is important to present a full range of options that encompass not only legislation currently in place in Australia, but also possibilities that are not used anywhere at this time.

The Hon. Carolyn Pickles: Why are you in such a rush to bring this report before us?

The Hon. BERNICE PFITZNER: I have just said why: it is because of the present Bill and to inform members fully. The committee has avoided using the terms

'decriminalisation' and 'legalisation' when discussing these options as it is felt that the terms are open to confusion. Instead, the committee uses the terms 'total prohibition,' 'prohibition with civil penalties,' 'partial prohibition,' 'regulation' and 'free availability.'

The options presented do not incorporate health issues or the issue of child prostitution. The committee believes the importance of these issues is such that they should be dealt with independently of any chosen model and will consider them in greater detail in its final report. However, evidence to date would appear to indicate that the incidence of sexually transmitted diseases detected amongst South Australian prostitutes is in fact lower than the general adult population.

The first option presented is referred to as total prohibition. Total prohibition would see the act of prostitution as well as all associated activities outlawed in this State. Currently this approach is not used by any jurisdiction in Australia. It is recognised that this approach would require a large commitment of resources to police effectively, and the committee believes that clients, as well as workers and operators involved in the industry, would have to be subjected to criminal penalties. Advocates of total prohibition tend to base their position on moral and religious grounds. In addition, the issue of exploitation, especially of women, is used as an argument for total prohibition, along with the association of prostitution with other criminal activities, such as drugs and stolen goods. Most people would agree that, even if police resources were increased, prostitution would not disappear. However, it would go underground, which would then lead to the proliferation of attendant crimes, drugs and disease. The second option outlined—

The Hon. A.J. Redford: So the committee was saying total prohibition was not one of the options?

The Hon. BERNICE PFITZNER: The Hon. Mr Redford has asked whether total prohibition was not one of the options. As I have said previously, the committee has not come to any particular position options.

The Hon. Carolyn Pickles: The committee recognises problems with that?

The Hon. BERNICE PFITZNER: Indeed it does.

The Hon. Carolyn Pickles: The whole committee?

The Hon. BERNICE PFITZNER: It has not come to that conclusion. In fact, these five options do not need to be set in their own individual compartments. The options could be taken as a mixture of any of the five models. The second option outlined is prohibition with civil penalties. Prohibition with civil penalties would see less serious offences dealt with by civil sanctions such as expiation notices similar to traffic infringement notices. Criminal sanctions would apply with more serious offences. Offences that currently carry criminal penalties but which could be made subject to expiation notices include being on premises and receiving money in a brothel paid in respect of prostitution. As a consequence, prostitutes and receptionists working in brothels would not obtain a criminal record, which record can lead to difficulties obtaining work outside the prostitution industry.

Furthermore, if these less serious offences were the subject of expiation notices, it may lead to an easier exit from the industry for prostitutes and receptionists. In such a model, criminal penalties could be retained for more serious offences such as keeping a brothel or procuring a person to become a prostitute. In line with the total prohibition model, policing would still be required to ensure that the law is enforced. In addition, the committee believes that clients would also have to be subjected to penalties equivalent to those levelled at workers in the industry. This model would enable legislation to reflect disapproval of prostitution while ensuring persons involved in activities deemed to be less serious would not acquire a criminal record. In addition, the requirement of court appearances for minor offences would be minimal which, it is argued, would result in cost savings for police, courts and offenders. This model is not currently used to target the prostitution industry by any Australian jurisdiction.

The next option presented is partial prohibition. The partial prohibition model encompasses a wide range of practical models with the common factor in these models being that some behaviours would constitute a criminal offence and others would not. The current situation in South Australia is an example of partial prohibition as the act of prostitution itself is not unlawful, but associated activities attract criminal penalties. An expansion of this model might result in some activities, such as being premises or receiving money in a brothel that could be treated as minor offences, attracting no penalty at all, while other activities, such as procuring would retain criminal penalties; that is, being on premises frequented by prostitutes and receiving money in a brothel in respect of prostitution would not be unlawful.

The committee has been told by a witness of her experience of the perpetuating cycle of prostitution and fines. Some people work as prostitutes in order to earn a specific amount of money and, once they have earned this money, they leave the industry. Prostitutes who are fined under the current system sometimes remain in the industry in order to pay off their fines. By remaining in the industry, they risk incurring more fines which again need to be paid. A benefit of the removal of monetary penalties may be that prostitutes currently finding themselves locked in this cycle would spend less time in the industry.

Another example of partial prohibition would be to have prohibition with exemptions. For instance, by making certain areas exempt from legislation, it would be possible to allow brothels to open in specific locations. Persons operating outside these locations could be subject to criminal penalties.

The fourth option discussed in the report is the regulation model. Regulation of the prostitution industry would see the Government act as a regulatory body, with criminal penalties for non-adherence. Such a model would require the establishment of an administrative unit responsible for implementing Government controls. Once again, the regulation model could take a number of different practical forms, including a requirement for the registration or licensing of all organised prostitution businesses. Planning guidelines could restrict the location of brothels, and street prostitutes could be authorised to work in certain areas. Currently, Victoria has a licensing planning system for brothels. The ACT has a registration system for brothels and escort agencies, and the Northern Territory has a licensing system for escort agencies. The final option presented—

The Hon. A.J. Redford: What are the advantages and disadvantages? Not one is listed in this report.

The Hon. BERNICE PFITZNER: If you will wait until the conclusion, I will explain why this has not been discussed. The final option presented is the opposite of total prohibition and is referred to as 'free availability'. A free availability model would result in the absence of any legislation or regulatory restriction. Owners and managers of prostitution businesses, prostitutes and associated workers would be able to operate freely. In Australia, New South Wales laws come closest to the free availability model. The committee notes that, in order to deal with prostitution in

South Australia, it is possible and perhaps desirable to combine elements of the different legislative models presented.

Study of the model in isolation is useful when considering possible approaches for different industry activities. In fact, other jurisdictions in Australia that have made changes to prostitution law have tended to adopt this methodology. However, policy approaches adopted interstate are not necessarily suitable for South Australia. Factors that must be taken into consideration include the size of the prostitution industry, the methods of operation of prostitutes and public attitudes towards prostitution. The options outlined in the report are intended to form a basis for discussion and consideration. The final report of the committee will consider, in conjunction with the full terms of reference of the inquiry, the benefits and drawbacks of possible legislative options, with a view to making recommendations regarding appropriate changes to the law. I commend this interim report to the Council.

The Hon. SANDRA KANCK: The Hon. Bernice Pfitzner has canvassed the report adequately, and I do not want to go over a great deal of the material that is in the report. Rather, I would like to talk about some of the processes. As the Hon. Bernice Pfitzner has said, we have already heard from 39 witnesses, but we might have been able to hear from more. Sadly, we were unable to get the approval of the Presiding Officers of this Parliament for the committee as an entity to visit Sydney, Melbourne and Canberra and to formally take evidence. This would have entailed taking with us the committee Secretary (we did not have a research officer at the time) and *Hansard*, but the Presiding Officers apparently considered it too expensive to pay fares and accommodation for what would probably have been 10 people for five days.

The refusal of the Presiding Officers to assist the committee in making a formal visit left the members of the committee with no other option than to make the trip without the necessary staff for any evidence heard to be formally recorded, which started to turn the idea into somewhat of a farce. Some members of the committee would not make the trip interstate unless it was officially sanctioned by the Parliament, because it appears that, at that time, in the House of Assembly, which is a very male-dominated body, and perhaps in the Parliament at large, the prostitution reference was the subject of much nudge, nudge, wink, wink innuendo.

In the end, only three of us went. Having heard a reasonable amount of evidence about how the laws are working or not working in South Australia, it was an extraordinarily valuable trip for me to be able to see and compare three different methods of controlling prostitution and to speak with the prostitutes, the brothel operators, the health providers, the law makers, the law enforcers and the academics. There was so much information which ought to have been available for the committee's consideration but which cannot be used because we were not formally constituted as a committee.

While it is possible to obtain information from academic papers about how the legislation is supposed to work or might be working in these places, some of the people to whom we spoke have not written the academic papers in which we could read about their experience. The superintendent of the Kings Cross Police Station had some very valuable information to give, as did the former Mayor of St Kilda, the suburb in which one finds Melbourne's major red-light district. The direct experience of the prostitutes of each of the three different regimes is not on the academic record, nor are the views of those who run the brothels.

All these people had really important things to say that would have helped the Social Development Committee in its deliberations—information that is not obtainable elsewhere—but the intransigent attitude of our Presiding Officers has prevented the committee from doing its work properly. I can assure members that such a trip, if it had had the blessing of the powers that be, would not have been a junket for which some people were implying at the time that the committee was attempting to obtain the funding to allow us to make the trip. I do not understand why the Presiding Officers took the view that they did.

There was money available in the budget, which I expect has now disappeared with the advent of the new financial year. I wonder what else it might have been used for, if anything at all. By contrast, when the New South Wales Parliament was investigating the same issues a decade ago, a number of its members were sent, courtesy of their Parliament, on a visit to a number of European countries to compare the situation there. I am afraid that the decision by our Presiding Officers tended to bring the committee into disrepute by allowing speculation about a junket while we waited for the Presiding Officers' decision. Further to that, it makes the South Australian Parliament look decidedly amateurish.

In fact, I would go so far as to say that it makes us look like a tin-pot Parliament. I am also aware that there have been a lot of rumours circulating about the workability of this committee and its capacity to come to a reasonable decision at the end of its deliberations. In particular, members would recall an article in the *Advertiser* some weeks ago in which allegations about the behaviour of committee members were raised. This was the result of a letter, which all members of the committee received, from Helen Vicqua, convenor of the task force for prostitution law reform, following her second appearance as a witness before the committee. I quote from that letter dated 29 May, which states that some committee members:

> . . . vilified us by making negative comments in pejorative language and focused their questions on worst-case scenarios. The proceedings were dominated by Mr Atkinson and Mr Cameron who:
> - shook or pointed their fingers at us whenever they spoke to us;
> - leaned threateningly over the table at us;
> - derisively interrupted us every time we attempted to answer a question;
> - left the room while we spoke, even in answer to some of their own questions;
> - talked to each other while we spoke;
> - used jeering and disparaging language;
> - laughed openly at us;
> - interrupted the Chair and other committee members as rudely as they interrupted us.
>
> It seemed to us that most committee members had already made up their minds against the decriminalisation of prostitution and were not interested in facts and evaluations from expert witnesses. They seemed interested only in intimidating us. Thinking that we might be the exceptions in this process, we polled other women who have provided testimony before the committee. All of the women witnesses with whom we spoke complained of the same demeaning experience; one professional was reduced to tears. Women from interstate, 'consulted' when the committee went on their fact-finding tour of brothels, report the same derisive treatment.

I am not aware of any witness bursting into tears although I have been told that one witness, after appearing before us, spoke on the telephone to another witness and was in tears about her treatment. During the interstate tour the behaviour was much better than that which has occurred in some of the

formal committee hearings. I do not believe that I was rude to any witnesses but if I offended anyone I apologise here and now. There has been one other letter of complaint also from a female witness. That witness in fact was the representative from the Women's Electoral Lobby and the woman who was South Australia's first women's adviser to the Premier, Ms Deborah McCulloch. I have spoken to her and she tells me that, as a result of the continual interruptions from the men during the course of her giving evidence and her resulting frustration, she failed to make two important points which she had intended to make. Deborah McCulloch is one woman who knows how to make her point and, if she was so disrupted by the form of questioning that occurred, members can only imagine the effect of this form of questioning on some of the female and less articulate witnesses who have appeared before us.

Ms McCulloch also complained to the Speaker and received a most unsatisfactory letter in reply. The view expressed to me by Ms McCulloch is that the behaviour she experienced exemplified a traditional male/female power imbalance which this Parliament actively should be avoiding. I do not sanction the behaviour which has occurred, but the problem is that there are no guidelines which set out how committee members should question a witness. It can be done gently as has occurred when we have had groups such as the Festival of Light represented or it can be done as a cross-examination or even as a series of rude interruptions. I am not at all happy when it occurs in this third form but I am powerless to stop it. However, I would like those witnesses who have been subjected to it to know that it does not occur with my approval.

This committee is going to take some time to come to its final conclusions. First, we will have to come to some agreed definition of 'prostitution' so that in deliberating we will know just how wide-ranging our research and recommendations should be in the final report.

Members interjecting:

The Hon. SANDRA KANCK: You heard the letter I read out; work it out yourself. Those reading the interim report will see that each State and Territory has its own definition, and the Queensland definition does not limit itself to acts involving physical contact. If we were to suggest such a definition, table-top dancing which occurs in Melbourne and which is about to begin in Canberra probably would have to be regarded as prostitution. For those who do not know what table-top dancing is, women gyrate on the table around which sit men who throw money on the table along with suggestions made to the woman that she should dance in particular ways which obviously are titillating to them. Touching is not allowed, although, for instance,the woman may, if she chooses, place her legs around a man's neck. However, any man who touches her is thrown out instantly.

This secure protection and the fact that they do not have to provide a sexual service is what entices women to become table-top dancers, and the really good dancers can earn a great deal of money if they are performing in a way which is pleasing to the men. An article on table-top dancing which appears in a magazine entitled *Working Girl* published by the Prostitutes Collective of Victoria states:

> The coalition has identified some of the problems which face the workers in the bars, has commented on the way heavy consumption of alcohol is encouraged and has also focused attention on the effects these venues have on other people who may be either in the streets nearby or involved with the men who visit the bars. Members of the coalition report that crowds of guys tend to gather on the pavements outside and often accost younger women passing by who may not be aware of the style of entertainment offered nearby. Also, female colleagues of men working in the city have been sexually harassed after the guys have gotten back from boozy lunches at table-top bars. Women in cars have been surrounded by marauding gangs of paunchy businessmen hurling verbal abuse and making lewd gestures. Meanwhile, there have been reports of domestic violence directly following the perpetrators' visits to table-top dancing bars. These reports were the motivation for the coalition to form, the members representing the various community groups affected by such behaviour.

There was a lot of interjecting at the time I was speaking but I raise that because in our definition of 'prostitution' something like that could be included at some time in the future. However, it will be very much dependent on what sort of definition we choose. The evidence we have received so far does not indicate that we have any table-top dancing in South Australia as yet.

When it does arrive, it cannot be dealt with under our current legislation, and the debate about its merits is yet to occur. The interim report looks at the legislative options available to us. I have to observe that total prohibition is definitely not a goer. We would have to turn all the resources of the South Australian Police Force over to stop prostitution, and even then it is debatable that it would ever be completely stamped out. We have seen no evidence presented anywhere in the world that attempts to stamp it out have worked. Being one of the three MPs who made the interstate trip and therefore having had an opportunity to compare the workability of laws in Victoria, New South Wales and the ACT with those in South Australia, I find the New South Wales system to be the best. I stress that that is my view at this stage; other evidence I might hear in the next few months could alter that view. I record my thanks to our very long suffering secretary and to our fairly new research officer. It has not been a happy committee, and those two women have had to demonstrate great patience and self-control during some of the discussions. I support the motion that the interim report of the Social Development Committee into prostitution be noted.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I support the motion. I do so with some reservation, however, because I believe that this committee would have produced a more comprehensive report had it brought in a complete report rather than an interim report, which I think is a bit light on. I will refer briefly to some of the context of the report and indicate that my frustration with yet another report of this nature is that it has all been done before. In my years in Parliament we have seen at least four reports, which have outlined legal options, the kinds of things that one can do with the legislation and what goes on in various States. In fact, I have here a very comprehensive report which was tabled in Parliament in 1991 and which was prepared by Mr Matthew Goode, who at that time was Senior Lecturer in Criminal Law at the University of Adelaide and who was a consultant to the former Attorney-General, Chris Sumner.

In 1986 a very comprehensive report was tabled in Parliament which specified the law relating to prostitution overseas and in every State in Australia, the legal options and some of the arguments for and against. That is what I would have liked to see contained in this report. The committee has put forward some of the legal options but has not even presented the arguments for and against these various options. It could at least have done that. I understand the haste with which the Chairperson in particular wanted to get this report into Parliament to try to influence the votes tomorrow, but I

do not think this report will do so. One can only hope that the members of the House of Assembly who will vote on the Prostitution Law Reform Bill tomorrow will be far more influenced by the comments of the Archbishop of Adelaide, Ian George, who has come out in favour of decriminalising prostitution.

I refer to comments made in the report by the Hon. Dr Pfitzner—comments which I must say I was rather dismayed to see. She states that at the beginning of May 1995 three members of the committee travelled to Melbourne, Sydney and Canberra to visit brothels and street beats and talk to prostitutes and brothel managers. In fact, they did not travel as members of the committee; they travelled as independent members of Parliament, because they were not a committee of the Parliament. I agree with the comments made by the Hon. Ms Kanck that the Parliament should have funded a visit of that nature; I have no problem with that. Certainly, while I was Chairperson, that committee also had problems getting funding out of the Parliament to make the committee operate correctly. So, I have a great deal of sympathy with the inability of the committee to act as a whole, but in my view it is quite improper to state in the interim report of this committee that three individual members of Parliament went off to visit brothels and so on. I am sure it was very a interesting and edifying experience for all members and I am sure they learnt a lot. It is a pity that they could not have done that as a committee, and it is not correct to include it in this report. We should recognise that fact as the Council notes this report.

The definitions on what is prostitution have all been dealt with many times over both in this Parliament and by many reports that have been tabled in this Parliament, in other Parliaments of Australia and select committees *ad infinitum*. Types of prostitution have also been covered by many reports *ad infinitum* in this Parliament and in other Parliaments in this country and overseas. The current position in South Australia has been reported *ad infinitum*. What goes on in other jurisdictions has been reported *ad infinitum*. The history concerning changes to prostitution laws in South Australia was certainly covered very precisely with a critique by Mr Matthew Goode in his report of 1991. The legislative options have also been covered quite comprehensively. There is nothing new in this interim report—and I note that it is only an interim report. If its purpose was to try to educate the members of the Lower House before they vote tomorrow, then, quite frankly, it is an insult to the members of the House of Assembly to believe that they would not already have taken these matters into consideration before they exercise their vote. If they have not done so, then I do not think that they would have found out anything new from this report at all. So, it is a bit of a disappointment.

The committee has had a number of witnesses and a number of written reports. I hope that all those reports will be made available to the public to peruse. I note that no anonymous witnesses appeared before the committee, although I understand if some people wish to remain anonymous and their evidence is not made public. However, that does not seem to be the case, and therefore I hope the committee can assure the Parliament that we will have access to all this information. In relation to the point that I made about the lack of funding by the Parliament for the committee to travel, I understand that approval was given to a select committee looking into daylight saving to go to Darwin.

The Hon. A.J. Redford: That is under a different set of criteria altogether.

The Hon. CAROLYN PICKLES: It might be under a different set of criteria, but approval should be given to committees to carry out their proper role and function.

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: Well, it is very interesting. Certainly, when I was chairperson of the Social Development Committee we always used to find it very difficult to ascertain what the budget was and how it was spent.

The Hon. A.J. Redford: It is different now. It is much better now.

The Hon. CAROLYN PICKLES: We will see if it is much better run. If it is so well run, how come the chairperson could not get a few bob out of the President of the Legislative Council?

The Hon. J.F. Stefani: The President hasn't got control of the dough.

The Hon. CAROLYN PICKLES: I think you should read your committees Act. I do not think that the chairperson of the committee has enlightened any member of this Council who has sat through any of the debates on prostitution as to anything new under the sun. It is rather disappointing to have a report of this nature hurried through so that, hopefully, it can influence some of the members tomorrow. In relation to the prostitution Bill that is currently before another place, I place on the record my appreciation of the bravery of Mr Brindal in moving a prostitution Bill. I can recall, very clearly, the kind of vilification that occurs to any person who dares to put their head above the trenches to introduce any kind of social reform in this State.

Attempts to reform this legislation have been going on now since 1978 and I sincerely hope that tomorrow, when the vote is taken, members who have the opportunity to vote will exercise that vote discreetly and honestly, considering all the elements that are before them, recognising that this may not be the most perfect legislation that the House has ever seen but is an honest attempt to deal with the issues. At least it should go into the Committee stage so that those members who have been publicly and privately criticising the legislation will have the opportunity to amend it however they may choose. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

EDUCATION (BASIC SKILLS TESTING) AMENDMENT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to amend the Education Act 1972. Read a first time.

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

That this Bill be now read a second time.

The issue of basic skills testing can be broken up into two areas of contention and this Bill seeks to address one of those two. The two areas of contention are, first, the value of the basic skills test and whether or not the basic skills test is indeed educationally valuable or not. That is the first question. The second factor is whether or not, even if one accepted that it had educational value, there are some negative impacts that could flow from it intentionally or unintentionally. The Bill's purpose is to address the second set of factors. The aim of the Bill is not to stop basic skills testing from occurring but it does seek to put some constraints in terms of how the results of those basic skill tests may be used.

I add that the essentials that are found in this Bill are the same as are found in the New South Wales legislation and regulations. It should be noted that basic skills tests in South Australia have been imported from New South Wales but, while we have imported the tests, we have not imported any of the protections which New South Wales has put in place around the test and the purposes to which the results of those tests might be applied.

What are the purposes for which this test is applied and what are the purposes which the Government intends? In a media release on 28 April 1994, the Minister for Education and Children's Services said:

> Student results will not be published by the department as a vehicle for rating schools or measuring teacher competence. What the results will do is provide vital information on how the department's specialist programs, such as early intervention, are going so we can direct resources to children in need. This Government's long-term goal is to reduce by 25 per cent the number of students with literacy problems in our schools by the end of the decade.

At that stage the Minister stated clearly that the test was not meant to be a vehicle for rating schools or measuring teacher competence. On 10 July 1994, in another media release, the Minister stated:

> The results from the tests will help teachers and schools identify children with learning difficulties and help the Government target areas across the State that need additional resources to run early intervention programs for those children in need. 'The information will also help us evaluate the success of new programs and also provide objective information, over time, on standards of literacy and numeracy in our education system,' he said.

On 4 July this year, in answer to a question from the Hon. Carolyn Pickles, the Hon. Mr Lucas stated:

> The basic skills test is designed to identify and then eventually provide assistance for those young people who have learning difficulties: that is the intention of it. I have indicated that it is not designed to, in effect, develop a teacher assessment mechanism within South Australian schools. It is also not designed to produce league tables of schools in terms of assessment of school performance.

There is a common thread in all these statements in terms of the intent. The intent is about identifying problems that individual children might have, that the information might be portrayed to the parents and that it might also be used internally for departmental purposes. Clearly, it does not have the intent of rating teachers or rating schools. The New South Wales legislation and regulations ensure that that cannot happen. In South Australia, the Government has done nothing to ensure that that will not happen, even though the Minister has said in this place that it is not his intention that the tests have those purposes. This legislation does not aim to undermine the Government's stated objectives in relation to the basic skills tests. It simply seeks to ensure that that is what they are used for, and not for other purposes.

As I said, whilst I would disagree with the Minister about whether or not these tests will achieve what he hopes they will achieve, that is not the debate that I am opening up with this legislation. It is a fact that schools will achieve different results, not because they provide a different quality of education but through a wide range of factors. Certainly, quality of education could be one of the factors, but I argue that it would be a relatively smaller factor than issues such as which language is spoken at home and, even if the language is English, what is the quality of the English that is spoken at home.Also involved is how much exposure at home children have to the written word, and how much assistance at home children get. In homes such as those provided by most members of Parliament, children get enormous amounts of out-of-school assistance, and they will do very well at school, regardless of whether or not they have a good teacher.

I have had personal experience with my children at a very good school, reputedly with a very good teacher, where I felt that one of my children was not getting a good education. I also guarantee that if a basic skills test were run in that class my child and the class generally would have received excellent results, but they would have received them in spite of the teacher—not because of the teacher. My children are now at a different school—not because I withdrew them but because we shifted suburbs—where there is a bigger social mix of children and where I am sure that if a basic skills test were run the average score would be lower.

I am in no doubt that the school and individual teachers generally happen to be of a higher standard, but the basic skills would not tell us that. Even within a single school, while the school has a general socioeconomic mix, my experience is that the very good teacher is rewarded by getting some of the tougher students. That is the reality: the attitude is, 'These teachers are not quite so strong; we will not give them these couple of students because they will not be able to cope with them.'

I have suffered that fate on a few occasions where I have been given some tough classes. You could run a basic skills test and the students of the teacher perhaps who could not cope with discipline issues as well—and often the disciplined children also have other problems—could come out with scores on a basic skills test higher than those obtained under the more competent teacher. There would be extraordinary dangers if the raw data were available to people who did not understand the broader ramifications. I am sure that is the reason why New South Wales very sensibly decided that that sort of data would not be available publicly.

Even if the Minister does not intend to release the results, unless there is legislative protection the results can be sort under freedom of information and could not be denied. As we have already had experience with at least one media outlet which sought to produce a league table in relation to SSABSA results, there are some media outlets in this city which will seek to set up league tables in terms of which primary schools are giving the best education, because they will misconstrue the average results of basic skills tests.

That will not be constructive: it will be counterproductive. Not only will it provide misinformation but also it will start creating some sorts of pressure on schools. If a school has a result that is not quite so good it may think, 'Well, perhaps we had better start getting our children practising for these tests.' It will not be a matter of whether or not they can actually improve the basic skills of the children. The question is: can they make them do better in these tests? Can we teach them to jump through these kinds of hoops?

I know that some schools have already started practising basic skills tests. They are devoting curriculum time not just to questions of literacy and numeracy but also to how to do these tests. In an education sense that is counterproductive. We can have an argument about whether or not having a basic skills test is a good or bad thing, but if they feel like they are in any competition—school against school or class against class—and start wasting time teaching not literacy and numeracy but how to do these tests then—

The Hon. R.R. Roberts: It's a bit like teaching the kids how to cheat.

The Hon. M.J. ELLIOTT: That is effectively what it is, and that would be a very destructive aspect of these tests. I refer to the legislation, in which I seek to insert a new section

103A in the Education Act. First, the section defines basic skills testing and provides:

> . . . 'basic skills testing' means testing on a uniform basis in different schools, as required or authorised by or on behalf of the Minister, of basic skills of children (such as literacy and numeracy) at a particular stage during their primary education.

It then refers to the circumstances under which publication can occur and says that 'a person must not publish or cause to be published results of basic skills testing in a manner which enables identification of a particular child or children within a particular school or children within a particular class or group within a school'. The only people who should know how a particular child went are the parents (and the Minister says he will let them know) or the school itself for internal consumption. It is of no interest to other members of the public how a particular child went, and that is obvious.

In relation to children within in a particular school, I have argued that comparing one school with another in the public arena will be highly misleading and will set up a destructive chain of events in terms of true quality of education.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: That is right. It will be an annual story as to who has done well this year. They will be competing to get the top spot. Finally, comparing children within a particular class or group within a school is an attempt to compare two teachers, even though one teacher might have scored the tougher grouping of children. Although that person has proved to be a highly skilled teacher, perhaps they are highly skilled with kids who are disadvantaged, yet their score will show up to be something less. Nor should it enable comparison between different children or children in different classes or groups within a school, or children in different schools, different systems or different groups.

The penalties are different. There is a division 4 fine in relation to the media and a division 7 fine in relation to individuals. Clearly, the penalty needed to discourage the media would not be a division 7 fine, which as I recall is several hundred dollars. That would not be a major disincentive to a media outlet that wanted to run such a story, and for that reason there is a different sort of penalty in relation to the media compared with somebody in a school who communicates the results. For that person a division 7 fine will be quite enough to discourage them from doing such a thing.

Despite subclause (2), having made such publication illegal, the information as to the results of basic skills testing may be disclosed for the purpose of confidential consideration or comparison to the Minister or to a person appointed to an administrative unit of the Public Service responsible to the Minister. In other words, it can be used internally throughout the school system. Since they know all the considerations that cause one school to be different from another, they may be able to use the scores differently from the way they would be used publicly. It may also be disclosed to a person of a class defined by regulation. A person may be involved in some sort of research and it is not my intention that it be denied to them, but clearly there should be a regulation that covers the class of person and the conditions that would surround their use of information. It can be disclosed also to the staff of the school.

The results may be disclosed, under subclause (4), to the child, the child's parents, the staff of the school at which the child is currently enrolled, or a person or class of persons approved by the child's parents. By doing this the parents may consent to a wider use. If there was a State sponsored competition similar to the Westpac maths competition, parents could say that they agree to Johnnie's results being disclosed if he has done brilliantly, but it would be the decision of the parents and nobody else.

In conclusion, this Bill is not about whether basic skills tests themselves are a good or bad thing. I happen to have a view that particular basic skills tests proposed for South Australia are a bad thing and I make that comment as a person who has been involved in education as a teacher.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: No. I will make comment on that. As a person involved in teaching for nine years and with three children in the State system—one in grade two (and having to face these tests in grades 3 and 5, if I consent to her doing them), another child in grade six and just past that age group—I think that I understand the system very well as both a former teacher and as a parent. It is not a good skills test and it will not give useful information. I think that better diagnostic information will come to parents out of the national statements and profiles. The Bill seeks to ensure that there are no abuses of the use of this information.

We have only two days of sitting left. It was not my intention that this Bill should come to the vote during this week. However, I thought it important to give notice of it. I advise the Council that when Parliament resumes at the end of September, I will reintroduce the Bill. There will have been an opportunity for consideration for a period of close to two months so, if the Minister intends to use basic skills tests for the purposes that he has clearly stated in the media and in this place, I hope that the Government will support the Bill, even if it feels that there is a need for some tidying up. That could always happen with the first draft of a Bill. I urge members to support the Bill when next it returns to this place in the September session.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

ELECTRICITY CORPORATIONS (ETSA BOARD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 July. Page 2431.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of this Bill. It carries into effect the view of the Minister for Infrastructure that a greater number of board members is required on the ETSA board for there to be an adequate supply of talent and expertise. The Opposition has no difficulty with that. The overall composition of the board will include the CEO of ETSA. The Government, in another place, has already agreed to the Labor Opposition's amendment, which insists that there be at least two women on the board. I understand that there are two women on this board, which is a bit of a breakthrough. In summary, the Opposition has no concerns about the Bill and, accordingly, it supports the second reading.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. SANDRA KANCK: I did not speak on the second reading of this Bill, but I admit to some degree of surprise that the Opposition is supporting it. I say that as the Bill will increase the size of what is a small-sized board because of an Opposition amendment which went through in

November last year and which I supported. I just find it strange. It looks suspiciously as though the Opposition is rolling over to have its tummy tickled again, and I find that a little surprising.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN WATER CORPORATION (BOARD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 July. Page 2431.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Bill is in identical terms to the Bill which has just passed: the Electricity Corporations (ETSA Board) Amendment Bill. The brief remarks that I made a moment ago apply equally to this Bill. Accordingly, I support the second reading.

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

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

Order of the Day: Private Business, No. 1: report to be brought up.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Order of the Day be discharged.

Order of the Day discharged.

SELECT COMMITTEE ON THE PROPOSED PRIVATISATION OF MODBURY HOSPITAL

The Hon. L.H. Davis on behalf of **The Hon. BERNICE PFITZNER:** I move:

That the committee have leave to sit during the recess and report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON ALTERING THE TIME ZONE FOR SOUTH AUSTRALIA

The Hon. R.I. Lucas on behalf of **The Hon. CAROLINE SCHAEFER:** I move:

That the committee have leave to sit during the recess and report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON OUTSOURCING FUNCTIONS UNDERTAKEN BY EWS DEPARTMENT

The Hon. L.H. DAVIS: I move:

That the committee have leave to sit during the recess and report on the first day of the next session.

Motion carried.

CONTROLLED SUBSTANCES (CANNABIS DECRIMINALISATION) AMENDMENT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to amend the Controlled Substances Act 1984. Read a first time.

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

That this Bill be now read a second time.

This Bill, as with the previous Bill I introduced, is one I do not expect a vote on this week. It is a matter of getting it on the record and I will reintroduce it in the new session. As with many of these sorts of private members' Bills, particularly contentious ones, I expect it may be with us for sometime. Following the recent report of the select committee, I think it is appropriate that this Bill be moved now and that the public debate have the opportunity to move on. What I am doing is putting forward a model which I believe is the most suitable model in relation to handling issues surrounding cannabis in South Australia.

People will put all sorts of constructions on this legislation, but I will put on the record here and now that I am not a person who encourages the use of drugs. In fact, during my time as a teacher, I taught health education and, within that, I taught drug education for a number of years in high schools. My position is quite clearly not about encouraging drug use. I also have three young children, the oldest having only just commenced secondary schooling and, although as I understand it I do not believe that illicit drugs have been offered, it is a real likelihood that all three of my children will be offered, by persons unknown to me, I guess, opportunities to use illicit drugs. I am very mindful of that and I am very keen that we have a structure in place which gives my children the best opportunity to make informed decisions and, I must say, I hope their informed decision is a decision not to use drugs which are currently illicit.

As a member of Parliament, it is not just about my children. Of course, I suppose that is my first and declared vested interest in the issue but, as a Parliament, we do need to look at society as a whole and ask what will achieve the best result for our society. The best place to start the debate is to look at issues as a quick overview. One of the best overviews I have seen on the subject is derived from the National Task Force on Cannabis, a national body set up by the Commonwealth and the States jointly. With respect to the membership of that task force, the Chairperson is Dr Robert Ali, Director of Clinical Services and Policy Coordination of the Drug and Alcohol Services Council of South Australia.

Currently, it also comprises Mr Frank Hansen, Chief Inspector, Drug Enforcement Agency, New South Wales Police Service; Mr Kevin Larkins, Chief Executive Officer, Western Australian Drug and Alcohol Authority; Mr Kerry MacDermott, Policy Adviser, Drugs Policy Unit, Federal Justice Office, Commonwealth Attorney-General's Department; Mr Garry Quigley, Head of the Community Protection Branch, Federal Justice Office, Commonwealth Attorney-General's Department; Ms Julie Sarll, Director of Planning and Statistics Section, Drugs of Dependence Branch, Commonwealth Department of Human Services and Health; Mr Graham Strathearn, Chief Executive Officer, Drug and Alcohol Services Council of South Australia; and Mr Colin Watkins, Assistant Commissioner, Crime Command, South Australian Police Department.

This paper, prepared by the National Task Force on Cannabis, would be the most comprehensive paper prepared in relation to cannabis anywhere in the world in probably the

past 12 years, if not longer. It was done back in the early 1980s, when the United Nations carried out a comprehensive review of available scientific knowledge. It was the last time there was an attempt on this sort of scale to bring together known scientific knowledge. It sought to present a balanced assessment of the current state of knowledge. I will read a few paragraphs from its conclusion, as follows:

> In general, the findings on the health and psychological effects of cannabis suggest that cannabis use is not as dangerous as its opponents might believe but that its use is not completely without risks, as some of its proponents would argue. As it is most commonly used, occasionally, cannabis presents only minor or subtle risks to the health of the individual. The potential for problems increases with regular heavy use. While the research findings on some potential risks remain equivocal, there is clearly sufficient evidence to conclude that cannabis use should be discouraged, particularly among youth, as part of a general approach of discouraging use of all drugs and promoting more healthy life-styles.

It makes the point, first, that there are health effects but, unfortunately, within our society those effects have been grossly overstated. That gross overstatement of the effects then often has quite a dramatic impact on the debate. But it also notes that we should be seeking to discourage the use of all drugs—a view that I share.

The Hon. Carolyn Pickles: Including cigarettes?

The Hon. M.J. ELLIOTT: Including tobacco, which is why members may recall that I sponsored a Bill in this place many years ago to ban the advertising of tobacco. I am very consistent in my attitude towards drugs. I see tobacco as a dangerous drug, and I believe that we should not be encouraging people to use it, just as we should not be encouraging people to use cannabis. The conclusion states:

> The fact that it is recognised that cannabis use should be discouraged does not imply that total prohibition of its use is warranted. Cannabis has been repeatedly shown to be the most widely used illicit drug, and the personal harm that results from moderate, occasional or experimental use of cannabis appears to be minimal. Thus a good case can be made for the view that the social harms which accompany the total prohibition of personal use outweigh the potential health and social harms arising from moderate use. In addition, the fact that rates of cannabis use do not appear to be markedly different in jurisdictions where personal cannabis use is not treated as criminal suggests that control schemes which involve the removal of criminal penalties for personal use are appropriate. Such schemes remain quite compatible with the strategy of discouraging drug use in general.

The task force commissioned survey research has shown significant levels of support for the general strategy of treating personal cannabis use as a health or social issue rather than a law enforcement one, with clear indications of strong support for the removal of criminal penalties for personal cannabis use. At the same time, there remains strong disapproval for large scale cannabis cultivation and trafficking, and the view that such activities should be firmly dealt with by criminal law. These findings give strong support to the concept of separating the widespread personal use of cannabis from the criminal sector.

> Given the prevalence of cannabis use in the community, the fact that total prohibition of personal use has not managed to stop people from using cannabis, and the considerable misinformation in the community about cannabis and its effects, there appears to be a case for well-formulated education campaigns which aim to minimise the potential for harm from cannabis use, particularly among groups most at risk of harm. Young people, particularly in schools or tertiary institutions, are in an ideal position to receive educational messages which aim to stop the initiation of cannabis and other drug use, including the common illicit drugs, alcohol and tobacco. The National Task Force on Cannabis hopes that its findings will be received and considered by many sectors in the community and that further informed debate will be stimulated, as such debate seems timely.

That is a quote from the conclusions of a paper that I recommend all members in this place, if interested in the issue, take the time to read. This paper is based upon four research papers, which were prepared in far more detail. First, I want to look at the health impacts in a little more detail, because if people have misinformation about health impacts it will affect the way some people think about the issue. I repeat that the information contained in this paper is the most significant international review of the literature on the issue since the joint paper undertaken by the Addiction Research Foundation and the World Health Organisation in 1981. Of course, it contains much more new information since that paper was published.

The first issue I will address relates to acute psychological and health effects. In addition to the desired immediate effects of the cannabis high, which include mild euphoria, relaxation and perceptual alterations, cannabis can sometimes produce anxiety, panic or unpleasant feelings, most often in naive users. The consumption of larger than usual amounts, particularly when taken orally, is more likely to lead to these acute adverse effects, as well as symptoms such as delusions and hallucinations. Among the numerous immediate physical effects of cannabis is a consistent increase in heart rate occurring soon after a dose is taken and blood pressure changes, such that it may increase while sitting and decrease on standing.

These cardiovascular effects are unlikely to be of clinical significance, particularly for younger users. The acute toxicity of cannabis is very low and there are no confirmed cases of deaths from cannabis overdose in the world literature. As one person said to me, 'The lethal dose of cannabis is five pounds dropped off a seven-storey building.' There are no known deaths caused by overdose of cannabis. The most significant potential acute effect is cannabis and driving. The national task force has called for a good deal more research in that area, but it is interesting to note that, generally speaking, in relation to people who take cannabis alone, the drivers do not become more dangerous.

As someone once said to me, the person who is driving under the influence of cannabis is the person driving very close to the kerb at about 10km/h, unlike people affected by alcohol. People who have taken cannabis alone are more likely to be cautious than aggressive, which people under the influence of alcohol tend to be. Clearly, there is a major risk in that the person still is impaired, but I will certainly be making the point later that that is a problem that is with us now, and it is my belief, and I will argue it further, that the consumption patterns are not likely to change, therefore the problem in relation to cannabis and driving is one we must solve regardless; I do not think the size of the problem will change.

In terms of the effects of chronic cannabis use as distinct from the acute effects, cannabis smoke, like tobacco, is potentially mutagenic—in other words, potentially carcinogenic. The report states:

> At present, there is no conclusive evidence that consumption of cannabis by humans causes major impairments in immune functioning. It is more difficult to exclude the possibility that minor impairments in immunity might arise from chronic heavy cannabis use, as such impairments could have escaped detection in the studies done to date. Despite this possibility, there has been no epidemiological or other evidence of increased rates of common viral or bacterial infections or other illnesses among chronic heavy cannabis users. Indeed, one important study of HIV-positive men has shown

that continued cannabis use did not increase the risk of progression to AIDS.

If you understand that HIV is about immunosuppression and if indeed cannabis itself was likely to cause immunosuppression, you would think that a person who was HIV positive and who was using it would succumb to AIDS much more quickly, but that is not the case and that is a very important study. There simply is no evidence at this stage to support immune system suppression. I have already talked about potential impacts on the cardiovascular system in the short term but, in terms of chronic cannabis use, the report states:

> . . . there is no evidence that chronic use causes permanent damage to the normal cardiovascular system.

In relation to the respiratory system, the report states that chronic heavy cannabis smoking may cause symptoms of chronic bronchitis, such as coughing, sputum and wheezing and also a disposition to respiratory cancers. In other words, whether you smoke tobacco or cannabis you are taking a similar risk in relation to the respiratory system. However, cannabis smokers tend not to smoke quite as many cigarettes in the day as a tobacco smoker does. In relation to reproductive effects, the report states:

> While chronic cannabis use causes reproductive and hormonal effects in animals, it is uncertain whether such effects occur in humans.

Again, there appears to be no great deal of evidence at this stage although there is the possibility that it may impair foetal development, leading to lower birth rate. However, again we find that is true of a pregnant woman whether she drinks alcohol or smokes tobacco, so it is not good but it is certainly no worse than those other illicit drugs, both of which are on sale in this place. In relation to the psychological effects of chronic cannabis use the report states:

> Some of the longitudinal research on drug use among adolescents has been interpreted as showing that cannabis use in adolescence is a causal factor in such problems as delinquency, poor educational performance, non-conformity and poor adjustment, as well as a 'gateway' to the use of harder illicit drugs. However, there are more plausible and better supported explanations for these findings. It is likely that it is the non-conforming and deviant adolescents, who have a greater propensity to use illicit drugs, who are selectively recruited into cannabis use, and are more likely to be part of a subculture which gives them greater exposure and encouragement to use other illicit drugs.

So, in fact the task force is not arguing that cannabis causes the problems but that people with some of these problems are far more prone to using cannabis. The report continues:

> On balance, the evidence supports the view that cannabis use, particularly regular or heavy use, should be discouraged among adolescents.

And I agree with that, but what about among adults? The report continues:

> The evidence for the existence of a motivational syndrome resulting from chronic heavy cannabis use is equivocal; it is probable that, if it does exist, it is a relatively rare occurrence, even among heavy chronic cannabis users.

In relation to dependence, the report states:

> The risk of cannabis dependence may be similar to that for alcohol dependence, and is most likely highest among daily cannabis users. However, the prevalence of drug-related problems in the cannabis dependent group is likely to be lower than for alcohol dependence. There is probably a high rate of remission of cannabis dependence without formal treatment.

In relation to cognitive effects and brain damage, the task force found that if there was any impairment or damage it must be extremely subtle, because in either case no long-term effects had been measured. In relation to psychotic disorders, it states that it is likely that heavy cannabis use can produce an acute toxic psychosis characterised by confusion, amnesia, delusions and anxiety and that this syndrome resembles other toxic psychoses and remits rapidly after cessation of use. In other words, it is not a permanent effect. It states that there is less evidence for an acute or chronic functional psychosis caused by cannabis.

Critics have frequently suggested that schizophrenia and manic depression may be linked to the use of cannabis. The report does state that there is some evidence to suggest that chronic cannabis use may precipitate a latent psychosis in vulnerable persons, but 'to precipitate' does not mean that it causes. I recall that when Dr Ali appeared before the select committee he made the point that it may bring on a psychosis earlier than otherwise, but he distinguished between that and being the cause of the psychosis and said that people who suffer from schizophrenia are not likely to have suffered it because they are cannabis users. It has been noted that schizophrenia is a fairly common condition, so it is not surprising that a number of cannabis users are sufferers. It might also be true that people who are suffering from schizophrenia and perhaps are having some difficulties in coping generally are more likely to be cannabis users, so which is cause and which is effect is really the argument. There is no real evidence to show that cannabis is the cause of the effect. The task force makes a comparative appraisal of health risks of alcohol, tobacco and cannabis. In relation to acute effects, it states:

> Alcohol and cannabis share the significant risk of producing psychomotor and cognitive impairment, although it remains to be determined whether cannabis increases the risk of accidental injury and death to the degree which alcohol does. It is known that alcohol taken in substantial amounts can produce a foetal alcohol syndrome, and there is some evidence that cannabis use during pregnancy can have similar effects. Unlike alcohol, which can lead to death by toxic overdose, cannabis is not known to ever have caused death through overdose. Tobacco and cannabis share the health risk of the irritant effects of smoke on the respiratory system. THC and nicotine [the active ingredients in cannabis and tobacco] both have stimulant effects on the cardiovascular system, which could be harmful to those who have cardiovascular disease.
>
> Chronic effects: Chronic heavy use of either alcohol or cannabis is associated with an increased risk of dependence; in the case of alcohol there is strong evidence for dependence syndrome, with potentially severe withdrawal symptoms, while for cannabis there is reasonable evidence for a dependence syndrome, but it is uncertain whether withdrawal symptoms reliably occur. Both alcohol and cannabis appear to have the potential to produce toxic psychoses following prolonged heavy use, and cannabis may precipitate psychotic episodes in susceptible individuals, or exacerbate existing symptoms.
>
> Whereas chronic heavy alcohol use can sometimes lead to severe and irreversible cognitive impairments, chronic cannabis use does not appear to produce cognitive impairment of similar severity. Chronic heavy alcohol use can lead to impaired occupational performance in adults and lowered educational achievements in adolescents. Chronic heavy cannabis use probably produces similar but more subtle impairments.
>
> Chronic heavy alcohol use increases the risk of death by accident, suicide and violence. Comparable evidence for heavy use of cannabis is not available, although it is likely that cannabis users who often drive while intoxicated increase their risk of injury or death. Alcohol use is a risk factor for cancer of the oral cavity and throat region. Chronic cannabis smoking may also be a risk factor for cancers of this type. The major health risk shared by chronic users of tobacco and cannabis relate to smoking as a route of administration. The risk of chronic respiratory diseases such as chronic bronchitis, and probably the risk of cancers of the respiratory system, is increased for both chronic tobacco smokers and chronic cannabis smokers.

A number of questions arise from this report. First, is cannabis harmful? Yes, it is. Secondly, how does it compare with the licit drugs, alcohol and tobacco? The evidence is that

it is not any worse and, in some areas, it is probably marginally better. I am not trying to put an argument that people should switch from one to the other, but let us be realistic about the scale of the impacts on individuals. It is worth asking the question: why do we punish people for doing one and not punish people for doing the other? It is quite an amazing inconsistency and totally illogical. We do have to ask ourselves just how well the law is working.

I draw to members' attention another paper from the Parliamentary Joint Committee on the National Crime Authority, which is a committee set up under the Federal Parliament. It put out a paper entitled 'Rethinking Drug Policy' in May 1989. Work has been done to try to ascertain the level of use of cannabis in Australia. This committee came to the conclusion, on the evidence it received, that in the past 12 months 780 000 Australians had used cannabis and of those 226 000 were frequent, regular users. The committee estimated an annual consumption of 120 000 kilograms and an estimated annual turnover valued at $1 905 million. So, in South Australia 10 per cent is a reasonable guess. This is an industry worth close to $200 million. It is an industry of considerable scale and all totally illegal. That raises the question: do our law enforcement strategies work? On page six of the report it poses the question whether or not it is a hopeless task and comments on the fact that law enforcement agencies have success in making seizures and destroying cannabis plantations. Members would read about this in the paper quite regularly—another plantation destroyed.

What we are not managing to do is cut off the supplies of the illegal drugs that are readily available. At this moment I do not know where I could buy some cannabis, but I would be pretty surprised if within 20 minutes of leaving this place I had not found a source. These big seizures are not cutting the supply off: it is a hopeless task. Many people in law enforcement are recognising that and I recall the Commissioner of Police in Tasmania recently made a call for a change in the law. He called for legalisation, which is something that I am not calling for in my Bill. The committee said that so long as there is a demand, even at what seems to be irrationally high prices—and in South Australia I am informed that could be as high as $400 an ounce—someone will attempt to supply it. It also said that the most striking proof is the very fact that despite stringent security measures drugs find their way into gaols. If we cannot keep drugs out of gaols, what hope do we have in the general community?

It said there really are two conclusions. First, that the solution to the problem of drug abuse lies in demand reduction and not law enforcement. Although law enforcement has some effect on demand, community opinion is far more powerful, as demonstrated in the shift in attitude towards tobacco over the last decade. Secondly, if law enforcement cannot demonstrate success in preventing the supply of illegal drugs to the Australian markets, then it is time to give serious consideration to alternative policies however radical they may seem.

I note that at a world level drugs (and I am not talking just about cannabis at this stage) are now the most traded commodity by value in the world. They have recently passed arms, which come second, and petrochemicals, which come third, and that is despite the fact that almost every country in the world has powerful laws in relation to drugs. The war on drugs, not just nationally but internationally, does not seem to be going particularly well. In its report the task force examined patterns of cannabis use and not surprisingly found that cannabis is the most widely used of all the illicit drugs. It suggests that about one-third of all adults have tried cannabis. At all ages for both men and women the prevalence of alcohol and tobacco use is much higher than that of cannabis, which is not a surprise.

The national drug strategy has been involved in a series of household drug surveys from 1985 through to 1993 and the most recent survey found that 40 per cent of men and 28 per cent of women reported at some stage to having tried cannabis. Younger people are more likely than older people over the age of 40 to have tried it, but it is also noted that, of those who have used it, about 7 per cent of women and 15 per cent of men use cannabis on a weekly basis. That is 15 per cent of 40 per cent, and it makes the point that, whilst almost half the men have used it, only 15 per cent of that 40 per cent have continued to use it on a weekly basis. Based on my rough calculations, that comes to about 7 per cent of adult males using cannabis on a weekly basis. I have heard some data suggesting it may be closer to 10 per cent, but that is a significant number. It means that here in Adelaide there must be a high number, say, 60 000 plus who are using cannabis on a weekly basis and a much higher number using it less frequently. It is all quite illegal.

The task force looked at patterns of cannabis use in other countries and found that cannabis use in the United States peaked in about 1979 and declined throughout the 1980s. We should bear in mind that there is some uncertainty in comparing findings from different surveys in different countries but it is probable that the current prevalence of ever having used cannabis is higher in Australia than in Canada, the United Kingdom and the United States and is comparable to that in New Zealand.

The current prevalence in Australia is not as high as the peak prevalence of cannabis use observed in the United States in the late 1970s. There could be a number of reasons why the usage rate is higher in Australia, but the most obvious reason is that cannabis is remarkably easy to grow in Australia—

The Hon. J.F. Stefani: It grows wild in some places.

The Hon. M.J. ELLIOTT: That is right. While in some parts of the United States—particularly the southern United States—it grows readily, in the northern States it would not be nearly as easy to grow and the population density is far greater, so it is likely that it is ease of growing in Australia that is a significant reason why our consumption patterns are slightly higher. Of course, our people use a lot less cocaine and a number of other illicit drugs that are far more common in the United States. That may also be part of the story. They look at the issue of cannabis decriminalisation in a number of jurisdictions and they say that problems exist for these studies as comparisons are made difficult by the fact that civil penalty options have been implemented in different ways. They looked at the United States and at the Netherlands, and found:

> An overview of experience in the United States indicates that States which introduced systems of civil penalties for cannabis use have not differed from other States in their patterns or trends in cannabis use. In the Netherlands, where personal cannabis use is dealt with via an administrative expediency principle, whereby such use is generally permitted to go unpenalised, there does not appear to have been any major changes in the prevalence of cannabis use since the policy of *de facto* decriminalisation was introduced in 1976.

So, in the almost 20 years since cannabis use was *de facto* decriminalised, there has been no change of usage patterns. Studies have also been done in Australia, and these are also referred to. They suggest that the cannabis expiation notice

scheme does not appear to have changed the usage patterns in South Australia relative to other States. It is true that, since CEN was introduced, detections have increased in South Australia and that usage has also increased, at least on other surveys. However, it appears that the usage patterns are consistent with the other States which did not introduce CENs. That is one of the reasons why I have some confidence that changing the law does not mean that people will rush out and start using it more than they are currently. When the CEN system was introduced into South Australia, one of the goals was a recognition that we really did not want people caught with cannabis for personal use to end up with a criminal record. The unfortunate experience, however, despite that recognition, is that many people have ended up with a criminal record.

On another note, I should also like to refer to cannabis seizure rates. Page 11 of the select committee report looks at cannabis seizures and shows a steady increase of seizures of cannabis plants, but that is highly variable. In fact, in 1991-92 almost four times as many plants were detected by the Drug Task Force as in 1993-94, but I can guarantee that the supply in the streets did not show more than a hiccup as a consequence of that. Despite the best efforts of the South Australian Police Drug Task Force, the situation on the streets did not change greatly.

What we have found is that, from 1989-90 to 1993-94, the number of cannabis expiation notices increased from about 10 000 to about 17 000. Interestingly, in 1989, 54 per cent of offences were expiated. By 1993-94, only 44 per cent were expiated. This means that the other 56 per cent went to the courts, unfortunately. Such offences continue to clog up the courts, which is one of the things that we were hoping to stop, and offenders continue to get a criminal record as a consequence. People who may now be strongly and virulently anti-cannabis and who think that we should do almost everything to stop its use, have been tainted by a decision that they made when they were quite young. I do not think that the cannabis expiation notice system has achieved its most basic goal of reducing the amount of court time being taken up or of reducing the number of people who end up with a record. I would be most disappointed if anyone in this place believed that that issue alone needed to be tackled.

The select committee attempted to look at the costs associated with drug abuse. What are the costs? There is the social cost in terms of individuals who are affected by CENs and the fact that the CEN system is not working, but there are also significant financial costs. We made a comparison of the costs of alcohol, tobacco and illicit drugs. Of course, illicit drugs include opiates, amphetamines, etc. It is interesting to note that the total cost of alcohol consumption in Australia is about $6 billion a year. The cost to the community of tobacco is about $6.8 billion a year, and the cost of illicit drugs is about $1.4 billion annually. A table in our report breaks it up into tangible and intangible costs, the former being health care costs, loss of production, welfare, law enforcement, etc., and the latter being pain and suffering and other costs not associated with community productive resources.

I understand that the total cost of drug abuse in Australia in 1988 was 5 per cent of gross domestic product, about 4.5 per cent of which is directly linked to alcohol and tobacco—the two licit drugs. We clearly have a drug problem, but the big drug problem in our society is alcohol, tobacco and several other of the licit drugs that one gets whenever one is feeling a bit stressed and visits one's doctor, who seems to be a little too willing to prescribe the pills.

Law enforcement costs in relation to illegal drugs at a national level, according to the Cleeland commission report, a parliamentary joint select committee on the National Crime Authority in 1989, estimated that law enforcement costs nationally were about $123 million, which at a South Australian level suggests about $12 million and, again, one would assume that cannabis makes up at least half of that.

The select committee was very frustrated when it tried to get more particular information about the cost to the South Australian community. The report notes that frustration by the lack of accurate and reliable police data associated with the cost of enforcement and prevention in South Australia, and even less so could it help us with any information as to what the indirect costs were.

When we asked how much it cost to police drugs, we were told how much it cost to operate the South Australian Drug Task Force. But much of the drug work is done by ordinary policeman in their patrol cars who detect individual plants in backyards, bits of cannabis in cars and those sorts of things and issue a CEN notice, over half of which lead to court work, etc. The police are not able to put any cost on that at all, yet that would be a far greater cost than the drug task force which theoretically aims at getting the so-called 'Mr Bigs' of the drug world.

When we start asking the police questions such as how much crime is drug related, they shrug their shoulders. If we ask whether they can provide a ballpark figure or even an approximate estimate, they again shrug their shoulders. I know that it is very difficult with some individual crimes to say that they are definitely drug related, but it is a great pity that there is not at least an attempt, even if it cannot be proved that a certain crime is drug related, to make a reasonable educated guess whether or not it is, because that data would be very useful to policy makers in South Australia.

I note that the South Australian Police Commissioner advised the select committee on 15 September 1993 that a statistical services unit had been established within the Strategic Development Branch. I only hope that it will start producing far more comprehensive data than was available to the committee during its time and that that will be of assistance in the future.

If we are talking about sales of cannabis worth $200 million a year, you do not have to be a genius to work out that some of that $200 million is available to cause corruption. Interesting evidence is coming out of the current inquiry in New South Wales—I think a royal commission—which is certainly showing that the profits of the drug business are being used to corrupt. While I believe that South Australia has a very good Police Force, with a reputation of being the best in Australia, one would be a fool not to believe that some of our police and other people in positions of influence might be bought with some of that $200 million.

As we seek to stop the trade, there are other prices. Prohibition erodes accepted civil liberties and becomes an excuse for widespread telephone tapping. People can be liable to intrusive searches upon suspicion. People's reputations can be damaged, not because of any crime proved against them but because they are suspected of having some involvement in the drug trade. Prosecutions depend upon informers and the law bears most heavily on those drug users—primarily the young and the poor—who use drugs in public places. An obvious double standard prevails in respect of recreational drug use when we give manufacturers of alcohol and tobacco

products social recognition but put growers of cannabis in gaol, even for personal use, for lengthy periods.

There is the cost of the erosion of civil liberties and, the more we try to fight using the law, the more civil liberties we lose. The more we fight, the higher the price goes, the greater the reward for the crooks, the more corruption occurs and the more civil liberties we have to give up. We have a dog chasing its tail and the situation deteriorates.

In relation to cannabis, users seeking to buy cannabis are brought into contact with a criminal subculture. I will refer to evidence later in more detail, but it suggests that cannabis in itself is not a gateway drug to other drugs but it is certainly true that in seeking out cannabis people are brought into contact with those who potentially will supply other drugs of much greater consequence. It is of concern to me that a person seeking out cannabis is told, 'It is $400 an ounce this week, but I am doing a great line in LSD'. That worries me. I would be worried if one of my children decided to use cannabis and, if in seeking it out, they were offered LSD as an alternative. The whole subculture that surrounds supply is another good reason for our addressing the current law and its failures. What are the legal models available to us? Five options are available, the first being total prohibition, and the name is self explanatory. You could have prohibition with—

The Hon. J.F. Stefani interjecting:

The Hon. M.J. ELLIOTT: We have total prohibition and prohibition with civil penalties. Criminal sanctions apply to the possession, cultivation and distribution of large quantities of cannabis. South Australia's system is probably the closest to prohibition with civil penalties, because people who are involved in personal consumption face a cannabis expiation notice. A similar scheme was introduced in the ACT in 1992.

The third model is partial prohibition. Under this option, controls on the production and distribution of commercial quantities of cannabis would be maintained, but it would not be an offence to use cannabis or to possess or grow it in quantities adjudged appropriate for personal use. A few countries, such as Spain, have followed this model. Others, including Italy, have made possession and use unlawful but not criminally punishable. In none of these cases does it seem that an increase in cannabis use has resulted.

The fourth model, which I prefer and will go into in more depth later, is regulation. In this approach, production, distribution and sale of cannabis would be controlled by Government agencies, but trafficking outside the regulated system would continue to be a criminal offence. Activities associated with personal use would not be penalised. There is no full working model of this option available. However, aspects of cannabis control in the Netherlands correspond with this regulatory option. While the Dutch Government does not license the production or sale of cannabis, youth centres and coffee shops openly sell cannabis products under certain clearly defined conditions.

There are other examples of regulatory systems for the cultivation of drugs. In particular, in Tasmania opium poppies are grown under Government licence. People ask, 'How can we grow cannabis under licence?' The Tasmanians have achieved the growing of opium poppies under licence, and I believe that a similar mechanism could be put in place for the growing of cannabis. Just as we license outlets for alcohol, we could also license outlets to sell cannabis, although I would not adopt a hotel-type model. I will get to that later.

The final choice is free availability or full legalisation. That is not the option that I am promoting. Full legalisation is self-evident and does not need further explanation.

The select committee into the NCA looked at legal options and made a few comments which are worth noting. It looked at harsher penalties, which is the line that some people would follow, and gave examples where harsher penalties do not work. In Singapore, which introduced the death penalty in 1975, the estimated number of addicts grew from 2 000 in 1975 to 13 000 in 1977. Pakistan, which also has the death penalty, had almost no heroin problems in 1979, but it now has an estimated 700 000 to 900 000 addicts. The death penalty was not particularly successful there.

Increasing penalties may also create intolerable congestion in the courts and gaols. In 1973, New York State imposed new mandatory minimum sentences for drug trafficking. A study in 1976 found that the new penalties had no effect on the use of heroin, which was available in New York City. However, the time taken to deal with drug cases had nearly doubled, despite the appointment of 49 new judges. The new law was a costly failure.

The committee also looked at *de facto* decriminalisation. The Netherlands, of course, is the example there. The committee also notes that the result of policies in the Netherlands was that the use of cannabis was low and remained so. The Netherlands did not see an explosion in the use of cannabis or of hard drugs. Although this is not related to cannabis, it is worth noting that the report states:

> Only 8 per cent of Dutch AIDS patients are drug users compared to a rate of 23 per cent for the whole of Europe. The average age of drug users is increasing and there have never been so many drug addicts asking for detoxification and drug-free treatment as at present.

[Midnight]

The point I make is that they are looking at the injection of drugs but, by confronting their drug problem as a health and a social problem not a legal problem, clearly the Dutch have had much more success in relation to AIDS than the rest of Europe and they have also effectively slowed down the recruitment of new drug users.

My personal goal in legislation ultimately is to encourage a reduced usage of drugs, but I also have a philosophical belief that in our society it is not our role to intervene where people make decisions which involve informed consent and where that informed consent does not have an impact upon others. In relation to cannabis, if a person makes an informed decision, if they are being given information that cannabis carries health risks comparable to tobacco and alcohol, and if they choose to exercise that discretion, I do not think that it is our business to impose on those people. Certainly, they should not end up with a criminal record (which is still happening), nor should they be harassed in a way in which many of them are being harassed at present.

I encourage members to read the reports that I have quoted from briefly. Those two reports clearly show that our current drug laws are not achieving their goal of reducing drug usage. I would like to see the regulatory model, which is the model upon which my Bill is based, where people will not be punished for being in possession of small quantities of cannabis, whether it be a small number of plants in their yard or a small amount of cannabis which they will use only for personal purposes. However, if in the long term we want to decrease the usage of cannabis, one way in which to confront it is to destroy the profit motive. As I said, big profits can be gained from this drug, so we need to destroy the black market. We will do that only by replacing it.

My argument is that the Government should licence growers. No-one, other than licensed growers, should grow it except for personal use, and it should be sold only through licensed outlets. It is not my belief that those licensed outlets should be pharmacies. I know that the national pharmacy body has already passed motions to the effect that, whilst it does not have a view one way or the other in terms of whether or not cannabis should be available, it does express the view that if it is to be sold it is prepared to do so. If we sell cannabis through pharmacies we will be sending a message that it is a substance that has health impacts. Under this legislation I would insist that when people buy cannabis not only would it carry the standard health warning as seen on a tobacco packet but they would be supplied with more comprehensive information.

The Hon. R.D. Lawson interjecting:

The Hon. M.J. ELLIOTT: Yes, something like that. I think it can be treated seriously. A number of things can be bought from chemist shops, but I think it sends a different message from going to the corner deli to buy tobacco. Tobacco, a killer drug, is available from a delicatessen in the same way as you can buy sugar candy. You should be able to buy cannabis in the same way as you can buy some prescription drugs with a message that it is to be treated seriously. If people make an informed decision about wanting to use it, I do not believe that we should impose and, as I said, that sort of imposition simply does not work.

We should be very careful not to repeat the mistakes of alcohol and tobacco. There should be no advertising or inducement to consume cannabis. So, advertising or inducement to use in fact would be offences. What we would be doing is sending messages that it is not really a bright idea to be using the drug and we will not be allowing any encouragement or inducement for it to be used.

Finally, to send one further message, there would be a ban on consumption in public places. We are starting to see this increasingly in relation to alcohol, and even tobacco is facing increasing restrictions. This would provide some consistency, although this ban would be a far more comprehensive one. What people would be doing is making a decision to consume at home or to consume at the home of a friend. Again, at that stage, what informed adults are doing is really nobody else's business. It does not mean we do not care, which is why we put out the health messages, but it is not our business ultimately to be threatening them with legal sanction in relation to its consumption.

The Hon. T.G. Roberts: What will the warnings be: 'This could cause you to laugh at lines running up the wall'!

The Hon. M.J. ELLIOTT: You would clearly say that consumption is a health hazard, which it is, but you would have a more comprehensive message than the one liner made available at the same time. There are a couple of reactions that people have when you talk about the possibility of going to regulated availability. The first is, why are you condoning a drug's use? I do not believe that the model I am promoting is seen as condoning its use. It is being realistic and saying the drug is here, and then sending some very clear messages to people about the dangers associated with it, and also, from where it is sold, sending messages as well.

People ask: if we have problems already with current legal drugs, why introduce another one? We are not introducing another drug. The drug is here. It is being consumed by at least 40 per cent of all male adults, by almost 30 per cent of female adults, and it is being used regularly by fairly close to 10 per cent of adults. We are not introducing a new drug to our society. That argument is quite fallacious. If we look at the experience in the Netherlands, there is no reason to believe that consumption will suddenly take off. It might be true that a few people may be tempted to try it, but the experience with cannabis even now is that, while a large number of people have tried it, very few continue to use it regularly. Speaking from my experience of the early 1970s, I really thought that cannabis was dreadfully overrated, in any case.

There is the question of driving under the influence, which people will raise. If the consumption patterns do not change, as I argued before, that is a problem we have and it is one we have to solve. It is driving under the influence of a drug that is illegal. Of course, it should remain illegal. I do hope that accurate tests will be available. Nevertheless, I do not believe that the number of people driving under its influence will be any greater with a change in the law in relation to regulated availability than is currently the case. It just means we have exactly the same problem to solve.

I will run through the clauses of the Bill. Clause 2, which deals with Interpretation, defines an 'adult'. Clearly, in this Bill, I am seeking to differentiate between adults and children. Children should not be able to buy, consume or grow cannabis, so there is a need to distinguish between adults and children. In relation to a 'prescribed quantity', what we have in law under the CEN system could remain but with a slight modification. I accept that a person at his or her own home may cultivate up to 10 plants. As I understand it, if 10 plants are grown, a large number will turn out to be male plants and will turn out to be totally useless—and some people say that they are not surprised by that. Apparently, female plant heads have much higher levels of THC, and the male plants are virtually useless. I am also told that there is great variability in the size of the plants. Although you might put 10 plants in the ground, you will not get 10 productive plants out of them.

Currently, you get a CEN as long as you do not have more than 100 grams. I have increased the quantity allowed for possession at a person's own home to 500 grams. That is a recognition of the nonsense that a plant can be in the ground and, under the CEN system, just a CEN would be issued. However, the moment you pulled the plant out of the ground you had more than 100 grams and were then potentially committing a criminal act, which is quite absurd. Under a regulated availability model I have sought to say that 100 grams is very little. Whilst 500 grams is not a vast quantity, it is at least a little more realistic.

However, in relation to possession of cannabis away from a person's home, the level of 100 grams is maintained. I am still seeking to make it difficult for a person to traffic in cannabis, because I do not want trafficking to be encouraged. It would be hard to make a profit if you are trafficking in 100 grams at a time, backwards and forwards from your home, particularly when you are competing in a market where there is ready availability.

There is a need to define 'public place'. As I said, it is my intention that consumption not occur in a public place. There is an amendment to section 31, which involves the prohibition of possession or consumption of a drug of dependence or prohibited substance. That deals again with the possession of prescribed quantities at a person's home. It recognises that licensed wholesalers or retailers may be in possession of cannabis and also recognises that possession by an adult of equipment for smoking or consumption of cannabis or cannabis resin should not be an offence. It is quite an absurd

offence, anyway. People can make all sorts of implements at home that allow them to smoke it. In the past, I have seen people smoke it out of teapots, I have seen them use matchboxes and all sorts of devices.

The Hon. R.R. Roberts: What's it like out of the teapot?

The Hon. M.J. ELLIOTT: I don't know. People make all sorts of artificial bongs. If you have a bong that is clearly a bong, then you will be fined for it. It is absurd. Some significant arguments are being put forward that the use of some of the devices actually reduces some of the health risks, particularly if you cool down the smoke and remove some of the tar content. If you are serious about reducing harmful effects, why would you ban the paraphernalia? Clause 4, which relates to section 32 of the Act, recognises the cultivation, production and packaging under licence, as well as sale by wholesale to a licensed retailer. Subclause (6) provides that, if children are involved in the cultivation or production of cannabis, they would be subject to a penalty not exceeding $500.

Under section 33A, a person who purchases cannabis other than from a person who is licensed to produce cannabis would face a $2 000 fine; a person who smoked or consumed cannabis in a public place could face an expiation of $100 or a maximum penalty of $1 000; and a person who advertised or promoted the sale of cannabis would face a penalty of $8 000. The final important provision relates to special provisions relating to cannabis licences, where the Health Commission would impose conditions about health warnings on packaging and would also require retail sellers of cannabis or cannabis resin to supply purchasers with information relating to the risks attached to the smoking and consumption of cannabis and cannabis resin.

Finally, and importantly, the Health Commission can impose both minimum and maximum prices for cannabis and cannabis resin. The pricing mechanism is very important, because cannabis should not be so cheap that it would encourage people to use it; nor should it be so expensive that the black market would still find it worth its while operating. It is a matter of finding an appropriate price. In conclusion, I do not condone drug use but I believe that drug laws need to be realistic and fair. I do not believe that our drug laws are realistic or fair. I believe that the negative consequences of our current laws are greater than any benefit that is claimed from them.

I believe that the regulated availability model will produce a better outcome for our society as a whole, and I hope that all members will look at this issue very seriously. I certainly will not be trying to hurry it along and I would ask members, as this is a conscience vote, to take the time to look at the two main papers to which I referred in some detail, because they will find them very comprehensive and quite easy reading: they are not heavy going. I believe that members would find those papers useful. I will be returning in September to reintroduce this Bill, and I urge all members to give it earnest consideration.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

SAGASCO

Adjourned debate on motion of Hon. A.J. Redford:

1. That the Legislative Council calls on the Minister for Mines and Energy to inquire into and report on the affairs of SAGASCO Limited and in particular-

(i) The desirability and appropriateness of Daniel Joseph Moriarty remaining the Minister's nominee as a director on the board of SAGASCO Limited;

(ii) Any conflict of interest that Mr Moriarty may have had or has as a director of SAGASCO Limited and as the State Secretary of the Federated Gas Employees' Industrial Union;

(iii) What effect any agreement between the Federated Gas Employees' Industrial Union and SAGASCO Limited (or any other related company) has on the supply of gas to consumers within South Australia and in particular-

(a) the arrangement whereby the Federated Gas Employees' Union provides six backhoes and associated contractual services to SAGASCO Limited at an annual cost of approximately $340 000;

(b) the terms of the backhoe arrangement referred to above.

2. That the Legislative Council calls on Mr Moriarty to stand down as the Minister's representative on the board of SAGASCO Limited pending any inquiry under section 9 of the Gas Act called for by the Minister.

(Continued from 19 July. Page 2329.)

The Hon. T.G. ROBERTS: Occasionally, this Council debates a motion that finds its way in here from various sources and, to some extent, wastes the time of the Council. At this hour of 12.20 a.m. I am sure that many of us could be doing better things than debating whether Mr Daniel Moriarty ought to be retained as a member of the board of SAGASCO; whether there ought to be an inquiry into his pay and salary structure; or whether there ought to be agreements in terms of the backhoe arrangement referred to in the honourable member's contribution.

The motion before us does not have anything to do with the honourable member's concern for what is happening inside the Federated Gas Employees' Union but has much more to do with what is going on inside the trade union movement in relation to differences of opinions that may be emerging in relation to an election in one organisation and the possibility of an election in another.

The honourable member has made various accusations against Mr Moriarty and, to some extent against Mr Wortley. However, I understand that most of the accusations are pointing towards the salary package and the circumstances of how the Federated Gas Employees Union is operating backhoes. The terminology used by the honourable member in relation to the formation of Danny Moriarty's pay structure is a little over the top and a little inflammatory in that it mentions that there is a syphoning off of members' funds which indicates that the pay structure has not been formalised by his executive. It indicates that the process is either not known by members or not widely known by the public generally. Up until now that was probably the case in relation to the public but the—

The Hon. L.H. Davis: It's news to me.

The Hon. T.G. ROBERTS: It may be news to you, but I am sure that most salary packages of individuals within the trade union movement or indeed within the private sector would be news to me if they were made public in this place. I do not think that this is the place to make individual's packages public. I am sure that if I came into this Chamber and put on record the salary package of the Westpac Manager for the metropolitan area of Adelaide he would be most upset and, if I put on record the salary package of the General Manager of ICI, I am sure that he would not be too pleased either.

The Hon. L.H. Davis: They are on record. They are on salary bands; it is a legislative requirement.

Members interjecting:

The Hon. T.G. ROBERTS: The point I was making was that those details are not brought into this Chamber so that we can discuss and debate how the packages are formed. I notice that there is nothing in Danny Moriarty's package that mentions sending his kids to private schools and paying their fees, sending him overseas for holidays or any of the other perks that go with being in the private sector. Because of the lateness of the hour, I will continue with my defence of Danny Moriarty's position in relation to what both he and SAGASCO have relayed to me about the circumstances of his contract of employment and his role and responsibility on the board of directors.

This notice of motion has been superseded by the call by the Minister in another place to set up an inquiry. In relation to this motion, someone has their signals wrong, the strategy that has been worked out has been worked out to confuse or, because of the lateness of the session, people have not been able to put together a package that is likely to get an outcome, particularly in this Council. It seems as though there was no intention of properly debating the issue in this Chamber and getting an outcome on it, because the day after the Hon. Mr Redford moved this motion in the Chamber, without any debate or any words being spoken here, the Minister for Mines and Energy announced that there would be an inquiry into such an important issue as Daniel Moriarty's salary package. If that is how the Minister—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The honourable member talks about private monopolies. I will now read to him further reasons why this motion is totally unnecessary and is a complete waste of time.

An honourable member: What are you reading from?

The Hon. T.G. ROBERTS: I am reading from a document which spells out the roles, responsibilities and the circumstances surrounding Daniel Moriarty's appointment and other information. The document states:

> Article 55 of the company and section 27 of the Gas Act 1988 provide for the board of the Gas Company to contain one member appointed by the Minister.

That is fairly clear. There is a provision there for Daniel Moriarty to sit as an individual member on the board.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: 'Appointed by the Minister'; that is what the document states. It continues:

> Mr Daniel Joseph Moriarty was first appointed to the board of the South Australian Gas Company by the then Minister of Mines and Energy, the Hon. Ron Payne, in July 1988 and has been reappointed on two occasions with the current appointment date due to expire in August 1997. The most recent appointment was made in August 1994 for a three year term on the recommendation of the General Manager of the Gas Company. A review of the Gas Act has commenced—

I would have thought that the honourable member would find that interesting—

> and it is proposed to present to Parliament amendments to the Act which reflect the change in ownership of the Gas Company from SAGASCO Holdings Limited, in which the Government was a shareholder, to Boral Limited.

The Hon. A.J. Redford: Do you support that?

The Hon. T.G. ROBERTS: I am not here to debate my own philosophical position; I am here defending a position against an attack on a good, honest trade union member who, for the 20 years I have known him, has worked on behalf of his membership. The implications of that statement are that the review has commenced and that there will be a change of ownership and changes to the structure of the board. So, that then makes this a dead issue.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Parliament will not have anything to do with it. The document continues:

> The proposed amendments will remove from the legislation the—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Do you want to listen?

> The proposed amendments will remove from the legislation the right of the Minister to appoint a member to the board of the Gas Company. Future appointments to the board of the Gas Company will be the sole responsibility of its shareholders.

We have a motion before us early in the morning that is totally out of context and out of date. Events have moved past the situation where the Minister will have to reappoint or even make the decision, because it will be the shareholders who make the decision as to whether there will be a provision for the Federated Gas Employees Union to have a representative on that board, or whether those employees even want a union representative there. Their organisational structure will determine that. I would have thought that, being a progressive New Age person, the Hon. Mr Redford might have applauded the fact that the union was cooperating with management in terms of how it makes its decisions and allowing someone representing the interests of working people to be appointed to the board. The circumstances around collective enterprise bargaining are now starting to bring employers and employees much closer together than they were in the old system.

Members interjecting:

The Hon. T.G. ROBERTS: Are you now saying that Boral and SAGASCO are a private monopoly and that they will always remain as such? It is quite conceivable that privatisation within private companies can take place as well. Companies can divest themselves of interests overnight, but that will be a decision of the shareholders, nothing to do with Parliament at all.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Tell me what other inquiries you want to set up now into the structure of private companies.

The Hon. A.J. Redford: They're both monopolies.

The Hon. T.G. ROBERTS: The honourable member is making that accusation; I am not making it. If it is a private monopoly there are ways in which the Stock Exchange and the Securities Commission can look at that. There are ways in which monopolies can be broken up if they are not acting in the best interests of the public and if they are controlling prices to the point where retail price maintenance or price mechanisms are structured in such a way as to be detrimental to consumers. There are ways in which those matters can be looked at, but moving a motion attacking Daniel Joseph Moriarty is laughable.

The Hon. L.H. Davis: You didn't know his middle name.

The Hon. T.G. ROBERTS: I didn't until I received this note. Daniel Moriarty is a Scots working class guy and he is a very honest operator. I can vouch for Danny's credibility. The Notice of Motion continues:

> The Gas Company has advised that Mr Moriarty has undertaken his duties as a Director of the South Australian Gas Company in a proper manner.

Further:

The Gas Company advise that the minutes of the board meetings indicate that in deliberations which may have placed Mr Moriarty in a position of possible conflict of interest, his interest was declared and he refrained from participating in the discussions.

That puts to bed the possibilities of any conflict of interest arising out of negotiating either wages and conditions on behalf of backhoe operators or any other matter involving Federated Gas Employees' Union membership in relation to—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The honourable member says, 'Will he mind an investigation?' Of course, he would mind an investigation. No-one out there would like to have their salary packages and levels raised in Parliament and inquired into by the Minister as well as having headlines in the daily paper saying that there is a package of $102 000. His wife is asking him, 'Where is all that money, Daniel?' Mr Buckby in the Lower House has put his salary package at $250 000. His wife said, 'You must have very big socks, Daniel, because there is a lot of money hidden somewhere.' So, Daniel Joseph Moriarty is not only in trouble with his casual friends who are saying to him, 'Look, you have been ducking the odd shout every now and again, Daniel. You are on $250 000; surely you could buy one extra every now and again.' His wife is saying, 'Where is all the sock money?'

The situation changed from Wednesday 19 July when the Hon. Mr Redford moved his motion in the Council and informed us of the salary package, which, on the figures put forward by the honourable member totalled $104 000 a year in March 1992. By the time it got into the Lower House 24 hours later there had been a fair advance on it. Somebody must have done a fairly good negotiating package or perhaps it is a new enterprise agreement delivering to union officials what they are due because of the hours that they work. The salary package had reached $250 000 a year and these salaries came from a backhoe arrangement with SAGASCO. Not only did the honourable member get the salary package wrong but he also said that the backhoe arrangement was financing the organisers and the secretary's salary.

It is clearly wrong. The salary packages are worked out by the negotiating management within the unions. I am not saying that it is easy to get an advance through a union management structure, but in some unions it is almost impossible to get advances through for union salary packages because of the way in which they are structured. They have elected councils who discuss their negotiated salaries and those packages are worked out by a collective bargaining arrangement within those union organisations.

The Hon. L.H. Davis: What are the current packages?

The Hon. T.G. ROBERTS: I am not too sure. I am not that interested in union salary packages to go around looking at individual members.

Members interjecting:

The Hon. T.G. ROBERTS: What I do know about union secretaries and organisers is that they are a bit like members of Parliament: there are some who work 24 hours a day seven days a week 365 days of the year. There are others where the members would do well to look at the output that they achieve, but in saying that there is a balance right across every organisation. In most organisations, particularly those that carry only two working organisers, you cannot have anybody dragging the lead. When the membership looks at what it is paying for its representation, then it is quite clear that, in the case of a small union such as the Federated Gas Employees' Union, their members are able to analyse exactly what they are getting for their dollar.

The Hon. A.J. Redford: What's the membership? Is it 600 or—

The Hon. T.G. ROBERTS: I am not sure where the Federated Gas Employees' Union membership stands now, but I think there is an affiliation of about 600 to the ALP. Some unions under affiliate and others use their full numbers. As to the accusations and points made about how the salary package is put together and about union organisers taking the RDOs in accumulated lumps at Christmas, in some cases that is worked out with their membership, which knows that they are not available over a period of, say, three weeks. In some cases there are shutdowns or where industry slows down and people go away. An arrangement is made where people take their RDOs in a block.

The Hon. A.J. Redford: It's a good time for annual leave.

The Hon. T.G. ROBERTS: Yes, they take their annual leave. A lot of people take—

The Hon. A.J. Redford: A nice little eight or nine week break.

The Hon. T.G. ROBERTS: Yes, they take their RDOs with them, but I am sure they would not be taking eight or nine weeks: that is another inflated claim. They would take a break of about four weeks. I doubt whether many union organisers would be able to afford any more time away from their membership than a four or five week period. Other accusations could be answered by reading from gas employees' union documents. I have read nothing from it and perhaps I should do that. I will seek leave to conclude and see how we go with business tomorrow.

Members interjecting:

The Hon. T.G. ROBERTS: No. It is a series of points that the gas employees' union secretary gave to me. I have already set the pattern this evening. An inquiry is being set up and the motion does not need to be proceeded with. If the Minister for Mines and Energy, Hon. Dale Baker, sets up an inquiry, all those issues raised in *Hansard* can be looked at. I wanted to place on record those few points I have made in the time available this evening to make sure that the propaganda machines, when they start to operate in the union elections next month, will allow those people to put out one story and allow others to put out a balancing story. I am sure they will put both bits of information into the same envelope so that people out there get a balanced view. Pigs might fly as well, but for those reasons I found it necessary to put this information on the record. The Federated Gas Employees' Union might want to put the rebuttal argument in its envelope and send it out to its membership. As to those who want to do damage to the union's secretary and organiser, there is nothing I can do to stop them. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

ROAD TRAFFIC (SMALL-WHEELED VEHICLES) AMENDMENT BILL

Returned from the House of Assembly with amendments.

STATUTES AMENDMENT (RECORDING OF INTERVIEWS) BILL

Returned from the House of Assembly without amendment.

RACING (RE-ALLOCATION OF TOTALIZATOR BETTING DEDUCTIONS) AMENDMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill proposes amendments to the *Racing Act 1976* relating to deductions on totalizator betting with the TAB.

Firstly, the Bill proposes to reduce the amount deducted from totalizator investments and applied towards the capital expenses of the TAB.

Secondly the Bill proposes that the funds released from the TAB capital fund be distributed to the three racing codes.

Thirdly, the Bill proposes to delete reference to the section which enabled the Minister to direct the TAB that money from the capital fund be distributed to the controlling authorities.

The present legislation allows for 1% of all bets made with the TAB to be applied to the capital expenses of the Board. The Board's current policy is that all assets are purchased out of the capital fund and no depreciation is charged on assets so purchased. Proceeds from the sale of assets originally purchased out of the capital fund are credited back to the fund.

TAB capital funding in Victoria, NSW, QLD, WA and the ACT is provided on a commercial basis, ie. the TAB is required to bid for the funds it requires from operating revenue. The NT and Tasmanian TAB's deduct 1.0% and 0.5% respectively of totalizator investments for Capital Funding.

TAB profit distribution has steadily declined from $44.4m in 1990-91 to an estimated $39.8m in 1994-95. This reduction comes at a most difficult time for each of the codes and the racing industry generally.

It is essential that the industry be assisted at this time given, in particular, the effect that poker machines have had on TAB and on-course totalizator turnover.

It is proposed that, based on the 1995-96 estimated TAB turnover of $505m, the racing codes will benefit by approximately $2.525m per annum which will be distributed in accordance with the codes fixed percentage distribution of TAB profit, ie. horse racing 73.5%, harness racing 17.5% and greyhound racing 9.0%.

The proposed distribution will be as follows:

Horse Racing	$1.856m
Harness Racing	$0.442m
Greyhound Racing	$0.227m

In June 1994 the *Racing Act* was amended to provide that an amount of up to $1 million be appropriated from the TAB Capital Fund to supplement distributions to the racing codes because of a shortfall in TAB profit. The actual amount appropriated was $409 000. The provision allowed the Minister to give no more than one instruction which was given in July 1994.

Consequently, it is proposed to delete reference to this provision.

Explanation of Clauses

Clause 1: Short title

Clause 1 is formal.

Clause 2: Commencement

Clause 2 provides that the Act will be taken to have come into operation at the commencement of the 1995-1996 financial year.

Clause 3: Amendment of s. 69—Application of amount deducted by Board under s. 68

Clause 3 amends section 69 of the principal Act in the manner already outlined.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

I move that this Bill be now read a second time.

This Bill addresses a number of technical matters relating to the *Workers Rehabilitation and Compensation Act 1986*, all of which affect the implementation of the *Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Bill 1995* which was passed by this Parliament in April of this year.

Whilst the issues addressed in this Bill are technical, they are nonetheless of practical significance to the operation of the April 1995 amendments in the manner intended by the Government and this Parliament.

The matters raised in this Bill have been brought to the attention of a Working Party which was established during the April 1995 Parliamentary negotiations on the WorkCover scheme. That Working Party, which comprised the Minister for Industrial Affairs, the Shadow Minister for Industrial Affairs, the Leader of the Australian Democrats and a representative of the two key industrial stakeholders in this scheme (the Employer's Chamber and the United Trades and Labor Council) has primarily been established to develop consensus based legislation on the WorkCover dispute resolution process.

Whilst it has not been possible in the time available to date for the Working Party to finalise the details of its proposals in relation to the dispute resolution process (although agreement on 95 per cent of the issues has been reached), it is possible to introduce this Bill which is supplementary to the Working Party's agenda.

The principle matters in this Bill (concerning LOEC recipients and concerning section 38 reviews) have also been the subject of specific advice from the Workers Rehabilitation and Compensation Advisory Committee.

As these technical issues, if not addressed, would be prejudicial to the effective implementation of the April 1995 amendments, they have been introduced as a matter of urgency in this session so as to not delay the benefits of the April 1995 amendments to workers, employers and the WorkCover scheme.

The Bill amends the principal Act by inserting a proposed new section 38A. The April 1995 amendments clearly provided for a formal process for reviewing weekly payments under section 38. However, it was not intended that where weekly payments are to be discontinued or reduced under section 35 (as a result of a specific time period being reached) a section 38 review would need to be conducted. Advice received since a decision of the Supreme Court in the matter of Mitsubishi Motors Australia Limited and WorkCover v Sosa delivered on 8 June 1995 is that this unintended consequence could apply to future decisions, as well as past decisions, made under the previous legislation.

The Bill overcomes this unintended consequence by providing that where a worker's entitlement to weekly payments ceases or reduces because of the passage of time, WorkCover may implement that discontinuance or reduction without a formal review. WorkCover is still required to give notice to the worker and employer of the change in weekly payments. Despite the Supreme Court's interpretation, this amendment reflects what has been the policy intention of employers, employees and WorkCover since the commencement of the scheme. In order to overcome the potential of the Supreme Court decision being used to invalidate past reductions or discontinuances on technical grounds, the Bill proposes that this amendment apply to past and future variations to weekly payments (other than the Sosa case itself).

The Bill also addresses the issue of LOEC payments and their relationship with the new lump sum provisions and second year review provisions of the amended Act.

When the current LOEC provisions were retained in the existing Act by way of amendment to the Government's Bill in the Legislative Council in April 1995, it was the general intention of the Government to ensure that LOEC recipients were treated no differently to other workers in receipt of weekly payments for the

purposes of redemptions of liability and the second year review process.

Advice received by WorkCover from senior counsel since the passing of the amending Act indicates that the re-inclusion by the Legislative Council of the LOEC provisions in an unamended form has compromised this policy intent.

This Bill amends the new redemption provision in section 42 to expressly provide that a liability to make a LOEC payment can be redeemed by agreement between the worker and the Corporation. The Bill also amends section 42A by consequentially incorporating the new second year review provision in section 35 for the former second year review provision which had applied prior to the April 1995 amendments.

These amendments to the LOEC provisions of the principal Act will ensure that LOEC recipients are treated no differently to other workers under the Act in relation to access and quantum of redemption entitlements.

This Bill also makes a number of amendments which arise from the recent Parliamentary process and debate.

These include an amendment to section 58B of the principal Act by striking out the provision of the amended Bill which excluded from the operation of that section after 2 years employers who employ 10 or more employees. Whilst the Government had initially proposed this exclusion in its April 1995 Bill, the Government had agreed, during Parliamentary negotiations, to accept an amendment to section 58B which only excluded small employers with less than 10 employees. However, this amendment was not reflected in the final amending Bill in April 1995. This Bill now corrects that position.

This Bill also amends section 34 of the April 1995 Bill by inserting in the transitional clauses of that Bill two provisions maintaining the status quo in relation to medical fees and secondary and unrepresentative disabilities. These transitional clauses were intended to be moved in the Legislative Council in April 1995, but were inadvertently superseded by subsequent amendments to clause 34. This Bill also amends the reference to division 4A in section 63(3aa) of the principal Act. This amendment is consequential on re-numbering of Divisions in the April 1995 amendments.

This Bill, once passed by this Parliament, will enable the April 1995 amendments to be implemented in full and in line with the intended policy outcomes of the Government and the Parliament.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

This clause provides for the short title.

Clause 2: Commencement

The Act will come into operation on a day (or days) to be fixed by proclamation.

Clause 3: Insertion of s. 38A

It is intended to insert a new provision in the Act to deal expressly with the discontinuance or reduction of payments due to the passage of time. For example, section 35 provides for a reduction of weekly payments at the end of the first year of incapacity, or for the discontinuance of payments when a worker reaches a certain age. The new provision will allow the Corporation to take action to reduce or discontinue the payments in such circumstances (as may be appropriate) without the need to proceed to a formal review of the worker's entitlements under another section. The Corporation will be required to give the relevant worker notice of the decision to reduce or discontinue weekly payments. Furthermore, subclause (2) will provide that a discontinuance or reduction under the principal Act before the commencement of the clause will not be liable to challenge if the discontinuance or reduction could have been validly made under new section 38A (assuming that it had been in force at the relevant time). However, the provision will not affect the rights of the respondent in Sosa's case.

Clause 4: Amendment of s. 39—Economic adjustments to weekly payments

This amendment will allow relevant adjustments to reflect changes under enterprise agreements.

Clause 5: Amendment of s. 42—Redemption of liabilities

This amendment will allow the redemption under section 42 of the Act of a liability to make a capital payment for loss of future earning capacity under Division 4B of Part 4 of the Act.

Clause 6: Amendment of s. 42A—Loss of earning capacity

This amendment is inserted to provide greater consistency between sections 42A and 35 of the Act in respect of the assessment of loss of future earning capacity of a partially incapacitated worker.

Clause 7: Amendment of s. 58B—Employer's duty to provide work

This clause relates to section 58B of the Act. Section 58B(1) places a duty on an employer to provide suitable work to a worker who is able to return to work after suffering a compensable disability while in the employment of the employer. Various exemptions are set out in subsection (2) of section 58B. The Bill will delete the exemption for an employer who employs 10 or more employees where the case involves a worker who has been incapacitated for work for more than two years.

Clause 8: Amendment of s. 63—Delegation to an exempt employer

This clause corrects an incorrect cross-reference.

Clause 9: Amendment of Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Act 1995

This clause includes additional transitional provisions in Act No. 35 of 1995 (so that two substantive provisions can be brought into operation without the need to make regulations immediately).

The Hon. R.R. ROBERTS secured the adjournment of the debate.

ADJOURNMENT

At 12.45 a.m. the Council adjourned until Thursday 27 July at 11 a.m.