LEGISLATIVE COUNCIL

Wednesday 23 July 1997

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

PAPERS TABLED

The following papers were laid on the table:

By the Hon. K.T. Griffin, for the Minister for Education and Children's Services (Hon. R.I. Lucas)—

Reports—
Architects Board of South Australia, 1995
Architects Board of South Australia, 1996

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

Office of Road Safety—Random Breath Testing in SA—Operation and Effectiveness 1996.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the twenty-first report of the committee, and the report of the committee on the principal regulations under the Expiation of Offences Acts 1996.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER: I bring up the report of the committee on waste management practices in Australia.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. L.H. DAVIS: I bring up the report of the committee on an inquiry into timeliness of annual reporting by statutory authorities and move:

That the report be printed.

Motion carried.

QUESTION TIME

ANDERSON INQUIRY

The Hon. CAROLYN PICKLES: My question is directed to the Attorney-General. What was the financial cost to the Government of having the Anderson report prepared; and, given that the Anderson report found the former finance Minister, Dale Baker, guilty of a conflict of interest, will the Government insist on his paying his own legal fees in respect of this inquiry, including the fees of Michael Abbott QC; or, if the Government is proposing to pay for Mr Baker's legal fees, how much are they?

The Hon. K.T. GRIFFIN: It is a bit curious that the Leader of the Opposition should raise that question.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: When the Hon. Barbara Wiese was found to have committed three areas of conflict of interest, the previous Government paid for her reasonable legal costs. The Crown paid for her reasonable legal costs. She was found guilty of three conflicts of interest. She did not at any stage stand down, which is to be contrasted with the situation of Mr Baker. The Government gave a commitment—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Barbara Wiese did not: she remained a Minister. The fact is that her reasonable costs were paid by the Government, notwithstanding the finding. The Government indicated, following that precedent, that it would meet the reasonable legal costs of the Hon. Dale Baker. That will occur. They will be assessed by the Crown Solicitor and in accordance with the Treasurer's instructions under the Public Finance and Audit Act.

RURAL SAFETY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about public safety in rural South Australia.

Leave granted.

The Hon. R.R. ROBERTS: A report appeared in the *Sunday Mail* of 20 July 1997 concerning an accident that occurred at Coonamia near Port Pirie on 11.30 am on Friday 18 July in which a passenger was trapped in a wrecked car for two hours. The male passenger was eventually air-lifted to the Royal Adelaide Hospital with multiple fractures to his arms and legs. Police and emergency services were on the site, I understand, within minutes. However, I am advised that powerlines had been brought down onto the vehicle, thereby denying the various services access to the rescue. I am advised that emergency services are always instructed that, wherever the lines are down, they are not to attempt a rescue until ETSA has been contacted.

I am also advised that the police, as per normal procedure, called a 24 hour emergency number (131366) to arrange for an ETSA crew to come to the scene and make the accident site safe. I am advised that on the other end of the phone was a recorded voice, saying that the call had been received and was placed in a queue. Members should understand that this man was trapped in a car with the powerlines on top of him, and in agony. I am told that the ETSA crew was eventually contacted at 12.30 on the Saturday morning, and was on site in less than 15 minutes.

However, I am told that the police at the accident scene made a number of calls to base along the lines of, 'Where the hell's the ETSA crew?', only to be advised by frustrated officers that their repeated calls were still in a queue. This system, I am advised, was as a consequence of a review of ETSA and part of a country review that was ordered by the then Minister for Infrastructure, the Hon. John Olsen.

I am advised that prior to the reorganisation the police and emergency services would have simply rung a 008 regional duty officer—which position, as a consequence of the reorganisation, no longer exists—and had a crew on site within 15 to 20 minutes. This assertion is borne out by the fact that the crew, when contacted at 12.30, was on the site within 15 minutes of being contacted. My questions to the Minister are:

1. Will the Minister for Emergency Services investigate and provide a detailed report of this incident to this Council?

2. What action will the Minister for Emergency Services take to assure country South Australia that a recurrence of this alarming incident of Friday 18 July will not recur?

The Hon. K.T. GRIFFIN: I will refer that question to my colleague in another place and bring back a reply.

NEUTROG AUSTRALIA

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources a question about the environmental problems (and others) associated with the recycling plant of Neutrog Australia sited at Kanmantoo.

Leave granted.

The Hon. T.G. ROBERTS: I decided not to bring a sample of the product into Parliament, as most members walking into Parliament House can smell a product that is very much similar to what is made at Neutrog—if indeed it is not made at Neutrog itself. I have not done a taste analysis of it to match it with the Kanmantoo presentation, but most members would get the idea of the odour that emanates from it. I am not raising this question to be mischievous to the point of interfering with the manufacture of the process, because I think that, environmentally, the company is doing the State a favour in collecting the chicken carcasses and the carcasses of dead animals, which is a part of the process for making the fertiliser that Neutrog sells in this State and perhaps even interstate and overseas. The problem that the local community around Kanmantoo has is that there are communities living quite close to the Neutrog plant—and have been for some considerable time—that are being inconvenienced by an upsetting odour. As those members who have smelt it in a confined area in the basement of this place can attest, it is a nauseous odour.

I was approached by a local community group to try to get answers to some questions which they have been seeking for some considerable time. The Government, its departments and agencies and local government have been working to try to get a solution to the problem. That local community is working with those agencies to try to find a solution. The only problem they have is that the more detail they try to secure to find timetables and settlement procedures for a solution, the further they seem to get away from any answers. As recently as this morning they received a letter from the EPA which I will read for the education and understanding of members. This letter is to one of the individuals who has formed a lobby group to bring the matter to the Government's attention. The letter states:

Dear Mr Bulman,

Thank you for the letter dated 19 June 1997 concerning Neutrog Australia Pty Ltd's fertiliser business at Kanmantoo. At a meeting held on 17 January 1997, the Environment Protection Authority (EPA) informed Neutrog that, if improvements could not be made to the quality of air emissions from its composting operation, it would have no option than to serve an Environment Protection Order on the company requiring compliance with its licence conditions. In response to this EPA requirement, Neutrog voluntarily ceased accepting poultry carcasses at its site from 21 January 1997. As a result, the chicken carcasses were sent to landfill for disposal.

That is not the best option. The best option is for Neutrog to continue its operations in respect of those chicken carcasses that come mainly from the poultry industry which relies on battery hens and the other methods used for raising chickens and which has quite a large death rate. The letter continues:

On 31 January 1997 a meeting was convened by the Economic Development Authority (EDA) and Adelaide Hills Regional Development Board (AHRDB) between Neutrog, EPA, the District Council of Mount Barker, Pacific Waste Management Pty Ltd and Primary Industries SA. Neutrog informed the group the loss of the chicken carcasses and feedstock could result in the possible closure of the business. It was therefore agreed to be in the best interest of all parties to permit Neutrog to resume utilising the poultry waste while a feasibility study funded by the EDA, and an Environment Improvement Program (EIP) to meet EPA licence requirements, were developed for the Neutrog operation. The feasibility study was completed by Rust PPK in May 1997.

Following this, in June 1997 the EPA enlisted the services of environmental consultants C.R. Hudson and Associates to carry out an odour generation audit of all processes involved in Neutrog's operation. A preliminary draft of the report has recently been received by the EPA and Neutrog. In response to recommendations made in the Hudson draft report, Neutrog has sought quotes from the University of New South Wales and the East Melbourne Laboratories Pty Ltd to conduct a site odour monitoring and dispersion modelling study for all process areas identified as potential odour generators. Results from this study will identify the areas requiring management, process and air quality improvements and will form the basis of the EIP.

Community input will be provided to the EPA through existing working groups and direct contact with individual community members. The EPA is currently issuing a new licence for the Neutrog Kanmantoo operation. The new licence conditions will reflect negotiated time frames for the development of the EIP and improvement recommendations from the above reports. It must be stressed, however, that odour improvements will be incremental rather than immediate due to the magnitude of the proposed site and process improvements. It is anticipated the new licence will be issued by the EPA prior to 30 July 1997. Your correspondence on this matter is appreciated.

Yours sincerely,
Rob Thomas
Executive Director, Office of Environment Protection.

It appears that the EPA's position is to go through the processes of assessment and then make recommendations about licensing requirements that have to be adhered to so that the process can continue. My questions are:

1. What structural and/or financial support and assistance has been requested by Neutrog Australia Pty Ltd of Government departments or their agencies?

2. What time frame for improvements does the Government deem as acceptable, given the close proximity of the operation to residences?

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

WHITTLES GROUP

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the Whittle group.

Leave granted.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: On 2 October last year, as the Hon. Mr Redford appears to know, I asked a series of questions concerning the management practices of the Whittle Strata Management Group. The report that appeared in the *Advertiser* the next day generated considerable correspondence to my office. Aside from a complaint from Mr Ed King of Mercantile Mutual Insurance, the rest of the telephone calls and letters were either to express their gratitude that someone was taking a stand for strata owners or to point to similar problems in the management of other strata groups managed by Whittles.

Since that time there has been a change in the Strata Titles Act and moneys collected by strata management companies are now required by law to be deposited in trust accounts. Section 36D of the Strata Titles Act outlines under what circumstances an agent may withdraw money from a trust account, while section 36F of the Act requires that any interest paid on the moneys held in the trust accounts must be proportionally distributed amongst the strata corporations

on whose behalf that money is held. This is a world away from when strata management companies were free to deal with that money as they saw fit and to pocket the interest paid as part of the spoils of securing an account. Despite that improvement, concerns remain.

My office has received a copy of an income and expenditure summary prepared by Whittles for a group of five units it manages. Under 'Income' for the previous year is an interest payment of $49.53. Under 'Expenditure' for the same year, an item called 'Funds Invest Fee', which I interpret as a fee for managing the trust fund, was also precisely $49.53. This may be nothing more than an extraordinary coincidence, and I do not have any other examples of this for comparison, but I do think it is worthy of investigation.

I am also curious as to how Whittles justifies collecting an investment fee for money in trust funds. It does not deal with this money or chase the highest rate of return on the short-term money markets: it merely opens a trust account into which the group deposits the requisite fees. The limited cost of opening a single trust account into which all the trust moneys flow ought to be absorbed by the management fee. A quick calculation shows that if this—

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: According to the people who have contacted me—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —they believe it should be absorbed by the management fee. A quick calculation shows that if this fee was imposed on all of Whittles' 1 400 strata groups a fast $90 000 would be pocketed per annum. Given that this is a very small group, that is, just five units, that figure could be significantly higher if this is being carried across the board. The Law Society said that it would take a very dim view of solicitors attempting to impose a trust funds' management fee. My questions to the Minister are:

1. Will the Minister launch an investigation to ascertain whether all interest generated by moneys held in strata title corporation trust funds managed by Whittles is returned proportionally to those strata title management groups?

2. Will the Minister investigate the nature of the funds investment fee which was detailed on the copy of the income and expenditure summary that was sent to my office and which I can provide to the Attorney?

3. Will the Minister consider setting up an independent body to investigate the grievances of strata title unit owners against the management companies using the interest generated by the trust funds to defray the cost of this regulatory body?

The Hon. K.T. GRIFFIN: If the honourable member is talking about a Commissioner for Strata Titles, no, the Government will not set up some body additional to what is presently available, and that has been indicated quite clearly on a number of occasions previously. In terms of the matters which the honourable member raises, I will not launch a spectacular investigation, which seems to be the tenor of the question. However, if the honourable member refers the detail to me I will have it examined by the Office of the Commissioner for Consumer Affairs and endeavour to provide her with a reply.

I reflect on the earlier occasion when the honourable member raised the issue about Whittles and the information which I subsequently provided to the Council. It was clear that the information that had been made public in the Chamber had misrepresented the position. I do not know whether that is the case now, but I will have the matters examined.

ADELAIDE AIRPORT

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about international airlines.

Leave granted.

The Hon. CAROLINE SCHAEFER: A curfew applies to the Adelaide Airport between 11 p.m. and 6 a.m. In March 1993, an exemption was granted to Qantas Singapore-Adelaide flights so that its aircraft could land at 5 a.m. during the winter months, that is, during standard time, as long as they landed from the seaward side. Bearing in mind that, hopefully, much more international air traffic will be coming to Adelaide due to a lack of facilities in Sydney during Olympic times, is it correct that the Minister has made an application to the Commonwealth Minister for Transport and Regional Development to relax these curfew provisions on a trial or any other basis?

The Hon. DIANA LAIDLAW: I travelled in and out of Sydney in the past week and I can only confirm the problems that Sydney is encountering. I was delayed on both occasions by two hours. There is advantage for Adelaide to promote itself—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: The honourable member, also. It is a frustrating experience, and South Australia has an opportunity to take advantage of that situation. At the moment, however, many passengers coming into Adelaide on Qantas flights from Singapore are equally frustrated about the experience of flight into Adelaide—as the Hon. Anne Levy and I were in terms of flights to and from Sydney recently.

Qantas has four weekly flights from Singapore to Adelaide. There is a curfew arrangement at Adelaide Airport, as the honourable member noted, that operates between 11 p.m. and 6 a.m. An exemption has applied since 1993 for a 5 a.m. arrival as long as the aircraft comes from the seaward direction. There was a time, particularly after last winter, when atmospheric conditions were such that an extraordinary number of flights were either delayed in Singapore or the pilot took the risk and flew to Adelaide, believing the atmospheric conditions would be fine, but had to circle Adelaide for over an hour or divert to Melbourne. I received a lot of hostile phone calls from Adelaide based passengers concerned about the poor public image of this exercise for this State, from irate international travellers who had missed connections in Sydney because of the late arrival of the flights here, and also from exporters.

The Hon. A.J. Redford: They ring the Government more than they ring the Opposition, I can assure you of that.

The Hon. DIANA LAIDLAW: They ring you at home and they ring you at work. If they have been disadvantaged, they want you to share it. These things happen at all hours, and they were hostile. Qantas has been less than impressed because of the costs to its operation. Members may not appreciate the fact that delayed costs to Qantas notionally are about $300 per minute for every minute an aircraft stays in Singapore because they cannot land in South Australia due to unsuitable atmospheric conditions from a seaward direction. I have lobbied the Federal Minister for Transport and Regional Development, the Hon. John Sharp. He, in turn, has had some sympathy with those representations but has

referred them to the Adelaide Airport Environment Committee.

That committee consists of local Federal members Ms Chris Gallus, the member for Hindmarsh, and Ms Trish Worth, the member Adelaide, as well as local State members of Parliament John Oswald, Stewart Leggett and Heini Becker. It also has representatives from local government (and now some of these councils have amalgamated) from West Torrens, Thebarton, Holdfast Bay and Charles Stuart, from airline operations and from the senior environment protection officer with the Department of Environment and Land Management. The committee met on 11 July and endorsed a relaxation of the current curfew arrangements to provide under the strictest—

Members interjecting:

The Hon. DIANA LAIDLAW: It was Labor that first introduced it in 1993; it lobbied the Federal Government. The honourable member may be interested to know that the committee—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: What is interesting is that Ms Trish White—

Members interjecting:

The PRESIDENT: Order! The Hon. Angus Redford will come to order.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Terry Cameron!

Members interjecting:

The PRESIDENT: Order! When I call for order, I expect members to come to order.

The Hon. T.G. Cameron: Sorry, I didn't hear you.

The PRESIDENT: You wouldn't have.

The Hon. DIANA LAIDLAW: The honourable member is getting very excited.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: As I indicated, this issue was first taken up in terms of the general exemption, the 5 o'clock exemption from seaward, by the Hon. Barbara Wiese when she was Minister for Tourism, and it was the former Labor Federal Government that agreed to the exemption. We are seeking a relaxation of that exemption from the curfew. So it not an issue that is relevant in terms of Liberal or Labor politics. It is very much an issue that is in the best interests of this State. It is worth reporting on a number of relevant matters. On 11 July, it was a bipartisan, unanimous decision of the committee comprising all those members to write to the Federal member.

Members interjecting:

The Hon. DIANA LAIDLAW: Bipartisan in terms of local government and the members of Parliament to whom it is relevant and all of whom are members of the committee.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: The recommendation from that committee—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —has now been referred to the Federal Minister. It is not my decision; it is the Federal Minister's decision in terms of exemption arrangements and the curfew. Members opposite who protest loudly should understand the disadvantage that they will inflict on the State if this arrangement does not change. But they are rarely interested in the development of this State, its image or employment—and this is about all those things.

As I advised the Federal Minister when I first wrote to him about this matter, because planes cannot land at their scheduled arrival time there is, first, disruption to an average of 160 passengers per flight, and these delays occur to 20 per cent to 40 per cent of the flights that now come through from Singapore to Adelaide. Secondly, an average of 35 passengers per flight either misconnect with international departures out of Sydney or cause delays to the flights if they are held for late connecting passengers.

Thirdly, there is a delay to 12 to 14 tonnes of South Australian exports per flight transhipped to connect on flights out of Sydney. These flights are heavily used to transport live lobsters to Hong Kong, and delays out of Adelaide cause the flights to misconnect to Sydney. Fourthly, there are delay costs to Qantas notionally of $300 per minute in Singapore—but perhaps that is not of interest to the honourable member.

Next, there are additional delay costs when aircraft are slowed down en route or are held in Adelaide's vicinity, because landing on runway 05 is not possible. Finally, there is disruption to the ground handling of Singapore Airlines or Garuda on Mondays when delays to the Qantas flights result in a requirement to accommodate three aircraft on Adelaide's two-gate (one aerobridge) international terminal.

On all these counts I believe that it is in the State's interest, both in terms of public interest and economic development, and in terms of jobs—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: You may not think that the live export trade of lobsters is important, but it is jobs in South Australia. If we cannot maintain a continuity of business contract we lose that work, and that is something for which I will not be held responsible, even if the Hon. Mr Terry Cameron gloats and laughs. I have lobbied in relation to this, and local members of Parliament through the Adelaide Airport Environment Committee have seen the wisdom of recommending a change. We await a decision of the Hon. John Sharp, the Minister for Transport and Regional Development, in the next few days. I trust that that decision will be in South Australia's interest, and that it will be a relaxation of the curfew arrangement.

I repeat: it will be for a trial basis only and, if it does not work, we can revert to the position that was adopted by the Labor Party in 1993, and that is an exemption to the current curfew arrangements. As we already have an exemption to the curfew arrangements, I am asking for a further relaxation of that under strict circumstances and on a trial basis.

TRANSPORT, SOUTHERN

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport questions about public transport for the southern suburbs.

Leave granted.

The Hon. T.G. CAMERON: I have been advised that the Government is looking at public transport options for the southern suburbs using or located near the new Southern Expressway. I understand that the only option which has been ruled out is heavy rail and that an O'Bahn and a light rail system—

The Hon. Diana Laidlaw: I cannot hear your question because Ron Roberts is talking so loudly.

The Hon. T.G. CAMERON: I am more than happy to start again for you. Mr President, I have been advised that the

Government is looking at public transport options for the southern suburbs using or located near the new Southern Expressway. Did you get that all right?

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Right. I understand that the only option which has been ruled out is heavy rail and that an O'Bahn and a light rail system are both being examined as well as options for buses to use the Southern Expressway. I am advised this work has been under way for at least eight months and reports have gone to a Cabinet subcommittee. My questions to the Minister are:

1. What are the results of the Government's inquiry into new public transport options for the south?

2. What has been the cost of the studies so far and have they involved the use of private sector consultants?

3. How would the Government fund a new light rail, O'Bahn or bus link on the expressway?

4. What consultations have been held with local councils and communities?

5. When will this plan be revealed to the people of South Australia?

The Hon. DIANA LAIDLAW: There is no cost because no study has been authorised.

COURTS, TRIALS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about fair trials.

Leave granted.

The Hon. A.J. REDFORD: In today's *Advertiser* an article concerning the Garibaldi case appears on the front page, apparently written by the Chair of the Bar Association, Mr Michael Abbott QC, for whom, I might say, I have a high regard. In that article he touches upon the topic of legal representation for the accused and the process adopted by the Attorney-General in ensuring that the defendants were legally represented should the matter have proceeded to trial. The article dealt mainly with the issue of fair trials. In the article Mr Abbott says:

> One of the main components of a fair trial is that accused persons facing serious criminal charges are represented by competent lawyers.

Further on, he says:

> The problem that these large cases (such as the Garibaldi case) pose is the requirement that an accused person be represented by competent counsel.
>
> Otherwise, the trial will not be a fair trial, and on the other hand is the issue of who should pay for such a trial when the citizen is unable to forward it.

I take no issue with the comments made so far. Indeed, in relation to that, as I understand it, the Attorney-General in ensuring a fair trial for the accused in the Garibaldi case initiated procedures whereby solicitors and practitioners would tender for the right to carry out that work. Later in the article Mr Michael Abbott says:

> The solutions suggested by the Government to deal with this problem are, however, solutions of expediency.
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> There were essentially two positions taken during the course of the debate over the Garibaldi case.
>
> The first was that the costs should be capped and that the representation for the accused should be put out for tender.
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> Eventually this is what was in fact done but apparently there were no responses to the tender, at least in the short term.

He then makes some comments about the difficulties in tendering and refers to lawyers being rash if they intend to embark upon that tender process. In the light of those comments, I would be grateful if the Attorney could answer the following questions:

1. Does the Attorney have any general comments to make in relation to the assertions made by Mr Abbott QC?

2. Is it true, as asserted by Michael Abbott QC, that there were no responses to the tender 'at least in the short term'?

3. Does the Attorney-General have any comments to make, having regard to the experience of tendering for such matters, about the likelihood of their future use?

The Hon. K.T. GRIFFIN: I read with some interest the statements in the *Advertiser* this morning purporting to have been made by Mr Abbott QC. There is no secret that he has been a critic of the concept of tendering out and has put a number of arguments, a number of which I do not agree with. I think, if one looks at it objectively, it is not possible to agree with them.

On the other hand, I do agree that it is important for defendants charged with serious offences to have adequate legal representation. I think he would have said 'reasonable', but I place the emphasis upon 'adequate' legal representation where that legal representation is competent for the task.

I think Mr Abbott QC misses the point of the tendering out process: that this related to those cases which fell within what has now generally been regarded as the Dietrich principle arising from the decision of the High Court in the Dietrich case, which means that ultimately Governments and then taxpayers are required to fund legal representation.

The big question is: how should the adequacy of the representation be determined? Should one leave it to those lawyers who are representing a particular defendant to say what is or is not reasonable in relation to the conduct of a defence and, more particularly, that a particular price is the price which is reasonable? There is no independent assessment of or contestability about the price that might be charged. That really is the important issue for Government as well as for the community at large. How can one be satisfied, looking objectively at the matters which are to be the subject of defence, that the costs are reasonable for adequate legal representation and not over the top?

The interesting thing was that when we put the Garibaldi directors' representation out for tender there was a significant amount of interest from members of the legal profession. Some legal firms and some barristers (together and separately) made inquiries, and a number—I cannot tell members how many, because I do not know—actually took advantage of the offer to peruse the brief which was prepared by the Director of Public Prosecutions and which was referred to in the tendering out documents.

Whilst there had not been, as I understand it, a formal tender, one must remember that those tenders did not close until 1 August, and those who have had any experience of tendering out will know that most tenderers leave the presentation of their bids until the last minute. They do not rush in two weeks or three weeks before the due date for the tenders to put in a tender because some things might occur which might otherwise have influenced their tender. So, they all tend to leave it until the last minute. As I say, a number of people expressed what appeared to be keen and genuine interest in putting in a bid for the work.

It must also be recognised that, under the conditions for the tender, a panel of competent persons would make the assessment; the panel would be chaired by an independent person but with a representative from the Attorney-General's Department and a lawyer appointed by the Attorney-General

after consultation with the Law Society. So, there was an opportunity there for an independent assessment according to particular criteria. The Legal Services Commission was not involved in that part of the process, nor was the DPP. So, it was at arm's length from the prosecution but subject to the oversight of the Attorney-General.

The criteria which we set included competency. The tender had to come from someone who was usually representing persons and conducting criminal cases for indictable offences in the District Court or the Supreme Court because it was recognised that you just cannot have the lowest bidder who may have had no reasonable experience in these sorts of matters.

You had to have, for the credibility of the process and for the legal representation, persons who were determined (by virtue of their daily work) capable of undertaking the legal representation. One of the difficulties that we have is that, if we want to make legal defences contestable, then we must have some process that at least gives an objective assessment both of the course that the case might take and of the cost of the representation. They are a unique set of circumstances, which ultimately will go back to court, because if the defendant did not accept the decision of the panel and the offer of legal representation—paid for by the taxpayers of the State as a result of the tendering out process—then it would be appropriate for the DPP to return to court to seek a lifting of any stay of prosecution order. That is the essence of it.

As a result of the DPP's decision in relation to the Garibaldi matter, I have indicated publicly—and I do not resile from it—that the experience we have gained in developing both the process and the documentation for tendering out has stood us in good stead, and I do not rule out this process being used again at some time in the future, depending, of course, on the nature of the cases. I have indicated also that I am happy to have consultation with the Law Society, in particular, but it must accept that, whilst one would like to have a Rolls Royce system, it is not possible to do that; one has to be careful and cautious and to ensure that there is adequate representation available and not Rolls Royce.

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney a question about tendering for legal aid.

Leave granted.

The Hon. P. HOLLOWAY: My question follows closely that asked by the previous member.

Members interjecting:

The Hon. P. HOLLOWAY: There was some noise from the Hon. Legh Davis making his usual derogatory remarks, but I will ignore them. In the article referred to by the Hon. Angus Redford, Mr Abbott QC concluded in relation to the Garibaldi case by saying:

> The papering over the problem by putting the defence out to tender must be rejected for what it was—an ill-conceived reaction to a problem in one particular case. What the community needs is a much greater discussion and input from the Government and its advisers so that a protocol can be prepared which will work in each and every case where this problem again arises.

My questions to the Attorney are:

1. Does he intend to tender out further defence cases—and I think by his last answer he indicated that he will? If so, what changes to the tender process does he intend to make in light of the Garibaldi case?

2. Does he intend to take up Mr Abbott's suggestion that greater discussion and input from the Government and its advisers is needed so that a protocol can be prepared for such cases?

The Hon. K.T. GRIFFIN: I think I have answered those questions, but I will do it in a slightly different way. I indicated that as a result of the experience in the Garibaldi case I did not rule out tendering out again in some other case. I cannot be any more specific than that. I think it is an appropriate mechanism by which you get contestability but also by which you can ensure that adequate legal representation is available for a defendant who is the subject of a Dietrich order by the court, which ultimately will result in a stay of proceedings if legal assistance is not made available by the State. That, of course, is the dilemma for the Government.

On the one hand you have a stay order from the court saying that because the defendant does not have adequate legal representation there will not be a fair trial; and on the other hand the view of the Government that serious matters ought to get to trial one way or the other. So, it is a real dilemma for the Government and it is a question of how you resolve that dilemma. There is a view in some areas of the legal profession that the Government and taxpayers should pay for these costs regardless, and there is criticism about the level of legal aid that is available. I must say that the level of legal aid that has been made available in the past four years very much surpasses anything that was available in the recent past. Although the Commonwealth has imposed limits on the availability of its share of legal aid, the State has been increasing its contribution over the past four years.

That is a real dilemma for the Government, and I would hope that it would also be an issue that would exercise the minds of members of the Opposition, because it is not an easy issue to resolve. If the opportunity presents itself to tender out again, I will not hesitate to use that course. Quite obviously, I want to make sure that the passage is smooth and not rough, and I have indicated that I am happy to continue discussions with the legal profession. Members may remember that we brought in a Bill last year to deal with criminal law legal representation issues arising out of *Dietrich*. That created its own set of concerns for the legal profession, in particular, and issues were raised by the Legal Services Commission and by the courts. As a result of that, we decided that we would not bring in another Bill until there had been further consultation.

I have had several meetings with the Law Society and the Bar Association, and my staff have also had meetings. In essence, what appears to be sought is something that ultimately is not contestable: that is, that a panel of experienced criminal legal practitioners would say 'Yes, this is a fair fee; this is a fair decision about costs', and then the Government would pay over the money. We are not prepared to do that, but we are prepared to consider other ways by which contestability might be achieved. The other issue in relation to the legal profession is the so-called right of an individual to legal representation of his or her choice. In some States there is a public defender and there is no choice when it comes to using or not using the public defender. We have given consideration to the establishment of an office of the public defender, but we would prefer not to take that path at this stage.

Of course, if you do go down that path, it must be recognised that there is no choice. I question whether in fact there is such a thing as the right of a citizen to make a choice: in the criminal justice system, where the taxpayers are

ultimately funding the case, that a person should be able to say 'I want that lawyer and I do not want that lawyer.' If the persons are competent, it seems to me that, provided that they can provide adequate legal representation, the right of choice need not necessarily be available. But we will deal with that in the context of the consultation. So, that is probably as far as I can take it in terms of discussing the issue. If there are other matters in relation to tendering out I am happy to try to answer the questions.

The Hon. Anne Levy: Public patients don't get a choice of doctors.

The Hon. K.T. GRIFFIN: The Hon. Anne Levy has now started me off again: she observed that public patients do not get the choice of doctor. That is correct. I recognise that people must have adequate and proper legal representation but, whilst there may be criticism from the legal profession and others about Governments around Australia (of whatever political persuasion) tightening up on the availability of legal aid, the fact is that all Governments are genuinely trying to ensure that there is proper and adequate legal representation for citizens who genuinely are unable to pay their legal fees; that is, they have not siphoned off assets to spouses and families, to trusts and so on, and they genuinely cannot afford their legal representation. We ought to be able to find some mechanism by which they are provided with adequate legal representation.

SOUTH AUSTRALIAN ASSET MANAGEMENT CORPORATION

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Treasurer in another place this day about the South Australian Asset Management Corporation.

Leave granted.

AUDIT COMMISSION

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about the Audit Commission.

Leave granted.

The Hon. R.D. LAWSON: In April 1994 the South Australian Commission of Audit delivered its reports entitled 'Charting the Way Forward'. Those reports contained a large number of recommendations about improving public sector performance in this State. Chapter 3.4 of the report dealt with long service leave entitlements. It stated that those entitlements differed across public and private sectors within South Australia and across borders as well. Under the various legislation, employees in the South Australian public and private sectors received more generous long service leave benefits than those available in the private sectors in all States, except for the Northern Territory. For example, private and public sector employees in this State receive 13 weeks' long service leave after 10 years' service, whereas in the private sector in New South Wales, Victoria, Queensland, Western Australia, Tasmania and the Australian Capital Territory the rate is 13 weeks after 15 years'—not 10 years'—service. The recommendation was made that the Government should review the rate of those entitlements in the private sector.

In relation to the public sector it was noted that, for example, an employee in the public sector in South Australia, after 20 years' service, is entitled to 210 days long service leave, whereas the same employee in the private sector in South Australia is entitled to 180 days. In Victoria, Tasmania, Queensland and the Commonwealth a public sector employee would be entitled to only 180 days, as opposed to the 210 days' entitlement in this State. Likewise, after 30 years of service, a South Australian public sector employee is entitled to 360 days' long service leave, whereas one in the private sector is entitled to only 270. Once again, in the public sectors of Tasmania, Victoria, Queensland and the Commonwealth, the entitlement is only 270 days.

The authors of the report noted the need for South Australia to become more competitive. The conclusion was reached that the more generous entitlements in the South Australian public sector could not be justified, and recommendations were made to rectify the situation. In October 1994 the Government published its detailed response to the recommendations of the Audit Commission report. In relation to those matters of public sector and private sector long service leave, the recommendations were stated to be still under consideration. This Parliament has recently been debating amendments to the Long Service Leave Act, but none of those amendments touches upon this question. My question to the Treasurer is: has the Government reached any conclusion in relation to altering the provisions relating to long service leave for both public and private sector employees in South Australia?

The Hon. K.T. GRIFFIN: I will refer the question to my colleague in another place and bring back a reply.

MATTERS OF INTEREST

MARY POTTER HOSPICE

The Hon. J.F. STEFANI: Today I wish to speak about the Mary Potter Hospice appeal. As a member of the planning committee of the Mary Potter Hospice Foundation I have been privileged to be involved in the planning of this appeal. The Mary Potter Hospice of the Calvary Hospital owes its existence to the nineteenth century Englishwoman of great vision with an all-embracing love for God and a deep concern for those who were sick, dying or in need. As an ill women all her life Mary Potter knew what it was like to suffer and to experience the loneliness and fear of being close to death. It was during a serious illness in her late twenties that she received a call to found an order of religious sisters, the Little Company of Mary, to pray and care for those who were suffering and who were terminally ill.

Mary Potter never let her frailty, complete lack of funds and the continued opposition of family and church authorities get in the way of living her own vision of 'being for others'. In 1900, five Little Company of Mary Sisters came to Adelaide to run the private hospital, later named Calvary. A century later, this hospital continues to provide a comprehensive range of health services and professional training for the people of South Australia. The care of people who are dying has always been a focus of the Little Company of Mary health services. In the 1950s, the Mary Potter Home was established at Calvary for this purpose. In 1976, the Little Sisters, with the support of Dr John Rice, Dr Mary Jepson, Dr George Fraser and others initiated a new model of hospice

and palliative care, including outreach home care services. It was the first hospice established in South Australia.

The Mary Potter Hospice honours the name, life and vision of the founder of the Little Company of Mary. Combining the ideals of Mary Potter with a modern approach to palliative care, staff and volunteers share a commitment to helping patients and their families cope with the physical and emotional suffering associated with terminal illness. This care is unstintingly provided irrespective of race, creed, religious belief or economic status. The care of those who are dying, death itself is, in fact, not a subject that is dealt with easily. One of the certainties of life is that each of us will meet our own end, and along the way we may be touched by the suffering of family members and close friends.

The work of the hospice extends far beyond the facilities at North Adelaide. Outreach nursing services look after people in their homes and provide practical advice on palliative care to nursing homes all over South Australia. At the forefront of palliative care services in South Australia, the hospice provides inpatient and outreach support for as many as 80 patients at any one time. Being closely associated with the Eastern and Central Adelaide Region Palliative Care Service and the Royal Adelaide Hospital, patients come from all over Adelaide. The hospice must maintain existing services and prepare for the future.

The incidence of terminal illness in men, women and children is growing rapidly. There is a pressing need to provide greater support in areas of outreach nursing, home care, education, training and research. The Mary Potter Hospice is a vital step in assuring the continuance of compassionate care and the extension of palliative care services in support of the South Australian community. The public appeal, which will be launched on Sunday 10 August by the Hon. John Olsen, Premier of South Australia, has the support of 10 distinguished patrons and is being chaired by prominent South Australian business and community leaders. My personal involvement with this important community project has provided me with a greater understanding of the work of the Mary Potter Hospice and its enduring vision for the care of our community. I strongly commend the Mary Potter Hospice Appeal.

LIVING HEALTH

The Hon. ANNE LEVY: As a matter of importance I wish today to make some remarks about the report by the Economic and Finance Committee on the management of grant funds by Living Health. Interestingly, the title is 'Management of Grant Funds'. When it gets to the section on grant funds it does not even mention any grants to the arts and deals only with sporting grants. I repudiate completely the comments made by the Economic and Finance Committee. I think that it has completely misunderstood the purpose of Living Health. It quotes the objects of the Act where Living Health is set up but does not quote the objects of the actual trust itself, which are:

> To promote and advance sport, culture, good health, healthy practices and prevention and early detection of illness and disease related to tobacco consumption and, more particularly for that purpose:
>
> (a) to manage the fund and provide financial support from the fund by way of grants, loans or other financial accommodation to sporting and cultural bodies for any sporting, recreational or cultural activities that contribute to health.

There are another six objectives of the trust, but not one of them deals with reducing smoking. This is an object which the Economic and Finance Committee has given the trust, but it is not found in the trust's legislation.

The Hon. A.J. Redford: Are you saying that they should not be doing any of that at all?

The Hon. ANNE LEVY: I am not saying that it should not be doing it. I am saying that it is wrong to criticise Living Health for not concentrating all its efforts in that area when that is not one of its main objects. It is a very sloppy report. In several places it refers to figures derived from the Attorney-General's report when it probably means the Auditor-General's Report. It could not even get that right!

Last year Living Health gave 96 grants to arts bodies and it is true that many arts organisations in this State would sink without those grants. It uses different criteria for giving its grants from those used by the Department for the Arts and Cultural Heritage through its grants system, and I see no reason why the grants criteria should be exactly the same for two organisations. It is good to have diversity in sources of funding and diversity in criteria, and this caters for more people in the community.

The report states that administrative money would be saved by abolishing Living Health. It is true some might be saved, but I doubt that the savings would be anything like what has been suggested. The administration of grants up to $2 million in $2 000 amounts, as occurs for the arts grants, does not happen by itself and extra staff would be required for that administration if other departments were to have that task.

I have had many criticisms of Living Health or Foundation SA, as it used to be, but not those which are detailed by the Economic and Finance Committee. I was critical of the free tickets and perks which it demanded as if it were a private company when it was sponsoring various organisations and activities because it was not a private company. It was dealing with taxpayers' money—smokers' money, I might say—and I am very glad that the current administration of Living Health has stopped that. It was under the previous Chair and CEO that such practices existed.

My other criticism of Living Health has been that it has always given three times as much to sports as to the arts, and it cannot justify that 3:1 ratio. I know of no valid reason why that should be so. Its administration costs used to be too high, but they were brought back by the current administration to 8 per cent to 9 per cent of its total budget. That should be compared with private health funds—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —which take up to 17 per cent of their total costs on administration. Living Health is now an efficient organisation which serves a very useful purpose in South Australia and I support its activities.

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

FOSTER CHILDREN

The Hon. SANDRA KANCK: The issue of foster children in care and the role played by Family and Community Services is not an easy one to address, but it must be. I am concerned that policies designed to protect these children are having the opposite effect, due in some cases to a few overzealous FACS workers. Foster parents complaining to FACS are told that the child might be removed if they make a fuss about some of the things that are happening. Who is the person who suffers most if this threat is carried out? It

is not the carer and it is certainly not the FACS worker: it is the child. The foster parents with whom I have spoken are caring people who want to give these kids a go, so they shut up.

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: Even the incidents that I put on record today have had to be generalised so they cannot be used to track back to the parents who fear retribution from these particular FACS workers. This fear of retribution and a generally patronising attitude by some workers is causing many foster parents not to recommend fostering to other people, thereby reducing the pool of potential carers.

The effect of taking a child from its parents and the grief that can follow is well documented so, rightly, we have reunification policies, but it has become a case of reunification, coming-ready-or-not. In some cases observing the letter of the law would be counterproductive and to the detriment of the child, particularly children in long-term care and those who need extra stability and continuity. I have been informed of cases where FACS has insisted on foster children going on unsupervised visits to natural parents despite the fact that the child or children could be abused. The unwillingness of the children to visit the natural parents is ignored by FACS. On the other hand, when FACS removes a child from a foster parent, despite long association, access visits are denied for both the foster family and the child.

Some foster children lack the stability that usually comes with being part of a family because they have had as many as 40 placements with different families in a few short years. Not surprisingly they become problem children and one would think that FACS would advise the potential carers, but no. When the behaviour of the foster child becomes too disruptive, the child is once again returned to FACS, further adding to the child's poor self-image and instability. Surely it would be better for FACS to be honest so that carers can say 'No' at the outset and the child does not have to be rejected again. Alternatively, FACS could provide intensive support in the placement to ensure that rejection does not happen again.

When foster parents returned a drug addicted child and had the temerity to question FACS as to why they had not been told about this, the FACS response was that 'We did not want you to prejudge the child.' It does not stop there. Foster parents cannot even find out whether the child has been immunised, and a new policy is being developed that may prevent carers from being given almost any information about the child's health status on the basis of the confidentiality of the child.

Some FACS policies or recommendations prevent foster children from being treated like ordinary children. A set amount of the money FACS provides to carers has to be given to the child for pocket money even if it is more than the carers provide for their own children. The rigidity of the formula is such that even a babe in arms is supposed to get pocket money. Carers have to be extremely careful not to do anything which could result in an accusation of child abuse, so a natural child can climb into the adults' bed seeking solace after a nightmare but a foster child cannot. How does the foster parent explain that to the child?

The carers have little option because some FACS workers seem to work on a philosophy of 'If in doubt, treat the foster parent as an abuser.' Occasionally matters related to access find their way into the courts; yet the foster parent is not given adequate opportunity to speak. The FACS worker's assessment of the foster parents, via the case notes, is given more credibility than the foster parents themselves. This can be devastating for the foster parent because some FACS workers assume that at all times the child is blameless and problem free until brought into that foster family.

The Child Protection Act was amended by Parliament in 1993 but, sadly, despite the best intention of the law makers, we have still not got it right for many of these children.

LEGISLATIVE REVIEW CONFERENCE

The Hon. R.D. LAWSON: I wish to speak today on the Sixth Australasian & Pacific Conference on Delegated Legislation and the Third Australasian & Pacific Conference on Scrutiny of Bills which were held at Parliament House in Adelaide last week. The Legislative Review Committee of this Parliament was the host of this biennial conference which, on this occasion, attracted 72 participants from all State Parliaments and from the Commonwealth Parliament, Territory Parliaments and also from the Parliament of New Zealand.

These conferences deal with matters related not only to delegated legislation, or subordinate legislation as we call it in this State, but also with the general principles concerning the scrutiny of legislation both primary and delegated. The conference was opened by the South Australian Attorney-General (Hon. Trevor Griffin) on Wednesday last. The Attorney made a most pertinent and relevant address to members in opening the conference. Professor Dennis Pearce and another distinguished lawyer Mr Stephen Argument presented a paper on recent developments in the field of delegated legislation.

Professor Dennis Pearce has an Australia-wide and, indeed, international reputation in the field of delegated legislation. He is a graduate of the University of Adelaide and one of our most distinguished law graduates. He was, for many years, Professor of Law at the Australian National University. Mr Bill Wood from the Legislative Assembly of the ACT gave an interesting paper on the subject of performance indicators for scrutiny committees. It is appropriate that all parliamentary committees undergo some independent analysis to see whether they are performing adequately and that the community and the Parliament are getting out of them the benefits which they ought.

The Thursday sessions were dominated by human rights issues. Senator Barney Cooney, Chair of the Senate Scrutiny of Bills Committee, presented a very interesting paper on human rights and Party politics in which he gave the case study of the so-called Cambodian boat people. He pointed to some of the difficulties which arise in scrutiny committees that seek to be bipartisan when an issue such as that arises and where there is unanimity between the political Parties on the legislative mechanisms being adopted as well as widespread community support.

Assistant Professor Janet Hiebert of Queens University, Canada, gave a very interesting paper on the human rights policies in that country. She advocated additional parliamentary, rather than judicial, scrutiny of contraventions of rights, and indicated that that form of scrutiny is an appropriate alternative to a Bill of Rights.

The conference held discussions on national schemes of legislation and the removal of redundant legislation from the books. At the dinner of the conference, which was a highlight, the Chief Justice of South Australia (Hon. Justice Doyle) gave a very interesting address on judicial law

making, which was widely reported in the press subsequently. Other papers were presented.

In conclusion, I mention the staff of the Parliament, including and especially the Acting Catering Manager, Elaine Grove, and her assistant, Elizabeth Bundy, all the serving staff, the Clerks and *Hansard* who performed a most admirable service for the committee, as did the conference organisers David Pegram and Peter Blencowe.

TRANSPORT, OUTSOURCING

The Hon. T.G. CAMERON: Competitive tendering of South Australia's public transport system has led to growing concerns over the increasing number of buses using city streets, as well as the inconvenience to passengers of buses terminating in the city. There have been numerous complaints from the public, the Adelaide City Council and constituents who have rung my office. The Transport Minister has, until now, largely ignored these protests. However, more recently, legislation was introduced to try to clean up the mess caused by the outsourcing of bus services.

The Transport Minister is by far the most ideologically driven of this Government's Ministers—obsessed with the tendering out of transport services and operations to the private sector, no matter what the consequences. Whether it be the outsourcing of bus routes through to the contracting out of road line marking, this—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: —Minister is of the view that the private sector is more able to operate efficiently than is the public. This belief is based on theory, the limits of which seem not to have been recognised by the Minister. Hardly a week goes by without my office receiving complaints from angry commuters. Before the inner and outer north and other routes were outsourced to Serco, TransAdelaide buses simply continued through Adelaide on to other suburbs. They now terminate in the city. This being the case, one would have thought that, in order to promote efficiency and customer service, Serco and TransAdelaide would have put their heads together to ensure that buses linked up when they reached the end of their city bound journeys.

Unfortunately, this was not to be and passengers are now forced to disembark in the city and wait for a connecting bus to continue their journey. I know of cases where, due to this lack of coordination between the two services, passengers have missed their connecting bus by a matter of minutes and have had to wait up to 30 minutes for the next bus. My office also has received calls from parents concerned that their children now have to stand on busy city streets while they wait for connecting buses. Likewise, competitive tendering has resulted in many passengers, including the elderly and children, waiting at bus stops in the heat and cold and rain.

A 1996 Passenger Transport Board submission paper warned that, unless TransAdelaide won future tenders for inner suburban areas, it would not be possible to maintain through city bus route linking, resulting in journeys being disrupted. The Minister was aware of this, yet did nothing about it resulting in the problems we see today. Passengers who are left standing in the freezing cold and rain this winter may well like to remember that it is the Minister who is responsible for their situation. Competitive tendering has also led to a dramatic increase in the number of buses that travel to and from and in and around the city.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: The Minister keeps interjecting. If the volume of noise from the other side continues to increase, I will increase my volume, too. Information supplied by the Minister for Transport to my office indicates that between September 1995 and January 1997 northbound bus traffic along King William Street increased from 113 to 135 (17 per cent), while southbound bus traffic increased from 111 to 134 (18 per cent). At one point, a city councillor likened the situation to the city's becoming one big car park, or bus park. In an effort to sort out this log jam, legislation to enable buses—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order, the Minister!

The Hon. T.G. CAMERON: —to make a U-turn at the junction of King William Road and Victoria Drive in the city has been introduced by the Minister. As I made clear during the debate, while the Labor Party supported that legislation, the Opposition believed a proposal was necessary because of the Serco tendering arrangements into which this Government has entered. We are not captivated by it but we believe that it is the best option available. There are still real concerns about the length of time it will take for hundreds of buses to do a U-turn on one of Adelaide's busiest streets, and the impact this will have on the flow of traffic along King William Road. These are just some of the problems that have resulted from the Minister's decision to introduce competitive tendering.

It is now up to the Minister to fix the problems of her own making and ensure that the new system works. The Minister owes it to the public, to the city council and to TransAdelaide to do so. The Opposition will certainly be keeping a very close eye on this issue.

PASSENGER TRANSPORT BOARD

The Hon. A.J. REDFORD: This Parliament in July 1994 established the Passenger Transport Board under the Passenger Transport Act passed earlier that year. In the three short years that the Passenger Transport Board has been in operation, it is important to reflect upon the achievements of the board and the Minister. First, the Minister ought to be congratulated and—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts interjecting:

The PRESIDENT: The Hon. Ron Roberts will come to order.

The Hon. A.J. REDFORD: —it is not often that we have the opportunity in this place to stand up and congratulate a Minister not only for having the vision to change passenger transport and public transport but, secondly, for being able to meet that vision and achieving those achievements. When one looks at the position that the Minister inherited, one notes that the numbers of people travelling on public transport—on buses—was in savage decline. Secondly, the Minister was given the awesome and monumental responsibility of reducing the cost to the public purse of providing passenger transport in the light of some of the losses associated with the State Bank and other disasters. Thirdly, she had to deal with a very low morale in terms of passenger transport.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: Indeed, to assist the understanding of the honourable member, the Government's aim

was as follows: first, to stop the decline in passenger numbers; secondly, to put pride back into passenger transport; thirdly, to meet the budget; fourthly, to improve staff morale; and, fifthly, to give the public sector a go.

Members interjecting:

The PRESIDENT: Order! I have allowed reasonable interjection.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order, the Hon. Anne Levy! If we are to proceed in a sensible manner, members will not interject to the same degree as the stupid rabble that I am hearing from my left. The Hon. Anne Levy, the honourable member is not responding to your interjection, so I ask you to restrain yourself from interjecting.

The Hon. A.J. REDFORD: What have been the results? We have seen a magnificent improvement in the quality of the taxi service provided to the general public. We have seen the outsourcing of three major bus routes and an improvement in passenger transport numbers, and we have achieved the budgetary results that have been imposed upon the Minister as a result of the financial mismanagement of the previous Government. That is in no small measure due to the achievements not only of the Minister but also of those who have been charged with supporting her. I refer, for example, to the Chair of the Passenger Transport Board, Michael Wilson, a former member of the other place and, indeed, the Hon. Greg Crafter, a former Minister in the previous Government.

It is important that I thank the staff of the Passenger Transport Board for some of the hard work that it has managed to put in to enable these achievements to be made. I would like to thank people such as John Damin, Dianna Cleland, Paul Slattery and many others to whom I apologise for omitting their name. They have done an absolutely fantastic job. When one looks at the patronage of passenger transport, one sees that many metropolitan public transport services have experienced increases when placed under contract.

Patronage has improved since that time for all bus, train and tram services that have been operating under contract. Indeed, patronage has increased by 5.4 per cent and again this year rose by a further 3.5 per cent. I am sure that those figures are a sign of things to come. We have seen increases in transport services associated with the outsourcing. We have seen the first fully accessible buses, a new free city loop service, an increase in accessibility of passenger transport, tram patronage increase and taxi standards improved dramatically, with the assistance and help of a wonderful industry. We have seen savings of about $14 million or $15 million this year alone, and a volunteer driver kick developed by the board in consultation with the Local Government Association. The achievements go on and on.

When one considers the challenges and impediments that were placed in front of the Minister by the Opposition, one realises we have seen amazing achievements. I go on record—and I have no doubt that the Opposition will support this—in thanking the Minister for the work she has done, for her vision and the courage to carry out that vision. I also thank the board for all the assistance and support it gave her over the previous three years. I would also like to thank the staff and, most of all, the small people, the workers, including the taxi and bus drivers and the support staff. All those people, who are in a process of consultation, understood the problems, got up and got on with the job and did not criticise or get into a channel of negativity.

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

Members interjecting:

The PRESIDENT: Order! There must have been something in the lunch today.

Members interjecting:

The PRESIDENT: Order! The Hon. Terry Cameron and the Hon. Angus Redford would be advised to go and have a coffee.

MOLINARA

The Hon. P. NOCELLA: I rise to pay tribute to the achievements of the Molinara community of South Australia. This community takes its name from the township of Molinara, which is situated in the province of Benevento, part of the region of Campania in Southern Italy. The township of Molinara is a very ancient place. It was established as a Greek colony, and it flourished, establishing itself as an important centre in that area. Like most other places in that area, it has the typical configuration of a hill-top town where the morphology of the terrain grants natural defences.

More recently, the township of Molinara has experienced a great drain, determined by difficult economic conditions so that many people have been forced to migrate in search of better economic conditions. A large part of the population went to both North and South America, but a large contingent also settled in South Australia. Some 25 years ago, they started the building of their large and comfortable premises which are situated in Lyons Road, Holden Hill, where they can conduct their community activities, as well as their sporting activities, of which they are very proud.

At a function last Saturday, the Molinara community was pleased and proud to pay tribute to its founding members, the early people who came, some of them before the Second World War, but of course the larger influx took place after the war—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. NOCELLA: —and in particular took large numbers again after the tragic earthquake of 1972 which caused a great deal of devastation in that place. The Molinara group in South Australia went to a lot of trouble in preparing on their twenty-fifth—

Members interjecting:

The PRESIDENT: Order! It seems as though there was a weed or something in the lunch today, but for heaven's sake let us have a bit of respect in the place. Another person is on his feet trying to speak and members are there having a conversation at the top of their voices. I ask that members conduct themselves in a manner that befits the place.

The Hon. P. NOCELLA: On the occasion of the particular function to celebrate the twenty-fifth anniversary of establishment of their premises, they recreated a number of traditional activities that were carried out traditionally in their home village. It is a permanent display which they have set up where a number of living displays can be seen. Also, a number of agricultural implements have been recreated and refashioned, and activity such as weaving and spinning of textile fibres. One in particular is known as gorse, and there is also hemp, which is used for the purpose of making strong, hard wearing fabric.

This display will stay in the club premises and will be made available to visiting schools, both primary and secondary schools in the metropolitan area, where children will

have an opportunity of seeing first-hand a very credible recreation of traditional craft activities that were carried out in the original village of Molinara, transported to South Australia and maintained by the members of this very close-knit community, which takes a great deal of pride in their achievements and in the way in which they settled so harmoniously in South Australia and, indeed, in the way in which they feel they can give something back to the community that has received them in this State. I congratulate the Molinara community on the occasion of their twenty-fifth anniversary and commend it on the display that it is making available to the student population of South Australia.

MEMBER'S REMARKS

The Hon. ANNE LEVY: I seek leave to make a personal explanation.

Leave granted.

The Hon. ANNE LEVY: Yesterday in the House of Assembly during the debate on the Equal Opportunity (Sexual Harassment) Amendment Bill the member for Ridley, Mr Lewis, three times in his speech referred to me and said that I was wrong, that I was grandstanding and so on. I point out that I did not introduce the Bill. I have not spoken to either the Bill which was introduced by the Attorney-General or the private member's Bill which was introduced by the Leader of the Opposition. It may be that Mr Lewis cannot distinguish between the Hon. Carolyn Pickles and me and that he regards all women as being the same. I have not been involved in any way with the Bill. However, this does not mean that I do not support the proposed legislation, because I do so wholeheartedly.

Mr Lewis also said, 'Maybe she has something to hide. You'd better ask her about that.' I make it quite clear that I have never sexually harassed anybody. The implication which some people have made of that remark by Mr Lewis is that I have sexually harassed him. Mr President, I can state quite categorically that that has never occurred and that I would rather drink cyanide.

LEGISLATIVE REVIEW COMMITTEE: EXPIATION OF OFFENCES

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

That the report of the Legislative Review Committee on the principal regulations under the Expiation of Offences Act 1996 and the Common Expiation Scheme Regulations (Variation) 1996 under the various Acts be noted.

Earlier today I tabled the report of the Legislative Review Committee on regulations made under the Expiation of Offences Act. This is a most interesting matter and I have been touched by the interest shown by members in it, and I am doubly impressed by the apparent enthusiasm of the media for the same topic.

The Expiation of Offences Act 1996 came into force in February 1997. At the same time a number of associated Acts, namely, the Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996 and the Summary Procedure (Time for Making a Complaint) Amendment Act 1996, came into force. Together these Acts produced a legislative package which provided a number of significant improvements in the scheme relating to the expiation of offences.

In particular, and for the first time, there is a requirement that agencies issuing expiation notices give reminder notices and, furthermore, that those who are able to satisfy a court that they are unable to pay fines imposed by expiation notices are to be given the option of applying for community service orders. Both those measures are considerable developments. The regulations which came before the Legislative Review Committee implement some of the changes.

The committee's concern, after examining the regulations, was limited to four matters only, and they arose out of the language used in some of the forms by which expiation notices are given. The committee heard evidence from Mr Matthew Goode, who is the senior legal officer in the Attorney-General's Office responsible for promulgating these regulations. In his evidence he explained how he had consulted with the Police Department and local government, which is one of the substantial issuers of expiation notices. He indicated that there are a large number of expiation schemes across the public sector in South Australia.

The matters which caught the attention of the committee in the forms were matters such as the following (and I will call this the first objection). The new form has a box on it marked in the centre 'Time for Payment', and then it has in bold letters, 'You must work out this date for yourself.' The committee was of the view that that was an offensive form of regulation making. The idea that a recipient of a notice is required to calculate the date for payment and fill out the very form which is imposing the fine upon him seemed to all members of the committee to be unsatisfactory.

Mr Goode was asked about that. He explained that under the Act 30 days is given to pay a fine which is $50 or under and 60 days for any amount that is over $50. He said that police and local government inspectors refused to fill in the date for payment because of the difficulty of working out 60 days from the date on which they issue the notice. In a sense one can see that, if a notice is given in February, to work out 60 days from that date the issuing officer has to think whether it is leap year, how many days are in March and the intervening months, and the like. It would be easy if it were one calendar month or two calendar months.

It seemed to the committee an odd thing that police officers and inspectors were claiming that they could not calculate this, yet they expected the recipient of the notice to calculate it. Members should bear in mind, as the committee did, that these notices are received by people across the whole spectrum of education and literacy, and all members of the committee took the view that this was an inappropriate form of regulatory behaviour.

The Hon. Diana Laidlaw: So it's to stay at 60 days?

The Hon. R.D. LAWSON: Yes, the 60 days is imposed by the legislation. The 60 days is stipulated in the Act itself, and that remains. However, the committee was of the view that it is offensive to have on the form in bold letters 'Work out the date for yourself.' Ultimately, the committee recommended the deletion of those words and the Attorney has agreed to adopt that approach. In this context, it is interesting to know that the Adelaide City Council, which is one of the largest issuers of expiation notices, has adopted an AutoCite ticket system with which members may be familiar. These days parking inspectors carry with them a black box, hand-held device into which they key certain information about an infringement. The machine prints out the ticket, which is put on motor vehicles, for example. Of course, that type of system can be programmed to print the due date, but not all councils use that system. Probably the expense of installing

it is not justified in a number of councils, although I would imagine in the larger metropolitan councils—of which there will be more with amalgamations—the AutoCite or some comparable system will be introduced. However, as I mentioned, Mr Goode in his evidence to the committee was adamant that the police, who are also major issuers of expiation notices, refused point blank to have their members fill in the date themselves. As is reflected in the report, the committee was strongly of the view that 'work the date out for yourself' is offensive language and ought be removed.

Another of the committee's objections arose from certain misleading words appearing on one of the forms which suggested that, if more than $50 was owed in expiation fees, an application could be made to the court for an order that the fine not be paid and that it be worked out by means of a community service order. However, the particular form was misleading because it is only issued by the police in the case of traffic offences detected by photographic detection devices—and in those cases the fine is always more than $50—and anyone receiving this form would be confused into thinking that there were conditions which did not apply in their particular case. The committee was of the view that it would be appropriate to delete those misleading and otiose words and, in correspondence with the Attorney-General, the Attorney agreed that those words would be removed.

Another similar objection was made by the committee in relation to the form 1, which is the form of expiation notice issued by the South Australian Police. A suggested improvement of that form was made by the committee and correspondence with the Attorney resulted in the Attorney agreeing to amend the regulations. The final objection of the committee arose because the form number 2 contained certain inelegancies, in that it described a number without defining it and any recipient of the form could be left in confusion about precisely what is meant.

This report and the result obtained by the Legislative Review Committee is a good illustration of the way in which the committee works. It was a unanimous report supported by both Government and Opposition members who approached the task in a non-partisan way. It determined to secure for the community forms that are well understood. No-one likes receiving expiation notices but, if the police and others issue them, they ought to be designed in such a way as not to rub salt into the wound of the person who has committed the offence, but rather to state in a fair and easily understood fashion the nature of the offence and the requirements of the individual who is receiving the expiation notice and also that person should be given clear information about his or her rights.

The committee approached the matter from that perspective. Rather than come to this House and seek disallowance of the regulations, we corresponded with the Attorney. The Attorney did not immediately agree with all our suggestions. Indeed, initially he rejected one of them, but ultimately a sensible compromise was reached and the Attorney gave an undertaking by letter to the committee that the forms will be amended in due course and that will involve amendment of the regulations. The report, which I commend to members, sets out that process. I use the occasion of this report to comment upon the criteria by which the Legislative Review Committee considers regulations. The predecessor to the committee was the Joint Committee on Subordinate Legislation and Joint Standing Order 26 set out specifically the criteria by which that committee was required to examine subordinate legislation.

However, the committee takes the view that with the abolition of that committee and the establishment by statute of a Legislative Review Committee there are no formal criteria which the committee is required to consider. However, the committee in the past (and still) has endeavoured to consider matters such as whether the regulations are in accordance with the spirit as distinct from the letter of the enabling legislation. The committee considers whether the regulations at which it is looking unduly make rights, liberties or obligations dependent upon non-reviewable decisions by bureaucrats. The committee looks to see whether legislative or administrative functions have been inappropriately delegated in regulations. We look to see whether regulations will have unintended or unforeseen consequences. We look to see whether they are made in accord with the general objects of the Act pursuant to which they have been made. We see as our primary responsibility, in addition to all those other criteria, determining the issue whether the regulations are in conformity with the legislation under which they were made.

The time has probably now come and will come in the future when it will be appropriate for the Parliament to lay down criteria for the Legislative Review Committee. The scrutiny committees around Australia for some little time have been looking at adopting uniform scrutiny criteria. This has arisen because of the introduction of many new national schemes of legislation, both primary and subordinate. As the committees around the country are looking at this legislation, they feel it will be of benefit to all adopt the same and greatly expanded criteria. However, as I say, we in South Australia do not now presently have any formal criteria. As I say, the time is fast approaching when it will be appropriate to adopt some criteria.

I commend the report to members. In consequence of the recommendation of the report, in due course later today I will be seeking the discharge of the holding motions, which I gave earlier, about the disallowance of these regulations. That holding motion was given for the purpose of ensuring that the committee could fully examine the issues, which it has done. I commend the report.

The Hon. P. HOLLOWAY: The Opposition supports this report, and I will briefly indicate the grounds on which we do so. The expiation regulations attempted to provide a common scheme for all expiation notices. This was driven in part by the new technology, and the Hon. Robert Lawson referred to the AutoCite machines that are used by some council parking inspectors to generate expiation notices. The whole question of expiation notices is a significant one for this Parliament, because they return some tens of millions of dollars of revenue to the State. The problem basically was that if an expiation fine is less than $50, and many of those are local government fines, there is 30 days to pay; if it is greater than $50, there is 60 days to pay. I understand that local government was unwilling to extend the time to pay to 60 days.

If there had been one uniform length of time to pay, we probably would not have had a problem but, because the time to pay given to the recipients of expiation notices differs according to the amount, that involves some calculation on the part of those police officers or council inspectors issuing fines. Of course, the fact that it was 60 days rather than a time such as a calendar month or two calendar months presented some difficulties. The Hon. Robert Lawson has already referred to the evidence that the committee received, where

Mr Matthew Goode (from the Attorney's office) pointed out that the police were very reluctant to fill in the calculations because they told the Attorney's office, 'If we left it to the police they would inevitably get it wrong.'

That is a rather amazing situation, whereby the people issuing expiation notices cannot get right how long people have to pay them, whereas the people receiving them are expected to abide by that date. Of course, if they do not pay their fines in time prosecutions will be launched and they will have to pay additional costs, even if they subsequently plead guilty, so there was clearly a problem in this area. The solution ultimately arrived at, after correspondence with the Attorney-General, is perhaps not a perfect solution. I would still like to think that there could be some way ultimately, when these things are considered in the future, whereby we could get simpler, clearer information provided to the recipients of expiation notices as to when they should pay. Certainly, we agree that it is highly offensive that the recipients of expiation notices should be told that they have to work out for themselves when they are due to pay the fine.

What we will have as a result of this report is that the Attorney will change the forms and that that offensive statement, 'Do it yourself: work it out for yourself', will be removed. However, we still have the situation whereby the recipients of expiation notices will need to determine the date on which they ultimately have to pay their fine or face prosecution. As I say, perhaps it is not the perfect solution, but it was beyond the scope of the Legislative Review Committee to go into the more general parts of the legislation that have set up this situation. All we could do was make suggestions in relation to the regulations to try to improve the forms, and we have certainly done that.

In conclusion, the Opposition supports this report, and I also indicate in advance that, when they come up, we will be supporting the discharge of items 14 and 15 on the Notice Paper, which were the notices of disallowance of these regulations. I hope that when the whole question of expiation notices is revisited by the Government, we can find some solution that will make the situation clearer and better than is currently the case. I commend the report.

Motion carried.

STATUTORY AUTHORITIES REVIEW COMMITTEE: AUTHORITIES' REPORTS

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

That the report be noted.

The Statutory Authorities Review Committee, comprising as it does three Liberal and two Labor Legislative Councillors, resolved to inquire into the timeliness of annual reporting by statutory authorities. Our terms of reference specifically were to inquire into and report on the timeliness of annual reporting by statutory authorities and examine in particular the number of statutory authorities whose annual reports for the last financial year were tabled in Parliament within the time specified by any relevant piece of legislation, and any other relevant matters. Those terms of reference were cast in the broadest possible fashion because we were not quite sure what we would encounter in this fairly large and complex task.

It is worth remembering that almost 12 months ago (on 9 August last year, to be precise) the committee tabled a survey of South Australian statutory authorities, a compendious report of nearly 140 pages which, for the first time, set out in detail the scope of statutory bodies in South Australia, analysed the statutory authorities by portfolio, reviewed their fee structures, their board representation by gender, board vacancies and meeting requirements, and we concluded that there was an urgent need for a public register of all statutory authorities and bodies to be established. We found at that time there was a very wide variation in the range of reporting dates required for statutory authorities. Many were under the umbrella of the Public Sector Management Act, but others had their own reporting requirements set down in the legislation under which they were established.

The committee at that time (one year ago) recommended there was an urgent need for greater uniformity in reporting requirements, and reporting dates. We also recommended that Ministers should be required to table a list of all smaller statutory bodies in Parliament and, if any member of the Parliament would like a copy of an annual report of one of these smaller authorities, the Minister would be obliged to table it within six days. One of the many findings of that detailed report one year ago was that an unacceptable length of time elapsed in the reporting for many Government statutory authorities as well as for Government departments and other bodies.

For instance, the committee found that in the 1994-95 financial year there were 52 organisations which did not report within the due date set down for them. We argued that the precedent established in New South Wales and Victoria should be adopted, namely, that Ministers should advise Parliament if a report was to be late and should table a statement of the reasons for that lateness. We also recommended that the role of the Printing Committee in the Legislative Council should be upgraded and given greater responsibility in this important task.

It may well be argued that annual reports are very much mechanical and that the business of government goes on irrespective of whether or not an annual report is tabled on time. That certainly is true.

But what the committee was concerned about in this first report was that the tabling of a report reflects on the efficiency and effectiveness of a Government and, indeed, the Ministers responsible for the particular statutory authorities. Of course, there is the much more important issue of transparency and accountability in that for the Parliament and the public at large, who do not have access to the workings of that statutory authority and the regular review and checks and balances which exist within government, it is necessary to provide them with an opportunity of understanding what has occurred in the defined period of time which we style a financial year. Of course, that is a very arbitrary notion which is adopted in most western countries. In this particular case the financial year for most statutory authorities concludes on 30 June. For a small handful, that reporting period concludes at the end of a calendar year, 31 December. But if a report comes in one year late—or later than that—and if there is a serious problem contained within that annual report, the time may long since have passed for an Opposition or even a Government Minister or the public at large to follow it up and to investigate and to raise the matter. The situation could well have deteriorated.

Although this is a bipartisan committee, I can allow myself to digress and point out that in the previous Labor Administration—and I am sure it is not just with Labor Administrations—there was the regular practice with the SGIC, which was required to report by early November under the provisions of the then Government Management Act, that

it would regularly dump its annual report on the Friday immediately before Christmas, because its reports were so bad. That is the sort of issue which in a bipartisan fashion the committee touched on in a peripheral sense in its first report.

This second report dealt in much greater detail with timeliness. It first recognised there were difficulties for Ministers and statutory authorities in the contradictory and sometimes conflicting legislative requirements for the proper tabling of annual reports. The Public Sector Management Act, which came into operation in July 1995 and which replaced the Government Management and Employment Act, in section 66 required that each public sector agency should prepare a report which must be presented to the Minister within three months of the end of a financial year and that the Minister must within 12 days after receipt of a report under this section have the report tabled in both Houses of Parliament.

Interestingly, the definition of 'public sector agency' does not include some statutory bodies which at first glance one would have thought would have been brought within that definition. For example, the Public Sector Management Act definition of 'public sector agency' did not include many boards, committees and councils which, as I will explain later, were not incorporated bodies. Whereas the South Australian Health Commission itself falls within the definition of the Public Sector Management Act, the incorporated health centres and hospitals established pursuant to the South Australian Health Commission Act fall outside that definition of 'public sector agency'. Therefore, they are not subject to the reporting requirements of the Public Sector Management Act.

I have explained the Public Sector Management Act sets down 30 September as a cut-off point. For statutory authorities reporting on a financial year basis, this is three months in which to forward their report that would include accounts and a summary of the affairs and activities of the statutory authority to the Minister. The Minister would have a further 12 sitting days in which to table that report in the Parliament. In the case of the 1995-96 reports, that 12 sitting days elapsed on 7 November. In other words, the latest date for the tabling of a statutory authority's annual report for 1995-96 to comply with the Public Sector Management Act requirements was 7 November, a little over four months.

We can compare that with the requirements of the private sector where the Australian Stock Exchange sets down specific guidelines for companies listed on the Stock Exchange. They may be big companies such as BHP, the South Australian-based Santos, Southcorp, or it may be a very small mining company; but the rules are basically the same in that they are required to release a preliminary annual profit statement within 75 days from the end of their financial year, which would pitch it to around mid-September for a company balancing on 30 June, and, within 90 days, annual financial statements and reports must be lodged with the Australian Stock Exchange and the Australian Securities Commission, which pitches it to just before the end of September, and that is roughly in line with the public sector.

But the annual report to shareholders must be published within 19 weeks of the end of the financial year, which takes it into early November, and the Annual General Meeting of the company must be held within five months of the end of the financial year, which takes it to the end of November. When we look at that process we can see that the requirements are very strict and, indeed, arguably more onerous than those requirements established in the Public Sector Management Act. For example, BHP, which operates in something like 80 countries and which employs close to 50 000 people, in the year ended 31 May 1995 actually reported on 30 August 1995—within three months—and held its Annual General Meeting on 26 September 1995 before four months had elapsed. I set that down as a benchmark from the private sector for the 1 000 or so companies listed on the Australian Stock Exchange.

The committee's investigation revealed an extraordinary number of inconsistencies in the timeliness of reporting provisions of the various Acts of Parliament which establish statutory bodies. As I have said, the annual report of the Public Sector Management Act has to be with the Minister by 30 September. Given the provision of 12 sitting days in which it must be tabled in Parliament, last year that meant that it had to be tabled by 7 November. WorkCover Corporation reported on 30 June 1996. Under its legislation, it was required to have its report tabled as late as 6 March 1997, some four months later than the requirement under the Public Sector Management Act.

The governing legislation of the South Australian Psychological Board provided that the report could be tabled as late as 5 February 1997. The Medical Board was different again, and its requirement was probably the harshest of all. That report was required to be tabled by 3 October 1996. As I have mentioned, the incorporated hospitals and health centres established under the South Australian Health Commission Act are required to report by a date determined by the South Australian Health Commission, and that date is determined as 30 November.

The Animal and Plant Control Boards are obliged to report 'as soon as practical' after 31 December, and they balance at a calendar year. They are not subject to the Public Sector Management Act and so, with such a loose arrangement, it is not surprising that an unsatisfactory annual reporting practice has been established for Animal and Plant Control Boards, and many of them have submitted their accounts quite late, although there has not been a technical cut-off point for them within the legislation which establishes those bodies.

That general difficulty of a variety of dates makes it hard for Ministers to have a set procedure for reporting on statutory authorities, particularly Ministers with a large number of statutory authorities. Because of the committee's uncertainty as to the relationship between the Public Sector Management Act and the various enabling Acts which establish statutory authorities with regard to reporting requirements, we sought advice from the Crown Solicitor, who advised that section 66 of the Public Sector Management Act 'imposes a completely separate requirement to make an annual report'. In addition to complying with the terms of their establishing Act, all bodies deemed to be public sector agencies were also required to comply with the Public Sector Management Act.

At first reading that would have the bizarre consequence that they were required to report twice, but the Crown Solicitor quite sensibly advised the committee that a report prepared and tabled within the time specified in the Public Sector Management Act could be:

> . . . incorporated within another annual report which the public sector agency is under a statutory obligation to make to the Minister responsible for the agency. . . (avoiding) the absurd result that would follow if there was a need for two separate annual reports with the same or even different reporting periods.

The hospitals and health centres incorporated under the South Australian Health Commission Act posed a particular difficulty. As I indicated, the Health Commission requires these bodies to report by 30 November each year but the committee's inquiries found that only 65 out of 84 institutions had provided a report to the Health Commission as at 24 June 1997, which was almost 12 months after the end of the 1995-96 year. The 19 institutions which had not provided annual reports to the South Australian Health Commission, according to its information, included major health institutions with budgets of tens of millions of dollars, such as the Royal Adelaide Hospital, the Flinders Medical Centre and the North-Western Adelaide Health Service.

The committee was subsequently advised that annual reports of six of these institutions, including the Flinders Medical Centre, were tabled at a meeting of the commission on 14 July 1997—over 12 months after their financial year had expired. We double checked this information as much as we could and we established there was a complete breakdown of procedures within the South Australian Health Commission for monitoring the receipt of annual reports of health units. The commission was quite candid about this. In a letter, Mr Ray Blight, the Chief Executive of the South Australian Health Commission, advised the committee that a realignment of the Health Commission late last year and subsequent delays in the appointment of staff had resulted in no follow-up on the important issue of annual reports. He also advised:

> A number of annual reports have been received by the Health Commission Library direct from the health units, and the Library advised that they usually follow up reports not received. They are currently doing so for the year ended 30 June 1996.

That was in a letter to the committee dated only a few weeks ago.

The committee's inquiries clearly revealed inadequate procedures were in place to ensure the reporting requirements of the South Australian Health Commission were complied with, namely, that 30 November was the latest date for reporting by incorporated hospitals and health centres. Indeed, the committee noted its inquiries led to a response from the South Australian Health Commission, because an officer of the commission wrote to all health units on 25 June 1997:

> reminding them of their responsibility under the provisions of the South Australian Health Commission Act to provide a report by 30 November each year, and advising units where reports should be sent within the commission and how many copies to ensure a common reference point. . .

That information was contained in a letter dated 10 July 1997 from Mr Ray Blight. The South Australian Health Commission advised that there were some particular reasons which had contributed to delays, and the committee recognised the validity of some of their arguments. For a start, the committee learnt that the major health units had switched from cash to accrual accounting in the 1995-96 year. This would have involved a readjustment of accounting procedures and new software, and this would have seen some delay in the preparation of accounts. It was also suggested that audit queries which were raised by the Auditor-General also contributed to this slowness of reporting. Indeed, that was confirmed by the Deputy Auditor-General (Mr Simon O'Neill) in a letter to the committee dated 15 July 1997. Mr O'Neill said:

> Notwithstanding that there has been delay in the completion of the 1995-96 financial statements, in all the circumstances, it would be unfair to be unduly critical of the delays that have been experienced. It is important to recognise that the positive move to convert a year earlier was taken with an overall objective of facilitating preparation of accrual based financial statements for the 1996-97 financial year.

The committee made a recommendation believing that all incorporated hospitals and health centres should be required to provide an annual report to the South Australian Health Commission and the Minister for Health by no later than 30 September. That recommendation would bring the reporting requirements into line with the Public Sector Management Act timeliness provisions.

In addition, the committee recommended the Minister for Health should be required to table the annual report of the major incorporated hospitals or health centres within 12 days after the receipt of such a report, again, in line with the Public Sector Management Act, and that all other bodies, the smaller health bodies, incorporated hospitals and health centres, many of which are, of course, located in country South Australia, also may be required to table their annual reports. The Minister should be required to table a list in Parliament of these other hospitals and health centres, and a member of Parliament, if they so wish, can ask the Minister for a report of one or more of those bodies to be tabled within six sitting days of the request. Those recommendations from the committee would require amendments to the South Australian Health Commission Act.

The committee looked at the reasons for late reporting from the large number of statutory bodies that did not report within the required time. The committee found that 18 of the 159 bodies examined had failed to report at all for 1995-96, or their most recent year, and that, in addition, 33 bodies had tabled their annual report after the date required by law. In other words, nearly one-third of all statutory bodies had failed to report at all or within the time frame set down in the relevant legislation.

The committee examined some of the reasons given by the Ministers responsible for the statutory authorities that had reported late. The committee adopted a bipartisan approach, gave Ministers a full opportunity to explain, and, indeed, was interested in the variety of reasons given for late reporting. Several of the committees blamed the Auditor-General and said that—

The Hon. Anne Levy: Several of the Ministers.

The Hon. L.H. DAVIS: Yes, I will rephrase that. Many of the Ministers responsible for the statutory authorities suggested that the Auditor-General had been responsible, at least in part, for the late tabling of annual reports. The committee wrote to the Auditor-General inviting a response from him, and it was certainly true that, in some cases, some delay may have been partly attributable to the Auditor-General, but in other cases that simply was not true. At page 17 of the report, the Deputy Auditor-General, in a letter dated 15 July 1997, only a little more than week ago, said:

> In relation to the agency—

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: I know that this is stretching your attention span, Terry, but just stay with it. I am trying to speak in simple sentences and putting a verb in every sentence.

The Hon. T.G. Cameron: You've got an hour and 15 minutes before the 6 o'clock news.

The Hon. L.H. DAVIS: Is that right? Gosh, I do not think I am going to be on the 6 o'clock news. The letter states:

> In relation to the—

Members interjecting:

The Hon. L.H. DAVIS: Gosh; this is democracy at work.

Members interjecting:

The ACTING PRESIDENT (Hon. T. Crothers): Order! Members will not be so full of interjectory beans around 1 o'clock tomorrow morning when they are all groaning. The speaker is on his feet: let him be heard in silence.

The Hon. L.H. DAVIS: I have recoiled from the brutal verbal attack from the Hon. Terry Cameron. I will soldier on, Mr Acting President, because I know you are with me and you will protect me. The Deputy Auditor-General's letter states:

> In relation to the agencies listed in your letter—

and I remind the Hon. Terry Cameron that, prior to the commercial break that he imposed on the Chamber, this is a letter from the Deputy Auditor-General, Mr Simon O'Neill dated 15 July 1997—

> to which late reporting has been identified, reasons other than audit resource availability resulted in the delay in finalisation of the agencies' audited financial statements.

That is code for saying, 'We do not necessarily agree.' Mr O'Neill further states:

> Delays have been due to certain factors including, the timing of availability of financial statements to audit for verification; complexities experienced by some agencies converting from the cash basis to accrual basis method of financial reporting for 1995-96; and special circumstances, for example, fraud in the instance of the Veterinary Surgeons Board.

The response from the Veterinary Surgeons Board did not mention fraud: it just mentioned that there were staff problems, which, I suppose, can be regarded as a euphemism for fraud. The Auditor-General made it clear that, whilst some small delays may have been associated with the changeover in accounting for some of the major authorities from a cash to accrual method of accounting, certainly to blame the Auditor-General was not legitimate.

Let me look in particular at the various bodies that were the subject of this very exhaustive examination by the Statutory Authorities Review Committee. The committee broke down the responses into helpful tables which are appended to the report. It noted that 58 per cent, or 93 of the 159 bodies identified by the committee, reported within the time frame of their establishing Act and the Public Sector Management Act where it applied to that body. That meant that 42 per cent of these 159 bodies had not met all legislative requirements.

Table 2 consisted of bodies whose reports were tabled in accordance with the requirements of their establishing Act but in breach of the Public Sector Management Act. As I have indicated, there is a wide variety of reporting dates. There were 15 bodies in this table, and I have already listed many of them. The third table consisted of bodies whose reports were tabled after the required date. Out of the 159 bodies, the reports of 33 bodies (or 21 per cent) were tabled after the specified date. Of the 33 bodies, disappointingly, five were Government departments, seven were major Government bodies, and 21 were smaller statutory authorities and bodies.

I will provide some examples of how consistently bad some statutory authorities have been. As members of the Statutory Authorities Review Committee would know, I have had a persistent longstanding interest in the matter of effectiveness and efficiency of reporting by statutory authorities since I became a member of Parliament in 1979. I have been asking questions in Opposition—

The Hon. Anne Levy: The Liberal Government takes no more notice.

The Hon. L.H. DAVIS: We'll will see—for well over a decade. Looking through my file, I think sufficient time has elapsed for me to be able to say that I wrote to the Hon. David Tonkin as early as 15 August 1980, recommending that a statutory authority review committee be formed. In 1982, the Liberal Government put on the Notice Paper legislation for such a body that had not quite passed all stages of the Parliament when the election was called. The Liberal Government formed the Statutory Authorities Review Committee in 1994—12 years from the time it was first proposed. That is a great tragedy because I have a strongly held view that, if such a committee had been in existence, some of the excesses of the 1980s would have been at least modified and may have even been avoided.

I will look at some of the persistent offenders in this area of late reporting. The Coast Protection Board, which has an important role, has been a persistent offender; for instance, in 1988, it tabled its 1983-84, 1984-85 and 1985-86 annual reports, all in one go. Again, it is late in 1995-96. The Coast Protection Board is all at sea when it comes to putting annual reports in on time.

The Veterinary Surgeons Board report was tabled over 12 months late, as we have said, due to an unfortunate fraud within the board's office. The State Department of Aboriginal Affairs tabled its report for 1995-96 over three months late, and no reason was given as to why that was not tabled in a timely fashion. The Supported Residential Facilities Advisory Committee reported on 5 June 1997 for 1995-96. The Minister explained that, whilst the committee had submitted its annual report to the Minister, with a request for a meeting to discuss the report, competing demands dictated a late schedule of the meeting, as a result of which the report was tabled seven months after the due date, on 5 June 1997.

Table 4 in the report lists the bodies whose annual reports for their most recently completed year of operation have not yet been tabled in Parliament. Table 4 is the bottom of the pile—the really naughty statutory authorities. They do not get a lilac certificate from Possum. Let me just examine a few of them.

The Hon. T.G. Roberts: Oh, no!

The Hon. L.H. DAVIS: I have called the Hon. Terry Roberts many things, but I have never called him schizophrenic. He asked me to name them, so I said, 'Yes, I'll name them,' and then he said, 'Oh, no!'

The Hon. T.G. Roberts: I withdraw that interjection.

The Hon. L.H. DAVIS: It's too late; it's on the record. I have put it on the record.

Members interjecting:

The Hon. L.H. DAVIS: No, I will be ruthless on this. The 1994-95 annual report for the Aboriginal Lands Trust was tabled on 26 November 1996, more than 12 months after the due date. I understand that the 1995-96 annual report is still to be tabled. Again, that is running extraordinarily late, but no reason is given. That is a matter of particular concern.

According to the Minister for Health, the Controlled Substance Advisory Council indicated that in the past it had not given priority to the production of annual reports. What sort of explanation is that when the legislative requirement clearly is incumbent upon them to produce an annual report in compliance with legislation? The Architects Board report was tabled in Parliament today. We are not talking about the 1996 report. I believe we had two reports tabled today—and the Clerk Assistant can confirm this—the 1995 and 1996 Architects Board reports. That was due to an administrative

oversight. However, at least the Minister was candid in explaining the delay.

One of the more remarkable explanations was given with respect to the Correctional Services Advisory Committee. The current Minister for Correctional Services is the Hon. Dorothy Kotz. When we wrote to her and asked why the Correctional Services Council had not produced a 1995-96 annual report, we were advised, in a letter dated 15 July from the Hon. Dorothy Kotz, that a quorate membership of the Correctional Services Advisory Council had not existed since 1996. The Minister advised the committee:

> During the latter part of 1995, the then Minister for Correctional Services became disenchanted with the standard of advice being provided by the council, and over a period of months allowed membership of the council to expire. The last meeting of the council occurred in early 1996.

I understand that the then Minister was the Hon. Wayne Matthew. The committee was particularly concerned about that attitude—that there was a legislative requirement for the council to meet and to report. However, the Minister unilaterally dispensed with the advice of the advisory council and effectively rendered them inoperable by refusing to appointment membership to the council. The committee was unanimous in its view that it was totally inappropriate for the Minister to disregard the legislation which required the Correctional Services Advisory Council to meet and report.

The Minister for the Arts advised that the Australian Dance Theatre and the Jam Factory Craft and Design Centre had not reported because she was unaware that the bodies had reporting obligations under section 66 of the Public Sector Management Act. In fact, that also had previously been the case under the Labor Administration. Three other bodies also had not reported although there was an obligation for them to do so, and they were the Optometrists Board, the Disability Information and Resource Centre and SABOR.

The committee was particularly fascinated with the University of South Australia, because whilst it receives most of its funding through the Commonwealth Government it is established by an Act of the South Australian Parliament and there is a clear requirement in section 18 that the university must, by 30 June each year, present to the Minister a report on the operation of the university during the preceding calendar year. This simply has not occurred. In fact, we were advised that the university did not intend producing a 1995 annual report. It argued that it had a quarterly magazine called *New Outlook* and that one of the issues of that magazine included the audited accounts.

The committee made investigations and examined the last six editions of the publication of *New Outlook* (December 1995 to April 1997) and found no record whatsoever of the university's audited accounts in these publications. We accepted that it was in the Auditor-General's Report of 1996. However, that was a blatant breach by an institution with an annual budget of $220 million—an extraordinarily arrogant approach, if I can describe it in that fashion. The annual report of the organisation is required by law to provide a definitive and comprehensive account of its activities, a description of its organisational structure, its objectives and an indication of its future strategic plans and direction—and what do we get for $220 million: zip!

Then we have the Dog and Cat Management Board. This board gave a bit of a yelp because the Minister for the Environment and Natural Resources advised the committee that its annual report had not been forwarded to the Minister until November 1996 due to delays in the finalisation of the audit of the board's account. However, the Auditor-General's Department indicated that the accounts had been audited and finalised by his department by 15 October 1996. The Minister then advised the committee that the annual report could not be tabled immediately upon its receipt, which was November 1996, due to the parliamentary recess over Christmas.

It is now 23 July and, as I understand it, the report of the Dog and Cat Management Board has not yet been tabled. The initial reason given was due to the delay in the finalisation of the audit, which in fact occurred on 15 October 1996. There have been nine sitting weeks in the calendar year 1997. The Dog and Cat Management Act was passed in 1995 and was intended to encourage responsible dog and cat ownership, reduce public and environmental nuisance caused by cats and dogs, promote effective management of dogs and cats, address the important matter of desexing and so on. Clearly section 24 of the Dog and Cat Management Act requires the board to report to the Minister by 30 September and the Minister must, within six sitting days, table that report.

The committee then examined statutory bodies not required to report to Parliament. As I observed, there are apparent inconsistencies in reporting requirements for statutory authorities and other bodies. We found it strange that, for example, the Chiropody Board of South Australia is under no obligation to provide an annual report to the Minister for Health, so it can never be clipped by the Statutory Authorities Review Committee for a late tabling, but that other professional bodies such as the Medical Board, the Dental Board and the Physiotherapists Board are required to report to the Minister for Health.

A similar example is the Animal and Plant Control Boards and the Soil Conservation Boards. In each case there are dozens of these boards. The Animal and Plant Control Boards are required to report to the Animal and Plant Control Commission, whereas the Soil Conservation Boards are required to report to the Minister for Primary Industries, who is required, in turn, to provide these reports to the Soil Conservation Council and table them in the Parliament. The committee was surprised to find that an important body—the Parole Board of South Australia—whilst it reports annually to the Minister for Correctional Services, does not have its report tabled in the Parliament: that as a matter of legislative necessity the Minister is not required to table that report in Parliament.

Finally, we examined annual reporting by ministerial portfolio. This examination highlighted some very good performances by certain Ministers and some very poor performances by others. To give credit where credit is due—and this committee is generous in its approach to these matters—the Attorney-General should receive due plaudit because 10 of his 11 statutory authorities were tabled in accordance with the legislative requirements, and the only other one was for the Director of Public Prosecutions which has a very early tabling date and was tabled a few days late. The Treasurer put in a very strong performance recording 12 out of 12—so no black marks against the Treasurer; and the Premier put in a very strong performance.

At the other end of the scale, Aboriginal Affairs was dismal, with none of its two reports tabled in time. In fact, one of them has yet to be tabled—the Aboriginal Lands Trust—but that is not in any way due to the fault of the Minister, one would have thought. Correctional Services was also dismal, with nought out of two; as was State Government Services with nought out of two. In terms of the overall worst performance, one could argue that Health was very disap-

pointing, with the reports of 12 of the 19 bodies committed to the Minister for Health either not being tabled or being tabled outside the timeframe established by the Public Sector Management Act. In other words, a 63 per cent failure rate from the Minister for Health was disappointing.

It is important to recognise that ultimately Parliament is supreme. This is a matter for the Parliament rather than for the politicians in the Parliament. Issues of effectiveness and efficiency of operation, accountability and transparency are important for us all as parliamentarians, irrespective of which political Party we represent and irrespective of the time of the year we debate these matters.

This has been a long running sore within this Parliament. It has been an issue which has not been addressed properly in well over a decade. I have to say that there have been some improvements in my time but they are minimal. Central to this surely must be the need to establish a register of statutory authorities. Given information technology and management systems available, a register of statutory authorities is much easier to establish now than it would have been, say, a decade or two ago. Indeed, it is clear that many Ministers do not fully understand what reporting requirements exist for their statutory authorities—and no blame can be attached to them in some respects because the reporting requirements are so many and so varied.

Hopefully, this is an issue that can be addressed not in a political fashion but in a bipartisan fashion, as it has been by the Statutory Authorities Review Committee. Hopefully, this report will act as a beacon for whichever Government wins power at the next election. It is my earnest wish that the recommendations contained in this and the previous report of the Statutory Authorities Review Committee relating to the management and timeliness of reporting and other measures recommended can be taken up with alacrity and enthusiasm for the benefit of all South Australians.

The Hon. ANNE LEVY: I support this motion wholeheartedly, though I do not expect to do so at as great a length as the presiding officer. The Hon. Mr Davis has certainly dealt with the confusing situation that arises with regard to reporting by statutory authorities. They can have several different dates according to whether one looks at their own legislation or the Public Service Management Act. Sometimes no date is specified in their own legislation. Certainly reform is required to remove this confusion. It was obvious in responses which the committee got that a number of authorities had had their reports tabled within the time frame allowed by their own Acts and were unaware that the requirement under the Public Service Management Act also applied to them and should have meant an earlier tabling.

The Hon. Mr Davis has dealt with the recommendations coming from the committee's report, but I would certainly like to reiterate and emphasise the comments relating to the complete breakdown of procedures in the Health Commission for monitoring the receipt of reports that are meant to be presented to it. It did not know that reports had not been provided to it. It did not know when they were due. It had no procedures whatsoever for checking up whether or not reports had been received. It made some vague comment about, 'Oh, they went to the library', but the library is a recipient of reports: it is not there to monitor what reports have come in, which ones have not and when they should be received by.

It shows a complete lack of responsibility in this regard in the Health Commission and, I must say, on the part of the Minister for Health. Ultimately he is responsible for the Health Commission and it is naive to pretend that the complete lack of procedures in the Health Commission can be put solely at the door of officers of the Health Commission. The Minister is responsible for the Health Commission and should see that it is functioning properly. Furthermore, with regard to the Minister for Health—and as the Hon. Mr Davis noted—of the 19 statutory authorities for which the Minister for Health is responsible only 37 per cent of them had their reports tabled on time. For 63 per cent of them the reports were either late, very late or have not yet appeared. The responsibility for this appalling performance must lie with the Minister for Health. He is the one who is responsible for seeing that the bodies under his ministerial portfolio obey the legislative requirements which this Parliament has set for them and, if they do not, it is the Minister who must take the rap.

The Hon. Legh Davis mentioned a number of the excuses which were provided to the Statutory Authorities Review Committee relating to the presentation of a number of reports. We wrote to all the Ministers involved and asked what were the reasons for the reports being late, but we had the foresight to check up on some of the responses we received and they were misleading to say the least. For instance, in relation to the South Australian Harness Racing Authority and the South Australian Thoroughbred Racing Authority—which are very important bodies in the racing industry of this State and from which we receive constant complaints that they are not getting properly treated by the Government—we were advised that their reports were late because 'due to the changes in Government portfolios, our office relocation and staffing changes which occurred late last year there were unavoidable delays in forwarding these reports'.

That is an excuse which just will not wash. Those reports were due to be tabled in Parliament by 7 November last year, and the changes in Government portfolios, office relocation and staffing changes did not take place until December.

The Hon. A.J. Redford: Are you sure about that?

The Hon. ANNE LEVY: Quite sure, as indeed I am sure the Hon. Mr Redford is sure also. The ministerial changes occurred in December last year.

The Hon. A.J. Redford: What about the departmental changes?

The Hon. ANNE LEVY: The letter from the Minister referred to changes in Government portfolios, which can hardly be relevant when the reports were due on 7 November and the changes in Government portfolios did not occur until December. I think the Minister is being disingenuous and not providing proper information. The Support of Residential Facilities Advisory Committee had its report tabled in Parliament seven months late, but this was not due to the committee itself. It submitted its report to the Minister within the time allocated, but requested a meeting with the Minister to discuss the matter. I know the Minister for Health is a busy person (or should be), but I cannot believe that the meeting with the Minister by the committee could not take place for seven months, and certainly the tabling of the report was almost seven months late.

Seven months after it was due to reach this Parliament is when it was tabled in this Parliament. I suggest that the responsibility for that delay lies not with the committee itself but clearly with the Minister, who supposedly could not even manage to meet the committee for seven months. We then come to the Dog and Cat Management Board.

The Hon. J.C. Irwin interjecting:

The Hon. ANNE LEVY: It still is chaired by Gordon Johnson, a most honourable person who has been involved with local government, with the Local Government Grants Commission and with the Local Government Association over many years.

The Hon. A.J. Redford: How long has he been Chair?

The Hon. ANNE LEVY: He has been Chair of the Dog and Cat Management Board since it was established by legislation about three years ago, but he has a long history of involvement in many community activities and I could not believe that he was responsible for a late report.

The Hon. T.G. Roberts: Nominated for a gong?

The Hon. ANNE LEVY: He's got one; well deserved.

The Hon. A.J. Redford interjecting:

The Hon. ANNE LEVY: It certainly would. The Minister involved—and I may say that this time it is not the Minister for Health but the Minister for the Environment and Natural Resources—advised the committee that the annual report was late because of the finalisation of the audit by the Auditor-General's Department. But the Auditor-General's Department told us that it had finished auditing the Dog and Cat Management Board's accounts by 15 October last year. The Minister then advised that he received the annual report in November, when he should have, but that he could not table it due to the parliamentary recess over Christmas. But that report has not been tabled yet. The Minister has had it for seven months and it still has not been tabled.

The Minister told us by letter that it would be tabled in July of this year. There is one more sitting day left in July of this year, so he has one chance left to table the Dog and Cat Management Board report: seven months late, not in any way due to the board itself, but entirely due to the Minister. That is where the responsibility for the lateness must lie. I can assure members that if the Minister for Transport tables that report tomorrow, which she would need to do if the Minister is to keep his word as indicated in his correspondence, a cheer will go up from both sides of the Chamber that he has finally tabled the report, only seven months late. There are others that I think should be looked at quite seriously. The Hon. Legh Davis talked about the report of the University of South Australia—which does not exist.

Members interjecting:

The Hon. ANNE LEVY: The report does not exist. The university told us that it does not produce an annual report; it produces a little quarterly publication called *New Outlook* and its audited accounts are presented there. As our report makes clear, we examined the last six copies of *New Outlook* and found that no copy included its audited accounts. We are talking here about an organisation that receives over $220 million of taxpayers funds. It may be that it is providing accurate and timely financial reports to the Minister supplying the money to it, but that is very different from having an annual report that is available to the public. It seems to me anomalous that an organisation such as the University of South Australia can thumb its nose at its legislation, which quite clearly states that it is meant to produce an annual report. It has decided to break the law and not produce one. This to me is not acceptable.

There is also the question of Flinders University. Flinders University, we know, did produce an annual report for 1995, which report has been available from the university—but it has not been tabled in this Parliament. Whether the fault lies with the university's not providing a copy to the Minister or whether we have another of these Ministers who leaves things on the fridge and has not tabled the report, we do not know. But we are still waiting for that report to be tabled. We know that it has been produced, but it has not been tabled. I will not detail any of the others that are noted in the report. I encourage all members to read our report, where they can get all the lurid details for themselves.

Members interjecting:

The Hon. ANNE LEVY: I can assure members that I have given a very small portion. There are 159 reports and only 58 per cent of them get a tick: 42 per cent of the boards are either late or have not yet produced a report. Thirty-three bodies have not yet produced a report as they are required to by legislation. Finally, I want to reiterate some of the findings that are shown in table A on page 30 of the report, the analysis of annual reporting by ministerial portfolio. I agree with the comments of the Hon. Legh Davis that the Attorney-General, both as Attorney-General and as Minister for Consumer Affairs, has a very good record, as have the Minister for Industry, Manufacturing, Small Business and Regional Development, the Minister for Mines, information technology, the Minister for Police, the Premier, the Minister for Transport and the Treasurer.

The Treasurer, particularly, has a large number of statutory bodies for which he is responsible, and the 12 reports for which he was responsible were all tabled on time. However, the table makes very clear that there are some very negligent Ministers. I am not blaming the boards: I am blaming the Ministers. That is where the responsibility lies, and they are the ones who must 'take the rap' for the poor performance and late tabling or non-tabling of some of these reports. The one that stands out so dramatically is the health portfolio where, of the 19 reports, only seven were tabled on time; 63 per cent were late or have not yet appeared. The Minister for Health must take the responsibility for this and for the shambles of procedures that apparently exists within the Health Commission regarding annual reports.

The Minister for the Environment and Natural Resources has 70 per cent in on time. The Minister for the Arts has 71 per cent in on time. But the Minister for Tourism has only 25 per cent in on time, with 75 per cent being late or not yet having appeared. I really think that some of these Ministers need to pull their socks up, to use a vernacular phrase, and improve the procedures within their offices for ensuring that reports are received on time and, in particular, that they do not start blaming the Auditor-General or other factors for late reporting when that is not the problem. They are falsifying history by pretending that the fault for late tabling is not theirs but belongs to someone else, instead of at least being responsible enough to admit that they have failed in their responsibilities to this Parliament. I support the motion.

The Hon. A.J. REDFORD: I rise in support of this motion and congratulate the two previous speakers on their comprehensive and detailed analyses of this very timely and important report. In summary, the report follows on from a number of recommendations made by this committee in August 1996 specifically into the question of timeliness of annual reporting by statutory authorities and what can be done to improve the standard of reporting in that regard. Before I make any comments about this report, it is important that I go on record as saying that, over the years as governments have become more complicated and as the demands on government have become more extensive, the role of a Minister within government has become increasingly difficult.

At the end of the day, even with the substantial increase in resources available to Ministers over the past 10 or 15 years, we do sometimes expect too much from Ministers in some respects. That is not to say that I in any way diminish the importance of Ministers' complying with legislative requirements, in other words requirements set down by this Parliament, in reporting to this Parliament. In August 1996 the committee set out in some detail why it is so important that annual reports be lodged and, indeed, explored why annual reports are important in the Westminster system of democracy and government.

In short, annual reports provide a useful and in some senses a vital tool in the armoury of a member of Parliament to ensure that the Executive arm of Government remains accountable to the Parliament and, ultimately, to the people. Indeed, over the years annual reports have been a great source of information to governments and to Ministers and, just as importantly, to Oppositions in ensuring a proper standard of service and a proper standard of integrity in the delivery of services in the handling of public funds, resources and assets on behalf of our community.

In relation to the matter before the Council, the recommendations in this report fall into five categories. The first series of recommendations refer specifically to the Health Commission. In that regard, the Health Commission does not have any obligation to provide an annual report to this Parliament. From a technical point of view, the Statutory Authorities Review Committee has no jurisdiction over the Health Commission because, technically, it does not fall within the definition of a 'statutory authority' as set out in the Parliamentary Committees Act. However, there is an anomaly in that regard in that many of the bodies that are required to report to the Health Commission under their legislation do come within the definition of a 'statutory authority' as set out in the Parliamentary Committees Act and, therefore, are subject to the supervision of the Statutory Authorities Review Committee.

It is clear from the report—and the Hon. Legh Davis and the Hon. Anne Levy have covered this in some length—that many of these bodies have failed to properly report to the Health Commission. The issue that the committee had to deal with in that regard was to determine how, given that regime, could we as members of Parliament ensure that many of these bodies—some of them very important bodies and some of them which have quite substantial budgets, for example, the Flinders Medical Centre and the Royal Adelaide Hospital—are directly accountable to this Parliament, to the members of Parliament and, ultimately, to the people. In that regard, our first recommendation recommended certain changes in relation to bodies which are responsible to the Health Commission and the manner in which they are to report. Indeed, recommendations were made insofar as amendments to the South Australian Health Commission Act.

Of specific note is that we recommended that larger institutions which report to the Health Commission and which are described in the report as major institutions should report directly to the Minister and to this Parliament. It should be a requirement that the reports be tabled and that in the case of other smaller bodies the tabling of their reports in this place should be required only in the event that a member of Parliament requests that a report be tabled. The committee was mindful of the fact that to some extent we are imposing a bureaucratic regime on the Health Commission. At the end of the day, the issues of accountability and the issues of ensuring that the public is properly and fully informed as to how the health system operates do justify that bureaucratic imposition and its associated costs.

The second of our recommendations relates to the requirement that the Government establish, maintain and update a comprehensive register of all South Australian statutory authorities, boards, committees and other like bodies. That probably does not need any further explanation; it is fairly clear in its terms. The third recommendation is important in that it requires that legislation establishing statutory authorities be consistent in the requirements concerning the time in which annual reports are to be provided and tabled in Parliament.

I will not repeat what the former contributors said, but in very simple terms there is an inconsistency in many cases between the requirements under the legislation establishing a statutory authority and those under the Public Sector Management Act. Indeed, it was the committee's view that they ought to be made consistent and that there ought not be a requirement for double reporting. In that regard the committee was mindful of the fact that that would, perhaps in a technical sense, reduce the bureaucratic requirements on statutory authorities. When Ministers are looking at and responding to those recommendations they ought to look at them as a whole, particularly when one compares this recommendation with the earlier recommendation concerning the Health Commission.

The fourth recommendation that we made—and I think it is an obvious one having regard to the contributions of the Hon. Anne Levy and the Hon. Legh Davis—is a recommendation to the effect that Ministers undertake a review of procedures and reporting times of statutory authorities and, indeed, processes in which we can ensure that annual reports are filed.

It was pleasing to see that a number of Ministers who had their attention drawn to deficiencies in the timeliness of annual reports responded in precisely the same terms as the recommendation to which I have just referred. Indeed, the Minister for Transport ought to be congratulated on her candour because, from my recollection, her response was to the effect that she was grateful to the committee for drawing to her attention that some annual reports had not been filed within the appropriate time and, most importantly, she indicated that she was initiating procedures within her office to ensure that it would not occur again. It is refreshing in any political sense to see a Minister approach the recommendations of a parliamentary committee in such an open way, with such candour and with an immediate response, even before we submitted our report that things would change and improve.

The Hon. Diana Laidlaw: Some of those reports in the arts had never been tabled in this place since the organisations commenced their business.

The Hon. A.J. REDFORD: The Minister makes a very important and pertinent interjection. To some extent, certain elements within the bureaucracy, more through ignorance and perhaps in some minor cases through a lack of resources, have overlooked this important requirement. It does not advance anybody's position to run around pointing fingers or allocating blame. It is more important to identify the issue and take steps to improve it. In allowing the committee to proceed with this sort of inquiry, through the establishing legislation, this Government ought to be congratulated, and some positive things will come out of that.

The fifth recommendation indicates that, where a body is required to report to Parliament but is late, the Minister

should at the time of the report formally advise Parliament that the report is late. That is probably a bit trite because, once the new system comes into place and people know that there is a set time, anyone of any intelligence ought to appreciate that. Just as importantly, the committee recommends that the Minister must provide a reason for such lateness.

I say that with all due candour. There are occasions with public sector agencies where there are very good reasons for lateness. The system of responsible government is not perfect, and Ministers often make substantial changes in the administration of their departments. Sometimes changes of Government occur more regularly than changes of administration of companies in the private sector, and some degree of latitude must be given to Ministers and statutory authorities in those cases.

It is also important to draw members' attention to the recommendations which were made in August 1996 and which are pertinent to this report. The first of those pertinent recommendations was that there be standardisation in the reporting of annual reports and reporting times, and that is consistent with the third recommendation in this report. Secondly, the committee made recommendations to ensure that all authorities provide reports. Thirdly, the committee recommended that reports contain certain financial information. Fourthly, the committee made recommendations in relation to the development of a system for identification of late reports and, fifthly, the committee recommended the expansion of the role of the Printing Committee to establish procedures for determining which reports are late and perhaps to assist Ministers in advising them which of their agencies are not complying with the legislative requirements.

Some criticisms of Ministers have been made, and I note that the criticism of the Minister for Health has probably exceeded that of other Ministers, although it is important also to note that he has by far and away the largest department to administer and he has had to supervise some massive changes to the health system over the past two to three years. For those members who are seriously interested in this issue and this report, it is important to note that, to a person, the Ministers responded in a timely fashion to inquiries made by the committee. I note and I do not resile—

The Hon. Anne Levy: Even if they gave misleading information.

The Hon. A.J. REDFORD: I do not resile from the criticisms made by the Hon. Anne Levy and the Hon. Legh Davis, but each Minister, to a person, responded very quickly to the requests of this parliamentary committee. If I am to be fair to the Government, it is important to note that those responses were given a very tight deadline by the committee, and it might be argued that the deadlines were too tight. However, they responded in a timely fashion. That is an acknowledgment on the part of this Government of the importance of the role of parliamentary committees and that committees ought to be responded to and responded to quickly. I congratulate all Ministers on that and, without offering them excuses—because I am sure that when they respond they will provide them—I suggest that the time line contributed to some of the incorrect information that was provided to the committee, as was so ably highlighted by the Hon. Anne Levy.

I will not go through the advice given by the Crown Solicitor regarding the inconsistencies between the Public Sector Management Act and other establishing legislation. Suffice to say that the Crown Solicitor responded in a comprehensive and prompt fashion. I am sure that my colleagues on that parliamentary committee would join in congratulating the Crown Solicitor on the way in which he responded to our request in dealing with some of the complex and difficult legal issues that we presented to him. Indeed, whilst I am in the process of congratulating people, I also congratulate the Attorney-General, who passed on that advice to the committee in a very prompt and timely fashion.

One might think that I am spending a bit of time congratulating people, but there has been some criticism and it is important not to overstate that criticism because the Attorney-General and various other Ministers, each of them, dealt with the committee in an open, candid and frank manner. There was no suggestion of any cover up or any resiling from the fact that some of these reports were late.

It is important to comment on the Health Commission and to put that criticism into context. At page 11 of the report, the committee referred to a letter from the Deputy Auditor-General (Mr Simon O'Neill). Members would all be aware that, over the years, there has been no lack of courage by the Auditor-General or his office in criticism of any Government department or agency where it has been appropriate. The Deputy Auditor-General, in his letter relating to the dealing of accounts, particularly in relation to the Health Commission, said:

> Major health service units, through a financial management and accounting policy directive of the South Australian Health Commission, converted to the accrual based financial statement reporting presentation for 1995-96, a year earlier than the mandatory reporting changeover of 1996-97.

I digress here by saying that anyone who has been involved with a cash accounting system would understand that it is a major task, and when one looks at an agency that is responsible for expending in excess of $1 billion of public money one must understand that what the Auditor-General is referring to there is a major undertaking on the part of the Health Commission and its various agencies. It is incumbent on all of us, as members of Parliament, to understand that that is a difficult job. Indeed, we should congratulate the Health Commission for undertaking that process a year earlier than did all other agencies.

In some respects, if we had done this exercise a year later it might have been only the Health Commission complying with all the rules and all other agencies failing to comply because the Health Commission happened to be the poor bunny, if I can use that term, that took it upon itself to comply with this change from cash to accrual accounting. The letter further states:

> Although this was seen as a positive move, difficulties have been encountered by health service units in the first year of preparation of accrual based financial statements, and some time and resource effort has been required to resolve many of the difficulties before financial statements could be finalised and audits completed. Notwithstanding that there has been delay in the completion of the 1995-96 financial statements, in all the circumstances—

and this is important—

> it would be unfair to be unduly critical of the delays that have been experienced.

I repeat, 'It would be unfair to be unduly critical of the delays that have been experienced.' To be fair to the Minister for Health and the Health Commission, and to put the Hon. Anne Levy's criticisms in their proper context, it is important to understand that. The Auditor-General further states:

> It is important to recognise that the positive move to convert a year earlier was taken with an overall objective of facilitating

preparation of accrual based financial statements for the 1996-97 financial year.

That begs the question that if we had undertaken this task next year or the year after, as I said earlier, it may have been only the Health Commission doing the right thing and the other agencies being slow in providing their annual reports and, as a consequence, the other agencies would have suffered the criticism. It would be less than generous of us if we singled out the Minister for Health or his agencies for the criticisms without understanding that issue.

Secondly, I know that some criticism was made of the harness racing body and, again, that criticism ought to be put in context. If one reads it closely, the letter not only referred to a Cabinet reshuffle but also to changes within the Government agency itself. It is also important to note that the body referred to had, for the relevant financial year, operated only for some two months. So, at the end of the day, when one looks at the problem or the mischief that might have been created by the lateness in lodging, or the failure to lodge, an annual report, in the scheme of things it was fairly minimal. In fairness, it is important that we recognise that. In that regard I refer to page 22 of the report.

I suppose it is a little disappointing when one looks at the examples of the Border Groundwater Agreement Review Committee. I appreciate that that committee was established under South Australian and Victorian legislation and involves two sets of people but, to be fair, I know that I, as a member of Parliament, during our recent debates over the water issue, particularly with respect to the South-East, have been waiting for that report for a not insignificant period of time. The report was important to me at that time and I did not have access to it. I must say that the failure—

The Hon. R.R. Roberts: Other people wanted to see it, too.

The Hon. A.J. REDFORD: The honourable member interjects that I was not the only one.

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member says that there were a number of people. I must say—and I am trying to be as fair as I possibly can—that, in those circumstances, it was incumbent on the Minister at least to address the Parliament through a ministerial statement (and there are no shortages of those) to indicate that the report would be late and the reason why it would be late, and perhaps indicating what information might be made available in the interim period. It is important because, in that case, I know that requests were made to the Minister for a copy of that report and the Minister did not provide the information to the relevant members of Parliament, although it was ultimately provided to the committee.

So, some criticisms in this document are valid. Indeed, all the criticisms are valid but some need to be put in perspective. Ministers need to understand that annual reports are as fundamental to the role of members of Parliament as is the Auditor-General, the *Hansard*, the support we receive and the media in understanding public opinion in generating debate.

The final issues to which I draw the attention of members are the tables, which are well set out and, in fact, involve a good starting point for a register that the Government might consider adopting. Also, it is important that Ministers take fairly close heed of the recommendations because, at the end of the day, they protect the Ministers as much as they protect us. It is not uncommon for agencies to submit late reports, and in this respect I think back to the SGIC, which prepared and gave its reports pretty late in the piece and, I suspect, in certain cases may well have been late in providing timely advice to the Minister of the day so that the Minister could respond. These sorts of issues are just as important in protecting the position of Ministers as they are anything else.

Members interjecting:

The ACTING PRESIDENT (Hon. T. Crothers): I draw the honourable member's attention to the time. The Hon. Mr Redford is trying to conclude his remarks: he would be assisted greatly in that if members ceased interjecting, and that includes the Hon. Ron Roberts.

The Hon. A.J. REDFORD: My attention has been drawn to this matter by the Hon. Legh Davis, the Presiding Member of the committee who, no doubt, shares this sentiment. I thank my parliamentary colleagues, the Hons Legh Davis, Trevor Crothers, Anne Levy and Julian Stefani for their roles in the development of this report.

Finally, and most importantly, because we could not do it without them, I take the opportunity to thank the staff who have always provided advice and research of the highest standard. In that regard, the work of Anna McNicol and Andrew Collins is to be commended.

I am not sure how long we will keep staff of that calibre because I am sure someone with any brains will snap them up and give them a higher salary. But, at this stage, we are enjoying very much their services, the skills they bring to bear and the quality of the report. We do not see the Attorney-General included in the report à la the Auditor-General, as happened in another place with another committee. The reports of the Statutory Authorities Review Committee are normally pretty right, and that is in no small measure due to the staff's hardworking efforts. I commend the motion.

The Hon. R.D. LAWSON: I wish to make some remarks on the motion.

The ACTING PRESIDENT (Hon. T. Crothers): I draw the honourable member's attention to the time.

The Hon. R.D. LAWSON: Yes, and in view of the state of the time I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 6 to 7.45 p.m.]

The Hon. R.D. LAWSON: I will make some remarks on the report of the Statutory Authorities Review Committee on its inquiry into the time limits of annual reporting by statutory authorities. This report—if you will forgive the pun—is timely. The Parliament should be grateful to the committee for undertaking this task which has never been undertaken before. The detail of the report and the statistical tables attached to it are most informative. I wish to confine my remarks to a couple of matters. This is an inquiry only into the timeliness of annual reports by statutory authorities. The report does not purport to go into the content and usefulness of those authorities that do report, whether in a timely fashion or otherwise. There is a wide disparity between the quality of reports of various statutory authorities. Quite a few of those that are particularly prompt in filing their annual reports and having them tabled in Parliament, are, for all practical purposes, useless. The degree of detail is insufficient to give anything other than the most perfunctory view of the activities of the authority, and a good deal is to be desired in respect of many of the reports.

I tend to think that in the future paper or hard copy reports of this kind will be a thing of the past. They will be delivered

on-line and be available via terminals. Frankly, it is difficult to access the information in most of the reports; for example, I see that the committee noted the fact that the Flinders University report which is required to be tabled in this Parliament was not tabled. The Flinders University—and I was a member of the university council at that time—sent every member of Parliament a copy of the report. Perhaps the formality of tabling the report by the Minister in the Parliament so it is here in a central repository was not sufficiently attended to. In many other cases you will find that the similar situation exists: the authority prepares a report but does not comply with the formality of ensuring that it is tabled here. Whether or not that is the fault of the authority or of the Minister who has ministerial responsibility for that authority or the department is difficult to discern. One would have thought, though, that the boards of statutory authorities and, more particularly, their chief executive officers would ensure that all statutory requirements are complied with. One of the most notable examples in this Parliament in recent years of an authority which did not report was the Police Complaints Authority.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: The Hon. Angus Redford said, 'Two years.' I recall an occasion when the Attorney tabled two years' reports on one day; I think it was in 1995. They were most extensive reports. After a quick perusal, I was not able to see the Police Complaints Authority mentioned in the schedule. I am not entirely sure whether there is any reason for that, because there is a statutory obligation on that complaints authority to table its annual report with both the President and the Speaker in this Parliament.

The committee, in the Presiding Member's foreword, expresses particular concern about the tabling of reports in the health portfolio, with over 60 per cent of health sector bodies being tabled late. I heard some remarks made by the Hon. Anne Levy in this Chamber earlier on that subject. In his contribution on this motion, the Hon. Angus Redford has pointed out the comment of the Deputy Auditor-General. That statutory officer said:

> It would be unfair to be unduly critical of the delays which have been experienced because of the change in accounting methods.

However, this singling out of the health portfolio is not altogether fair. The committee acknowledges that there is presently no requirement and recommends that there be a requirement that all incorporated hospitals—

Members interjecting:

The Hon. R.D. LAWSON: I will read the recommendation on page 12:

> The committee believes that all incorporated hospitals and health centres should be required to provide an annual report to the Health Commission and the Minister for Health by no later than 30 June, and the Minister should be required to table the annual reports of major hospitals and health centres in Parliament. The committee believes that a determination of what constitutes a major hospital or health centre should be made by a Government based on the size of the organisation's budget.

As the committee acknowledges, all health units submit information to the Health Commission. As I understand from my knowledge of the operation of the Health Commission, the Health Commission units supply weekly statistics on everything from the number of teaspoons to the number of swabs consumed, and those reports are available to members of Parliament who choose to request the information or to question the Minister. The type of reports that are given by health units do not provide the sort of detail that some might say ought be required. The requirements under the Health Commission Act are that each hospital and centre present to the commission a report on the administration of health and that the commission is required to transmit a copy of that report to the Minister.

There is some comment about the mechanisms within the Health Commission for discharging that. The 30 November of each year is simply an administrative, not statutory, requirement of the Health Commission. Clearly that information is provided for the benefit of the Minister.

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: He is the one who fixes the time; he is the one who receives the report. The Hon. Anne Levy says that we are trying to get Modbury off the hook here. I am a member of the select committee examining the outsourcing of the management of the Modbury hospital. I have seen the reports that have been tabled over the years from the Modbury hospital, and they provide very little information.

Members interjecting:

The Hon. R.D. LAWSON: I have seen the annual reports over the years furnished by the board of the Modbury hospital under the governments of all persuasions, and the information is not particularly helpful: it is information of a fairly perfunctory kind. If you are going to complain about the timeliness of reporting, it seems to me far more appropriate to be complaining about the quality of reporting.

The Hon. Anne Levy interjecting:

The PRESIDENT: The Hon. Anne Levy has contributed to the debate. I would ask that she sit back and go to sleep after dinner.

The Hon. R.D. LAWSON: The middle of page 11 of the report states that the change in the accounting treatment does not 'explain the apparent failure of the Health Commission to have in place proper systems to ensure legislative reporting requirements are met'. I am not entirely sure what is meant there by 'legislative reporting requirements', because the report itself says that the 30 November date is a date which has been fixed by the commission itself as the date that it has elected to nominate. Frankly, it is a matter for the Health Commission if it is concerned about any of the activities of any incorporated health centre. It receives the information; the information is prepared for the Health Commission. It seems to me to be inappropriate—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: The Hon. Paul Holloway says, 'Parliament doesn't matter.' I am not for a moment suggesting that Parliament does not matter. What we are here dealing with is the timeliness of annual reporting. We are here dealing with the form required. The report comments consistently about the failure to meet the formal timing requirements. The report is concerned with—

The Hon. L.H. Davis interjecting:

The Hon. R.D. LAWSON: My colleague talks about private sector reporting: I will come back to that in a moment. The point I am here making is that one does not want to elevate form above substance. What we are here more concerned about is the content of reports, not the time they are delivered. In my view it is unfortunate to suggest that the mechanisms within the health portfolio are inadequate and then criticise it for failing to comply with them.

Members interjecting:

The PRESIDENT: Order! The two members who are interjecting have had their go. I suggest that they have a cup

of coffee or something while the honourable member finishes or we will not get out of here before 1 a.m.

The Hon. R.D. LAWSON: The committee quite properly acknowledges that 'delays in the preparation and presentation of annual reports of incorporated hospitals and health centres may not seriously impede the Health Commission in fulfilling its role in supervising and coordinating the delivery of health services in South Australia'. That is a most important point—that the delays in the preparation and presentation of these reports may not seriously impede the Health Commission in fulfilling is appropriate role.

The Chairman of the committee interjected about what is good for the private sector. Frankly, I think experience in private sector reporting would indicate that one should not place too great a reliance on the accounts. I learnt this lesson in the Royal Commission into the State Bank of South Australia. I had occasion to read all the glowing annual quarterly and half yearly reports produced by that august organisation and its subsidiaries, some of which were off balance sheet and some of which were not off balance sheet. It is interesting to recall that all the great corporate collapses of the 1980s—the Adelaide Steamship Company, Quintex, Bond Corporation, the Victorian Tricontinental and other organisations in that State, to the last one of them—occurred very shortly after they tabled audited reports which were free of any qualification whatsoever. All of them went to the wall with reports which, frankly, did not inform anyway, and the auditors are still reporting.

An honourable member interjecting:

The Hon. R.D. LAWSON: The point here is that one ought not place too much reliance upon reports of this kind—statutory formal reports. There is more substance to an organisation than what it puts in its annual report. Mere compliance with filing the report on the due date serves no real public interest. One should also—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: Indeed, as the honourable member says, quality rather than punctuality is the issue. There was adverse comment about the report of the South Australian Harness Racing Authority and the South Australian Thoroughbred Racing Authority—

The Hon. Anne Levy: Not about that—about the Minister's excuse.

The Hon. R.D. LAWSON: The Hon. Anne Levy used the debate for the purposes of haranguing the Minister for a response which she considered to be inappropriate. I do not know whether the committee ever bothered to look at the report that was tabled in this Parliament, but it was not a report of earth shattering or any other significance. I cannot say that any member of this Parliament would have been any the worse for the fact that the report was not tabled in time.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: I am not defending the board for failing to deliver a report. Obviously, there is a requirement—

The Hon. Anne Levy interjecting:

The Hon. R.D. LAWSON: Whatever reason the Minister gave, it was really nothing to the point. The obligation was on the particular statutory authority to ensure that its report was available for tabling. The fact that it did not ensure that its report was tabled within due time is a criticism about the form rather than the substance. It is not the fact that the Harness Racing Authority, the Minister or anyone else was trying to hide anything. Once the Parliament did receive the report, frankly, it was none the wiser. If any member had any requirement for any information about the activities of the authority, one could have made those inquiries. Bear in mind also that these reports are reports about what has happened in the past and, in many cases, do not refer at all to what is happening at the time the report is made or what is proposed for the future.

However, as I said, this is a timely report. It provides information about a number of statutory authorities, which is worth having on the record. I support the recommendation of the report that says that the Parliament and the public need further information about statutory authorities. I, too, support the recommendation that there ought to be a register of statutory authorities.

The Hon. L.H. DAVIS: I had no intention of speaking—I merely wanted to put it to a vote—but I must say that I have been gratified by the contributions made by the Hon. Anne Levy, the Hon. Angus Redford and the Hon. Robert Lawson. However, I must say that I have been slightly bemused by the observations of the Hon. Robert Lawson who, obviously, has had only a short time in which to examine the detailed report that was tabled this afternoon. Perhaps it is unfortunate that the honourable member has not been present in the Parliament for the same period as I, in the sense that the annual reports that were tabled by the State Bank, SGIC and SATCO were used by the Liberal Party in opposition to develop attacks on the previous Labor Government to underline our concerns about those three organisations, and in each case they were justified. I can say that with some feeling, because I was very much involved in those three cases.

The inadequacy of the quality of the reporting and the lateness of the reporting, particularly in relation to SGIC and SATCO—which my colleague the Hon. Robert Lucas would well remember—were examples of the very things that have been highlighted in the report tabled today. Certainly, this report deals more with timeliness than with substance, but the committee stands by what it said with force about the matter of timeliness; that is, it ill behoves a Parliament without sanction and with impunity to table reports that involve public money often years late, whereas in the private sector such behaviour is severely punished. I instance again that in the Stock Exchange, where well over 1 000 Australian companies are listed, if they breach the reporting requirement their shares are suspended on the Stock Exchange, they are fined and attract all the adverse publicity that necessarily goes with the failure to comply with ASX listing requirements.

One of the problems for the Parliament—and I am not talking about the Government, I am talking about the Parliament—is to set proper standards of accountability, for Ministers of the day and the statutory authorities to recognise that, and to ensure that those standards are followed. This is not a matter of low importance, in my view, whether we are talking about a statutory body with hundreds of millions of dollars or a statutory body which has an annual expenditure of only tens of thousands of dollars and which may have an impact on only a handful of people. It is a principle which is important. It is a standard which is important. I hope that the recommendations of the report are adopted.

Motion carried.

ANDERSON INQUIRY

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

That this Council directs the Attorney-General to table in the Legislative Council on Thursday 24 July 1997 a copy of the full

report prepared by Mr Tim Anderson QC into the conflict of interest allegations against the former Finance Minister, the Hon. Dale Baker MP.

The Opposition moves this motion in the full knowledge that this is unusual activity for the Legislative Council to be engaged in. This is an unusual motion. In my time in this Chamber I have not seen this type of motion put in such a way. The reason we have to do this is that we have a situation where this Government is in cover-up mode. This motion is no longer about the conflict of interest with the Hon. Dale Baker MP: this motion is required because of a conflict of interest by cowardly political people, namely, the Liberal Party and its parliamentary Leader. He is the person who has a conflict of interest at the present moment. It is a conflict of interest between what is right and proper for the people of South Australia and looking after the interests of his political Party in its decaying, rotten form, its faction-ridden and decaying mass.

He is trying to keep the scrutiny of the public away from the internal goings on of the Liberal Party and, therefore, the conflict that he has is whether he protects himself or whether he honours the rights of the public who have, after all, paid for the commissioning of this report. They have paid for the fees for Tim Anderson QC and, I understand, will be paying the fees for the Hon. Dale Baker. They have paid for this information: they have a right to know. It is disgraceful that this Government is doing everything it possibly can to deny the public its rights in this matter.

We need to look at the history of this matter. I refer to a press release of 4 April 1997 issued in the name of the Hon. Trevor Griffin MLC, headed 'Dale Baker cleared'. The press release said:

> The Attorney-General, Trevor Griffin, announced today that the Director of Public Prosecutions, Paul Rofe QC, has advised him and the Anti-Corruption Branch of the SA Police that in his view 'there is no evidence of criminal behaviour on the part of the Minister'.

That is important, because we are not talking about something that may be *sub judice*. There is nothing *sub judice* about this report, which was borne out of this press release. The press release continues:

> This finding relates to allegations made in relation to the investigation of the sale of a property named Gouldana in the State's South-East. . .

Then the first mention of Mr Tim Anderson QC is made. The press release says:

> As a result of this finding the inquiry by Mr Tim Anderson QC into allegations that Mr Baker had a conflict of interest in relation to the property will commence and is expected to be completed in about a month.

It is interesting that that was on 4 April: the report turned up last week. The terms of reference were attached. There were eight terms of reference in respect of this matter. The concluding paragraph in this press release put out by the Attorney-General is worth reading into the *Hansard*. It reads:

> It is proposed that the investigation concentrate solely on establishing the facts.

That is what Tim Anderson was charged with doing, that is, gathering the facts. We understand that that has occurred. It continues:

> The principles in relation to conflict of interest and the application of those principles to the facts are to be determined by the Premier and Government.
>
> The principles, the report and the Government response will be tabled in Parliament.

That was the advice that the Government gave to all South Australians, under the hand of the Hon. Trevor Griffin, MLC. We have seen an inquiry by Tim Anderson QC, touted very clearly to be an independent inquiry. They did not seek legal advice. They did not seek a brief from him for a prosecution or a defence; they wanted him to conduct an independent investigation and concentrate solely on establishing the facts. So, one assumes that after his investigations and inquiries Tim Anderson QC completed his task, and in the knowledge which he must have had in response to this particular press release and his letter of appointment, which I have not been able to see, but one assumes it would be in similar terms. He has gathered the facts and placed those before the Government.

Clearly, we then have a situation where the Government is on the horns of a dilemma. It has the report. It has a commitment to the people of South Australia who paid for the commissioning of this report. It has a commitment to table the principles, the report and the Government's response. No-one has seen the principles in relation to the conflict of interest and the application of those principles. Nobody knows how high the bar was set that the Minister for Finance had to clear, whether it was low or whether it was high. But it really does not matter, because the Premier himself has determined the conflict of interest in respect of Dale Baker, and he has sacked Dale Baker and in terms that he would not be returning to—

An honourable member interjecting:

The Hon. R.R. ROBERTS: We are not here to kick the carcass of Dale Baker. He has enough of his mates kicking his carcass, Mr President. The person who needs to be kicked here, besides the Hon. Angus Redford—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Thank you, Mr President, for your protection. This is not about kicking Dale Baker. Dale Baker is already dead.

The Hon. A.J. Redford: Kicking over his carcass.

The Hon. R.R. ROBERTS: We are not interested in his carcass. What we are interested in is the property of South Australia that they have paid for, commissioned and were promised but which has been denied them by two people in particular. The Premier—and we know what his motive is—does not want to see that old carcass of his Caucus dragged out so that the public can see the faction fighting and who has been involved in this particular scenario besides the Hon. Mr Dale Baker, former Minister for Finance.

The people who have been promised an open Government by the Premier are entitled to the property that belongs to them. They have a right to know what the Government is about, that it is covering up that situation. There are two people who have been involved in this from the start. The Premier, as I said, has himself made the decision. This matter has not been put before the Cabinet. I think that actually says something.

The Hon. A.J. Redford: How do you know?

The Hon. R.R. ROBERTS: Well, the Premier says it has not been put before the Cabinet. Even if the Premier had not said that it has never gone to Cabinet, I would have known and the public would have known that it has not been to the Cabinet, because we would have had a copy of it by now! This is why the Premier does not want to take it to Cabinet. It is not covered by Cabinet confidentiality. If they wanted to create an excuse for not making this document public they could look at it in two or three ways. It could have been a

private report by the Liberal Party, and it is being treated as though it was. This is the people's report. It is not the Liberals Party's right to say that it ought not to be seen by the public. They have a right to make up their own mind about it.

This matter is not *sub judice*. There are no criminal charges pending. In fact, back on 4 April it was very clear that there would be no criminal charges. So *sub judice* is not in question here. Cabinet confidentiality is not in question here. It has never been to the Cabinet. John Olsen could have fixed this by saying that it is going to Cabinet and that it now has Cabinet confidentiality. He is not game to do that. He has not reported on any of the stuff in the Hong Kong situation, which was part of the terms of reference. Nobody has ever seen any of that.

These are matters of serious concern to the people of South Australia. It is not a matter for the Premier himself, having guaranteed the people of South Australia that the principles, the report and the Government's response would be put on the table—not in an edited form, not a Julian Stefani form of a report. The whole report was expected to be laid on the table. People have paid out the money and deserve to see the evidence.

I think this motion has one sad aspect, in that it directs the Attorney-General to bring the matter forward. If the Premier had had any decency he would not have put his colleague the Attorney-General in this position. He would not have left this matter until the dying stages of this Parliament, in his attempt to cover up the facts. He would not have put his colleague the Attorney-General in the position in which we now find ourselves. This is not a new thing by the Opposition. I asked questions in this place a week ago whereby I pointed out that the Attorney-General was the only person who was going to be involved with this report, alongside the Premier, that he would be advising the Premier. He has duties to this Parliament and has duties to the Legislative Council. I warned, Mr President, that there could be a conflict of interest, and that has been ignored. Now we have the poor old Attorney-General who in my opinion has probably advised John Olsen that he ought to make the—

Members interjecting:

The PRESIDENT: Order! I think the honourable member ought to be addressed as the 'honourable member', not the 'poor old Attorney-General'. He does not fit that category so I suggest he be referred to as the Hon. the Attorney-General.

The Hon. R.R. ROBERTS: I apologise; I was forgetting his financial status. We have a situation where for the first time in our memory people like me, representing the Opposition, and the Australian Democrats are in a position where they have been denied lawful information. I think there are some grounds for concern by the Australian Democrats, because it was, as we well remember, the recommendation of the Attorney-General to the Hon. Mike Elliott that he ought to bring forward his evidence, if he thought he had something. He denied that there was any chance of any impropriety and invited the Hon. Mike Elliott to go to the police and put forward his evidence—which precipitated this particular inquiry and which was being conducted at taxpayers' expense, and they deserve better treatment by this Premier and by this Government.

This information ought to be made available tomorrow so that we may have at least one day for scrutiny of the particulars of that report and so that this Parliament can pass its judgment on its contents. I fully expect the Attorney-General and other speakers opposite to take up the challenge of this matter. I expect that someone will suggest to me that the Attorney-General may well be barred from producing that document. The Government will claim legal professional privilege for Tim Anderson QC's report. I expect that the Government will claim that it hired Tim Anderson as its legal counsel, that his report to it is private legal advice that is privileged and, once privilege is claimed by the Government as the client, the contents of the advice may not be disclosed to any other party.

Let us put that idea to bed before members opposite even raise it. He was not engaged as their legal counsel: he was engaged as an independent investigator to establish the facts. He was not there to present legal advice or present it as a defence or for a prosecution: he was the independent investigator. The trouble with the Government's argument about legal professional privilege in this instance is that the client has released some of the advice.

Indeed, if the Government's assertion that he was its legal counsel is correct, I can only say that the client has released some of its advice to a third party, namely, the public, for the purpose of using it for its own political advantage. That is what they have done. I am advised that current legal thinking in these matters is that the Government cannot then claim legal professional privilege for the balance of the information. This is especially so when there is no prospect of a trial.

What we really have is no Cabinet confidentiality and no *sub judice* matter: all we have is a Premier who is terrified that the failings of his shabby old Cabinet and shabby old Party will be revealed to the people of South Australia and that they will know what he is all about. He is petrified because he is about to go to an election and does not want the people to know the sort of people whom he wants then to put back into the hallowed halls of Parliament to represent them in the future. I listen to the lame excuses, and I look forward to the summings-up of members opposite. I also look forward to listening to the contribution of the Democrats, who have played a credible role in the investigation of these matters.

The Hon. A.J. Redford: Have you thought this through yet, Ron? What will you do if he doesn't comply?

The Hon. R.R. ROBERTS: I am certain that all the legal advice that the Government can get at taxpayers' expense has already been put into motion. They know what the options are, and we know what the options are. Let us take it one step at a time.

The Hon. A.J. Redford: What are they? Come on!

The Hon. R.R. ROBERTS: I know what they are. I do not want to see my colleague the Attorney-General with his collar felt; I do not want to see him up on his tippy toes being trundled out of this place. I hope that the Premier will show the same loyalty and respect to the Attorney-General as the Attorney has shown to him. I do not want the Premier to show the same disrespect to the Attorney-General as he has shown to the public of South Australia. I sincerely hope that this motion is carried and that, for once, the Liberal Party will allow one of its more credible performers to do the honourable thing by presenting that report tomorrow at the direction of the Legislative Council, as he would be duty bound to do.

There is one thing I have noticed about the Attorney-General: he tries to do his duty within the Parliament. The only thing that would stop the Attorney-General from doing his duty would be a direction from a political Party that does not deserve the sort of loyalty that he gives. I invite the rest of the members in this Chamber to join with me in passing this motion and in giving this direction on behalf of the people of South Australia. The people of South Australia

cannot go to the Premier. We are their elected representatives. We have only a couple of days before this session ends. They have a right to know what they have paid for, and I invite members of the Chamber to support the motion.

The Hon. M.J. ELLIOTT: I rise to support the motion. I do not intend to speak at great length because I think that, frankly, the issues have already been largely canvassed. This issue can be taken back to the first Wednesday that we sat this year when questions were asked in this place—questions which the Government chose not to answer. The reason we are here right now is that the Government was asked a series of direct questions in February this year that it chose not to answer.

The Hon. R.R. Roberts: Feel guilty!

The Hon. M.J. ELLIOTT: That's right; they said there wasn't a problem and simply wanted to talk their way out of it. A Government that says 'Trust us' was asked a series of straight questions. No allegations were made on that first day. There were 13 direct questions, which were not answered. When those direct questions were not answered, further questions were asked. There was a police inquiry but, in the absence of direct answers to the questions which focused on conflict of interest, the Government said, 'Look, if a police inquiry finds that everything is all clear, that is the end of the matter.'

It was argued both inside and outside this place that the police would not investigate a matter of conflict of interest, other than where it might relate to a criminal matter, but would certainly not make any findings of conflict of interest *per se* and that that could not be done by the police.

It was as a consequence of that that a select committee of this place was established to look at the issues of conflict of interest—the questions that had been asked during Question Time still not having been answered. At that stage the Government responded by establishing the Anderson inquiry and argued that it was preferable to have such an inquiry than a select committee. It put forward all sorts of arguments why it thought the Anderson inquiry would be better.

It should be noted that, other than having an initial meeting, the select committee did not meet again. The select committee allowed the police inquiry to run its course and it allowed the Anderson inquiry to run its course.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Okay. Just let me finish. There was also a clear understanding at the time that the Anderson inquiry was established—and you need only read the terms of reference and take note of what has been said by Mr Anderson himself to realise this—that the full report would be released. That was a quite separate question from whether or not transcripts of evidence would be released. It was made quite clear at the time that transcripts would not be made available.

For his own reasons, the Premier—and I do not know whose counsel he took—then decided not to release the report. Well, he decided to release chapter one of what is apparently a nine chapter report, and we have a clear understanding that the report covers issues beyond those that are covered in the findings.

The Hon. L.H. Davis: Dale Baker's gone.

The Hon. M.J. ELLIOTT: You have just missed the point that I made, in that there were issues beyond the findings and beyond conflict of interest that will have—

The Hon. L.H. Davis: The Anderson report has been referred back.

The Hon. M.J. ELLIOTT: The Anderson report has been referred back to whom?

The Hon. L.H. Davis: The DPP.

The Hon. M.J. ELLIOTT: What you are talking about is criminal charges. I have not talked—

The Hon. A.J. Redford: You did so.

The Hon. M.J. ELLIOTT: I have not in this debate made any mention whatsoever—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: If I can finish: in this debate I have not made any mention of the fact that there may or may not be any criminal activities referred to within the rest of the report. What I have said is that other issues are covered within the body of the report that are not covered by the findings.

The Hon. R.I. Lucas: Such as?

The Hon. M.J. ELLIOTT: We do not know because we have not seen it, you clown! That is precisely why we are having this debate right now.

The PRESIDENT: Order! I know that emotions run high on some of these matters.

The Hon. M.J. ELLIOTT: You tell him to shut up.

The PRESIDENT: Order! I will, if the honourable member wants me to, and I might tell him to sit down, and that will be the end of his contribution if he goes down that track. I suggest that the honourable member control his emotions. He does not have to call members by unparliamentary names. That is not necessary. He can put his point of view and use reasonable language. That is all I ask of the honourable member.

The Hon. M.J. ELLIOTT: Thank you, Mr President. The very point that was being made was that we do not know what else was covered in the report, given that there was a clear understanding that the full report was to be released. This Parliament has been through a virtual circus which was created by the Government on the first Wednesday of sitting in February this year. The Government talks about accountability but then runs away from it at every opportunity. The Government has refused to answer questions. It said that an inquiry was not necessary but, when the select committee was established, it set up an inquiry and promised that it would release the full report. However, when the report became available, it did not release the full report.

It released only one of nine chapters of the report, and the excuse it has offered is that that was done to protect witnesses; yet we know that all the witnesses were told beforehand that the report would be released. They were told that the transcripts would not be released—other than, perhaps, to people about whom specific allegations had been made. So, they knew that the transcripts would not be released but they also knew that the report was to be released.

I also understand that the report was written cognisant of the fact that it was to be released and, therefore, the concerns of witnesses would need to be taken into account. So, the one excuse that the Premier has offered simply does not hold water. If the Government is serious about accountability, it can solve all this here and now. People outside this place cannot understand why the decision was made not to release the full report.

Members interjecting:

The Hon. M.J. ELLIOTT: They cannot understand it, and the only—

The Hon. L.H. Davis: You are doing about as well as a rabbit at the South Pole.

The Hon. M.J. ELLIOTT: You would be something of an expert on those sort of things, I am sure, scurrying around your little holes. By its behaviour, the Government has brought matters to their current position. The only matter of debate that may be left is whether or not this Parliament has the capacity to ask for such papers to be made available to it.

The Hon. L.H. Davis: I suppose you consulted Ian Gilfillan and he said 'Yes.'

The Hon. M.J. ELLIOTT: Well, what I would cite is the case of *Egan v. Willis and Cahill* before the Supreme Court of the New South Wales Court of Appeal. I invite the Hon. Legh Davis, who probably knows nothing about this, to read that case. I refer him to the points which were held within the findings, and the first two are important and relevant. The first is 'that the Legislative Council has such implied or inherent powers as are reasonably necessary for its existence and for the proper exercise of its functions,' and the case of *Barton v. Taylor* 1886 and several other cases were cited.

The second point was that 'a power to order the production of State papers is reasonably necessary for the proper exercise by the Legislative Council of its functions,' and *Quin v. The United States* 1954 was cited. A similar situation to this was created in the New South Wales Parliament when the Treasurer, Mr Egan, was requested to table papers and, at the end of the day, although it went through rather a convoluted course, it led to a case before the Legislative Council. It looked at a number of questions, and some of those will never be relevant to this issue. However, it is quite clear from the findings of the Supreme Court in the New South Wales Court of Appeal that a Legislative Council has power to order the production of State papers. I support the motion.

The Hon. A.J. REDFORD: I oppose the motion, and I do so on the basis of some important principles. I will deal with some of the Opposition arguments and the arguments of the Hon. Michael Elliott during the course of my contribution. As has been demonstrated by the media coverage of the last couple of days, I expect that we will get some sort of glib media report and, given the standard of the report today, none of the important arguments that have been put by the Government in support of the principles that have been advanced by the Premier will be revealed.

Unlike the Opposition, I will endeavour to deal with some of the arguments of principle, and I will also endeavour to deal with some of the arguments put by the Hon. Michael Elliott. In some respects, in terms of dealing with some very significant and very important principles—for example, the tension between Executive Government and legislative Government—this motion reminds me of the following statement that was made by Jesus before dying on the cross, and it sums up my attitude to the Opposition on this issue:

> Father, forgive them, for they know not what they do.

Indeed, this motion and the motion that is likely to follow tomorrow raise some very important, complex and competing constitutional issues. In short, they raise issues such as the question of the Attorney-General's responsibility to Parliament, his duty as a member of Cabinet and, importantly, and one which has been completely overlooked by the Opposition and the Hon. Michael Elliott, his duty as the first law officer of this State to his court and to the ethical obligations with which he must comply as a legal practitioner.

The second important issue is the tension between the Executive arm of Government and the legislative arm of Government. The third matter is associated with questions dealing with legal professional privilege. Finally, there is a potential of real tension between the two Houses of Parliament, that is, the Legislative Council and the House of Assembly.

It is incumbent on me to deal briefly with some of the background facts, although I note that the Hon. Michael Elliott touched on some of the initial matters in his contribution. This matter was brought to the attention of this place by the Hon. Michael Elliott when he asked a series of questions on 5 February. On 6 February, certain answers were given by the Minister, the Hon. Dale Baker.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: The Hon. Michael Elliott, who interjects in the background, says that there were no answers to those questions, and that is a matter for his judgment. Some might disagree. Following that matter, the Hon. Ron Roberts moved for the establishment of a select committee to inquire into the conduct of the honourable member in relation to the sale of the property known as Gouldana, in the South-East. Following the establishment of that select committee, the Premier gave a ministerial statement on 12 February 1997 in which he said:

> Mr Speaker, if the inquiry by the Anti-Corruption Branch does not deal with the allegations of conflict of interest by Mr Dale Baker, I have arranged for the Crown Solicitor to inquire into them. To that end, the Crown Solicitor has recommended that Mr T.R. Anderson QC undertake the work and has engaged him for that purpose.

Not happy to lead the process of a criminal investigation and a subsequent investigation by the Crown Law office into the conduct of the Minister, a series of radio interviews were given by the Hon. Mike Elliott and the Deputy Leader of the Opposition in another place. Following that, on Tuesday 4 March 1997, the select committee met and certain discussions took place. Despite what the Hon. Ron Roberts has said publicly and what the Hon. Michael Elliott has said in this place, the select committee resolved to continue to do its work notwithstanding an existing police inquiry and the fact that the Government had given an undertaking for Mr Anderson QC to conduct an inquiry. At that meeting of the select committee I moved this motion:

> That the select committee does not proceed during the investigation undertaken by the Anti-Corruption Branch.

That motion was moved and seconded; the committee divided and the motion was lost.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: The Hon. Michael Elliott interjects in the background that I should not be referring to this, but the fact is that that motion was moved, and the Hons. Mike Elliott and Ron Roberts have been publicly telling the media that this inquiry was not proceeding. The select committee was awaiting the police inquiry and the inquiry of Mr Tim Anderson. The fact is—

The Hon. M.J. Elliott: How many meetings did we have?

The Hon. A.J. REDFORD: I will come to that in a minute. The fact is that that did not occur. The Hon. Michael Elliott asks 'How many meetings did we have?' The short answer is 'None.' I will tell the honourable member and members generally what happened: in the intervening period, five advertisements were placed in a newspaper. If that is not the continuation of an inquiry, I do not know what is. Information, albeit poor information, was provided to the select committee, which would indicate that the inquiry was

continuing. The simple motion that the inquiry not proceed until these matters were dealt with was lost, and it was lost on Party lines.

The reason it was lost on Party lines is because the likes of the Hon. Ron Roberts and the Hon. Michael Elliott wanted to continue to grandstand while a serious and important investigation into the future of a senior member of our community, that is, a Cabinet Minister, was being dealt with in accordance with the law and proper process. But members opposite were not happy with that: they wanted to play politics; but they do not need to go to the media, as happened on one occasion, and mislead the media as to what occurred within that meeting. The second thing that occurred—

Members interjecting:

The Hon. A.J. REDFORD: The fact is that, if you want to play politics with this, you will get it brought up to you.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. Holloway: You're changing history.

The Hon. A.J. REDFORD: The Hon. Paul Holloway says that I am changing history. I have minutes to back up what I am saying. Members opposite mislead the media and then have to be corrected by a display of the minutes. I know what the media was told because I was asked to comment, and they were told something quite different from that.

The Hon. P. Holloway: You are changing history.

The Hon. A.J. REDFORD: I am not changing history, and the Hon. Michael Elliott said in his contribution just 10 minutes ago that the select committee did not proceed during the course of the inquiry. I have just demonstrated, by reference to the minutes, that it did proceed, and if members opposite want me to table the advertisements I am happy to do so, although I will need to seek leave, but they indicate that the committee proceeded. So, do not come into this place and tell fibs. Secondly, following the establishment of the select committee and while the Hon. Ron Roberts was saying, 'We are not having a select committee: we are doing the right and proper thing'—although we all now know that that was not the case—the inquiry proceeded.

The Hon. R.R. Roberts: When did I say that?

The Hon. A.J. REDFORD: The Hon. Ron Roberts challenges me and asks where he said that. The honourable member went to the media and said, 'It is not proceeding.'

The Hon. R.R. Roberts: That is a straight-out lie.

The Hon. A.J. REDFORD: That is not a lie: you did.

The Hon. R.R. Roberts: Where is the press release? You are making this up as you go along.

The Hon. A.J. REDFORD: I am not making it up. The next thing that occurred is that a press release dated 4 April 1997 announced that Dale Baker had been cleared of any criminal misconduct by the police inquiry. Indeed, the police, on their own motion, referred the file to the Director of Public Prosecutions who looked at the file and the facts and determined that there was no criminal conduct and 'no evidence of criminal behaviour on the part of the Minister'. In accordance with what the Government had undertaken to do, through the Premier and his ministerial statement to the other place, it appointed Tim Anderson to inquire into and report on various issues.

Those terms of reference formed part of the press release which was issued by the Attorney-General and which was made publicly available. It was a detailed term of reference, and it is important to note that Mr Tim Anderson was appointed by the Crown Solicitor. Appendix 1 indicates that the investigation was established 'by a letter from the Crown Solicitor to the person appointed'. The term of reference indicated no special powers of compulsion, and the like, and indicated the types of procedures that Mr Anderson QC ought to follow in dealing with this matter.

The Hon. R.R. Roberts: What does the last paragraph say?

The Hon. A.J. REDFORD: It states:

> The principles, the report and the Government response will be tabled in Parliament.

I accept that was what was said, but I will deal with that in a minute. Following that, the Anderson report was delivered, as I understand it, to the Premier on 4 July, six days before he reported on it. I note that immediately following the delivery of that report, we heard howls and cries from the Opposition that the Premier ought to make his decision immediately. Notwithstanding the fact that a precedent had been set by the Hon. John Bannon in the Hon. Barbara Wiese inquiry when two weeks was given, the Opposition, in its usual application of double standards—

Members interjecting:

The PRESIDENT: Order! I remind the Hon. Angus Redford that he is out of order when he refers to the select committee. It is before the Parliament at the moment and he cannot do that. He has ranged into it at this stage. I have let it go but it is continuing. I draw his attention to the fact that he cannot refer to the select committee because it is before the Parliament at the moment.

The Hon. A.J. REDFORD: I accept your ruling, Mr President, but I have been going through the Anderson report and how the Government dealt with it after it was received.

The PRESIDENT: You have been referring to the select committee, and the fact that it has been advertising.

The Hon. A.J. REDFORD: I am sorry, Mr President, and if you tell me that I am out of order in saying this, then I will accept your ruling. I have said to this place that the Anderson report had been delivered to the Premier, and I was dealing with the Opposition's criticism about the length of time it took the Premier to deal with the issue and make his ministerial statement. The report was delivered to the Premier on 4 July and the Premier made his statement to the Parliament on 10 July. I am not sure how that involves the select committee, but if it does I will accept your ruling, Mr President. If I am allowed to talk about that, then I will proceed to talk about that. I am just confused at the moment.

Members interjecting:

The PRESIDENT: Order! We only need one at a time in here. Prior to that, you were referring to actions of the select committee, that is, the fact that it was advertising, and so on. It is not what the committee was discussing, but it involved factors that were attached to the select committee, and that is really before the Parliament.

The Hon. A.J. REDFORD: With due respect, Mr President, I will come back to that. It is appropriate that the matter be dealt with at the time, and then we could have debated the matter at that time.

The PRESIDENT: I am ruling it out of order, anyway.

The Hon. A.J. REDFORD: Mr President, are you ruling out of order what I am dealing with now?

The PRESIDENT: No.

The Hon. A.J. REDFORD: I am sorry, Mr President. I am confused, because I dealt with the select committee issue—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: —without any complaint from anybody and without any point of order. I then dealt with how the Government and the Opposition dealt with the delivery of the report to the Premier, and then you, Mr President, picked me up on the select committee. I am confused. Because I did not get picked up at the appropriate time, it makes it difficult for me to know how to follow your ruling.

The PRESIDENT: Order! The honourable member is confused. I just remind him not to go back to the select committee. I have allowed him to range far and wide. However, I am suggesting that he does not refer back to—

The Hon. A.J. REDFORD: Well, Mr President—

The PRESIDENT: Order! The honourable member will take his seat when I am speaking. I suggest that the honourable member does not, in future debate, refer to the select committee, its findings or its actions.

The Hon. A.J. REDFORD: Mr President, I will deal with that issue. Can I put a point of view before you make a ruling, even though I am not dealing with the select committee?

The PRESIDENT: Order! I make the suggestion that the honourable member get on with the debate.

The Hon. A.J. REDFORD: Mr President, is it your ruling that, given that the select committee is dealing with this issue and there are matters within the select committee that are pertinent to this issue, I am not allowed to deal with it?

The PRESIDENT: That is right.

The Hon. A.J. REDFORD: In other words, is it your ruling that I cannot properly deal with this debate and properly put before the members of this place the full details about that? If that is the case, then the system is wrong.

The PRESIDENT: Order! The honourable member cannot refer to the proceedings of the select committee.

The Hon. T.G. Cameron: But you've already made—

The PRESIDENT: Order! I don't need your help. The honourable member cannot refer to the proceedings of the select committee; Standing Orders do not allow it. You have, and I have let it go. All I am suggesting is that you do not do it in the rest of your debate.

The Hon. A.J. REDFORD: I did not refer to the evidence, because the motion is we are allowed to refer to the evidence. If the issue—

The PRESIDENT: Order! I have ruled on the matter, and I am asking you to abide by that ruling; that is all.

The Hon. A.J. REDFORD: All right, Mr President, you make it very difficult for me by not dealing with the matter at the appropriate time, because I do not understand your ruling. I mean no disrespect, but I will come back to it, and I may draw your attention to a particular issue. I was dealing with—and I think I am permitted to deal with this—the manner in which the Opposition dealt with the delivery of the report to the Premier. As I was saying, before I was interrupted, the Opposition expected the Government to deal with this immediately, notwithstanding that a precedent had been set in dealing with the Barbara Wiese report where the then Premier took some 14 days in which to respond to the report. It just indicates the double standards that have been applied by the Opposition in dealing with this issue.

In his ministerial statement, the Premier said:

> Mr Anderson indicates, and I quote:
>
> At the commencement of each interview, I advised the persons attending that Mr Baker would be informed of any matters which might give rise to facts capable of supporting an adverse finding against him. All persons interviewed were informed, firstly, that the transcript of their interview with me would remain confidential but, secondly, that the Minister would be informed by me of matters potentially adverse to him.

The Premier went on:

> In that part of the report which forms the basis for the findings, some witnesses are referred to by name where they are not referred to in the findings themselves. On the basis of what I have indicated is my decision in relation to Mr Baker's future, and on the basis that it is not necessary to have the names of those witnesses brought into the public spotlight, and to respect the principle of confidentiality. . .

In other words, the Premier was saying that what Mr Anderson had said to the witnesses changed the ground rules—changed the circumstances from that which existed at the time of the establishment of the inquiry. In other words, despite the fact that the Premier had given an undertaking that this report would be made publicly available, the actions of Mr Anderson, in giving certain undertakings about information remaining confidential, changed the ground rules. I do not profess to know why Mr Anderson made those statements to the witnesses. However, one might assume that those statements were made to the witnesses assuming that witnesses would be less than forthcoming in the giving of evidence if such an undertaking had not been given. Indeed, one might assume that—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: Are you referring to the evidence? One might assume that if witnesses are led to believe that they can give evidence on the basis of confidentiality, that confidentiality ought to be respected. Indeed, there is a real risk that if people came forward on the basis that their information would be kept confidential and that confidentiality was not respected, then future inquiries of this nature would be impinged upon and the public would not have confidence in statements made by people of the standing and in the position of Mr Anderson concerning issues of confidentiality. Those issues have been made clear by the Premier in justifying his decision in not releasing the information. I know that the Hon. Mike Elliott and the Opposition do not accept that as a proposition. I know that occasionally the Opposition and the Hon. Michael Elliott get really legalistic and say, 'They only gave the undertaking in relation to the transcript.' That hardly fills a witness with confidence that, whilst his transcript might not be released publicly, a name will be put in a report and substantial parts of the transcript or assertions from the transcript might well be put in the report. The fact of the matter is—

Members interjecting:

The Hon. A.J. REDFORD: Mr President, am I going to get your protection or not?

The PRESIDENT: Order!

The Hon. A.J. REDFORD: It is not unreasonable to assume that these witnesses, having been told that the transcript of their evidence would not be made public, also assumed that their names and the effect—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! Members can see the effect of their interjecting.

The Hon. A.J. REDFORD: We can see or understand—or at least suspect—that witnesses who gave evidence on the basis that the transcript of their evidence would not be made public would also be just as concerned if their names and the effect of their evidence contained within a report were also

made public. That is a judgment that the Premier is entitled to make because, at the end of the day, the Premier commissioned this report for a specific purpose—and the purpose, which was set out in the terms of reference, was to determine whether or not the honourable member had in fact got himself into a position of conflict of interest and thereby breached the ministerial code of conduct. Having reached that point and determined that positively, and having dealt with the matter by imposing as great a sanction as possibly could be imposed by the Premier on the honourable member—that is, that he was not returning to Cabinet now or ever—he felt that that was the end of the matter: and he gave that statement and did so openly.

I know that a statement was made by the honourable member disputing the findings of the inquiry but, at the end of the day, the Premier chose to deal with the matter in the manner that he did. It is important to understand how the Liberal Party works. Unlike the Labor Party, the Liberal Party elects its Leader and the Leader has the sole responsibility for determining who should or should not either be or remain in the Cabinet. So, when one analyses the chain of command in this whole process of investigation one can assume that the Premier instructed the Attorney-General to make an inquiry and that the Attorney-General got the Crown Solicitor to embark upon that inquiry. We are now getting into a legal world. From there the Crown Solicitor engaged Mr Anderson QC to make certain determinations in relation to that inquiry.

Whilst the terms of reference provided that one must determine the facts, it is important to understand that in determining those facts there was an element of judgment to be made by Mr Anderson—and it was not just a question of determining facts but also a question of determining whether or not those facts comprised a conflict of interest. Indeed, if one looks at chapter 1 of the report, which has been disclosed, that is exactly what he did. Following that and out of an abundance of caution the Attorney-General referred the matter back to the Director of Public Prosecutions and asked the Director of Public Prosecutions to peruse the whole of the report. The Director did so and, in response on 16 July, he stated:

> I have read the report and while the report contains more detail than was known to me at the time I made my original assessment none of the detail alters my view that there are no criminal offences disclosed on the facts.

Following that, the select committee resumed. Whilst I will respect your ruling, Mr President, and note that there is a rule under Standing Orders, the terms of reference of the select committee permit members to refer to evidence given by witnesses. I mean no disrespect if I seek to go down that path, but if anyone objects—

The PRESIDENT: I would ask the honourable member to look at Standing Order 190, which does not allow a reference to proceedings or to evidence given to a committee until that committee reports to the Parliament, which this committee has not.

The Hon. A.J. REDFORD: With due respect—and I do not want this ruling to be made on the run—the terms of reference of the select committee permit members to make comments about the evidence. That is contained in the terms of reference. I accept that the Standing Order is a general Standing Order, but this place—the Legislative Council—made an exception to that ruling when it set up the terms of reference of the select committee: it said that members are permitted to comment on the evidence. However, if you rule against me, Mr President, I will accept your ruling.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: And I have been rolled in the past, too. If the President wants to rule me out of order, fine.

The PRESIDENT: Order! It can be brought up outside the Parliament but it cannot be brought up in the Parliament. I would ask the honourable member to look at Standing Order 190; one cannot refer to it in the Parliament. I rule that way, and if the honourable member does not like it that is tough. The Hon. Angus Redford.

The Hon. A.J. REDFORD: I am forced to accept your ruling, Mr President, but I do so under the greatest protest. This goes to the heart of the matter. The fact of the matter—

The Hon. T. CROTHERS: On a point of order, Mr President. The honourable member has reflected on the Chair. I ask you to direct him to apologise to you for that reflection, that he is taking exception to your ruling.

The PRESIDENT: Let us not get too wound up and too emotional about this. I understand that the honourable member wants to put his point of view. I have ruled that he cannot refer to evidence given to the select committee. I am asking him to obey that ruling at this stage. The Hon. Angus Redford.

The Hon. A.J. REDFORD: I will endeavour to deal with this matter with one hand tied behind my back. I think that there are two important principles: first, the Attorney-General's responsibility as an officer of the court; and the issue of legal professional privilege. In that regard it is important to understand that the Attorney-General is the first law officer of this State: he is bound by the ethics and the duties of the legal profession and he is subject to the principle of legal professional privilege. Because a number of comments have been made here and in other places about what legal professional privilege is, it is explained in *Cross on Evidence* (page 691) as follows:

> In civil and criminal cases, confidential communications passing between a client and a legal adviser need not be given in evidence or otherwise disclosed by the client, and without the client's consent may not be given in evidence or otherwise disclosed by the legal adviser if made either—
>
> 1. to enable the client to obtain or the adviser to give legal advice, or
> 2. with reference to litigation that is actually taking place or was or is in contemplation of the client.

In this case the privilege, as I understand it, has been claimed. It is important to understand—and the Hon. Ron Roberts referred to this in his contribution, that there is no *sub judice* in this matter—that legal professional privilege applies whether or not a matter is *sub judice*. In other words, where a person seeks advice from a lawyer on day-to-day business it does not necessarily follow that it does not attract legal professional privilege if there are no legal proceedings. If a person goes to a legal adviser seeking advice about what is to go into their will or whatever, that is the subject of legal professional privilege. For members opposite—and I appreciate their limitations—I also refer to *Cross on Evidence* (page 703), which states:

> Legal professional privilege is not merely a procedural right exercisable in judicial and quasi-judicial proceedings. It is a right generally conferred by law to protect from compulsory disclosure, confidential communications falling within the privilege.

In this case a communication from Mr Anderson to the Crown Solicitor, then to the Attorney-General, was for the purpose of giving legal advice to the Premier to enable him to make his decision. It seems to me that to require the

Attorney to disclose this document puts him in a dilemma. Does he comply with the decision of this place—and we all know what that decision will be—or does he comply with his ethical duty?

It is my view that the motion is grossly unfair to the Attorney-General and his obligations to his client as the first law officer of this State, and if one wants to enter the political domain it would be grossly unfair to those people who gave evidence to Mr Anderson. The purpose of the rule is important. The purpose of the rule is consistent with why the Premier is saying that this report should not be disclosed. Again I return to the legal text of *Cross on Evidence* (page 717) which sets out why there is a rule of legal professional privilege, as follows:

> The rationale of the rule concerning legal professional privilege was succinctly stated by Lord Langdale MR in *Reece v Trye* when he said:
>
> > The unrestricted communication between parties and their professional advisers has been considered to be of such importance as to make it advisable to protect it even by the concealment of matter without the discovery of which the truth of the case cannot be is ascertained.
>
> Candour is essential, and the subject matter with regard to which legal advice is sought, as well as the circumstances in which it has to be given, often renders it improbable that the fullest confidences would be exchanged if communications between the client and his adviser had to be disclosed.

If one looks at that, the fact is that that fits fairly and squarely within the reason why we have legal professional privilege, namely, to enable people to communicate with legal advisers with candour and with openness. That is what Mr Anderson did and that is what Mr Anderson led the witnesses to believe. It is that very important principle for which some lawyers have gone to gaol and, if any member is a member of Amnesty International, they will understand that there are lawyers in gaol in some parts of the world today who are seeking to uphold that principle of legal professional privilege.

At the end of the day, the sanctions which are available to a court for someone who breaches legal professional privilege and which are available to the legal profession ultimately could lead to disbarment and, indeed, in some cases could lead to a contempt of court: they are very serious. At the end of the day, this motion would ask the Attorney-General to resolve an impossible dilemma. What does he follow? His ethical duties, his duty to his client and his duty to the principle of legal professional privilege; or does he follow a Party-political vote in the Legislative Council on a principle which has been dealt and on which the former Minister has been dealt? At the end of the day—

Members interjecting:

The PRESIDENT: Order, the Hon. Trevor Crothers!

The Hon. A.J. REDFORD: At the end of the day, I ask: who has the high moral principle in this case? Is it members opposite who have already got their body and their Minister and for idle curiosity are seeking information in the balance of the report? Is that the high moral ground or is the high moral ground that of the Attorney-General and that of the Premier to seek to protect the integrity and the undertakings given by Mr Anderson QC? Is the high moral principle—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: Is the high moral principle the protection of the integrity of future inquiries of this nature—and, unfortunately, we have them on a more regular basis than most Governments would like? Is that the important principle or is it just their idle curiosity? That is the important question in this matter.

The other issue is whether or not there is an Executive privilege in this matter. That is dealt with in the publication Odgers' *Australian Senate Practice*. Although I do not think it has occurred until this point, it is open for the Government to claim some Executive privilege. I will not go into it in any detail, but it is an issue of some importance because, despite being challenged during the course of his contribution, the Hon. Ron Roberts failed and refused to say in this place what sanction he would seek to apply to the Attorney-General if he failed to comply with this motion. The honourable member will not come out from behind the closet and say what he wants to do to the Attorney. Quite frankly, I will not use the term 'gutless', but some might.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: There is no doubt that members opposite have the power to do what they are seeking to do. It is a question of whether it is right or wrong. Members opposite want to play politics with this. They have got their end result, but they want to take it further. They sit in this place on occasions and say, 'We like Dale Baker. We think he is a good bloke. We are not seeking to kick him,' but as soon as we turn around they are kicking and thumping away. Then they seek to come into this place, move a motion such as this and claim high moral ground. There is no high moral ground about anything that the Opposition has done on this matter.

Indeed, there is plenty of precedent, and I invite members opposite to look at it. There were many occasions in the Federal Senate under the previous Labor Government where Ministers, including the then Attorney-General (Gareth Evans), refused to provide documents, notwithstanding motions made by the Senate. It is enlightening to read Odgers because on no occasion has any sanction been sought to be applied against any Minister in the Federal Parliament for failing to comply with a motion of this nature. That is why I am interested to know what the Hon. Ron Roberts has in mind should the Attorney-General fail to comply with this. The honourable member will not tell us.

An honourable member interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says, 'What relevance is it?' Of course, it is relevant. If Opposition members carry a motion, we would like to know what happens if the motion is not complied with. Is that not a reasonable expectation? I will be surprised if the honourable member thinks it is unreasonable. In closing—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: —I reiterate the Premier's reasons. It is a matter of principle. I am sure that those few members of the press who might actually pick up what I have said would agree that, if it was released, notwithstanding any imagination as to what might be in this report—

Members interjecting:

The PRESIDENT: Order, the Hon. Terry Cameron!

The Hon. A.J. REDFORD: Notwithstanding anything that might come from this report, it is a two day story, and that is it. Notwithstanding that, the Premier is standing by an issue of principle. He is standing by what was said by Mr Anderson unbeknown to the Premier—

An honourable member: It's a cover-up.

The Hon. A.J. REDFORD: —and uncontrolled by the Premier to various witnesses. He is standing up as a matter

of principle. Members opposite can cry 'Cover up' all they like. They have got their body. They have got what they wanted. They have got what they sought to do. Secondly, they have demonstrated no understanding, no sympathy and no empathy for the dilemma in which the Attorney-General would be placed if this motion is passed. Does he comply with his ethical duties as a legal practitioner or does he comply with a motion of this place? This is not a sufficiently important and significant matter to require the Attorney-General to rest on that horn of a dilemma.

Finally, I make the point that this is purely political. No issue has been raised, other than curiosity, as to why the Opposition requires the balance of this report. That is all it is: 'I want to see.' I have no doubt—

An honourable member: Do you know what's in it?

The Hon. A.J. REDFORD: No, and I have no interest in what is in it. The fact is that it has achieved its purpose. All we have had is idle curiosity. I know that the media share a similar curiosity. I know also that the press, in order to satisfy their own curiosity, will in their editorials in the next week or so demand that the Government uphold the principle of open government. However, the fact is that there is a far more important principle, and it is one to which the Government will adhere.

If one examines the conduct of the Opposition and the process of the select committee in conjunction with the other matters, one will see that this is simply a base political stunt that has nothing to do with any high moral principle or with getting to the bottom of anything which is of any significance, other than satisfying the idle curiosity and perhaps the hopes of the Leader of the Opposition.

The Hon. R.D. LAWSON: I oppose this motion and it seems to me that this motion is misconceived. The motion contains a direction to the Attorney-General to table a copy of a report prepared by a lawyer.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: This is not a report of the Attorney-General; it is a report received and considered by the Premier. It is a report to him. It does not indicate the commission of any criminal offence, a fact recently confirmed by the Director of Public Prosecutions.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: The issue was whether allegations of conflict could be sustained, and the only issue was therefore the eligibility of the Hon. Dale Baker to serve in the Ministry, and the decision on that eligibility was solely a matter under our system for the Premier of this State. On the basis of that report to him—and I emphasis a report to him—the Premier decided that the member was not eligible to return. The report has served its purpose, namely, to inform the Premier of the facts necessary for him to make a decision. The report is spent. It has done its work. There might have been some ground for seeking production of the report from the Premier, if the Premier had announced that, notwithstanding the report and in defiance of the report, he was proposing to reappoint Mr Baker. However, as I say, the report has served its purpose. It was to inform the Premier. It has informed him. There is no public interest in receiving this report at this stage.

The Hon. P. Holloway: How do you know?

The Hon. R.D. LAWSON: Idle curiosity is not genuine public interest. I emphasise that this motion is misconceived because this is not a report to the Attorney-General. It is not the Attorney-General's document; it is the Premier's document. The advice was legal advice tendered to the Premier. As my colleague the Hon. Angus Redford has mentioned, legal professional privilege attached to it, so did Executive privilege. The privilege is the Premier's privilege. It is his to waive, not the Attorney-General's to waive. As there is no public interest in this report being tabled the Premier has resolved not to waive the privilege. That is a decision for him and him alone and I support the stand he has taken in this matter. What is the point of tabling this report other than satisfying the idle curiosity of a few journalists and members of the Labor Party and the Democrats? I strongly oppose the motion.

The Hon. T.G. ROBERTS: I rise to support the motion.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: If the Hon. Mr Redford wants to get his interjections off on the wrong foot like he got his contribution off on the wrong foot, then let him continue. I rise to raise some new issues. I do not bring a legal point of view to this Council; I do not bring a lawyer's point of view into this Council.

Members interjecting:

The PRESIDENT: Order! I will not put up with continued interjections. There was comparative silence from the Opposition, so I ask Government members to control themselves for a while.

The Hon. T.G. ROBERTS: If the members opposite can control themselves I will place some points before them that they may like to take into consideration before making their considered vote. The position that has been drawn somehow by most contributors on the other side is one of morbid curiosity about a document that has been buried that perhaps has in it some damaging material which may or may not be damaging to the Hon. Dale Baker but which may be damaging to the Government. That is all we are arguing about.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The curiosity value of the document to the Opposition is no more than the curiosity value of that document to the public—no more, no less. We have people on the other side with a legal background who do not understand what the Parliament's rights are and what the privileges of being in Parliament are, to represent the interests of those people outside. They are curious about the contents of a report that says that two investigations say that there are no criminal actions involved in the actions of the former Minister. The police investigation has said that there are no criminal actions. The report has said that there are no criminal actions, yet we have a Minister sacked over an activity that must have included a conflict of interest.

In the initial stages as part of my responsibility as shadow Minister for the Environment I was asked to look at a patch of ground in the South-East that had had about 1 700 or 1 800 stringy barks and Australian natives knocked over. I had no other knowledge of what had preceded knocking over those trees other than the fact that local people were upset with the decision by the department to move in bulldozers overnight and clear 1 800 trees out of a stand of perhaps 2 500. It did not leave a lot of native vegetation on that area, which from memory was around 500 to 600 hectares of ground suitable for growing pines.

When I went to the small township of Greenways—and members opposite with country constituents would under-

stand this—at the Greenways store, in an isolated part of the State, a number of constituents there were concerned not about whether Dale Baker had made a bid for the property, whether the department was going to up the ante on the already accepted price for the value of the land, but about the environment and the social content and the value of that land to that community. I took up the issue inside our Party and asked what pressure could be put on to make sure that no further clearing would occur within that area. The people at that store gave me evidence that there had been a history of interest in that particular 600 hectares and that the department had been in a bidding process with individuals. I will not name the individuals because they have not yet given me permission to.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Perhaps the select committee might give him permission to do it at a later date. I do not want to name those individuals, but those people who have a background of living in regional areas will know that the value of that property was more valuable to those farmers who had fences bordering that property than to those who had properties farther away. The next door neighbour to that property put in a bid for that land and was waiting for a reply from the department to see whether the bid that he had put in was within the ballpark of what the general market price was to be. Over a period of time they had put in two previous bids, and they were waiting to see whether their bid was—

The PRESIDENT: Order! There is a stranger in the Chamber, and I ask him to remove himself immediately.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: I rise on a point of clarification, Mr President. Was it Isaac Butt, a member of the Irish Nationalist Party in the House of Commons who, when the Prince of Wales came into the public gallery, first said, 'I espy a stranger'?

The PRESIDENT: There is no point of order.

The Hon. T.G. ROBERTS: The people who abutted the property were waiting for an answer from the department to see whether they were capable of being in the ball park in relation to buying that property. It was quite clear by the movement of the bulldozers on the Monday evening prior to their getting any contact back as to whether their bid was successful that they were unsuccessful; someone else had purchased the property and put it to a different use. Those people were going to use it for grazing—nothing more, nothing less. They were going to retain that vegetation of 1 700 or 1 800 stringy barks and put cattle and sheep on it. When the process let them down, the principle on which they were working was that they were putting in fair bids in what they thought was a fair market and expected a fair answer in return. If the return was that their bids were not in the ball park, they would have withdrawn and probably would have allowed the department to take the running on the bid. If they had any voice left they still would have argued that the stands should not be knocked down, because there were wildlife corridors through which kangaroos, emus and, in particular native birds and possums moved. That was not possible.

We then find at a later date that there is a controversy about the breaking up of the land into two parcels. One is identified as being on Jorgensen Lane, which abuts a part of Gouldana, and was to be separated out from the rest of the property for a separate purpose. The 'separate purpose' was indicated by the Hon. Dale Baker as being suitable for growing native flowers in the area, a quite legitimate purpose for the honourable member as he had a flower growing business within that area. It made common sense for him, if he was going to expand, to identify land in that area that would be suitable for his expanded program.

One of the things that people in this Parliament do not understand is that the crime which Dale Baker is being accused of relates to the scenario where he is a business person who operates within an area where there is competitive land use. Dale Baker wanted to use a section of that land which he felt was suitable for growing native flowers for export. One of the problems that he had at the time was that he had made a recommendation to the department that the other section of the land would be suitable for pine trees for the then Woods and Forests Department. It was going to be difficult for him to separate his interests. Unless the two parcels of land could be sold separately, the then Minister would have trouble separating out a vested interest from the State's common interest.

Dale Baker can be accused of being the Minister responsible for the apportionment of that land. No criminal accusations have been made against him. I will read the Premier's statement just to make sure that the Hon. Mr Redford does not accuse me of driving a nail into the former Minister's coffin. It states:

> I advise the House that the Government has received and I have considered the report from Mr Anderson QC, following his independent inquiry pursuant to the terms of reference announced by the Government on 7 April this year. By these terms of reference Mr Anderson was directed to concentrate solely on establishing the facts surrounding allegations of conflict of interest relating to the former Primary Industries Minister, Mr Dale Baker. His role was not to make a judgment on whether or not conflict of interest had arisen. Mr Anderson was to set out the facts as he found them to enable a determination of conflict of interest to be made by me as Premier.
>
> I received a copy of Mr Anderson's report at the beginning of this week. I waited to release the findings until today to enable Mr Baker and his counsel and myself the time to carefully consider them. In the past few days I have carefully examined the sequence of events and the facts as found by Mr Anderson. I have met with Mr Baker and I have explained to him my conclusions reached from those facts and the action which I believed was appropriate in the circumstances.
>
> These facts relate specifically to Mr Baker's family business interests and the attempted purchase during 1994 of a part of 'Gouldana', a property of 850 hectares located 80 kilometres south-west of Naracoorte. It is therefore my decision, based on the facts as set out by Mr Anderson, that Mr Baker will not be returning to the ministry either now or. . . following the forthcoming election should we be returned to government. . . I would now like to explain why.

The Premier then set out his explanation. The statement continues:

> Mr Anderson's findings lead to a conclusion that Mr Baker did during 1994 find himself in a conflict of interest arising out of his public office as Minister for Primary Industries, which included responsibility for the then Woods and Forest Department, with his interest in one of his family business ventures, The Banksia Company, which grows flowers for export. Within this process there seems to be some doubt about whether such conflict of interest arose through carelessness, accidentally or was known and ignored.
>
> Arguments have been put to me that, as there is doubt, Mr Baker ought to be able to resume his position as Minister. However, I have chosen to resolve this by taking a stand which I believe is in the public interest.

What we have is a rural business person operating a business in an area that has a competitive use for the land in which that member, I should have thought, had a genuine interest in advancing not only his own position but also that of the State. If one reads the Hon. Dale Baker's contribution, one sees that that is basically what he says in his defence. I think he would give me enough licence to make that assessment.

Unfortunately, the Premier, after reading the report, of which we do not have a copy, has made a determination that has finalised Dale Baker's political career as far as the Premier is concerned. He has said—given that what I have read lines up basically with what Dale Baker is saying and what his interests are saying—that there was nothing untoward; that there may have been a conflict of interest either known, unknown through carelessness, accidentally or ignored; and that for those reasons, we can assume, he was dismissed from the Cabinet.

Dale Baker's position is no different from that of a number of other Ministers in this Government. There are Ministers who have responsibilities for portfolios and who also have business interests that one could say, from time to time, gain advantage from some of the decisions made by Governments on a daily basis.

As individual members of Parliament we must sum up whether the gains made by individuals while conducting their day-to-day businesses fall in line with the code of conduct that was drawn up out of a whole series of events not only in this State but in other States in relation to how members of Parliament should conduct themselves, representing as they do the interests of individuals in the community and also as part of the running of business interests on a day-to-day basis outside Parliament.

We can assume that the Premier has made a decision that the way in which Dale Baker conducted his business and the responsibilities of his portfolio was not in line with that code of conduct. We have not been told that, but that is an assumption that we can make. We cannot make any other assumption because the report is not available to us. We cannot make any other judgments on whether Dale Baker transgressed or whether he did not meet the code of conduct set down by the Government in relation to how individuals should run their business. Nor do we know whether the Premier was settling an internal factional problem. Parliament has been denied the right to be able to make a determination on what we on this side of the Chamber regard as a whole series of principles that should be examined *in camera* in part or at least to make sure that a select committee report could make judgments about the sort of principles on which the Minister was dismissed.

As other members have explained, the report was commissioned by the Government on the basis that Mr Anderson would make it available to the public so that the public could make its own determinations and decisions. As for the witnesses being intimidated or pressure being placed upon them, most of the witnesses who gave evidence to that committee have had a lot of pressure put on them at a local level. In any community where individuals take sides politically—particularly in conservative communities—if one is part of a faction of the conservative groupings within that community, one's case can be advanced or retarded by the power groupings with which one is associated. It is no different in Labor circles and within the trade union movement. It is a fact of life. In this case an advanced guard within Government circles intended that some mischief would be made out of the circumstances that presented themselves, but there were other people who were going about their business in an honest and open way, trying to earn a living and to run their agricultural business in that area.

From the arguments that he put forward, I cannot understand how the Hon. Angus Redford drew his conclusions about the Opposition's intentions. A major part of his speech to which I took offence was his reference to the select committee's proceedings. Opposition members did not take points of order against him at the time, which perhaps we should have done, but we tried to educate him by interjection that it is not usual to refer to the evidence or the deliberations of select committees. Members of select committees who have privileged information before them are able to report back to Parliament as a process to inform the rest of the community only when those deliberations have been finalised, when the committee determines to make that information public or when an interim report is presented.

There was no intention by individuals or the Opposition to make a political ploy of not meeting or not reporting, and I am not quite sure how the honourable member drew that conclusion. It is possible that we decided not to be locked into a motion put forward by the honourable member opposite. We determined on a point of principle that there was no point in the select committee's meeting if two other inquiries were being conducted: one by the police; and one by Mr Anderson QC. I should have thought it would be a waste of Parliament's time and individual members' time to meet while those two inquiries were running parallel. I am not quite sure how the honourable member drew his conclusions. I will not quote from the minutes of the deliberations of the committee and, because the honourable member has raised the intentions of internal deliberations, I hope that I am not breaching Standing Orders by replying to those remarks.

If this remains the Government's position in relation to evidence that can be made public and in relation to the amount of evidence that can be given by public servants or, in the case of Tim Anderson QC, by those who are commissioned to make inquiries into matters on which the report is made to the Premier, I am not quite sure what the future role of the Legislative Council select committee process is. All the Government has to do is commission a QC to report into an important matter, the important matter is deliberated upon, evidence is collected, no assessment or blame is apportioned (which is part of the brief), the collecting of the evidence becomes the role in itself, the Government assesses the information provided in the report, the report is absorbed into the bowels of the Government of the day, and the public does not see the deliberations or possibly even the findings.

That is most untenable for any future role of a select committee. I am not quite sure whether the Hon. Mr Redford has seen the American Senate or the Federal Senate take evidence, where everything is open for evidentiary process. It is a warts-and-all process. Defence committee heads are brought in to explain their actions. What one would regard as State secrets are on open display in a transparent process so that the Government of the day can make a deliberation based on the best possible evidence. The Government can draw conclusions from the evidence given by those quarters, make decisions and report back to the community. The community has a right to that information as the evidence is being given.

As I said before, the honourable member made admissions about his activities. When he was a Minister, he made a ministerial statement. The Premier made a statement on behalf of the Government, and now this process will deny the public the ability to make its judgment on whether the Government acted in a vexatious way against an individual or whether it upheld a process by which ministerial standards should be judged. That debate will not be settled until people can make their own judgments and assessments based on the amount of information that has been made available so far, but no-one will be able to make an accurate assessment until the report is tabled.

No-one is asking for the findings. Under Standing Orders neither the Hon. Angus Redford nor I can speak on behalf of the committee. I am not making an assessment of what information the select committee might call but I would certainly not like to see an extension of privilege given to the Government of the day. I am currently a member of a number of committees that cannot call evidence in relation to commercial confidentiality, and it is information that ought be made available to the Opposition and to the community. Other denials of information have been made because they involve Cabinet documents. We now find a whole process denied to us—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: Yes, FOI. I am receiving more complaints about the inability of community groups and organisations to view documents to protect the interests of small communities in relation to matters of the environment and community health, and in relation to issues which might be embarrassing to Governments but which Governments need to face. I certainly do not want to see a further erosion of parliamentary powers in that this place is seen as an inquisitorial Chamber. It seems to me that at least two contributions have indicated that, if the politics of the day demands it, we can cover up, bury reports and hide information by a new process that somehow involves privilege for the inquisitors, and that the information the inquisitors pass on to the Premier then deem it as their information only.

The Hon. Angus Redford also said that the information collected remains the province of the Premier. My view is that a select committee ought to have the right to call in a Premier to give evidence regarding the information he has collected and the basis on which he has made those decisions. If that is the case, and if we commission reports and if the Government commissions reports and the public is to pay for the formulation of those reports and any subsequent defence or prosecutions that occur as a result of those reports, then the public have a right to know. I have some sympathy because I have agreed that, in some committees, there are matters that are commercially confidential and there are matters of evidence in relation to which witnesses need to be protected.

For example, we had to protect the interests of children in matters of sexual and physical abuse and, for that purpose, the committee heard evidence *in camera*. Many other select committees I have been involved with have been confronted with commercial confidentiality, for example, a company's interests might be jeopardised by certain information and we have taken the evidence *in camera* and not made that information public. We are allowed to listen to that evidence but we are not allowed to make it part of the deliberations in relation to the body of the report. If we are to get away from those principles, as members opposite are obviously arguing, then certainly the way in which select committees run will change from here on.

In relation to the matter at hand, we have a motion that is calling for the tabling of a document that we believe is in the public interest. The Opposition clearly believes that it is because it more than condemns a Minister to a fate: it condemns the Government for the divisions that it has within it. The Government has now to make a conscious decision as to whether the principles that it would uphold in relation to the public's right to know has less value than internal fighting within its own Party, and the potential damage that that may do.

I say to the Government that if the papering over of the cracks within the body of the Government at the moment is about to break open, then I urge the Government to release the report so that the reshaping of the internal power structures within the Liberal Party can occur. I do not think I would be so optimistic as to think that the Opposition would be forming the next Government, but I would say that if the public were able to view that report, then I am certain there would be some damage and I would be asking the Government to accept that as a price to pay for its attempts to cover up what I see as a legitimate right of the public to know.

Stop the farce that is happening at the moment. A select committee is trying to do its job in relation to securing information to make a decision around a public issue. Perhaps even the protection of a Minister is involved who may or may not be a victim of internal separation of powers between factions. Let us see that report so that the Opposition and the community can make up our own mind about it.

The Hon. P. HOLLOWAY: I have decided to join this debate. As so many other members of the Government have contributed to the debate, I think I should say a few words on this issue. There is nothing really complicated about the issue that is before us. It is fairly simple. We are asking that the Attorney-General table in this Parliament tomorrow a copy of the full report that was prepared by Tim Anderson QC. That report was requested by the Government, and the terms of reference of that report published in our morning paper on 11 April this year stated:

> The principles, the report and the Government response will be tabled in Parliament.

There it was. There was no prevarication. That was the grounds on which this report was established and set up. It was not the Opposition that set up this report or that selected Mr Tim Anderson QC: all that was done by this Government. The Government elected to have a report, it established the inquiry, it chose Mr Tim Anderson, it determined the committee's term of reference and, on 11 April, it promised to table the report and the Government's response in the Parliament. The Government has not delivered; it has not honoured that promise.

We should not be too surprised with the record of this Government's failing to deliver promises. It has not done very well on that front. The question is fairly simple. The Hon. Angus Redford talked for nearly an hour trying to bring into this issue legal privilege and all sorts of red herrings, but we are simply asking for a report on a matter of public interest that the Government promised would be tabled within this Parliament. We are simply asking the Government to honour what it promised to do. I would like, after the hours of speeches we have heard, to hear someone on the Government benches give an even half decent reason as to why this report should not be released.

We have been told about one chapter. I am not sure whether there are nine or 10 chapters, and I am not sure whether I really care all that much. Why is it okay to release one volume but it is not okay to release the other eight or nine? Why is it that one volume is not covered by the problems that we hear from the other side but, for some reason, there is a problem with the other nine volumes. I understand that Mr Tim Anderson QC has been before the select committee. I am not a member of that committee, but Mr Anderson told them that he told witnesses 'Yes, the transcripts will not be made public but my report will be made public. What I put out will be made public.' They were all told that.

Mr Anderson prepared his report in accordance with the terms of reference in the full knowledge that it would be made public. Apparently now that is not to happen, and, of course, we can all speculate as to why that would be the case. As I said, the Hon. Angus Redford raised many red herrings. There would not be enough time here to address them all and I do not want to delay the Council unnecessarily but the honourable member talked about sanctions. What if the Attorney does not deliver? What are the sanctions?

First, in the decisions we make we should not anticipate that there will be breaches of requests made by the Parliament. It is not unusual for select committees of this Parliament, of various types, to request information from witnesses. In this Parliament, we have had questions about whether contracts should be produced. We had debate here and we have had this Parliament passing resolutions requiring the compliance with that, and we have had all sorts of negotiations as a result of it. However, the relevant point is that the day that Ministers refuse to comply with the directions of a democratically elected Parliament, that is the end of democracy. Let us not worry about whether this Government will comply or whether we have sanctions for doing it. The point is that the request that is being made is a very fair and reasonable one. We are asking the Government to do no more than what it promised to do when it published the terms of reference of this inquiry on 11 April—nothing more than that.

In that vein, the matter will finally be judged by members of the public themselves. They will decide the behaviour in here. If the Attorney refuses to abide by a direction of Parliament, then the public are quite capable of judging whether we on this side of the House are being reasonable in asking for a report that the Government promised would be made public, or whether it is the Attorney and the Government on that side of the Chamber who are being unreasonable and trying to cover up and trying to hide something by not releasing it. The public are quite capable of making that decision for themselves. One presumes that members opposite who have spoken do not know what is in the nine missing volumes of the report, yet they are all trying to reassure us that we would have no interest in it and there is nothing in it of any concern to us. The Hon. Robert Lawson even said that it was not in the public interest—these eight or nine volumes.

The public of South Australia paid for this report—and no doubt they paid a lot money, as QCs do not come cheaply. They paid a lot of money for it and they are the best judge of whether it is in the public interest. Certainly, they have paid for it. There has been speculation that this report might contain things that are embarrassing, but I certainly have not heard any indication as to how it might, in any way, be against the public interest or damage individuals. I am glad that members opposite can reassure us that it is not in the public interest to have it, and it is nice to have their reassurance on the matter, but the public should be allowed to judge for themselves.

Another point I wish to make relates to precedence. I ask members opposite: what other reports of this type, dealing with ministerial conduct, have not been produced when the principals have said they will be published? There have been a number of these reports in other parliaments. What other precedent is there for a Government that has changed its mind and withheld and suppressed a report of that nature?

I wish to raise a couple of other matters regarding this debate. I do not necessarily want to take as much time as the Hon. Angus Redford as in my view the case is relatively simple. We have seen press reports as recently as 2 July this year where, for example, Greg Kelton, in the *Advertiser*, stated:

> Mr Olsen said he'd not been advised when Mr Anderson would conclude his report but promised to release the report publicly.

That was on 2 July—not that long ago. On 10 July, Greg Kelton again reported in the paper:

> A senior Liberal MP said the report by Mr Tim Anderson QC should be tabled quickly, because any long delay would damage the Government's credibility.

The Hon. T.G. Cameron: Sure is!

The Hon. P. HOLLOWAY: That is certainly true; that's exactly what is happening. What has changed?

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, maybe so. My colleague the Hon. Terry Cameron says that what is in the report has changed. That is what we should all know. Certainly, as I said, with the hours of debate we have heard from the Hon. Angus Redford and other members opposite they have not put up any reasonable reasons that any independent person would judge as a sufficient reason for not releasing this report. I will go back a little earlier to 26 June. Greg Kelton has lots of Liberal sources—some in this Parliament and perhaps some of those who spoke earlier tonight. In this instance the Liberal sources said:

> Yesterday, they were confident Mr Baker would be cleared of claims against him, and he would retain his Cabinet spot.

They say a week is a long time in politics; it certainly has been in relation to this issue.

Finally, getting this report is not just a question of curiosity, as we have been accused of by members opposite. There are a number of sound reasons why a report, paid for by taxpayers, should be publicly released. The Hon. Dale Baker has gone. He is no longer in the Ministry. We are told he will not be back, although I seem to remember that much the same thing was said about Dale Baker's friend Ian McLachlan. He was removed from the shadow Ministry in the Federal sphere although he is now Minister for Defence. Time does change in politics, and who knows what will happen in the future. It is in the interests of the public, as well as in the interests of Dale Baker himself, that the full details of this report should come out so we can all judge fairly. In relation to judging Dale Baker fairly, Mr Baker himself was quoted in the *Australian* on 11 July as saying that it 'did not matter a stuff what was in the report', describing the exacting conflict of interest demands placed on Ministers as a farce. Maybe they are, maybe they are not.

However, given that Dale Baker has said that it is a farce, that he does not give a stuff what is in the report and the conflict of interest requirements are a farce, why cannot we and the public of South Australia judge for ourselves whether it is a farce. We have only one chapter to tell the story. Surely it is in Mr Baker's interest. If it is truly a farce, as he suggests, let us get it all out in the open. Let us get the full nine or ten chapters, or whatever it is, and make our own decisions about whether these allegations are a farce.

Whenever we have these inquiries they cost taxpayers a lot of money. It would be fair to say that the whole area of conflict of interest is one where there are some grey areas; I concede that. It is an area where our public policy towards it has been evolving. Every time we have a detailed report into matters such as this, the more information we get on the record, the more we know about these things and the better off our Government will be. Are the public not entitled to

that, since they pay so much for these sorts of reports? They should be on the public record. We should learn from them and we should change from them. If there is anything embarrassing in this report, as has been suggested—and I do not know what is in this report or whether there is anything embarrassing—that is just too bad. The important thing is that it is the public interest that this report should be made public. It is a report that the Government promised to make public, it should do so, and I fully support this motion to which calls upon the Attorney to release that report in accordance with the Government's own terms of reference when this committee of inquiry was set up. I support the motion.

The Hon. T.G. CAMERON: I rise to support the motion. Some other Opposition speakers have covered the pertinent facts in relation to the motion, but I would like to go through and emphasise some other matters. If one looks at the terms of reference for this inquiry, which were printed on 11 April 1997, one sees that the document states, quite clearly, that the principles, the report and the Government response will be tabled in Parliament. I do not know how anybody can draw any interpretation from that section of the terms of reference other than that the document will be tabled publicly. That is one of the cornerstones of the Westminster system—documents tabled in Parliament are public documents and are accessible to both the media and the public. Not only is that included in the terms of reference but we also have statements by the Premier and by other members of the Government that this report would be released publicly. One of these statements by the Premier was made as recently as 2 July.

The Government's attitude in relation to the release of this document can be examined with reference to the Liberal Policy for Parliament. In a document released by the Liberal Party back in November 1993, the Liberal Policy for Parliament was:

> To ensure the Government is more accountable to the people through Parliament.

Another of its documents states:

> Parliament must be seen to be a forum for careful scrutiny of legislation, the debate of important public issues and the body to which the Government is ultimately accountable.

One wonders how those statements line up with the attitude of this Government. One can only speculate as to what would have occurred if the full report, instead of one chapter of it, had been released, as the terms of reference and the Crown Solicitor said that it would be. I understand that there is a wealth of information indicating that this document would be tabled, particularly statements by the Premier to that effect.

I appreciate that when this document entitled 'Liberal Parliament Policy and Parliamentary Administration' was printed, the Leader of the then Liberal Opposition was the Hon. Dean Brown—and it is history that he became Premier. It may well be that the current Premier (Hon. John Olsen) does not feel obliged to follow the policies issued by the previous Leader of the Liberal Party. If this Government were to live up to its policy documents which were published before the last election there would be only one alternative that the Government could look at, and that is that this report be tabled—and that it be tabled now. Had it been tabled, this motion would not have been necessary.

During the lead-up to the last election, the Liberal Party also published a document entitled 'The Liberal Vision for South Australia'. In that document, Dean Brown stated:

> The Liberal vision for South Australia is for open and honest Government, fully accountable to Parliament and the people for its actions and decisions.

Further, he stated:

> South Australia will become renowned for having an honest and open Government serving the people and safeguarding their rights.

Under 'Accessible Government'—and this comes from official Liberal Party policy documents which make interesting reading 3½ years down the track—Dean Brown stated:

> A Liberal Government will insist the public is at all times fully informed about Government decisions and activities. A Liberal Government will ensure that freedom of information legislation is fully effective in providing access to Government information.

How on earth will the public accept the actions that have been taken by Premier John Olsen? The Premier must be held responsible for the failure of this report to be tabled and made available to the public. I suggest that the Premier look at his Party's policy and some of the statements made by his predecessor.

The story becomes more interesting if one looks at the Code of Conduct for the Liberal Party. I will read into the transcript some quotes from 'The Code of Conduct, Government to Serve the People', which was released in November 1993 by Dean Brown, the then Leader. It states:

> All Ministers will recognise that full and true disclosure and accountability to the Parliament are the cornerstones of the Westminster system, which is the basis for Government in South Australia today—

It refers to full and true disclosure. The code of conduct continues:

> The Westminster system requires the Executive Government of the State to be answerable to Parliament and through Parliament to the people. . . Being answerable to Parliament requires Ministers to ensure that they do not wilfully mislead the Parliament in respect to their ministerial responsibilities. The ultimate sanction for a Minister who so misleads is to resign or be dismissed. . . The ethical and effective working of Executive Government in South Australia depends on Ministers having the trust and confidence of all their ministerial colleagues in their official dealings and in the manner in which they discharge their official responsibilities.

That begs the question of why this report was not tabled before the Cabinet. It is clear that the Premier does not believe that his Ministers have the trust and confidence of all their ministerial colleagues. That is why the report was not tabled in the Parliament, and that is why the Government took the unusual action of seizing the copies of the report that were held by Tim Anderson during a raid on his office. It is clear that the Government has been scuttling and scurrying around trying to ensure that every single one of these reports can be accounted for.

One thing we know for sure is that the Premier did not have enough confidence in his Ministers to table the document before the Cabinet, because he could not trust his own Cabinet not to leak the report. Some fairly damaging information must be contained in the nine chapters that were not made public if the Premier will not even release it to his own Cabinet. One can only speculate—and I think that that is what is currently occurring in the community. There is a great deal of speculation afoot in the community about just what is contained in the report. Some of the speculations and wild and woolly stories I have heard defy one's imagination.

For the Hon. Angus Redford and Hon. Robert Lawson to suggest that there is no public interest in this matter and only idle curiosity on the part of the Opposition and a few journalists is ludicrous in the extreme. If one reads the newspapers, listens to talk-back programs and news broad-

casts or watches television, one will see that the media have been full of this issue ever since the Premier refused to release the report to his Cabinet, his Caucus and the Parliament and publicly. Just in case Tim Anderson might have felt compelled to release the document or to follow an instruction or a request from a select committee, officers of the Government raided his office and seized all relevant information, including all copies of the report.

The mystery deepens. I do not blame the Government for not releasing the report; I do not hold the Attorney-General responsible, nor do I hold any of the members of this Council responsible for not releasing the report. One person in this State is solely and entirely responsible for the failure of this report to be released, despite his promises that it would be released and despite the terms of reference of the inquiry by Tim Anderson. The Premier cannot escape responsibility for this. He can run, but he cannot hide. It is his responsibility to release the report and fulfil not only the terms of reference but his own promises.

One can only wonder what the Liberal members of the Government, and in particular members of the Cabinet, must be thinking when their Premier—their own Leader—does not have the confidence or the courage to release this report to his colleagues and his Cabinet. Quite clearly, this statement that 'the ethical and effective working of Executive Government in South Australia depends on Ministers having the trust and confidence of all their ministerial colleagues in their official dealings and in the manner in which they discharge their official responsibilities' is a mockery.

By the Premier's actions in refusing to release this report to his own Cabinet, he is publicly signalling that we do not have ethical and effective working of Executive Government in South Australia. I refer to the former Premier's statement on page 2 of a document titled 'Code of Conduct: Government—To serve the people', with the Liberal Party logo and so on. If one is to interpret the Premier's actions, he does not believe that his Government is either ethical or is working effectively, because to do so would depend on Ministers having the trust and confidence of all their ministerial colleagues. We understand that one Minister refused to give evidence and that a former Minister may have refused to answer certain questions.

It is clear that the Premier believes that his own Ministers do not trust each other and do not have confidence in each other and, if that is the case, one can only extrapolate to the conclusion that we do not have ethical and effective working of Executive Government in South Australia. That is the interpretation and the judgment that the Government is inviting the public of South Australia to make.

I know that the Premier's actions have placed some of the members of this place and some of the members of Cabinet in an embarrassing position and that they believed right from the outset (and still believe) that the minimum political damage that would have occurred to this Government was for the Premier to table the report in Parliament. He might have had to cop a few hard knocks, but he has taken it on the chin before and I am sure that he would have been able to do so again. It is the Premier's own actions—his refusal to release this report despite the terms of reference and despite his promises—which is inviting the cynicism, the mistrust and the suspicion not only of the Opposition and the Australian Democrats but also of the public of South Australia. The code of conduct further states:

> A Minister will seek to avoid all situations in which his or her private interests, whether pecuniary or otherwise, conflict or have the potential to conflict with his or her public duty.
>
> A Minister shall be taken to have an interest in any matter on which a decision is to be made or other action taken by the Minister in the exercise of his or her responsibilities of office, if the possible decision—

The Hon. K.T. Griffin: Have you got a cold?

The Hon. T.G. CAMERON: I have got a cold—

> or action could reasonably be capable of conferring a pecuniary or other personal advantage on the Minister. . . that would be conferred by the decision or action on any member of the public at large, or any section of the public.

Under their own code of conduct—endorsed by the Full Council of the Liberal Party and supported by all the members of this House and the Lower House—they state that the public is entitled to know. Yet today we have Government members of this House defending the Premier's actions. My goodness gracious, if he was the Leader of the Australian Labor Party, by now he probably would have been charged for failing to follow and act in accordance with the policy of his Party.

But it gets worse. I am afraid, Mr Acting President, that my voice will either go or that I will run out of time. It does not help matters much that the Attorney-General is cheering me on, hoping that my voice fails at any moment because, if I was in the position in which the Attorney-General finds himself, I would be embarrassed, too, because we all know on this side of the House that a man of the Attorney-General's integrity and honesty and, in particular, political decency would want this report released. It is somewhat unfortunate that in a moment he will find himself in the invidious and embarrassing position of having to get up and defend the actions of his Premier. The code of conduct goes on to state:

> Ministers will inform the Premier should they find themselves in any situation of actual or potential conflict of interest. This information will be tendered at Cabinet immediately a Minister becomes aware of an actual or potential conflict of interest and a record will be made that the Minister tendered that information.

I wonder whether there is any record in this document that the Premier has. The Liberal Party policy states that the record will be available for scrutiny by the Auditor-General. I invite the Auditor-General to examine this document to see just how many Ministers—and one in particular—informed the Cabinet that they had become aware of an actual or potential conflict of interest. The document goes on to state:

> Such disclosures will be recorded in the Cabinet register maintained by the Premier. Such obligation will be in addition to the statutory obligations imposed upon Ministers as members of Parliament by the Members of Parliament (Register of Interests) Act.

An honourable member interjecting:

The Hon. T.G. CAMERON: I am still waiting for the Government. I cannot recall the Hon. Angus Redford making a contribution on a Bill that I have introduced into this House in relation to the members' Register of Interests. The code of practice goes on to say:

> Where circumstances change after an initial disclosure has been made, so that new or additional facts become material, the Minister must disclose the information forthwith.

It will be very interesting, and I look forward to the Auditor-General looking at the Cabinet register which is maintained by the Premier, to see what notations have been recorded in this document in relation to the matter at hand. The document—and this really is interesting—further states:

In particular, a Minister shall scrupulously avoid investments and transactions about which he or she has confidential information as a Minister which may result in an advantage which is unreasonable or improper.

One only has to look at the limited edition that has been released of the Tim Anderson report to see quite clearly that, in Tim Anderson's opinion, there was a conflict of interest.

I support comments made by both the Hon. Angus Redford and the Hon. Robert Lawson in relation to the fact that the Hon. Mr Baker has received his punishment in relation to this matter. I do not wish in any way whatsoever to go into the detailed circumstances of this matter. I do accept the point that was made by the Hon. Angus Redford that the punishment has been meted out. I am sure that the Hon. Angus Redford and all the lawyers in this place would realise that when one is handed out a punishment of this nature—and it was a severe imposition for the Hon. Mr Baker—one would think people would be entitled to know upon what basis that decision was made and upon what basis Mr Olsen made his decision. It would appear that he supported the findings of Mr Tim Anderson but he was not prepared to support the information in that section of the report that has not so far been disclosed.

I wish to make brief reference to some of the contributions made by other members. The Hon. Robert Lawson raised the point that this report is not a report of the Attorney-General but rather is the Premier's report, and he asked how we could possibly move this motion and place the Attorney-General in this invidious position. Well, the terms of reference of this report were established by the Crown Solicitor. There has been no attempt to embarrass the Attorney-General—certainly not by us. It is the Premier, not we, who has embarrassed the Attorney-General. I regret that this motion even had to be placed before the Legislative Council, but if the responsibility for where we are now with this matter is to be placed at anyone's feet it should be placed, quite clearly, at the Premier's feet.

Not only does the Premier not act in accordance with his own Party policy or abide by his own ministerial code of conduct but also he is attempting a massive cover-up to keep this information from the Opposition and, in particular, from the public.

The Hon. K.T. GRIFFIN (Attorney-General): The Australian Labor Party and the Australian Democrats are charting a very dangerous course with the motion which they now move in this Council. Whilst the Hon. Ron Roberts has declined to answer interjections about what the next step may be if the direction in the resolution is not fulfilled—he has declined to speculate about that—the fact is that the next step in those circumstances would be a resolution moved by the Council and, if supported, to suspend me as Attorney-General for that reason.

It is quite obvious that the Hon. Ron Roberts, the Opposition and the Democrats are seeking to follow the precedent which they believe has been established in New South Wales in relation to the suspension of the Treasurer, Mr Michael Egan, in consequence of his declining to produce papers and documents to the Legislative Council. I suggest that is a very dangerous course which I would ask members of the Opposition, in particular, to ponder, because it puts at risk any Minister of whatever political persuasion in whatever Government who is a member of the Legislative Council.

Members will have to consider that this may well create a precedent which will cut both ways, and no-one makes any secret of the fact that one day the Opposition will be in government, as we in Opposition subsequently came into government. What is good for one Opposition and one Government is also good for another. The course which is being charted is a new course in South Australia and may ultimately lead to, I suppose, the outcome which some members opposite may ultimately seek to achieve, that is, no Ministers in the Legislative Council. It may also mean a reduction in the powers of the Legislative Council and even result, ultimately, in the longer term, in the abolition of the Legislative Council. That would be a sad day for this State.

I am a very strong advocate for the Legislative Council, I am a strong advocate for maintaining its powers and I am a strong advocate for maintaining Government Ministers in the Legislative Council. Governments must get their legislative programs through, and members of this Council will recognise that Governments of both political persuasions have needed Ministers in the Legislative Council to ensure that their legislative program passes generally in good shape but occasionally either emasculated or even rejected.

That is an exercise of the powers of the Council, and I have always been an advocate of responsible exercise of those powers. Whilst politics are played in this Council, we have not in the past moved to the point of a motion of the nature of that presently before us. One must recognise also that there are conventions. There are issues of what is proper and what is not proper, and there are also issues relating to partisan politics. In general, particularly in the past 20 years, the Legislative Council has been able to operate. Whilst animosity may be displayed on the floor of the Chamber, behind the scenes members have been able to ensure that the legislative program has been ultimately facilitated, and members have talked to each other in a way that has ensured that confidences could be maintained, and that the business of Government and the business of the Parliament could be facilitated. That does require an understanding of certain conventions and of what is proper and what is not.

While a House of Parliament can ultimately do what it likes—and I have certainly been in the forefront of indicating that a House of the Parliament can do basically what it likes—it is only constrained by the Constitution, in this case of the State, and perhaps by implied constitutional rights that ultimately may go to the High Court. But it can, in fact, do what it likes. As the Hon. Michael Elliott (if accurately reported) said in the *Advertiser* this morning, it is the highest court. But, unlike those established courts that are independent of the Executive and of the Parliament, it does not have established procedures by which issues of summoning persons to the Bar, the sorts of questions that may be asked and the way in which the exercise of power may occur have been in any way documented.

Of course, it depends on the good sense (or lack of it) of members of the particular House. That is, of course, what I have been arguing in relation to the outsourcing contracts. There was a significant point of tension between the Executive and the Parliament in relation to the production of outsourcing contracts. One can understand the politics of that issue but, in recognition of the fact, at least on the Opposition side, that ultimately one day members of the Opposition will be in government and will have to deal with the same sorts of issues that the present Government has to deal with, but more particularly because of the potential for a significant disagreement between the Executive and the Parliament and chaos ultimately resulting, a protocol was negotiated that involved the Auditor-General as an independent statutory

officer (and summaries are available) without emasculating the constitutional powers of either Chamber or the Parliament together.

That was an indication of the way in which, generally speaking, sensible people looking at the ultimate consequence of a particular course of action could endeavour to reach an accommodation that may not satisfy either Party necessarily but satisfies a significant amount of the needs of the respective Parties. I had 11 years in opposition between 1982 and 1993, and I can remember that we in opposition raised a number of issues that we regarded as issues of importance. We did not fail to criticise the incumbent Government. We sought information that the then Government asserted was commercial in confidence. We sought, for example, to track down the sale of the Torrens Island Power Station to the Japanese as part of a financing deal that the previous Government had entered into.

We were told that that information was commercial in confidence and, in that sense, whilst we challenged that and took political points in relation to that issue, ultimately we did not move to the point of requiring a Minister to table those documents in the Parliament. Maybe we should have, in retrospect, in light of the politics of these sorts of issues, but we took the view, as I recollect, that ultimately we were not prepared to go to that length of summoning public servants before the Bar or requiring Ministers in the Legislative Council to deliver documents with the ultimate sanction that they would be suspended.

Undoubtedly, all of that political process does involve frustrations. It certainly involves Party politics, but it involves frustrations as well. It involves frustrations for an Opposition that may not have the numbers in the House of Assembly. It involves frustrations for members of an Opposition, even where they may have together the numbers in an Upper House, if they cannot get all they may want for public or political purposes. There are frustrations for Government as well. There are frustrations for Government that it cannot get its legislative program through. There are frustrations for Government confronted with the sorts of allegations made in relation to this particular issue.

Politics is about confrontation, contest and frustration. It is also about achievement. Also, at times, it is about pulling together. Whilst there is frustration by Government in relation to its legislative program, ultimately it has to live with whatever framework it can get through the Parliament. No-one has heard me complain about the constitutional position of the Legislative Council, although I have expressed frustration and disappointment about the way in which the majority in the Legislative Council in my view on occasions have frustrated the achievement of a legislative objective. As I say, that is part of the political process.

I want to make several observations in response to issues which have been raised by particular members, but before I do, I just make one further comment about the precedent upon which the Opposition is seeking to rely, and that is the precedent of Mr Egan, the Treasurer in New South Wales. I am not sure that members will actually know that special leave to appeal to the High Court was granted on 6 June 1997 so that, whilst members may achieve some comfort from the decision of the New South Wales Supreme Court, the fact is that ultimately that matter is going to the High Court of Australia, and undoubtedly—

The Hon. L.H. Davis: The Democrats didn't tell us that.

The Hon. K.T. GRIFFIN: They may not have known it, but that is the issue.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: It is not ultimately a precedent one can rely upon until the issue has been finally resolved by the High Court. There are issues of legal professional privilege in relation to the Anderson report which have been touched upon by members on both sides of the Council. The advice I have received, which is contained in a letter from the Crown Solicitor to Mr Anderson QC and which is now on the public record, is that the Anderson report is subject to legal professional privilege. In this place, and in the House of Assembly, legal professional privilege has generally been respected in a number of ways. The first is that my predecessor, the Hon. Chris Sumner, on no occasion would table the advice of the Crown Solicitor, and I have continued that practice on the basis that it is subject to legal professional privilege.

But there are other instances where that occurred by my earlier predecessors. Former Attorneys-General Mr Len King and Mr Don Dunstan adopted that same approach, whether it was in relation to legal advice or to other documents and papers covered by legal professional privilege. I should remind members that, in relation to the Wiese report, all the transcripts, documents and the ultimate papers relating to that were subject to legal professional privilege.

The Hon. M.J. Elliott: Nobody's ever questioned that.

The Hon. K.T. GRIFFIN: I am not saying that: I am saying that they all were subject to legal professional privilege. In relation to the Anderson report, that is subject to legal professional privilege.

The Hon. T.G. Cameron: It is in the terms of reference.

The Hon. K.T. GRIFFIN: It does not matter what is in the terms of reference; I am telling you what the law is. The advice which I have is that the report is the subject of legal professional privilege; that is all I am saying. I am also saying that the issue of legal professional privilege in this Chamber and in the House of Assembly has been a matter which has been respected and not overridden.

There is another issue in relation to what Mr Anderson did or did not tell witnesses. I suppose people will put their own interpretations on what is on the public record. He has indicated that he told witnesses that the evidence which they gave would be confidential and that their transcript would be confidential. He told them also that, if there was any material which would be capable of supporting an adverse finding against Mr Baker, that material would be made available to Mr Baker in order to satisfy the principles of natural justice and that he expected the report to be made public. We have not been told—and it is an important issue to recognise—whether or not those witnesses were told that they would be named in the report. It is one thing to say that your evidence will be confidential but that certain material will be made available to Mr Baker and that 'I will make a report which I expect to be made public'. It is another matter to say, 'You as a witness will have your name and your evidence contained in that report and that therefore it will be in the public arena.' That is the issue which has not been effectively addressed by the Opposition or the Australian Democrats.

I want to respond to one point that the Hon. Terry Cameron made to which I take great exception, that is, the assertion that Mr Tim Anderson's office was raided. That is just quite inappropriate and is not in accord with the facts. If you look at the evidence which is on the public record and which I am not allowed by the Standing Orders to refer to, I can tell you from another source that in the normal course the office had been hired and that as soon as the work of

Mr Anderson had been completed the Crown Solicitor took what was a proper course wherein the lease was terminated and the office cleared. That was in the interests of good government and the saving of expense—and for no other reason. That is something which happens on a frequent basis across Government. It happened with the previous Government in that when a task had been finished the premises were decommissioned very promptly. Mr Anderson's office was never raided. I do take great exception to that description.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: His job had finished. He had been commissioned by the Crown Solicitor. He was, if one could describe it in Latin, *functus officio*; the job had been finished.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: As Attorney-General, I understand that, in consequence of other decisions taken, I would be written to, requesting that a copy of the report be made available to the select committee. I can indicate that I am not aware that any letter has yet been written but, if it has, I am certainly not aware that it has been received. So, I am not in a position to respond to a communication which I expect I will receive in due course.

In relation to the motion, if it is passed, so be it. I doubt if it will serve any useful purpose, but it may be of some comfort to the Hon. Ron Roberts, who will not have to go to the next step of moving a motion to suspend me, because I can indicate to the Council that I no longer have the Anderson report. The Anderson report, and any copies, are securely stored in the Cabinet office. I oppose the motion.

The Hon. R.R. ROBERTS: It seems that there is nothing that this Government will not do to protect itself. The Hon. Angus Redford made a great play on the Premier's desire to protect witnesses. That has been a fallacy that has been shot out of the water. In the public arena, Mr Anderson QC made quite clear to the witnesses what he was going to do, made it very clear—

The Hon. A.J. Redford: Mr. President, he must be referring to the evidence of the select committee.

The Hon. R.R. ROBERTS: No, it is in the paper. Get someone to read it to you. Talk about a squealer.

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: He quotes from things, then he calls a point of order.

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: He has more hide than a rhinoceros.

The PRESIDENT: Order! The Hon. Ron Roberts will get on with it. And do not comment on my rulings.

The Hon. R.R. ROBERTS: Certainly, I would not stoop to the same conditions as the honourable member opposite did. He said that the Premier wants to protect the witnesses. We have blown that argument out of the water. The Attorney-General, in his contribution, said that we want to suspend him. That is not the case at all. The Attorney-General, in his defence, says that he has great respect for the Legislative Council. He believes that we are going into uncharted waters. Does he believe that he, or that side of this House, has some sort of fiat on integrity and respect for the Legislative Council? Does he believe that we took this action because we thought it was a good idea at the time? We have done this out of frustration at these people opposite, and principally the Premier, who wants to protect witnesses. He would not protect his mate, Dale Baker. We all know what he was protecting. He cannot see it from the front: he has to look over his shoulder. He is not protecting Dale Baker: he was prepared to throw his mate, Dale Baker, down the drain. Now he has the opportunity to throw the Attorney-General to the wolves. The very simple solution is to do what they promised the people of South Australia they would do: put the report on the table and save the Attorney-General the embarrassment.

The Council divided on the motion:

AYES (11)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Holloway, P.
Kanck, S. M.	Levy, J. A. W.
Nocella, P.	Pickles, C. A.
Roberts, R. R.(teller)	Roberts, T. G.
Weatherill, G.	

NOES (10)

Davis, L. H.	Griffin, K. T.
Irwin, J. C.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I. (teller)
Pfitzner, B. S. L.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

Majority of 1 for the Ayes.

Motion thus carried.

CONFLICT OF INTEREST

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

That the Legislative Council expresses its concern at the Government's failure to pay due regard to circumstances that give rise to conflict of interest situations.

We are fortunate in Australian politics generally and South Australian politics in particular that we have a very low level of corruption. The only way to guarantee that we maintain that position is if we are very vigilant about those situations which create the potential for corrupt behaviour, and it is not sufficient to say that there is no corrupt behaviour in itself and, therefore, we do not have to worry.

If one is prepared to tolerate the circumstances under which it can flourish, it is only a matter of time before it actually occurs. I will cover three examples. I do not believe and have no evidence to believe that any corrupt behaviour has occurred in relation to any of these examples but I want to demonstrate—

The Hon. L.H. Davis: Why use the word?

The Hon. M.J. ELLIOTT: Why use what word?

The Hon. L.H. Davis: Corrupt.

The Hon. M.J. ELLIOTT: If the honourable member listens very carefully, I said that I am not alleging that and I want to make it quite clear—

Members interjecting:

The Hon. M.J. ELLIOTT: Listen!

The Hon. L.H. Davis: What are you suggesting? Why talk about it?

The PRESIDENT: Order! The Hon. Legh Davis.

The Hon. M.J. ELLIOTT: I make two points: first, if you are not careful about attacking the conditions that allow corruption to flourish then, inevitably, it will. Therefore, I said, you must look very carefully at the sorts of conditions that allow corruption to flourish. I then said that there were examples where we needed to be very careful. I do not believe that the three examples I will mention involve corrupt behaviour but one could see how it could easily occur, and that we should identify those sorts of things and put in place

procedures to ensure that those preconditions are attached. The first example is one that has already been discussed in this place for some time, that is, the Hon. Dale Baker issue. Findings have been put before us that show that a Minister of the Crown has identified land to a department and suggested that it might like to buy it whilst the Minister, at the same time, was interested in purchasing a portion of that property.

That is a finding that was made by Mr Anderson. The Minister was then in a position to influence whether or not the sale proceeded. In fact, he said that the sale may not proceed unless he was in a position to personally buy some of that land. Clearly, the Minister was in a position to influence whether the land was sold and, indeed, even what was paid for it. Whether or not he ultimately used that influence and whether or not he benefited from the circumstance, no-one can deny that he was in a very clear position to benefit, if he chose to do so. That is the very reason why the Government quite rightly had set up a ministerial code of conduct.

Whether the code of conduct was adequate is another question, but the Government recognised quite rightly, before the last election, the need for a ministerial code of conduct, because it recognised that conflict of interest situations have the potential to be used in a corrupt manner. The unfortunate thing that appears to have occurred is that, despite the ministerial code of conduct, a significant conflict of interest occurred that went on for a significant period. We do not know exactly how many members of Parliament were aware of that, nor do we know precisely what they did about it. Certainly suggestions have been made that that was the reason why the former Premier (Hon. Dean Brown) had Mr Baker removed from the position.

The Hon. A.J. Redford: Who suggested that?

The Hon. M.J. ELLIOTT: That was speculated about in the media, and I said that it was speculated.

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

The Hon. M.J. ELLIOTT: It is said, and it may even be said in that part of the report that we have not seen. At this stage we do not know how many people in the Government had an awareness and when they had an awareness. Certainly evidence put before me indicated that several members of the Liberal Party were aware of the conflict of interest at the time that it was occurring. In fact, that is the reason Mr Yeeles became involved.

I have certainly seen supporting evidence to put that point of view. Whether or not Mr Olsen became aware of that, I have no idea, but certainly other members of the Government were aware. It appears that some people may have decided that that was not tolerable. While the Premier did the right thing after the Anderson inquiry, based on the findings saying there was a conflict of interest, where the Premier failed was at the very beginning when the issues were first raised. It was quite plain when the first questions were asked in this place that the question of conflict of interest was being raised. The Premier's first response, it appears, was not to have a closer investigation then and find out the facts. In fact, even though the conflict of interest issue is recognised as an important one and was contained within the ministerial code of conduct, the Premier instead was prepared to allow the member not to answer the questions. When questions were asked about whether the Minister had personally inspected the property or not, which really have a 'Yes' or 'No' answer—and an answer of 'Yes' immediately means that a conflict of interest has been established because he was playing an active role in looking at the land—the Premier in fact had shown that he was not prepared to see the conflict of interest—

Members interjecting:

The Hon. M.J. ELLIOTT: The very point that I was making was that the Government, when the issue of conflict of interest was first raised, in fact avoided that issue being answered, and not just in terms of whether or not the question was answered in this place, and I know the games that will get played about answering questions. Certainly, I would have expected that the Government should have ensured that outside this place they looked at that question thoroughly, and, indeed, if they had established, which they should have been able to do, that a conflict of interest had occurred, and it appears that a number of members of the Government were aware of that, then every event that followed subsequent to that would have been totally unnecessary. But that is not the way that things eventuated. That issue has been canvassed at quite some length and as a consequence I do not intend to spend further time on that. I think the points have been made.

The next issue I want to touch on is in relation to a company known as Neutrog. Mr President, Neutrog is a company which operates near Kanmantoo and produces a product which initially, I understand, was based largely on recycled animal droppings but more recently has had other substances added to it—chickens, fish and perhaps other meat products as well.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: It has been suggested that the smell that we have had around this place over the past couple of days due to the garden works going on might have come from a product from that plant.

An honourable member: Have you ever been on the land?

The Hon. M.J. ELLIOTT: Yes, I have. I have actually owned some. I have had residents of Kanmantoo and people living near Kanmantoo coming to me over a considerable period of time expressing concern about the great stench from the plant that they were suffering. For a great deal of the time, I was not aware that a member of this place was associated with the plant, albeit indirectly. Although the Hon. Mr Davis objected when I used these sorts of terms before, I want to make quite plain that a member of this place, the Hon. Mr Irwin—and I want to make sure this is on the record—is as honest as anybody in this Council. If anybody inside or outside this place asked me about that, I would say unequivocally that at times the Hon. Mr Irwin has disagreed with things the Government has done, and I have seen that he was wrenched by that, because he is a man of conscience. I make that quite plain.

Members interjecting:

The Hon. M.J. ELLIOTT: I can't make it any clearer than that: I believe he is a man of absolute conscience and integrity.

The Hon. Diana Laidlaw: If he is such a man of integrity, why wouldn't you even ask him if there was any basis for what you are going to say?

The Hon. M.J. ELLIOTT: You don't even know what I am going to say yet. The link that the Hon. Mr Irwin has is via a company in which both he, his spouse and, I think potentially, other family members have an interest—Devernet Pty Ltd, which is a half owner of Neutrog. In fact, there are two Neutrog companies, but the effect is that it is a half owner of Neutrog. Devernet is one of two shareholders in Neutrog Holdings Pty Ltd which wholly owns Neutrog Australia Pty Ltd.

On two occasions, this company has been in a position to receive assistance from the Government. Initially, it received financial assistance from the EPA for construction of works which enabled it to carry out processing of the chicken bodies which were being added to the mix. Might I add, as I understand it, the Government requested the company to do so. I put on the record that this company did not approach the Government. The EPA, which had a problem with chicken carcasses, approached the company and asked whether it could help with the problem. Chicken carcasses being buried at random through the Adelaide Hills is not a good thing because of the catchments. So, it is quite right and proper that the EPA would seek to solve the problem.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Do you mind if I finish? I have made quite plain that there was a problem that needed fixing. I have also said that the company was approached by the EPA. I cannot see what members are getting upset about. I understand that, more recently,because of difficulties that were occurring at the plant, the EDA helped to pay for a study that was carried out. So there have been two cases where a company in which a member of Parliament had a clear interest received substantial assistance from Government departments.

There needs to be some sort of a process for providing some accountability in relation to this matter. There needs to be some way of ensuring that, where a member of Parliament is in a position to benefit from Government decision-making, albeit indirectly through public servants, that is put on the public record. By doing it that way, we avoid the potential of people making all sorts of allegations. That has happened to me, and I have said to them straight out, 'I don't believe that there has been anything untoward, because I know the person involved.'

I have had people coming to my office for at least 18 months making complaints about the smell. The smell was not a significant problem while it was processing manure. The problem became severe once poultry carcasses were taken there, and the concern expressed to me is that public complaints started early last year. I have copies of correspondence from around March or April last year. The EPA issued a licence in about May last year, if I recall correctly, and it was a condition of the licence that there should not be a public nuisance such as smells. That continued to persist and was a clear breach of the licence conditions. That has gone on and to this day continues to be a problem. Correspondence at one stage showed that the EPA understood that the company would voluntarily stop taking the chicken carcasses, but I understand that that did not happen.

The Hon. T.G. Roberts: What are you suggesting?

The Hon. M.J. ELLIOTT: We have a company which is in breach of licence conditions and has been for a period of at least 12 months, and those breaches continue to occur.

The Hon. T.G. Cameron: Where is the conflict of interest for the Hon. Mr Irwin?

The Hon. M.J. ELLIOTT: The conflict of interest in this case is that, if you have an interest in a company, you have to be careful about two things. If you stand to benefit in any way, you have to find a way to ensure that that benefit is seen up front so there is no suggestion that behind the door arrangements are being made.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I am saying that there is a conflict of interest.

The Hon. L.H. Davis: What is it?

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: You can address this if you like, but I believe the conflict of interest occurs if, as a member of Parliament, you have an investment where you benefit directly from Government decisions, whether they be decisions to fund things happening in your company directly or decisions about whether or not licence conditions will be applied to a particular company. That produces a conflict of interest, and it is different—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: A fair question was asked by the Hon. Mr Cameron when I think he said that he owned shares in Westfield.

The Hon. T.G. Cameron: I said that my super policy would have shares in Westfield.

The Hon. M.J. ELLIOTT: The difference is whether or not you hold an interest whereby you benefit in a way that is not generally available to the public. If an individual company in which you have a significant direct or indirect interest receives a direct benefit from the Government, I suggest that that creates a conflict of interest. If you receive a benefit that many other people are receiving as well and you are not receiving a special benefit, I do not believe that you are in a position of conflict of interest.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: There is a very clear difference between the positions of the Hon. Dale Baker and the Hon. Jamie Irwin in that the Hon. Dale Baker was in a clear position to directly influence and was making day-to-day decisions. Clearly the level of conflict of interest is much higher, but I believe that we need to recognise—and this is why the system of declaration of interests came about—that all members of Parliament are in potential positions of conflict of interest at various levels. How do you address them when they arise? If you are in a position of having an interest or indirect interest in a company receiving a direct benefit, and a benefit that other companies are not receiving, that is something that needs to be addressed in some way. Our current declaration of interest system does not appear to pick that up. So, I am saying that there is a flaw in the system as it stands.

The Hon. Anne Levy: Terry Cameron's Bill will fix that up.

The Hon. M.J. ELLIOTT: It might do. I move to the third issue, and this does not relate to members of Parliament but to people who are appointed to positions of significant influence.

The Hon. A.J. Redford: Where is Government failure in relation to that exercise?

The Hon. M.J. ELLIOTT: The failure might be worded better as the Parliament's. The failure is that conflicts of interest occur that are not properly addressed by the legislation as it currently stands. The third matter that I address involves people who are in positions of significant influence which may impact upon their own interests. Several people have come to me expressing concern about the fact that the Chairperson of the Development Assessment Commission is somebody who is involved in a business whose day-to-day activities are the preparation of materials which often end up before the Development Assessment Commission. That has to create a very severe conflict of interest in that the person's company is producing material that ultimately ends up before the Development Assessment Commission.

Of even more concern is that this same person has also been on interviewing panels for senior positions within the Development Assessment Branch. In other words, the people who work within the government department which provides advice in terms of whether a development is good or bad are in part appointed by a person who will ultimately bring developments before them. I think that that creates a significant conflict. The conflict is certainly in the minds of many people, because I have heard of several examples of developments where people say, 'This looks like it has been influenced.' I simply do not know, but my point is that the conflict exists, and the potential for that conflict to be abused is very real.

If we do not want to end up like Queensland a couple of years ago, we must not allow those sorts of conflicts to occur in the first place. There have been a number of significant appointments to bodies such as DAC, where people in very clear conflict of interest situations are acting in a way that can certainly have an impact upon their own personal interests. I do not think that that is acceptable. The Government clearly does not see this question of conflict of interest as being significant. We have only to watch the way the Federal Government reacted in relation to Prosser. Some people are still trying to defend former Minister Prosser at Federal level, even though his conflicts were very severe, at about the upper end of the scale—about as severe as they can get. It is clear that there is no willingness to tackle the issue of conflict of interest properly.

My concern is that, if we do not set very high standards for conflict of interest, it is only a matter of time before we will suffer something that I do not believe we have in South Australia at this stage, and that is corruption. The motto of the RSL is that the price of freedom is eternal vigilance. In this case, if we want a system that continues to be free from corruption we must always be vigilant and always set very high standards. If we fail to set high standards and let them slip, in the future we will pay the price. Unfortunately, standards are things which are lost by degree, inch by inch. Unfortunately, some people are prepared to give the first couple of inches a little too easily and, if they do that, we will pay the price later. I urge members to support the motion.

The Hon. L.H. DAVIS: We have heard a new low from the Australian Democrats tonight. I was appalled. I must say I was surprised when I saw the motion on the Notice Paper and wondered what on earth it could be. I wondered what desperate grab for a headline we would hear from the Hon. Michael Elliott. The honourable member began by talking about corruption for several minutes and said that we were fortunate to have a low level of corruption but that, if we were not careful in attacking the conditions which allowed corruption to flourish, it would. Then the honourable member said, 'I will give you three examples, but these examples will not have anything to do with corruption.' Why talk about corruption if they have nothing to do with it?

The honourable member then sounded like a cracked 45 record—although I think that would be too kind; it is probably a cracked 22½ record—when he talked about the Hon. Dale Baker. The fact is that the Hon. Dale Baker stood down from the ministry before the inquiry commenced. He remains out of the ministry at this time and beyond this next election. There has been a police inquiry and the Anderson inquiry into the Hon. Dale Baker.

The matters which were established both at the police inquiry and the Anderson inquiry have been referred back to the DPP. I would have thought that was probably a pretty thorough inquiry by anyone's reckoning, yet the Hon. Michael Elliott persisted with the argument. Where was the honourable member when the previous Labor Government refused to stand down the Hon. Barbara Wiese from the ministry as such? Where was the honourable member when the Hon. Barbara Wiese was found guilty of three conflicts of interest and was not sacked from the ministry?

My clear memory was that the then Opposition (the now Liberal Government) put forward a motion which was watered down in a dramatic fashion by the Australian Democrats on that occasion. I do not mind the Democrats coming into this place with their wimpy motions but I would not mind some consistency—and we never have that from them.

The honourable member grudgingly admitted that the Government did have a ministerial code of conduct, and that code of conduct has won through on this occasion. My clear recollection is that this Government has had higher standards for accountability and transparency than the previous Government, and of that there is no question. The Hon. Michael Elliott talked about the Hon. Dale Baker. No news there—just a reworking of something which has been thoroughly done to death over recent months and which has been out in the open. The Government has handled that. It has certainly had a set back from that situation, but it has been handled in a decent, open fashion. No-one can say that Dale Baker has not suffered the consequences of the inquiries by both the police and, more particularly, Mr Anderson QC.

Then the honourable member raised the matter of Neutrog and recycling at Kanmantoo. I would have thought that, if there was one thing about which the Australian Democrats were passionate, it was the environment. We have a company called Neutrog that is seeking to recycle product such as fishmeal and, more particularly, chicken carcasses for the benefit of the community, in terms of overcoming the environmental problem from burying chicken carcasses.

As the Hon. Michael Elliott said, the company did not come up with this on its own notion: it was suggested to it by a Government agency—

An honourable member: An independent Government agency.

The Hon. L.H. DAVIS: It was suggested to it by an independent Government agency, and it went ahead and did this, as has been suggested, perhaps with some Government assistance and encouragement.

The main beef that I got from the Hon. Michael Elliott is that there is a bit of a smell. Well, nature is like that sometimes; it is a horrible thing. However, sometimes you do get a smell associated with the development of a new product and, quite clearly, from what the Hon. Terry Roberts told the Council this afternoon in what was a fair and apparently up-to-date background on some of the environmental challenges faced by Neutrog, serious efforts are being made by Government agencies, private consultants and the company itself, which apparently is cooperating in every way, to overcome some of these issues of smell. That in itself is a long way away from conflicts of interest and corruption, I should have thought.

Then the Hon. Michael Elliott moved on to his crunch point, the big debating point. To me, he sounded very much like someone stepping out into the debating arena in grade seven for the first time. He boldly moved in with his crunch point.

The Hon. M.J. Elliott interjecting:

The Hon. L.H. DAVIS: Well, you have some learning to do; you just stay quiet and listen and you will learn something. The Hon. Jamie Irwin is associated indirectly with this plant. There are shades of the Hon. Jamie Irwin creeping up at night, perhaps trying to create a bigger smell to annoy the people of Kanmantoo. Awful pictures are being conjured up by the Democrats. It was starting to sound like a 3 a.m. rerun on channel 10. He said, 'I have to say that Jamie Irwin is recognised for his integrity and is regarded as okay.' But I want to say to the Hon. Mike Elliott before all the members here that I believe the late Hon. Lance Milne, who was an Australian Democrat, would have been ashamed what he would have heard tonight.

The Hon. Mr Elliott claimed that the Hon. Jamie Irwin had an interest in Neutrog through a company. Where was that leading? Having talked about corruption, he moved this motion:

That the Legislative Council expresses its concern at the Government's failure to pay due regard to circumstances that give rise to conflict of interest situations.

What is the link between what he is telling us about Neutrog, Kanmantoo, the Hon. Jamie Irwin and corruption? What conclusion is he inviting from us? This was just a totally vicious and unprincipled attack, and all I can say to the Hon. Mike Elliott is that it will only strengthen the Liberal Party's already strong support for my colleague the Hon. Jamie Irwin, who is recognised, I believe, as the straightest arrow in the Legislative Council. If there is a straighter one, I have not yet met him.

The Hon. M.J. Elliott: I thought I said that.

The Hon. L.H. DAVIS: No, you did not say that; I am saying that, thank you. The Liberal Party has always recognised that the Hon. Jamie Irwin's integrity has been beyond reproach. The question then is: what is this all about? What is happening here? I know we have been meeting for a long time, it is the last week and members do get a little bit excited, but we have had more. To try to explain it, members from both sides were saying, 'Where is this conflict of interest? We might be slow, it might be late but what is happening here?' The honourable member said, 'Any number of people have come to me talking about the problems, and I told them, "Don't worry about this man Jamie Irwin; I know he is a good man," but what is happening is that apparently there have been breaches of licence conditions over a period of time and there could be a possible conflict of interest.'

Challenged repeatedly from both sides with members asking, 'Well, what is this conflict of interest?', the honourable member did not give a real response. The best he could do was say, 'If you have an investment where you are benefiting indirectly from Government assistance, that could be the conflict of interest.' I think this is what he was trying to blurt out to us. He was not quite sure himself.

Let me run through this very slowly for the Hon. Michael Elliott because he does not have the benefit of a business background, and it sorely and surely shows. Let me give examples and ask the Hon. Mr Elliott to respond as I go along, with the help of the Chair to allow the interjection. I was on the Industries Development Committee for many years. It was one of the most satisfying periods of time, I must say, that I have had in Parliament because the committee then consisted of one member from each side of both Houses—four members in total, two Labor and two Liberal members plus a Treasury representative. We met on a very regular basis, exclusively as the Industries Development Committee which sadly has been swallowed up by the Economic and Finance Committee under the extraordinary Evans parliamentary committees Bill proposal—but that is another question.

We examined proposals from international companies, national companies and small emerging local companies with respect to financial assistance which may have taken many forms. It may have been assistance in the acquisition of a factory, interest free loans, direct financial assistance, or money which may be directly conditional on capital investment and/or jobs being created.

I can remember on one occasion that a proposal came before the committee from a South Australian based company listed on the Stock Exchange—and I will not name names because that would be a breach of the Industries Development Committee. In fact, I had been associated with the listing of this company on the Stock Exchange. I had owned shares in that company, although I did not at the time the application came before the committee. I declared my interest and I withdrew my Chair, as it were, although I must say that I participated in the discussion in the sense that I had information which was helpful to the committee. Presumably that is why some members are here today: they have a special experience and expertise which will contribute to creating and passing better legislation for the benefit of South Australians. The Democrats do not understand that. There will always be conflicts between our duty and our interest, and it is how you deal with it that counts.

The Hon. M.J. Elliott: That is the point.

The Hon. L.H. DAVIS: Of course, that is the point. The Hon. Michael Elliott has now admitted that, although he did not say it at all. It is how you deal with it so that you make your interest always subservient to your duty. That is the point; that is the nub of the debate. If the Hon. Michael Elliott had any decency, he could have gone to the Hon. Jamie Irwin to ask him to explain his role. Knowing the Hon. Jamie Irwin as I do, my understanding is that he is a passive investor with an interest in this company. He has no interest at all in the day-to-day running of Neutrog. He is not a director of Neutrog.

We have reached the absurd situation, the Hon. Michael Elliott, where I can now move back to the Industries Development Committee and tell you what happens. I can remember a big national company which came before the committee and which wanted to expand and employ hundreds of people in South Australia. We were giving a very big concession to the company. We were being asked to give a massive financial investment boost to this company, and we were aware that we were being played off against eastern States' companies. We gave that grant. I did not have shares in this company which was listed on the Stock Exchange, but the fact is that other members of the Parliament may well have done so. In that situation, they would have been receiving a benefit from this company indirectly as a shareholder because the Government had put money into that company. We are talking about a very large amount of money. On the principle that has been advanced by the Hon. Michael Elliott, 'the Elliott wave theory' I call it—

The Hon. M.J. Elliott interjecting:

The Hon. L.H. DAVIS: Any parliamentarian who had shares in that company would have been held to have had a conflict because that company had received a benefit from the Government.

The Hon. M.J. Elliott: The declaration of interest would have shown that.

The Hon. L.H. DAVIS: That is right. The Hon. Michael Elliott interjects and says that the declaration of interest would have shown that. Of course, what he is suggesting is that the Hon. Jamie Irwin has not declared his interest. I hesitate to advance this matter, because there are sensitivities relating to the register of interests, but the Hon. Michael Elliott should be very careful if he dares to step outside this Chamber and say something that would be defamatory to my colleague. Have you checked the register of interests?

The Hon. M.J. Elliott: You're saying it's changed, are you?

The Hon. L.H. DAVIS: Are you saying that the Hon. Jamie Irwin has attempted to get a secret benefit out of the Government?

The Hon. M.J. Elliott: No, I did not say that. I didn't imply that. You're reading stuff in that I didn't say.

The Hon. L.H. DAVIS: You are: you said that, with that investment in Neutrog, he is getting a benefit directly that would be an advantage to him.

The Hon. J.F. Stefani interjecting:

The Hon. L.H. DAVIS: That is what you said, and linking it up with your earlier statement, as the Hon. Julian Stefani says, it could lead to corruption. I find it a remarkable, low level exercise. This motion is the pits and I urge members to acknowledge that, although I think they have already by their actions tonight, by their interjections. There will always be conflict: it is how we treat this conflict that we stand and fall. The Hon. Michael Elliott, by introducing a motion that reads 'that the Legislative Council expresses its concern at the Government's failure to pay due regard to circumstances that give rise to conflict of interest situations' and then to drop into this debate the name of the Hon. Jamie Irwin and a company that is run by one of his sons, with the inference being that this fits the bill that he has here, that it is one of the three examples, is absolutely despicable and is the pits as far as I am concerned.

As for the third example the honourable member gave, I was curious that no names were mentioned, unlike the Hon. Dale Baker and the Hon. Jamie Irwin, who were done over publicly. No name was mentioned, and I am not going to ask the honourable member for that: I am grateful that decorum finally set in, even at a late hour.

I have no comment to make about the issues raised, because I have no knowledge of them. But I want to say again that I did not intend to speak on this motion; I did not know what it would be about. I heard some whisper that it might be about my colleague the Hon. Jamie Irwin. I am dismayed and disturbed, but I can better understand now why the Australian Democrats' poll figures are plunging.

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

SELECT COMMITTEE ON THE PROPOSED PRIVATISATION OF MODBURY HOSPITAL

The Hon. R.I. Lucas, for the **Hon. BERNICE PFITZNER:** I move:

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

Motion carried.

SELECT COMMITTEE ON OUTSOURCING FUNCTIONS UNDERTAKEN BY E&WS DEPARTMENT

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

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

Motion carried.

SELECT COMMITTEE ON TENDERING PROCESS AND CONTRACTUAL ARRANGEMENTS FOR THE OPERATION OF THE NEW MOUNT GAMBIER PRISON

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

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

Motion carried.

SELECT COMMITTEE ON CONTRACTING OUT OF STATE GOVERNMENT INFORMATION TECHNOLOGY

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

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

Motion carried.

SELECT COMMITTEE ON PRE-SCHOOL, PRIMARY AND SECONDARY EDUCATION IN SOUTH AUSTRALIA

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

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

Motion carried.

SELECT COMMITTEE ON POTENTIAL CONFLICT OF INTEREST BY MINISTER CONCERNING 'GOULDANA'

The Hon. R.I. Lucas, for the **Hon. K.T. GRIFFIN (Attorney-General):** I move:

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

Motion carried.

UNFAIR DISMISSALS

Adjourned debate on motion of Hon. R.R. Roberts:

That the regulations under the Industrial and Employee Relations Act 1994 concerning unfair dismissals, made on 29 May 1997 and laid on the table of this Council on 3 June 1997, be disallowed.

(Continued from 9 July. Page 1769.)

The Hon. M.J. ELLIOTT: I support the motion. I do not intend to speak at length because most of the substantial issues covered within the regulations are covered by the Bill to amend the Act which is also before this place. In terms of the actual substance of the regulations, I will leave that for another time.

I indicated quite early on, when the public debate was occurring on this matter, that the Democrats would oppose the regulation. The reason for that opposition was that, in our view, the use of the regulation was so extensive as to almost make a nonsense of the Act itself. In my view, if you have an

Act which covers unfair dismissals and gives an entitlement to unfair dismissals, and then you have a regulation which allows for some exemptions, one would not expect the exemptions to be as extensive as the Government made them and to pick up the number of people that it did. So, it is the use of a regulation to undermine, as I see it, the intention of the principal Act itself that caused me greatest concern.

In my view, if a Government seeks to make extensive change, extensive change should not happen through regulation but through legislation. It is on that basis alone that I oppose the regulation. As for the substantive components of the regulations, as I said, they will be debated in this place when we debate the Bill itself.

The Hon. K.T. GRIFFIN (Attorney-General): The Government opposes the motion. The regulations that are subject to the motion for disallowance, which I will describe as the new regulations, replace regulation 10 of the Industrial and Employee Relations General Regulations 1994, which I will describe as the old regulation. The new regulations set out the classes of employees that are excluded pursuant to section 105(2)(b) of the Industrial and Employee Relations Act 1994, which is a State Act, from making an unfair dismissal application. The new regulations have the same effect as the old regulation except that the following changes are made to existing exemptions so as to mirror the Federal law in this regard.

An employee engaged for a specific period or a specified task will continue to be excluded from claiming unfair dismissal except where achieving such exclusion is the main as opposed to the substantial purpose for which the employer engaged the employee in that manner. An employee who is engaged for a probationary period of three months or less will now be excluded from making an unfair dismissal application without his or her employer having to prove that the probationary period was of a reasonable length. A casual employee will now have to work for an employer on a regular and systematic basis for a sequence of periods of employment over at least a 12 month as opposed to a six month period before that casual employee can claim unfair dismissal.

A new exemption is introduced to reflect what was the Federal position until the relevant Federal regulation was disallowed by Federal Parliament and what will be the Federal position if the relevant Bill which is currently before Federal Parliament is passed. This exemption excludes an employee from making an unfair dismissal claim where there were 15 or fewer employees employed in the undertaking of the employer at the time at which the employer terminates the employment or gives notice of termination; the employee had not been engaged for a period or for a sequence of periods of employment of more than 12 months; and the employee was first employed by the employer after 1 July 1997.

The new regulations clarify that casual employees who are not engaged on a regular and systematic basis are not to be included in any assessment of whether or not an employer employs more than 15 employees at a particular time. However, part-time employees and casual employees engaged on a regular and systematic basis will be included in this assessment. The balance of the new regulations are identical in effect to the balance of the old regulation. The Government's reasons for making the new regulations include harmonising the State laws with the Federal laws in this respect so that there is both clarity and consistency in the categories of employees who are excluded from both State and Federal unfair dismissal provisions; reducing the fears held by many small business proprietors about hiring new staff; and consistency with the termination of employment convention.

There are some additional merits of the new regulations which provide additional benefits for both employers and, in a number of respects, for employees but, in view of the hour and in view of what I perceive to be the numbers in relation to this motion, I do not think it is necessary for me to put this on the record at this stage. For those reasons and a number of others I indicate that the Government does not support the disallowance motion.

The Hon. R.R. ROBERTS: I thank members for their contributions to this debate. The Attorney-General's arguments were predictable. The hour is late. I simply say that I still believe that the reasons for the disallowance as explained in my first contribution are valid. I ask members to support the motion.

Motion carried.

JOINT COMMITTEE ON LIVING RESOURCES

Adjourned debate on motion of the Hon. Caroline Schaefer:

That the final report of the Joint Committee on Living Resources be noted.

(Continued from 9 July. Page 1772.)

Motion carried.

AUSTRALIAN NATIONAL

Adjourned debate on motion of the Hon. Caroline Schaefer:

That in the interests of long term rail jobs and a strong viable future for rail in South Australia, this Council notes support for the sale of Australian National from—

Rail 2000
Trades & Labor Council, Port Augusta
Corporation of the City of Port Augusta
Spencer Regions Development Association
Northern Regional Development Board
SA Farmers Federation, Australian Barley Board, Australian Wheat Board
Labor Senator Bob Collins
Australian National

(Continued from 28 May. Page 1421.)

The Hon. CAROLINE SCHAEFER: I move:

That this motion be discharged.

Motion discharged.

EXPIATION OF OFFENCES REGULATIONS

Order of the Day, Private Business, No. 14: Hon. R.D. Lawson to move:

That the principal regulations under the Expiation of Offences Act 1996, made on 23 December 1996 and laid on the table of this Council on 4 February 1997, be disallowed.

The Hon. P. HOLLOWAY: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

COMMON EXPIATION SCHEME REGULATIONS

Order of the Day: Private Business, No. 15: Hon. R.D. Lawson to move:

That the Common Expiation Scheme Regulations (Variation) 1996, under various Acts, made on 23 December 1996 and laid on the table of this Council on 4 February 1997, be disallowed.

The Hon. P. HOLLOWAY: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

RETAIL SHOP LEASES (SELECT COMMITTEE RECOMMENDATIONS) AMENDMENT BILL

Second reading debate adjourned on 6 November. (Page 363.)

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

That this Order of the Day be discharged.

Order of the Day discharged.

STATUTES AMENDMENT (CONSUMER AFFAIRS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Building Work Contractors Act 1995, the Business Names Act 1996, the Consumer Transactions (Miscellaneous) Amendment Act 1995, the Conveyancers Act 1994, the Land Agents Act 1994, the Land Valuers Act 1994, the Plumbers, Gas Fitters and Electricians Act 1995, the Residential Tenancies Act 1995, the Retirement Villages Act 1987, the Second-hand Vehicle Dealers Act 1995, the Security and Investigation Agents Act 1995, the Statutes Repeal and Amendment (Commercial Tribunal) Act 1995 and the Travel Agents Act 1986. Read a first time.

The Hon. K.T. GRIFFIN: I move:

That this Bill be now read a second time.

In view of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Statutes Amendment (Consumer Affairs) Bill 1997*, proposes amendments to various legislation in the Consumer Affairs portfolio.

The amendments are mostly of a minor nature and are largely concerned with bringing consistency in the legislation dealing with licensing. In some cases, the amendments are for uniformity of administration, providing the Office of Consumer and Business Affairs with certain housekeeping changes.

A comprehensive review of all legislation in the Consumer Affairs portfolio has taken place over the last 3 years.

The Legislative Review Team which was established to review the legislation saw through the process of the enactment of new legislation or the amendment of existing legislation which was to be retained. The Legislative Review Team completed its review and was disbanded late in 1995.

The new legislation and amended legislation has now been in operation for varying lengths time and in the administration some anomalies, inconsistencies and minor oversights have become evident. The amendments in the *Statutes Amendment (Consumer Affairs) Bill 1997*, seek to address those matters along with other minor amendments which are required for effective administration of the legislation concerned.

There has been a process of consultation during the preparation of the Bill and a draft copy of the proposed amendments were distributed for comment to relevant industry and consumer groups.

The key amendments in the Bill are as follows:

In the former Builders Licensing Act and Commercial and Private Agents Act, there were provisions which prevented persons disqualified from working in industry by using for example, another person, such as a family member, as the license holder, while the disqualified person worked as an employee of the licence holder. The Bill carries froward that requirement to the transitional provisions in the new Acts. A similar provision has recently been reinserted into the *Second-hand Vehicle Dealers Act 1996*. The provisions in essence, restore the status quo to prevent persons disqualified from working in the building or security industries from operating *de facto* in those industries in any capacity.

Building Work Contractors Act 1995

Under Section 33, the builder is required to take out insurance where a person enters into a building work contract for renovations/ alterations costing in excess of $5 000 in order to give the home owner a warranty. To avoid the need for insurance, the builder may split the contract into two components—labour and fixtures, and the owner is billed for both. The building owner misses out on building indemnity insurance when the work contractor splits the contract into two components. The Act is amended to close this loophole.

Business Names Act 1996

This Act is amended to allow for a Postal Address for a business name or other relevant information to be disclosed on the Register. Many rural businesses have requested that they be allowed to include their postal as well as their residential address on the public register. At present there is no provision for a postal address to be recorded.

Consumer Transactions (Miscellaneous) Amendment Act 1996

It is proposed to repeal section 6AA inserted by the Consumer Transactions (Miscellaneous) Amendment Act 1995. The section extended the provision concerning consumer leases under the Act to leases outside the jurisdiction of the Consumer Credit Code, such as leases of an indefinite period or where the cost of the hire does not exceed the value of the goods.

A number of credit providers complained that this provision is unworkable and have raised concerns that this provision has altered the uniform nature of the Code. Hire agreements which are outside the Code are presently protected in the same way as other consumer transactions through the Fair Trading Act 1987, and the Consumer Transactions Act 1972. As a result of these concerns, the provision has never been proclaimed and it is repealed by this Bill.

Land Agents Act 1994 and Conveyancers Act 1994

An amendment inserts a provision to allow for an appeal to the Administrative and Disciplinary Division of the District Court from a refusal by the Commissioner to grant a licence or registration.

There is no current provision for an appeal if it is needed and these appeal provisions appear in all other licensing Acts administered by the Commissioner.

Residential Tenancies Act 1995

This amendment to section 36 removes a reference to the Magistrates Court and substitutes it with 'the appropriate court' as many retirement village matters involve sums of money which exceed the Magistrates' Court jurisdiction.

A new provision (s. 105A) is inserted in the Residential Tenancies Act enabling the Governor to make regulations prescribing terms which must be included in every rooming house agreement.

The provision in the Residential Tenancies Act for Codes of Conduct for rooming houses were not brought into operation with the new Act. The main concern about the draft Code was that it imposed criminal sanctions on residents in inappropriate circumstances and a penalty of $200.00 was set. The draft Code required, among other things, that residents keep their rooms clean and pay rent on time. These requirements meant that a rooming house resident could be liable to a criminal penalty when a tenant is not.

It is considered that this concern is best met by setting out some standard terms in rooming house agreements which would attract civil sanctions (action for breach of a rooming house agreement) rather than criminal sanctions.

Retirement Villages Act 1887

Under the Retirement Villages Act 1987, residents have a charge over the property of the village under Section 8, in order to secure the (often large) entry fee. The Bill amends Section 8 to ensure that nothing in the Real Property Act affects the residents' priority charge over the property of the village.

In Brown v Commonwealth Bank, the Supreme Court recommended that this charge be reconciled with the principles for the Torrens Title system in the Real Property Act.

Second Hand Vehicle Dealers Act 1995

Under Section 23 of the Act a dealer has certain duties to repair vehicles within a specified warranty period, provided the vehicle was sold for a price greater than $3000 or if the vehicle is less than 15 years old. Where a vehicle is sold for less than $3000 but is not road worthy, the dealer is obliged to repair the vehicle to a road worthy

standard. The present wording of the Act imposes no duty to make road worthy vehicles sold which are more than 15 years old for which the purchase price exceeds $3001.

The Bill clarifies the roadworthiness requirement to ensure the same protection for all vehicles. Consequently, every second-hand motor vehicle sold by a dealer to the public must be made road worthy.

Jurisdictions which provide for assessors to the Courts

In jurisdictions which require the appointment of assessors to the Courts, technical amendments have been made to clarify that it is either 'a judicial officer of the Court' or, 'a Judge of the Court' who determines whether assessors will sit with the Court. Currently the wording of the section in various jurisdictions refers to the judicial officer who is to preside at proceedings. In certain instances, a matter brought to the Court may first be proceeded with by an officer of the Court before being brought before the judicial officer or a Judge of the Court. The amendment clarifies the determining of the presence of assessors in Court proceedings.

I commend this bill to Honourable Members.

Explanation of Clauses

The provisions of the Bill are as follows:

PART 1
PRELIMINARY

Clause 1: Short title
Clause 2: Commencement
Clause 3: Interpretation

PART 2
AMENDMENT OF BUILDING WORK CONTRACTORS ACT 1995

Clause 4: Amendment of s. 3—Interpretation

This amendment provides that for the purposes of Part 5 of the Act a series of contracts for domestic building work is to be regarded as a single contract. Consequently, building indemnity insurance will be required under Part 5 if the total value of work under the contracts is $5 000 or more.

Clause 5: Amendment of s. 24—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to determine whether the Court is to sit with assessors and leaves this matter to any Judge of the Court.

Clause 6: Amendment of s. 39—Participation of assessors in proceedings

This amendment removes the requirement for the judicial officer who is to preside at proceedings in the Magistrates Court (or District Court under section 40(2)) relating to domestic building work to determine whether the Court is to sit with assessors and leaves this matter to any judicial officer of the Court.

Clause 7: Amendment of Sched. 1—Appointment and Selection of Assessors for District Court Proceedings under Part 4
Clause 8: Amendment of Sched. 2—Appointment and Selection of Assessors for Magistrates Court Proceedings under Part 5

These amendments are consequential.

Clause 9: Amendment of Sched. 3—Repeal and Transitional Provisions

This amendment ensures that people who were at the commencement of the Act disqualified from being licensed or registered cannot be employed or engaged in the business of a building work contractor in any capacity while they remain disqualified.

PART 3
AMENDMENT OF BUSINESS NAMES ACT 1996

Clause 10: Amendment of s. 11—Register and inspection of register

The amendment enables the Commission to include additional information in the register at the request, or with the consent, of the person to whom the information relates (eg post office box addresses of rural businesses).

PART 4
AMENDMENT OF CONSUMER TRANSACTIONS (MISCELLANEOUS) AMENDMENT ACT 1995

Clause 11: Amendment of s. 5—Substitution of s. 6

Section 5 of the amendment Act replaced section 6 of the *Consumer Transactions Act* with new sections 6 and 6AA. The commencement of new section 6AA was suspended when the amendment Act was brought into operation. This amendment strikes out section 6AA so that it will not come into operation under section 7(5) of the *Acts Interpretation Act* 2 years after the date of assent of the amending Act.

PART 5
AMENDMENT OF CONVEYANCERS ACT 1994

Clause 12: Amendment of s. 7—Entitlement to be registered

Currently, the educational qualifications for conveyancers are set out in the regulations. This amendment enables the Commissioner, subject to the regulations, to determine alternative qualifications considered appropriate. It also removes the reference to the qualifications being educational and so provides greater flexibility.

Clause 13: Insertion of s. 7A—Appeals

This amendment enables an applicant who is refused registration as a conveyancer to appeal to the District Court against the decision.

Clause 14: Amendment of s. 48—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to determine whether the Court is to sit with assessors and leaves this matter to any Judge of the Court.

Clause 15: Amendment of Sched. 1—Appointment and Selection of Assessors for Court

This amendment is consequential.

PART 6
AMENDMENT OF LAND AGENTS ACT 1994

Clause 16: Amendment of s. 8—Entitlement to be registered

Currently, the educational qualifications for land agents are set out in the regulations. This amendment enables the Commissioner, subject to the regulations, to determine alternative qualifications considered appropriate. It also removes the reference to the qualifications being educational and so provides greater flexibility.

Clause 17: Insertion of s. 8A—Appeals

This amendment enables an applicant who is refused registration as a land agent to appeal to the District Court against the decision.

Clause 18: Amendment of s. 46—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to determine whether the Court is to sit with assessors and leaves this matter to any Judge of the Court.

Clause 19: Amendment of Sched. 1—Appointment and Selection of Assessors for Court

This amendment is consequential.

PART 7
AMENDMENT OF LAND VALUERS ACT 1994

Clause 20: Amendment of s. 10—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to determine whether the Court is to sit with assessors and leaves this matter to any Judge of the Court.

Clause 21 : Amendment of Sched. 1—Appointment and Selection of Assessors for Court

This amendment is consequential.

PART 8
AMENDMENT OF PLUMBERS, GAS FITTERS AND ELECTRICIANS ACT 1995

Clause 22: Amendment of s. 23—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to determine whether the Court is to sit with assessors and leaves this matter to internal Court arrangements.

Clause 23: Amendment of Sched. 1—Appointment and Selection of Assessors for Court

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to select assessors to sit with the Court and leaves this matter to internal Court arrangements.

PART 9
AMENDMENT OF RESIDENTIAL TENANCIES ACT 1995

Clause 24: Amendment of s. 36—Enforcement of orders

This amendment provides that where the Tribunal makes an order for a monetary amount that exceeds the jurisdiction of the Magistrates Court the order may be registered in the District Court and enforced as an order of that court.

Clause 25: Insertion of s. 105A—Implied terms

The proposed section contemplates regulations prescribing terms of rooming house agreements. Terms included in the regulations will be able to be enforced by the Tribunal.

It is envisaged that codes of conduct for rooming houses will be made covering matters for which a criminal sanction is appropriate.

Clause 26: Amendment of s. 119—Tribunal may exempt agreement or premises from provision of Act

This amendment is consequential to new section 105A and contemplates the Tribunal granting exemptions in relation to the terms of rooming house agreements in appropriate circumstances.

PART 10
AMENDMENT OF RETIREMENT VILLAGES ACT 1987

Clause 27: Amendment of s. 9—Contractual rights of residents

The amendment ensures that the contractual rights of residents are given effect through a priority charge despite any provisions of the *Real Property Act* to the contrary.

PART 11
AMENDMENT OF SECOND-HAND VEHICLE DEALERS ACT 1995

Clause 28: Amendment of s. 23—Duty to repair

The amendment ensures that vehicles over 15 years old or driven over 200 000 km remain subject to the roadworthiness requirements although they are not otherwise subject to the duty to repair.

Clause 29: Amendment of s. 25—Participation of assessors in proceedings

This amendment removes the requirement for the judicial officer who is to preside at proceedings in the Magistrates Court related to the duty to repair to determine whether the Court is to sit with assessors and leaves this matter to any magistrate.

Clause 30: Amendment of s. 30—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to determine whether the Court is to sit with assessors and leaves this matter to any Judge of the Court.

Clause 31: Amendment of Sched. 1—Appointment and Selection of Assessors for Magistrates Court

Clause 32: Amendment of Sched. 2—Appointment and Selection of Assessors for District Court

These amendments are consequential.

PART 12
AMENDMENT OF SECURITY AND INVESTIGATION AGENTS ACT 1995

Clause 33: Amendment of s. 28—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to determine whether the Court is to sit with assessors and leaves this matter to any Judge of the Court.

Clause 34: Amendment of Sched. 1—Appointment and Selection of Assessors for Court

This amendment is consequential.

Clause 35: Amendment of Sched. 2—Repeal and Transitional Provisions

This amendment ensures that people who were at the commencement of the Act disqualified from being licensed cannot be employed or engaged in the business of an agent in any capacity while they remain disqualified.

PART 13
AMENDMENT OF STATUTES REPEAL AND AMENDMENT (COMMERCIAL TRIBUNAL) ACT 1995

Clause 36 : Repeal of s. 9

Section 9 of the amendment Act amended section 82 of the *Fair Trading Act*. The commencement of section 9 was suspended when the amending Act was brought into operation because section 82 had been amended by another Act that had already come into operation. This amendment strikes out section 9 so that it will not come into operation under section 7(5) of the *Acts Interpretation Act* 2 years after the date of assent of the amending Act.

PART 14
AMENDMENT OF TRAVEL AGENTS ACT 1986

Clause 37: Amendment of s. 18A—Participation of assessors in disciplinary proceedings

This amendment removes the requirement for the judicial officer who is to preside at disciplinary proceedings to select assessors to sit with the Court and leaves this matter to any Judge of the Court.

Clause 38: Amendment of Sched.—Appointment and Selection of Assessors for District Court

This amendment ensures that people who were at the commencement of the Act disqualified from being licensed cannot be employed or engaged in the business of an agent in any capacity while they remain disqualified.

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

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Returned from the House of Assembly without amendment.

JURIES (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

PARTNERSHIP (LIMITED PARTNERSHIPS) AMENDMENT BILL

Returned from the House of Assembly with amendments.

CO-OPERATIVES BILL

Returned from the House of Assembly with an amendment.

EQUAL OPPORTUNITY (SEXUAL HARASSMENT) AMENDMENT BILL

The House of Assembly intimated that it insisted on its amendments to which the Legislative Council had disagreed.

INDUSTRIAL AND EMPLOYEE RELATIONS (REGISTERED ASSOCIATIONS) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill addresses concerns held by a number of trade unions about the effect of the transitional provisions in the *Industrial and Employee Relations Act 1994* which deal with the continuing registration in SA of associations which are branches of, or otherwise affiliated with, organisations registered under the Commonwealth's *Workplace Relations Act 1996*.

The unions' concerns stem from amendments made to the State's industrial laws in 1991. The *Industrial and Conciliation and Arbitration (Commonwealth Provisions) Amendment Act, 1991* established a scheme of registration of associations in South Australia which intended a re-arrangement of registration of associations which were the branches of Federally registered organisations.

In effect and as a consequence of the *Industrial Conciliation and Arbitration (Affiliated Associations) Regulations 1992*, a state registered association which was named as "an affiliated association" with a Federally registered organisation, would, on the expiry of the transitional period, cease to have a separate legal identity within the South Australian industrial relations jurisdiction and its property, rights and liabilities would thereafter vest in the parent Federal body. The transitional period was originally identified as expiring on 31 December 1996. However as a consequence of the *Industrial and Employee Relations (Transitional Arrangements) Amendment Act 1996* (assented to on 12 December 1996) the transitional period was extended to 1 January 1998. The effect of the current law is to require that a body registered under State law which is branch of a federally registered union may be prescribed by regulation as an affiliated association. The *Industrial Conciliation and Arbitration (Affiliated Association) Regulations 1992*, contains a list of 42 affiliated associations and their federal parent organisations.

Without a change to the law, on expiry of the transitional period on 31 December, 1997 each affiliated association would cease to have a separate legal identity and its property, rights and liabilities would vest in the parent federal body which is the federal organisation identified in the Regulations. Upon the expiry of the transitional period the rules of the State registered body would be revoked. After that date, if the rules of the parent organisation provided for a South Australian branch and conferred upon that branch a reasonable degree of autonomy in the administration and control of South Australian assets and in the determination of local questions, then either of two circumstances would occur.

Firstly if the parent organisation so nominated, it would be considered as being registered under those provisions of the State Act which provide for registration without corporate status. In the alternative, and in the absence of such a nomination by the parent association the affiliated association (being the body previously registered under the State Act) would thereafter be registered as a branch of the parent organisation without separate incorporation and with rules as registered for the parent organisation under the Commonwealth Act. It is these eventualities which are particularly concerning to SA unions.

Under the current law, where an organisation attempted to amend its rules so as to confer the necessary degree of autonomy but failed in that attempt, it could apply to the President of the Industrial Relations Commission for exemption from the provisions outlined above. The effect of these existing provisions is that in all cases, other than where the President granted an exemption due to an inability to secure sufficient local autonomy, local branches of federal unions would lose their separate legal identity and their property, rights and liabilities would vest in the parent organisation.

As a result of these possibilities, a number of state registered associations of employees have during 1996 and 1997 indicated concern about the potential for them to lose State registration and separate legal identity and property rights and liabilities being vested in a parent Federal body. In the case of two of the associations, the concerns extended to challenging in the Supreme Court the validity of the legislation and the regulations. These proceedings have been adjourned, pending a consideration by Parliament of a change to the Act.

After consultation with members of the Industrial Relations Advisory Committee, including the United Trades and Labor Council, the Government now takes the view that the most expeditious way to resolve the unions' concerns is firstly to amend the Act and secondly to revoke the regulations.

The proposed amendment to the Act is explained in the Explanation of Clauses. It should be indicated that nothing in the principal Act, as amended by this Bill, would prevent a State registered union from voluntarily following the course of action which would otherwise be forced on it by the existing legislation (that is, to voluntarily restructure itself as an unincorporated branch of a federal registered organisation).

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of sched. 1

It is proposed to amend section 16 of schedule 1 of the Act in relation to the issue that may arise if an association is registered under the State Act and the Commonwealth Act (or if an association registered under the State Act is a branch of an association registered under the Commonwealth Act or has members that are also members of an association registered under the Commonwealth Act).

Section 16 of schedule 1 currently preserves the protection that applied under section 55 of the *Industrial Conciliation and Arbitration (Commonwealth Provisions) Amendment Act 1991* during a transitional period that is due to expire on 1 January 1998. (Section 55 of the 1991 Act in turn made reference to section 133 of the former Act before its amendment by the 1991 Act.)

Section 16 also continues the scheme established by section 55(4) to (7) of the 1991 Act relating to affiliated associations. This amendment will remove the limitation on the operation of the provision, and will also remove the provisions continuing the scheme established by section 55(4) to (7) of the 1991 Act, and will provide that no objection of the relevant kind (as provided by section 133(1) of the former Act) can be taken in relation to an association registered under the 1994 Act immediately before the commencement of this amending Act. Section 133(1) is to be set out in a note to the new provision.

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

IRRIGATION (TRANSFER OF SURPLUS WATER) AMENDMENT BILL

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

The Hon. K.T. Griffin, for 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.

On 1 July 1997 the eight government highland irrigation districts were converted to self-managing private trusts. This is a significant milestone in the increasing development of the irrigation sector in the Riverland.

Since the new Irrigation Act 1994 has come into effect, the impacts of restructuring the irrigation industry brought about by that Act, have been evidenced by the increasing economic activity in the Riverland. Rehabilitation of infrastructure, improved irrigation methods and the efficient reallocation of water through trading in the water market have significantly contributed to this.

There are currently several development proposals requiring irrigation water along the River Murray. The private water market is unable to meet demand at the moment and the developers are experiencing difficulty sourcing sufficient water at the required security level. Interstate water trade is most unlikely to provide an immediate solution as it will only generate small quantities of water for the first few years.

Significant development opportunities can be progressed if unused water from the newly converted irrigation districts can be released. The impediment to this is the inability of the new trusts to lease water on behalf of the district as whole. The temporary transfer or leasing of water was not envisaged at the time the original Act was drafted but has since become an important trend in the market.

A number of irrigators have water allocations that are not fully utilised from year to year. Significant buyers of water seek large parcels of water for longer terms than individual growers will offer. It is difficult to trade small amounts of water and individual irrigators are usually not in a position to deal with their unused allocation. Further, in many cases irrigators whilst not prepared to transfer their allocations (or portions) permanently, are willing to transfer portions of them on a temporary basis.

There is a market for the temporary transfer (or the leasing) of water on various bases. The only way for this to successfully operate is for the irrigation trusts to co-ordinate the aggregation of prospective unused water allocations and manage the leasing process.

The Bill regulates the way in which this can be done. It requires 21 days notice of the resolution of the trust by which the decision is made to transfer part of the trust's water. It also requires the proceeds to be divided between the members of the trust.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of s. 46A

Clause 3 inserts new section 46A into the principal Act. The new section regulates the way in which a trust may transfer surplus water. Twenty-one days notice must be given of the resolution by which the trust decides to transfer the allocation for surplus water. Subsection (1)*(c)* sets out the way in which proceeds of the transfer must be divided between the owners of the irrigated properties. Paragraph *(b)* ensures that excess water is transferred before unused water. Subsection (2) provides definitions for terms used in the section.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

NATIONAL WINE CENTRE BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendment and that it had made an alternative amendment in lieu thereof.

MOTOR VEHICLES (FARM IMPLEMENTS AND MACHINES) AMENDMENT BILL

Returned from the House of Assembly with amendments.

ROAD TRAFFIC (EXPRESSWAYS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 12.12 a.m. the Council adjourned until Thursday 24 July at 11 a.m.