LEGISLATIVE COUNCIL

Wednesday 11 April 2001

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.16 p.m. and read prayers.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. L.H. DAVIS: I bring up the report of the committee on its inquiry into animal and plant control boards and soil and conservation boards and move:

That the report be printed.

Motion carried.

QUESTION TIME

BUSES, METROPOLITAN

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before directing a question to the Minister for Transport on the subject of the tendering and contracting of metropolitan bus services.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the Minister for Transport to a leaked document, which is a minute dated March 2001 from the Treasurer to the Minister for Transport. The subject of the minute is as follows:

> Estimated savings of the tendering and contracting of metropolitan bus services.
>
> I refer to your minute dated (13) December 2000 where you requested formal confirmation of the estimated savings from the tendering of metropolitan bus services. Treasury and Finance can confirm that based on 226 employees as at 30 June 2000 reducing by 20 per cent per annum, they agree with the savings presented. It is important to recognise that DTUPA's forecast of an annual 20 per cent reduction in redeployees may not occur. Consequently there is some risk that the estimated savings will not occur.

The estimated savings to which the Treasurer referred is the much publicised $7 million per annum for 10 years, which was announced and re-announced when the minister privatised the metropolitan bus service. In her media release on 27 January 2000, the minister said:

> At least $7 million a year ($70 million-plus over 10 years) will be cut from the taxpayer funded operating subsidy after taking into account the whole of government costs.

My questions are:

1. Does the minister agree with the Treasurer that, according to his department's own calculations, there is some risk that the estimated savings will not occur?

2. In addition to the Treasurer's statements, can the minister detail why these savings are now in jeopardy?

3. When will the minister detail the revised savings, if there are any, and why has she failed to bring this matter to the public's attention, given the prominence she gave to the savings at the time the services were privatised?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): We are on track to receive the savings that I announced on behalf of the government, that is, an average of $7 million a year. It is the way of Treasury and the Treasurer to be pessimistic about dollar figures and to highlight risks, but I assure the honourable member and this place that the risks have been managed, and I confirm again that the savings that were forecast will occur.

The honourable member may also be interested to know that, in terms of this savings task, the figures calculated initially by Treasury in terms of whole of government costs were 226 full-time equivalent employees as at 23 April, coming down 20 per cent by 1 July this year.

The Hon. Carolyn Pickles: The Treasurer does not think it is going to happen.

The Hon. DIANA LAIDLAW: That is what I am saying. It is not the Treasurer's role to bring joy to my life on any matter and, generally, it is the way of Treasury to be pessimistic and to be conservative about risk. What I am trying to highlight to the honourable member, and have since made the Treasurer well aware, is that we are far in advance of our 20 per cent reduction in redeployees from 23 April last year, and, therefore, the savings are not only on track but are in advance of what Treasury predicted was required in terms of whole of government savings to achieve the $7 million.

The Hon. Carolyn Pickles: This was dated March.

The Hon. DIANA LAIDLAW: I know, but it is old news. That is what I am saying. I have since advised the Treasurer and cabinet that we are well in advance of the 20 per cent savings, and I am just trying to find that information because I know that the honourable member would wish to be more pessimistic than the Treasurer and would not want to see the positive side of life. However, I can advise that, as at 1 February, a total of 137 bus redeployees and 24 other redeployees had temporary placement in government agencies. Even with respect to the reduced number that Treasury anticipated by this time, most of them are in gainful employment, if not permanent employment, at this stage.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Yes, that is of the reduced number of redeployees over what we forecast. I will get up-to-date figures for the honourable member. However, at 1 February 2001 there were 165.8 redeployees from the bus business, and this was well under the 20 per cent reduction that we were required to achieve by 1 July. We had achieved that by 1 February. The government has—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Let me explain—the honourable member was talking about redeployees. We have 165.8 redeployees, full-time equivalents, from the bus business as at 1 February. That number of redeployees was well under, even at that time, the 20 per cent reduction that we had anticipated by 1 July this year. Of those 165.8 full-time equivalent employees, we have 137 out in temporary placement, doing work that is required to be done across government agencies. They have been placed with SAPOL, the Attorney-General's Department, the Department of Environment and Heritage, the Department for Human Services, TAFE, Arts SA, Transport SA, emergency services and DAIS. So, they are not sitting around doing nothing. They are doing proper jobs that these agencies require to be undertaken.

In the meantime, the government has, from 30 March, I think, announced an enhanced TVSP package, and that is being put to the redeployees on 18 April. So, the success that we have had over and above the 20 per cent reduction can be anticipated to be greater again, following the offer of this enhanced TVSP package. Therefore, I have confidently informed the Treasurer that there is no risk of TransAdelaide, the government or the PTB not making the savings this year. In fact, we will make more than predicted. Those savings will

also be reinvested, as we have long promised, in enhanced services.

The Hon. CAROLYN PICKLES: Can the minister table details of where these redeployees have now been located and whether their jobs are permanent, temporary or part-time?

The Hon. DIANA LAIDLAW: I have already informed the honourable member that the jobs I outlined were temporary, but they are jobs required to be undertaken across government. I have informed the honourable member of the agencies but, if she would like details, I am happy to provide those. We have always been open and frank about these matters and I am happy to continue that practice.

ELECTRICITY, SUPPLY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question about government electricity contracts.

Leave granted.

The Hon. P. HOLLOWAY: This week, South Australia's dominant electricity retailer AGL sent pricing offers to its 2 600 grace period customers. The offer states:

> . . . recent movements in the wholesale electricity market mean that the most attractive price we can offer is based on a five-year agreement. One year and three-year offers are available, however, these would be more expensive than the five-year offer.

The letter then states in bold type:

> You can only take advantage of this offer until 5 p.m., 20 April 2001.

I point out that that is now just five working days away. On ABC radio yesterday AGL spokesman Geoff Donahue said that, in relation to electricity offers, there is now a sense of urgency. He said:

> There are limited electricity volumes available. . . We have got a logistical problem in the sense that we need to make sure that these customers all receive offers and we get the response and instigate their contracts before 1 July.

In previous questions to the minister concerning negotiations on electricity contracts for gross period customers of the government, the minister has been unable or unwilling to provide any information. Last Friday, the government advertised for a request for quotation for the supply of electricity for government customers, and I understand that a briefing session was held this morning prior to the release of documentation. In Saturday's newspaper the minister was reported as saying:

> Expert advice indicated that electricity companies will have a greater capacity for new contracts after the summer peak finishes, and it would have been poor business to negotiate a contract during the summer period when power prices are at their peak.

My questions are:

1. Who provided the expert advice to the government that it should delay entering into electricity supply negotiations?

2. Will the government enter into one year, three year or five year contracts for electricity; and who will make this decision?

3. Given that the government has only just commenced negotiations for electricity contracts, does the minister believe that the government will be in a position to process offers by 20 April, which AGL has set as a deadline for accepting electricity offers?

4. Finally, how many government sites are involved in current negotiations?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): The assertion that I have refused to answer questions in relation to this matter is erroneous. Yesterday I was asked to answer off the top of my head what the peak demand for 300 government contestable sites was at any one time and other details about the precise number of megawatts of power consumed by 300 government sites. I did not have that information to hand. I said on that occasion that I would obtain the information and bring back a response in due course, and I certainly will do so when the information is available to me.

The Hon. M.J. Elliott: You can't answer either of those questions?

The Hon. R.D. LAWSON: I have not yet been provided with the information. I have asked for it. I do not think it is quite as urgent as the honourable member expects; there is no urgency here. The matter is in capable hands. Through the government procurement agency, we are obtaining prices and offers from the market in relation to the 300 contestable government sites.

The government of South Australia is in much the same position as the 3 000 other contestable customers, and negotiations are occurring at this time and they will be satisfactorily concluded. I am confident that the government will reach appropriate arrangements. Whether it is a whole of government arrangement or whether or not a number of sites will be able to secure better deals by entering into separate contracts is a matter that will be determined during the process which is presently going on. As the honourable member says, there was a briefing session this morning between government officers and those companies interested in providing power to government sites.

The honourable member asked the identity of the expert who provided the information that we have followed in pursuing our electricity procurement strategy. I do not have that information to hand, but I will provide it in due course. The honourable member also asked whether we would be entering into one, three or five year contracts. That matter is being determined at this very moment. As he says, and as I have just mentioned, discussions are occurring at this very moment.

In relation to all or some sites, the government will select appropriate contract periods and prices. On the advice which I have received, we are not in any way compromised in our pursuit of appropriate arrangements, notwithstanding the fact that, on advice, we elected not to commence the process until after the summer season 2000-01.

The Hon. P. HOLLOWAY: As a supplementary question, does the minister expect that the government will have to pay an average price increase of 30 per cent, which other contestable customers have had to pay?

The Hon. R.D. LAWSON: I have no expectation about that matter and cannot have any such expectation until the negotiations are concluded. We are in the business of endeavouring to ensure that we get the very best prices for South Australian consumers.

ELECTRICITY PRICING

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question about market prices for electricity.

Leave granted.

The Hon. T.G. ROBERTS: In an open letter to the Treasurer dated today, 11 April, a Mr Paul Stewart, who runs

a small business in the real world, the competitive world out there, in the very competitive fitness industry, asks a number of questions. The letter reads as follows:

Dear Mr Lucas,

Why are South Australia's electricity costs 64 per cent higher than Sydney?

The article in today's *Advertiser* (Wednesday 11th April) regarding electricity costs compares the power consumption for my business with a similar business in Sydney. The article points out that for using significantly less power I am paying considerably more. Could you please explain to me why I am already paying 64 per cent more for the same amount of electricity as my Sydney counterpart and why (on the assumption that his business won't pay less after July 1st) I will be paying over 100 per cent more from then on?

Could you also explain why none of the other so-called retailers on the list supplied to me by the Office of the Independent Industry Regulator are prepared to quote—or have I misunderstood what increased competition is supposed to be about?

Could you also please explain why, when I telephoned AGL last week, I was told not to expect an offer until late June but this week receive a letter telling me I've got until 5.00 p.m. on 20 April to accept a 5 year contract which is up to 25 per cent higher than I'm paying now? Should I interpret this as bullying tactics by a company who have apparently monopolised the market or is it just good business practice?

Could you explain how, if businesses are going to pay up to 100 per cent more for their power in South Australia than in Sydney and Melbourne, we are going to attract new business to this state? Could you please explain how, having spent $100 million on consultants, you have managed to screw this up so badly?

His language, not mine. It is signed 'Yours sincerely, Paul Stewart'. Will the Treasurer please explain to the chamber the answers required by Mr Stewart to the questions posed in his open letter to him, as they would also be very interesting to us?

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for reading my correspondence into *Hansard*. The letter was dated today, and I assure him that I will respond in similar kind to the correspondent, with answers to his claims. I understand from the honourable member's reading of the letter that the gentleman has had an offer for power from AGL. It would appear from what the Hon. Mr Roberts has claimed that his offer is actually less than the average increase for other customers in South Australia.

I saw the *Advertiser* story this morning. As a result of that story I have asked to have the particular details of the two fitness centres checked, as to whether there are any particular circumstances. When the Council next sits, I will be happy to provide an international and interstate study of electricity prices for both residential and industrial customers in South Australia.

What that shows, from my recollection, is that Australia is the second lowest of all OECD countries in terms of electricity pricing, and significantly lower than most of our major competitors. It shows that in 2000-01 South Australia's electricity prices were somewhere in the middle of the pack: certainly less expensive than those of, I think, three other state and territory jurisdictions. They were more expensive than those of New South Wales for 2000-01, although I would need to check the basis upon which the calculations have been done.

Certainly, the graph showed that on those figures South Australia was, I think, a little ahead of Victoria. In terms of national jurisdictions on industrial classifications, South Australia's electricity prices were around the middle of the pack. We have always been more expensive than New South Wales. We would need to check the 64 per cent figure; it would surprise me if it was, on average, 64 per cent over a period. Why we are more expensive is that we use a clean, green fuel for the bulk of our electricity consumption or generation, that is, gas, whereas New South Wales and Victoria use cheaper but dirtier coal-fired generation for the bulk of their electricity. For many years South Australia has had a higher cost base in terms of electricity generation than, in particular, New South Wales and Victoria.

Obviously, in more recent times, as has been discussed in the past day or two, we have had particular problems in relation to the national market which, as I highlighted yesterday, were being experienced by both New South Wales and Victorian business customers as well. I highlighted examples of BHP and a major car manufacturer. We have had more details in the past 24 hours of increases for manufacturers, commercial properties and other businesses of the order of 30 to 80 per cent in New South Wales and Victoria in the same period. Clearly, there was an existing differential, which is obviously a statement of fact—past history.

In relation to what is about to occur and what is happening at the moment, we are seeing significant price increases in all three jurisdictions as a result of problems with the national electricity market about which we have been talking. I repeat the point that that is occurring in states where, from the honourable member's viewpoint, if I can put it this way, the wonderful joys of public sector ownership and monopoly or oligopoly control remain with a Labor government in New South Wales and they are confronting similar problems in terms of—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Have you had a look at how much they have lost?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway shakes his shoulders. Taxpayers in Queensland will accept that loss, as the taxpayers in New South Wales will accept the losses of the companies in New South Wales.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Yes, well, it was an interesting comment from the generators, who were fighting back as well. The Hon. Mr Crothers does raise an interesting point, because the generators have highlighted this morning—and we are trying to have this figure checked—that of the 14¢ a kilowatt hour that is being quoted, 4¢ accrues to the generators. I am not in a position at the moment to validate or not that particular claim but, should it be true, it does raise some interesting questions. I can understand why the political heat has been turned up in relation to the debate on electricity prices, but what I can say, as an observer of what is going on, is that the controversy generated by potential price increases of 30 to 80 per cent—the Hon. Sandra Kanck in her press release talked about 200 per cent, and others have talked about 100 per cent price increases—places AGL in a very strong commercial position as it seeks to negotiate contracts with customers in South Australia.

As long as this concern of 100 per cent or 200 per cent price increases—and members of parliament have made extravagant claims about those—is being fanned in the community, AGL will obviously go to customers and say, 'You had better sign up for this 30 per cent price increase, and for five years, because you can hear the stories going around about 80 per cent, 100 per cent and 200 per cent price increases.' AGL's commercial position will be to say, 'Sign up quickly'—as the Hon. Mr Holloway has highlighted—'and sign up for five years.'

The concern that I have been trying to express (and I say so again publicly today) is that if, as a result of the additional

generation and interconnection which is occurring, and which is about to occur, in our national market, we see a more competitive position, the people who sign five year contracts will have locked in these prices because they have been scared into it as a result of the current debate; they would have locked themselves into these prices for five years. In the end, if, for example, the prices stay at that level and higher, they will be very grateful that they have done so. If, however, we do see the competitive market that Labor prime ministers and premiers wanted to see when they started this national market (and which Liberal prime ministers and premiers have supported over the years), if that was to eventuate over the medium term, customers who have been frightened into this five year contract at 30 per cent may well find themselves in a position where those who have not will enjoy the benefits of the competitive market in the medium term.

One of my concerns about the nature of the extravagant claims that have been made by some people—price increases of 80 per cent, 100 per cent, 200 per cent—is that businesses are being frightened by those extravagant claims that have been made by individuals for their own purposes. For example, yesterday the Hon. Mr Holloway talked about prices of 30 to 80 per cent, rather than highlighting the complete range. He quoted an average and then the maximum: he did not quote the minimum and the maximum together with the average. He would know that that was deliberately done to try to gain maximum effect, I guess (not that it succeeded for him yesterday), for his question in the Council.

The claims made by the Hon. Sandra Kanck only two or three weeks ago of a 200 per cent price increase were extravagant, extreme claims made by the Deputy Leader of the Australian Democrats in South Australia on an issue that bore no resemblance to the facts at all. No-one is prepared to agree with the extravagant claims that the Hon. Sandra Kanck made on that issue.

As I said, when the Council next sits I will be able to bring back some information about how South Australia compares with other countries and other states. We are trying to have the particular details of fitness centres checked between New South Wales and Adelaide to see whether we can highlight any more information on that issue.

My final point is that the bulk of the $100 million, or so—whatever was spent on consultants—meant that we achieved a $5.3 billion return. If the gentleman who signed the letter can invest $100 million and receive $5.3 billion in his fitness centre (or, indeed, any other business in which he might be interested) I will be happy to correspond with him to see the sorts of returns that he might be able to make.

The Hon. P. HOLLOWAY: Sir, I have a supplementary question. Given the Treasurer's concerns about entering into five year contracts, would he advise the Minister for Administrative and Information Services that the government should not enter into five year contracts?

The Hon. R.I. LUCAS: I express no view one way or the other. I just indicated that the climate that has been created in the last few weeks, with extravagant claims of 50 per cent, 80 per cent, 100 per cent and 200 per cent price increases, means that the situation is being created where some customers may well lock themselves into a position where they will have to endure whatever price they have been quoted for five years. I am sure that my colleague and his officers will handle the negotiations admirably on behalf of government departments and agencies but, ultimately, it depends on the nature of the offer that is made, and that will depend on the individual circumstances of the individual customer. At a lunch two weeks ago, I met a person from a regional area in South Australia who has a small manufacturing concern—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I am just outlining the individual circumstances. That person has been offered a five year contract with a 10 per cent price reduction. He jumped at it, as one would expect him to. You cannot just say that one size or model fits everybody. It depends on the offer you get, the nature of the customer and what you can do. You then have to make a judgment. The Hon. Robert Lawson appropriately answered that question by saying that it will depend on the negotiations. Ultimately, he and his officers will make an appropriate judgment on behalf of government departments and agencies.

The Hon. SANDRA KANCK: By way of supplementary question, is the Treasurer willing to provide any advice or assistance to the 2 700 South Australian businesses that are attempting to negotiate their way through this morass at present?

The Hon. R.I. LUCAS: Together with Business SA and other associations, we are already involved in assisting businesses. We have been doing that for some time and we will continue. Right from the word go, at the start of last year, the government conducted information/education seminars for contestable customers about the business of negotiating contracts. Business SA is currently involved in a seminar-type education series. It has sought the government's assistance, and we are working with it. We work collaboratively with businesses and other associations to provide education and assistance to those businesses that would like it.

WORKCOVER

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the leader of the government and the Treasurer (Hon. Robert Lucas) a question about WorkCover premiums.

Leave granted.

The Hon. L.H. DAVIS: In recent days, some publicity has been given to the extraordinary increase in WorkCover premiums in Victoria following the election of the Bracks Labor government. In some cases, WorkCover premiums have risen by over 100 per cent, and the average increase in the past financial year was at least 17 per cent. The increase in WorkCover premiums has resulted—at least in part—from the reintroduction of WorkCover's common law rights. Is the Treasurer in a position to say whether there is any other information relating to the impact of WorkCover premium increases in Victoria, which I understand are costing business at least an extra $1.5 billion a year, and could he compare the direction of WorkCover premiums in Victoria with those in South Australia?

The Hon. R.I. LUCAS (Treasurer): Without going over all the detail, the Premier and other ministers have highlighted on a number of occasions the significant WorkCover premium reductions in South Australia, both last year and again this year. I do not have the figure with me, but this year's WorkCover reduction will return over $100 million in premiums to businesses in South Australia. It is an issue that the Premier has highlighted—

An honourable member interjecting:

The Hon. R.I. LUCAS: The Hon. Ron Roberts has been consistent in this area: he opposed a number of the changes that occurred in the past. As I understand it—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: I am not sure where the Hon. Ron Roberts gets that from. The unemployment rate in South Australia has dropped from 12 per cent to 7 per cent, so I am not sure how there has not been any extra employment in South Australia. Youth unemployment has dropped from 42 per cent under Mike Rann as the unemployment minister to below 20 per cent. I am not sure where the Hon. Ron Roberts gets his figures about—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —no extra employment in South Australia. Very significant gains have been made in terms of unemployment and employment in South Australia since the tragic days of Mike Rann as the unemployment minister. However, the Hon. Ron Roberts' interjections are a salutary lesson to small and medium sized businesses in South Australia, because there is a very strong push within the Labor Party for significant changes to WorkCover, should a Labor government be elected.

The Hon. L.H. Davis: You wouldn't deny that, Ron, would you?

The Hon. R.I. LUCAS: Ron Roberts wouldn't deny that. I challenge the Hon. Ron Roberts to deny that that is indeed not only his view but also the view of a significant number of members of the Labor caucus.

The Hon. R.R. Roberts: The policy will be released in due time.

The Hon. R.I. LUCAS: Right, okay. The *Hansard* record makes it quite clear. The Hon. Ron Roberts is never reluctant to offer a comment. He makes it quite clear that the policy will be released in due course. That is a warning sign for small and medium sized businesses in South Australia from a senior member of the Labor caucus, Ron Roberts, whose views on these issues carry some weight within the Labor caucus and are shared by many others on the front bench and the back bench. I understand that they have looked at the circumstances introduced by the Bracks government in Victoria, and there have been discussions between senior spokespersons for the Labor Party in South Australia and the Victorian Labor government in relation to WorkCover reforms. The Hon. Rob Roberts is enigmatic and says that the policy will be released in due course—

The Hon. R.R. Roberts: Absolutely!

The Hon. R.I. LUCAS: 'Absolutely,' he interjects! Let's put that on the record. It is a warning sign to small and medium sized businesses in South Australia that this Labor opposition, should it ever be elected to government in this state, is looking closely at and talking about the reforms—if you want to call them that—that have been instituted in Victoria in relation to WorkCover and that the sorts of changes that have been instituted in Victoria are on the cards for small and medium sized businesses in South Australia.

The Hon. L.H. Davis: Watch out!

The Hon. R.I. LUCAS: Look out! The 82 to 100 per cent premium increases that small and medium sized businesses in Victoria are now enduring under a—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Well, I know what the Hon. Terry Roberts would support in caucus—a good old lefty like Terry Roberts. He would support these sorts of changes. One has only to look at his contributions on the WorkCover debates in the past to realise that. The Hon. Terry Roberts has reminded me that I must dig those up for when we come back.

In relation to common law rights and the views of the Hon. Rob Roberts and others in this chamber in those particular areas, their policy positions are clear and unequivocal. They have been on the record, to be fair to them, for many years, and their views—

The Hon. R.R. Roberts: Absolutely!

The Hon. R.I. LUCAS: Again, the Hon. Ron Roberts says 'Absolutely,' so let that go on the record again. Their views are absolutely on the record and they have not changed. Look out—

An honourable member: Oh, stop filibustering!

The Hon. R.I. LUCAS: Well, this is important for small and medium sized businesses.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I conclude by thanking the Hon. Ron Roberts for his opportune interjections and confirming the direction of not only his thinking but also what we have been told regarding Labor Party policy formulation in relation to the WorkCover area, should a Labor government ever be elected here in South Australia.

The Hon. P. HOLLOWAY: Will the Treasurer table the actuarial advice on which the WorkCover board determined these price reductions?

The Hon. R.I. LUCAS: I should have hoped that the Deputy Leader of the Opposition and the shadow minister for finance would at least know that the Minister for Government Enterprises is the minister to which that question should be directed. I have no responsibility for the WorkCover Corporation.

The Hon. P. HOLLOWAY: As a supplementary question, will the Treasurer seek from his colleague a tabling of the actuarial advice on which these price reductions are based?

The Hon. R.I. LUCAS: I am happy to refer the honourable member's question to the appropriate minister and have the appropriate minister bring back a reply.

ELECTRICITY, NATIONAL MARKET

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Treasurer a question concerning the pool price of electricity in the national electricity market.

Leave granted.

The Hon. SANDRA KANCK: The Treasurer has repeatedly claimed that the privatisation of our electricity utilities has nothing to do with the exorbitant pool prices in South Australia and that New South Wales and Victoria face the same problems. This view is belied by figures published in the 6 March edition of *Electricity Weekly* It shows that, for the summer just passed, South Australia averaged $81.38 per megawatt hour; Victoria, $56.27; Queensland, $49.28; and New South Wales, $42.50. Hence, prices bid by South Australian and Victorian generators—which have been privatised—dwarf the average pool price of the publicly owned New South Wales and Queensland generators. The bidding behaviour of generators is crucial to understanding the variation of costs between regions. During the summer just passed, Flinders Power indicated that it had withdrawn

capacity from the market for (and I quote from the reasons they gave) 'financial optimisation'.

The Hon. M.J. Elliott: Turn the generator down, the price goes up and you turn it back on again.

The Hon. SANDRA KANCK: Exactly. My questions are:

1. Did the Treasurer allow Flinders Power to withdraw generation capacity for financial optimisation when it was in public ownership?

2. Does he approve of them doing it in private ownership?

3. Will the Treasurer commission an analysis of the impact of electricity prices upon investment and employment in South Australia? If not, why not?

The Hon. R.I. LUCAS (Treasurer): I am happy to provide some information to the honourable member on this question. I forget the name of the publicly owned generator in New South Wales that did exactly the same thing. So, the notion that this sort of action is undertaken in the national market only by privately owned generators is a furphy.

The Hon. M.J. Elliott: So, you acknowledge that Flinders Power did it?

The Hon. R.I. LUCAS: Generators are allowed to operate under the national market in relation to their bidding operations, as are publicly owned generators in New South Wales. The Hon. Sandra Kanck's argument is that this is not being done by publicly owned generators.

Members interjecting:

The Hon. R.I. LUCAS: Yes, it was. The argument was that this is all about privatisation.

The Hon. Sandra Kanck: I didn't say that, and you know it.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: What happened in New South Wales?

The Hon. M.J. Elliott: The government is responsible for that.

The Hon. R.I. LUCAS: But in South Australia we have no control over Flinders Power.

The Hon. Sandra Kanck: Exactly; that's our point!

The Hon. R.I. LUCAS: But in New South Wales how were they allowed to engage in exactly the same practice?

The Hon. L.H. Davis: What's happened in New South Wales?

The Hon. R.I. LUCAS: What's happened in New South Wales? Bingo! Snap! They have done exactly the same thing in New South Wales. So, the Leader of the Australian Democrats—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order, the Hon. Mr Elliott!

The Hon. R.I. LUCAS: The practices of what is known as 'rebidding' have been investigated by not only NECA but also the ACCC. The task force in South Australia and the national regulatory authorities are looking at this issue, and the ACCC continues to look at it in relation to the procedures. As I understand it, the ACCC has confirmed that the national rules allow rebidding, whether by a government owned generator as in New South Wales or privately owned generators in Victoria and South Australia. I will have this checked, but I understand that in its report the ACCC confirmed that it had some concerns, should it be shown that in some way this was 'market abuse'—as I think the phrase was—and that it would monitor the situation in relation to the use of rebidding techniques and their impact if they could be shown to be market abuse. Contrary to the honourable member's explanation, rebidding is allowed in the current market. Not only do privately owned generators do it but a publicly owned generator in New South Wales has also been doing it.

The Hon. Sandra Kanck: You can't stop it in South Australia; I've said that.

The Hon. R.I. LUCAS: And New South Wales hasn't, either.

The Hon. M.J. Elliott: They can.

The Hon. R.I. LUCAS: But they haven't.

The Hon. Sandra Kanck: They haven't, and you can't.

The Hon. R.I. LUCAS: They might not be able to do that, either; you would have to discuss that with the New South Wales government. If the national market allows it, that will be an issue that they will have to discuss in relation to the market rules in New South Wales. The task force in South Australia is already having discussions about the rebidding issue, and NECA and the ACCC have also been looking at it at the national level. Contrary to the honourable member's suggestion, the issue is not solely related to private generators: it also relates to public generators.

The Hon. M.J. ELLIOTT: I ask a supplementary question: does the Treasurer call it rebidding when a company is withdrawing capacity, driving up the price and then making the capacity available again?

The Hon. R.I. LUCAS: That is what the market, NECA and the ACCC call rebidding.

The Hon. T. CROTHERS: I ask a further supplementary question. I hope I am not accused of being guilty of prolixity. The other day in answer to a question concerning—

The PRESIDENT: Order! Straight to the question!

Members interjecting:

The PRESIDENT: Order! Straight to the question, please!

The Hon. T. CROTHERS: I am going to ask it. The other day in relation to—

The PRESIDENT: Straight to the question, please!

The Hon. T. CROTHERS: —a question about the investigatory committee, Sir, in an answer that you gave—

The PRESIDENT: Order! I will have to ask the honourable member to sit down unless he asks the question.

The Hon. T. CROTHERS: I am just trying to be democratic.

The PRESIDENT: Well, you are not asking a question.

The Hon. T. CROTHERS: I was, but I never got the chance—

The PRESIDENT: The Hon. Caroline Schaefer.

ROADS, BLACKSPOT FUNDING

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister for Transport a question about blackspot funding.

Leave granted.

The Hon. CAROLINE SCHAEFER: In 1996-97, the federal government reintroduced blackspot funding, an initiative which was started by federal Labor governments but reintroduced to fix up the worst sections of roads (according to crash statistics). During that time, the state government has received $16 million of funding from that program, and over the past four years it has received funding for 122 projects comprising 29 local road projects and 93 state road projects.

I represent the minister on the consultative committee, which was set up in this state to recommend the programs

that are later approved by the federal minister. In the most recent round of funding, approval for about $3 million worth of funds was sought. It is anticipated that this funding (for five road safety audit projects, 12 rural projects and 20 urban projects) will be approved. Will the minister say whether the criteria used by the South Australian consultative committee is the same criteria for eligibility that is used by other states, and does our funding and expenditure correspond with that of other states?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The questions asked by the honourable member are exceedingly important in road funding terms for this state but also in respect of road safety. I wish to place on the record my appreciation for all the work that the honourable member undertakes on my behalf on the blackspot consultative panel which assesses applications for blackspot funding from both local councils and Transport SA. I seek leave to insert in *Hansard* a purely statistical table which lists federal road safety blackspot programs.

Leave granted.

Federal Road Safety Black Spot Program
State comparison of distribution of projects and funds

	Total approvals		Local road projects				State road projects				Urban road projects				Rural road projects			
	Number of projects	Approved amount $ million	Number of projects	Per cent	Approved amount $ million	Per cent	Number of projects	Per cent	Approved amount $ million	Per cent	Number of projects	Per cent	Approved amount $ million	Per cent	Number of projects	Per cent	Approved amount $ million	Per cent
NSW	497	62	250	50	25	41	247	50	37	59	279	56	28	46	218	44	33	54
Vic.	473	44	191	40	15	35	282	60	29	65	290	61	21	48	183	39	23	52
Qld	307	39	185	60	21	53	122	40	18	47	144	47	17	43	163	53	23	57
WA	330	23	226	68	14	61	104	32	9	39	205	62	12	52	125	38	11	48
SA	122	16	29	24	2	15	93	76	14	85	51	42	5	34	71	58	11	66
Tas.	121	5	77	64	3	51	44	36	2	49	2	2	-	5	119	98	5	95
ACT	13	2	-	-	-	-	13	100	2	100	13	100	2	100	-	-	-	-
NT	32	3	17	53	2	48	15	47	2	52	-	-	-	-	32	100	3	100
Total	1 895	195	975	51	82	42	920	49	112	58	984	52	86	44	911	48	109	56

The figures quoted above apply from commencement of the program in 1996-97 to the current financial year 2000-01.

The Hon. DIANA LAIDLAW: This table highlights the state comparison of distribution of projects and funds, and I have it with me at this time as the honourable member gave me some forewarning of her question because of the importance of the matters that it raises. The table identifies that in South Australia from 1996-97 to the current financial year 2000-01 local road projects received 15 per cent of the funding. That is low in dollar terms in comparison with other states and territories over the same funding period. However, I highlight that these funding recommendations are made by the consultative committees according to guidelines set down and approved by the federal minister.

While the states may take a different approach to the distribution or recommendation of funding, all of them must take account of crash statistics. In South Australia I suppose we should be relatively pleased that in terms of crash statistics our local roads account for only 6 per cent of crashes each year across South Australia. So, while the average of funding has been 15 per cent, it is certainly higher than the crash record on local roads compared with arterial roads.

I highlight to the honourable member that the figures I have provided in this table identify a 15 per cent average of funding to local road projects. However, for the year 2000-01 the percentage of funds allocated to local roads was 26 per cent for that specific financial year. I also understand that for the forthcoming year the recommendations made by the committee to the federal government represent a 39 per cent proportion of funds to local roads. So, while the average over four years has been 15 per cent, this financial year it was 26 per cent and for the next financial year, if the federal minister approves the funds as recommended by the state committee, it will be 39 per cent.

I highlight also that in judging this statistical table and the further information I have provided, New South Wales and Victoria allocate little or no funds to road safety audit projects. The honourable member would be aware that this parliament through the Environment, Resources and Development Committee, urged the government through Transport SA to undertake road safety audits across the arterial road and highway system in South Australia. We have done so and are implementing the road safety recommendations arising from those audits. That is reflected in the funding recommendations considered by the committee. In the meantime, I highlight and seek leave to insert into *Hansard* without my reading it another statistical table highlighting the road infrastructure expenditure related purely to safety works by the state government for the years 1995-96 to 2000-01.

Leave granted.

1995-96	$7.358 million
1996-97	$8.966 million
1997-98	$8.288 million
1998-99	$9.400 million
1999-2000	$10.887 million
2000-01	$11.073 million

The Hon. DIANA LAIDLAW: In looking at that table honourable members will see that there has been a considerable increase of state government investment in road safety blackspot projects on our state roads.

WORKCOVER

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question on WorkCover and small business viability.

Leave granted.

The Hon. R.R. ROBERTS: I was encouraged today by the contribution of the Treasurer in respect of WorkCover and his care for small businesses as it is exactly the question I wanted to ask today. I have some correspondence from small businesses as follows:

We as an industry are unable to get answers from the government, particularly in this State, on relevant issues resulting from HIH's provisional liquidation. It is okay for the government to comment on potential job losses relating to Harris Scarfe, but the loss of people's jobs, houses and businesses relating to HIH does not get a mention.

They raise two issues with me on which they are seeking some relief, and that is the reason why the question of finance has been put to the Treasurer. At the moment WorkCover pays the claim in relation to an injured employee. If the employee has been provided by an employer via a contract labour hire company and it is found that the employer has contributed to the claim by being a fraction negligent (that means they have been negligent), and you can refer that to the Wrongs Act, WorkCover is taking action against the employer to recover the cost of the claim in full.

Cover is usually provided to employers' public liability insurance if it has been suitably endorsed. Where these policies have been placed with HIH, there is currently no protection for these clients. These are the small business people whom the Treasurer, and his rabble behind him with their incessant interjecting, were looking to protect so closely during question time. With no insurance protection, will WorkCover continue to pursue business providers for these recoveries? As some recoveries amount to tens of thousands of dollars—not $105 million—they would have the potential to put businesses into liquidation.

The second point about which they seek some clarification from the Treasurer is that New South Wales, which has a Labor government, of course, has placed a three-month moratorium on the collection of stamp duties on insurance premiums for policies that have been arranged to cover the period of insurance left uninsured by HIH's provisional liquidation, bearing in mind that the government has already collected and has been paid the full year's stamp duty on the original policy. Basically, businesses must pay stamp duty again. Stamp duty on insurance premiums is a state issue so the government cannot hide behind the fact that it is a federal matter. My questions to the Treasurer are:

1. Will WorkCover continue to pursue the claims for public liability insurance in the absence of HIH, or will the government provide some relief in this area?

2. Will the government emulate what has been done in Victoria, where insurance replaces like with like, and give an exemption for stamp duty on new business that is written to cover those injured workers and to cover those small businesses from liabilities that would put them out of business?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the minister and bring back a reply. In relation to the stamp duty issues, I will take advice. My understanding is that it is New South Wales rather than Victoria, but I will have that checked. I am advised that the circumstances in South Australia are different to those in New South Wales because we have a sole government operator in WorkCover, and also with CTP, which, as I understand it, is different to the circumstances in New South Wales, but I will take advice.

BUSES, METROPOLITAN

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement.

Leave granted.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: This is an official one. I refer to the question asked by the Hon. Carolyn Pickles at the start of question time today and thank her for raising the issue of contract savings because I have such positive news to provide to the parliament. I said that I would seek to obtain the redeployee figures for the parliament as soon as possible and I have them now. The net bus savings, as I have always indicated, arising from the competitive tendering of public transport, was an average of $7 million over each 10-year period. We therefore have gross savings with less costs, and the principal cost has always been associated with the redeployees.

The estimate by Treasury on the government's behalf of the whole of government costs related to redeployees is as follows, and this is in terms of the number of full-time equivalents: at 23 April last year, all bus employees were made redeployees, so at 23 April last year there were 1 126.63 full-time equivalent redeployees; and at 30 June last year, there were 226 full-time equivalents, which was not only the target but the actual number and which was on line with the forecasts to realise the average $7 million net savings. Treasury has also said that we must reduce those numbers by 20 per cent a year in order to continue to generate that average net saving each year. Therefore, Treasury has set as a target of 180 for 30 June this year.

I am pleased to advise, as I told honourable members earlier, that as at the end of January or early February, we were already down to 189, and our target for June this year is 180. We are forecasting that, notwithstanding the target of 180, we will realise 111 only in terms of full-time equivalents. That is good for the employees, and that is why so much effort is being put into this exercise: so that they gain employment outside the public sector, according to their choice. In the meantime, it is good for taxpayers generally because these savings are well above the forecast when the bus contracts were confirmed, resulting in further savings on taxpayers' money and further potential for reinvestment in public transport services.

In the meantime, I reconfirm what I said earlier: the government's goal with any redeployee from the bus business is for them to find employment, either within the public service or outside if they so choose; and, most of the redeployees are gainfully employed—if not with temporary employment at this time then certainly they are not just sitting around doing nothing when they are being paid from the public purse. Most are performing tasks within government agencies across the board and, as I indicated earlier, I will provide a breakdown of those placements for the honourable member.

QUESTIONS, REPLIES

The Hon. M.J. ELLIOTT: Will the Minister for Administrative and Information Services please explain to this Council the reason for his failure to provide answers to three questions asked yesterday when one could reasonably expect that the answers would reside within his office? Answers have not been supplied so, as parliament is not sitting for the next two weeks, we will have to wait for three weeks before we receive them. Why should not this be seen as a contempt of this parliament?

Members interjecting:

The PRESIDENT: Order! The Minister for Administrative and Information Services.

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): That is hardly a question for me to answer, Mr President, when the honourable member sees the question that he has posed. Yesterday, the honourable member did ask me certain questions about the number of megawatts of power and the current cost of electricity for 300 customers. I said that I would take that question on notice. If he expected me to carry that sort of information around in my head, I believe that is unreasonable, and I believe that every other honourable member would regard it as unreasonable.

Members interjecting:

The PRESIDENT: Order! The minister is trying to answer the question.

The Hon. R.D. LAWSON: I said yesterday that I would take the questions on notice so that I could provide a considered and proper response and one that is entirely accurate, and I will undertake to do so.

BUSES, METROPOLITAN

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a further ministerial statement.

Leave granted.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Well, I think that the good news keeps coming—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —and despite the wish of the—

Members interjecting:

The Hon. DIANA LAIDLAW: Well, essentially I did get a dorothy dixer from the Hon. Carolyn Pickles, and I am very pleased to put all this positive news on the record. I have information that, as of 2 o'clock today, there were 114.6 full-time equivalent bus redeployees. As I indicated a moment ago, there were 189 at January, and now we are down to 114.6. Treasury's target for June was 180 and, for 30 June 2002, the target is 144, so we are well ahead on redeployee numbers. That is good for the employees themselves and it is good for taxpayers generally.

MATTERS OF INTEREST

VIETNAMESE NATIONAL DAY

The Hon. J.F. STEFANI: Today I wish to speak about the Vietnamese community in South Australia. Last weekend, members of the Vietnamese community celebrated their national day and, in particular, they paid tribute to the founding fathers of Vietnam. I was privileged to attend a number of events, commencing with prayers for peace and religious freedom in Vietnam at Elder Park. This event was held on Friday evening and was attended by many Vietnamese people. The religious ceremonies were conducted by Catholic, Hoa Hao Buddhists, and Buddhist leaders.

During the ceremonies and prayers, the release of white doves and colourful balloons was followed by the placement of floating coloured lanterns on the River Torrens, symbolising the expression of freedom and peace. Those who attended also carried candles which were lit from the lantern of peace during the offering of prayers. This symbolised the light of hope for greater religious freedom in Vietnam.

On Saturday, the Vietnamese community organised an exciting dragon boat racing event at Elder Park, attracting hundreds of spectators to enjoy the colourful and friendly rivalry of the race. On Saturday evening, the Right Honourable Lord Mayor of Adelaide, Mr Alfred Huang, hosted a reception in honour of the founding fathers of Vietnam and the commemoration of the 4 880th anniversary of the founding of Vietnam. The reception was followed by a traditional lion dance directly in front of the Adelaide Town Hall. This immediately preceded an entertaining concert, which also included the presentation of the national day arts and literature award ceremony.

The national day arts and literature award is part of the annual national day celebration. The inaugural award was presented in Paris in 1987. Other awards have been presented in Chicago, Melbourne, Sydney, Berlin, Toronto, Houston, Honolulu, Tokyo, Washington, San Jose, Garden Grove in California, Seattle, Atlanta and Adelaide. I pay tribute to Phan Van Hung and Nam Dao, who were the recipients of the 1997 award in San Jose. Their award winning entry was a song collection known as *The Harbor of My Heart*. The songs express the endless love in the heart of each Vietnamese for their country.

They also embrace the aspirations of many Vietnamese for the freedom from oppression of their motherland. Mr Henry Phan is a highly qualified scientist working in the defence industry and residing in Adelaide with his family. He is well known within the Vietnamese community and I regard him as a close personal friend.

In celebrating the national day, Vietnamese around the world pay tribute to King Hung Vuong and honour their founding fathers by celebrating and preserving their rich cultural traditions. The occasion is also a time when Vietnamese people renew their commitment to a free and democratic Vietnam and its people.

I take this opportunity to acknowledge the important contributions made by members of the South Australian Vietnamese community and pay tribute to their achievements. In offering my sincere congratulations on the celebration of their national day, I extend to all Vietnamese Australians my very best wishes for continued success in the future.

PORT PIRIE, TELSTRA CLOSURE

The Hon. R.R. ROBERTS: I rise today to speak on the subject of Telstra closures in Port Pirie. One cannot talk about the closure of the Telstra facility at Port Pirie and the loss of 34 jobs without condemning the state and federal governments for the useless part they have played in trying to maintain jobs for these people in a country area, given the assurances that have been given in the past.

Only a few months ago, the Prime Minister was swanning around the electorate of Grey with Mr Barry Wakelin, the local member, talking about how they had learnt to listen; they were out there to listen to people. The Prime Minister said that if there were to be closures costing government related jobs in country areas of Australia, a red light would be flashing. The red light has been flashing—or, as 51 per

cent of Telstra is still owned by the government, it ought to have been flashing—and here we see a loss of 34 jobs out of the blue.

What part has the state government played in this? Let me tell you who the state government member is—the Hon. Rob Kerin, the Minister for Regional Development, who, in answer to a question about this matter from Annette Hurley in another place, said that he was told 10 minutes after the announcement was made; he was very concerned about it, but it seemed that decisions were being made elsewhere. This leads me to believe that he is either ineffective or irrelevant. He was on the list of people to ring 10 minutes after the incident occurred. Telstra has said that it wants to centralise its call centre operations, with some 300 people. Here we are, in a technological age, where we can communicate even with people on the moon or in outer space via satellite, and yet we are still going back to this stupid old argument that everything has to be centralised.

Computers do not know where they are, and if we are sensible about looking after country areas, and if the federal and state governments, and the federal and state members for the seat of Grey and the seat of Frome were fair dinkum, they would get behind country South Australia and deny this rubbish that we cannot have a call centre in Port Pirie and one in Whyalla which could be interconnected and service the whole of South Australia, including the metropolitan area, if the desire was there. The problem we have is that the Prime Minister and the federal government go out into country South Australia, swanning around looking for votes, trying to salvage the wreck of government they have, and trying to con people in those areas.

This is just one more example of the absolute contempt that the state and federal governments are showing for people in country South Australia. You only have to look around at the denials and broken promises given to people living in country areas. There was the absolute commitment given at the last election that there would be no sale of ETSA, that commitment having been broken immediately after the election, resulting in numerous job losses throughout the region of Frome in particular. That has occurred not just since the sale has taken place, because there has been the setting up process about which Labor warned people. The government was downsizing, making it more efficient, which was code for preparing it for sale, despite the denials of the government.

The problem we have here is that the local member, the Hon. Rob Kerin, is being touted by his colleagues and by the media as some 'Mr Political Nice Guy'. Well, political nice guys stand up for their electorate. They do not stand by without a squeak when the Highways Department is closed in Crystal Brook and 60 jobs are lost. They do not sit quietly at the ministerial table, munching the ministerial muffins. Political nice guys keep raising their hands to vote for and commit to policies and practices which will keep kids in country South Australia in jobs, rather than supporting policies that deny opportunities to work. It is not only the kids but the people in those electorates generally.

We have had drastic cuts in jobs in SA Water, in highways, and in the Pipelines Authority in Peterborough (in the minister's electorate originally), which was decimated from about 32 employees to about six or eight. There is one instance after the other, and this last instance involving Telstra is the final disgrace for both the state and federal governments and the two Liberal members who represent that area. They have done virtually nothing to ensure the jobs of those people in Port Pirie. As I have said, they are either ineffective or irrelevant, and in either case they stand condemned, because they have failed their electorates and failed country South Australia.

Time expired.

STATE ECONOMY

The Hon. L.H. DAVIS: There is continuing good news about the solid recovery by the South Australian economy. The Access Economics report released earlier this week followed on its December 2000 report which described the South Australian economy as the unsold success story of the past few years. This most recent national document notes that, in terms of output per head, South Australia's growth of 3.3 per cent per annum over the last five years is second only to Victoria.

The report also notes that local housing activity saw one of the nation's largest surges in 1999-2000, and the construction outlook still looks much better than it did in the mid-1990s, notwithstanding the one-off downturn which was well expected following the introduction of the GST. Also encouraging, of course, is the recovery in unemployment, where South Australia now sits at less than 0.5 per cent over the national average. The unemployment rate in South Australia has fallen from 8 per cent to 7.3 per cent in the 12 months to December 2000.

In fact, in a report in the *Advertiser* last week, it was revealed that, in 79 of 89 country centres, over the last 12 months there had been a fall in unemployment rates. We now have the lowest unemployment rate in South Australia for at least 10 years. Indeed, many employers in the country are finding it difficult to recruit staff, and in some regions there is a housing shortage.

Retail growth in South Australia also outstripped the national average in the year 2000. The state's manufacturing outlook looks at its most promising for a decade, according to the Access Economics report. Daimler Chrysler and Mitsubishi are looking at Adelaide as a long-term proposition. There is the possibility of further naval construction, and obviously there will be wonderful spin-offs from the Alice Springs to Darwin railway construction. In addition, there are two highly exciting mining projects on the board—one a pig iron project foreshadowed in Whyalla, the other a magnesium project to be centred around Port Pirie, which will give both of those regional centres a major boost.

So, the all up result, according to Access Economics, is that there could be industrial production growth above the national average in the coming years with obvious flow-on effects for job prospects. This report also notes that a vibrant e-economy has developed in South Australia, mainly by concentrating on small scale businesses rather than big bang projects. It is also important to note that Tourism South Australia is travelling much better than it has for many, many years.

It is also notes that, with the sale of ETSA, South Australia is now moving out of the list of high debt states. Access Economics reports:

> After peaking at 37 per cent of output in the early 1990s, South Australia's public debt burden now sits below 10 per cent, and could well fall below 5 per cent in the next five years—below New South Wales and Western Australia.

So, that is what I would describe as Access Economics' quite glowing account of the South Australian economy. Its assessment has been given credence by the economic briefing

report of March 2001 from the South Australian Centre for Economic Studies, which makes the point that a comparison of South Australian and Australian trends reveals that South Australia has experienced remarkably similar growth in gross state product per worker to Australia over the 1990s.

It makes the point that strong South Australian export growth in 2000 was driven by significant increases in exports of metals and metal manufacturers (up $251 million), wine (up $189 million), motor vehicles and parts (up $161 million), and petroleum and petroleum products (up $159 million). Only wheat exports (down $94 million) declined in 2000 although, as I said, that will be reversed by the excellent season which we have just had, which will see South Australia have about 22 per cent of the wheat produced in Australia—the best result for many years.

Time expired.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: I wish to comment on the catastrophe that we are now facing in our electricity industry in this state. It has been quite amazing how ill-prepared this government has been even in relation to its own 300 customers who are now contestable within the market. I asked the Minister for Administrative and Information Services about this matter on 29 March. He was unable to supply any answers then and he was not much better informed today—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I can inform the Hon. Legh Davis that it is five years since we first went to the national electricity market. We have known for 18 months that this state was going to have a deregulated electricity market for its business customers. I point out to the Hon. Legh Davis that we have known that for 18 months. We knew the electricity market would come in when the legislation was introduced in 1995, and this government is remarkably unprepared. In the past few days we have seen this government advertising for consultants. Having spent $110 million on consultants, we are now advertising for more advisers to try to help the government out of its problem. It is absolutely amazing that this government has no idea what it is doing.

We know that the 3 000 contestable business customers in this state will be facing average price rises of 30 per cent. Of course, one should also say that, on top of that, is the GST, which will chuck in another 3 per cent. Is it any wonder that the commonwealth government is doing very nicely out of the GST when you have a 30 per cent electricity rise and then another 3 per cent on top of it? Someone is making a windfall, but it is not the business customers of this state. The great fear that I have is that industry in this state will suffer greatly from these massive increases in electricity, which will force them to relocate to other states.

I have been warning people about this matter for about three or four years. This government has done absolutely nothing and deserves to be condemned. The first thing we have to do is throw out Olsen and Lucas. The sooner they are thrown out the better, because then we can start to repair the damage. If they remain for another six months, heavens knows what other damage will be inflicted.

The Hon. L.H. Davis interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. P. HOLLOWAY: If they are going to make claims about electricity prices, it is interesting to note that in a presentation the Industry Regulator made a week or two ago he included a table highlighting the average summer spot prices for electricity. If we compare the prices in 1999-2000 with the prices in 2000-01, we can see that in Queensland the prices have fallen from $63 to $53 this summer; in New South Wales, they have increased from $33 to $49; in Victoria, they have increased from $27 to $70; and in South Australia, they have increased from $85 to $112. That really indicates the heart of the problem that we face.

Unfortunately, it will be too late to stop the current catastrophe we face in electricity prices. The decisions this government has made and has not made over the past three years have meant that we are locked into this situation now, even though the government is desperately trying to back-pedal and find a way out. However, it is not too late to stop another looming catastrophe in relation to our ports. For example, the new private owner of the airport, which was sold by a federal Labor government, is now imposing a tax of $9 per head. What seems to be happening in this country when we privatise government assets is we allow the new private owners to become private tax collectors. We have seen that happen in relation to the airport and we are now seeing it happen in relation to electricity. Will that happen in relation to our ports?

I remind people that we are the only state in this country that is about to sell its ports. In every other state the ports are owned by the government. Indeed, some of those states are investing in their ports. Our state is heavily dependent on its exports, particularly of our primary produce (wine, grain and fish) and our minerals (copper and uranium). I have a great fear that what has happened in these other privatised industries will also happen in relation to ports, and that industry in South Australia will face further imposts.

Time expired.

SALT WATER FARMING

The Hon. CAROLINE SCHAEFER: Some time ago I found an article entitled 'Hope for the badlands' in the *New Scientist*, and I thought I would share some of that article with members today. It is estimated that more than half the world's agricultural land will become saline in the next half century. Western Australia alone loses an area of land the size of a football oval to salinity every hour of every day of every year, and it is largely our most fertile land that is affected.

The economic and social consequences of losing the potential to produce this much food on a worldwide basis are horrific. In Australia, efforts are being made to reverse this trend by massive tree planting, and so on, but at this stage we are definitely losing the battle. However, it is claimed that scientists in Israel have managed to make trees more salt tolerant and that they are now experimenting with edible plants such as tomatoes. Not only would this help us to use much of our degraded and salinated land but also, if it were possible for us to grow edible crops from salty water, it would open up most of the interior of Australia to agriculture.

Israel is noted as a world leader in water conservation and the use of saline water, largely out of necessity. Much like Australia, its fresh water supplies have been over-exploited, and irrigators are forced to use more and more salty water. The development of salt resistant crops has become essential.

Scientists from the Hebrew University in Rehovot have isolated a protein called BspA that helps trees grow in saline conditions. It is thought that the protein, which comes from a common European aspen tree, protects growing cells from high salt levels by attracting water molecules and by binding

to other cell proteins. Researchers have been able to isolate that protein and increase the trees' salt tolerance by giving them more copies of the gene from that protein. In fact, the aspen now tolerates saline conditions without beginning to shed its leaves for double the previous amount of time.

This gene technology is now being transferred, as I said, to other plants such as tomatoes to see whether they, too, can be made salt tolerant. As countries and consumers all over the world debate the pros and cons of genetic modification, it is vital that some of the possible benefits of such advanced technology are discussed with equal fervour and candour as are the possible risks.

We should ask ourselves whether as a nation we can afford not to embrace these new technologies. As one of the more affluent nations on earth, there is a possible economic advantage in the short term to being GM free, but what of the medium to long term? And, as citizens of the global village, what of our poorer neighbours? Should they be made to go without food when we have the ability to feed them? I ask again that we try as a group to be a little less emotive and a little more logical about the use of gene technology in its experimental phases.

TAFE FUNDING

The Hon. M.J. ELLIOTT: I wish to address some issues in relation to TAFE institutes. Between 1997 and 1999, commonwealth funding to vocational education and training fell from $947.2 million to $828.2 million. Much of this was due to an agreement between state and federal governments to freeze commonwealth funding to further education until the end of last year. Despite enrolment demands increasing, when TAFE funding arrangements came up for review Minister Brindal agreed to a $6 million increase to TAFE funding in South Australia over the next three years.

This is far less than our share of the $155 million which was being called for jointly by the state education ministers. This real term funding cut has occurred while at the same time the state government has also been cutting spending on TAFE by about $53 million over the past 10 years. It is in this context of real term funding cuts that the state government has proposed the incorporation of individual TAFE institutes to provide what it calls a 'better business management basis for TAFE institutes'. However, I am concerned about the process being used and the agenda behind it.

On 23 June 1999, Minister Buckby was asked in parliament whether there was an intention to review the TAFE Act and if there was a timetable for what issues would be addressed. Minister Buckby replied:

> Yes, it will be, but we will be looking to incorporate TAFE into the Education Act. We will not be coming up with another TAFE Act. We will be incorporating TAFE into the current Education Act, recognising the department's role of children's services, education and training, and further education.

Yet Minister Buckby announced changes to the TAFE Act in a press release of 4 April this year, and these proposed changes see institute councils replaced with governance boards directly appointed by the education minister.

It was a surprising revelation, given the minister's previous comment that we would see a full review of the act and the great deal of fuss about the community consultation with the review of the Education Act in 1999. Yet we still see no review of the act. Instead we see bits pulled out that fit the state government's agenda to devolve financial responsibility for education. Recently, it was legislation for governing councils and school fees; now it is the incorporation of TAFE. Perhaps the public consultation on the Education Act did not support the state government's agenda and it has had to use other means rather than the review of the Education Act itself.

If one looks at the issue of consultation, it leads one to consider the consultation used for changes to the TAFE Act. I am informed that responsibility for community consultation has been entrusted to three bodies; first, the TAFE Institutes Governance Reform Steering Committee is to consult relevant government authorities, departments, unions and other professional associations. However, I am informed that the Heads of TAFE Councils, some unions and other professional associations were first met with on 3 April and given only until 20 April to consult those they represent and then to respond.

Secondly, individual institutes are responsible for discussions with staff, students and key stakeholders within the institute's sphere of influence. However, it would seem that, despite the significance of TAFE to a wide range of employers and employees across the state, public consultation will only occur between 3 April and 30 April and will not extend beyond those specifically within the TAFE institutes' sphere of influence. Thirdly, Minister Buckby's office is responsible for consultation with members of parliament.

Concerned that I had not been made aware of any proposed changes, I wrote to Minister Brindal on 21 March requesting information. At this time the only response I have received is an acknowledgment that my letter has been received by the minister's office. Given that I am informed that I, like other government bodies or education associations, have only until 20 April to respond, this leaves very little time should Minister Buckby get around to consulting with the Democrats or any other member of parliament on this legislation. Subsequently, I have been informed that the deadline for the legislation is said to have been now extended to June.

I wish to express my concern that it would seem that the changes have been formulated already and that consultation is being rushed to allow the swift introduction of changes that would shift the responsibility of years of real term funding cuts to TAFE from the state government to individual institutes. In fact, this government is in a rush to implement these quite radical changes in the dying days of its government.

MURRAY RIVER

The Hon. T. CROTHERS: The Hon. Mr Cameron had asked to take my place in the grievance debate. However, now he has indicated that he is not ready to speak. I will speak instead. I was going to say, when he was still absent from the chamber, obviously tied up with the temper of other business that, without wishing to plagiarise the Banjo, 'Cameron's gone to Queensland droving and we don't know where he are.' But, he did show up. I listened to the Hon. Caroline Schaefer speaking on salinity of land. I am, of course, reminded that, even if you get land salinity right, you cannot grow much, particularly in our more fertile horticultural areas, if the water being used for irrigation is saline as well.

At the moment (and it is a good thing for us, on the tail end of the Murray River), an argument is taking place in federal parliament between the leader of the Senate (Hon. Robert Hill, Minister for the Environment) and the Hon.

Wilson Tuckey, who is a minister in another sphere. I never thought I would agree with anything said by Wilson Tuckey (or Iron Bar Tuckey, as he came to be known in the federal parliament), but on this occasion I agree with him. The approach that the Hon. Robert Hill is taking is to try to put more water through the Murray in order to flush out the salinity in the Murray waters. In my humble view, that is not possible.

There is not enough water now in the system which is not bespoken for—from Queensland right through. Even if we reach agreement with the Queensland, New South Wales and Victorian governments and they honour the Murray River agreement, our water will, in fact, never have the salinity removed from it. For a start, we should not be growing cotton. Too many insecticides and pesticides are used in the growing of cotton, and it consumes far too much water. It is doing untold damage to our whole river system throughout the Murray-Darling Basin, to which the Murrumbidgee is a feeder river.

I agree with the Hon. Mr Tuckey when he says that it does not matter how much water we have: if it is saline, it is not useable. His plan calls for the removal of salinity from the Murray, whereas the Hon. Robert Hill believes that, in order to keep the Coorong mouth open, we have to take some more water out of the Snowy system and other rivers and feed it into the Murray system, which will assist in removing salinity. I think that is wrong.

The last big natural flood in the Murray occurred in 1956. That was the last time that the natural volume of water coming down the Murray caused a full flood in the Murray River system. In fact, trade unionists in Adelaide at the time mobilised their forces and went up to help minimise the damage that the Murray was causing to our Riverland towns of Berri, Waikerie, Barmera, Loxton and Renmark. They went there to help their country colleagues and to do whatever they could to try to minimise the damage being caused by the Murray River.

That was the last time that Murray water was naturally flushed of its saline content. We will never again have that flood, because there is too much demand on the Murray-Darling Basin waters, with the Snowy Mountains scheme, other schemes further up the river, Chowilla and the catchment areas, to get the quantity of water necessary to flow down the system to clear the river of salinity—as, indeed, was the case the last time (and I believe, under the present system, the last time ever) in 1956. So, I agree with the Hon. Mr Tuckey. However, it is exciting that both ministers are prepared to expend extra money in respect of the cleansing of the Murray River system.

Time expired.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANIMAL AND PLANT CONTROL BOARDS AND SOIL CONSERVATION BOARDS

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

That the report of the committee on an inquiry into animal and plant control boards and soil conservation boards be noted.

It is with great pleasure that I bring down the 26th report of the committee. This term of reference was adopted in November 1999, and the specific term of reference was that the Statutory Authorities Review Committee examine the roles of and relationships between the soil conservation boards and the animal and plant control boards and other groups which have a primary interest in the natural environment, with particular reference to the effectiveness and efficiency of the operation of these bodies. So it is some 16 months later that we report. I have to say that the recommendations of the committee are again unanimous. The committee received 85 written submissions and heard evidence from 96 witnesses.

The committee spent considerable time taking evidence in country areas and inspecting sites in regional and rural South Australia. The committee undertook a two day trip to Port Lincoln and Eyre Peninsula where it took evidence, and it also took evidence in Whyalla. The committee travelled to and took evidence in the South-East, including the Coorong. The committee also travelled to Burra, through Morgan, the Murray River region and the rangelands and took evidence. It also made a one day trip to the Hills and inspected sites in the greater Mount Lofty region and took evidence.

I can say on behalf of the committee that this was an exciting and important inquiry, appropriately timed given the increasing interest in environmental matters. Anyone in politics, whatever their persuasion, would understand that the environment is now a mainstream issue of concern to all people in the community. That has been underlined by the extraordinary publicity, interest in and concern about the River Murray. Of course, it is also underlined by the great success of the Natural Heritage Trust program, an initiative of the federal government, which has involved the spending of some $1.5 billion as a result of the part privatisation of Telstra.

The committee is pleased to note that South Australia is regarded as a leader in natural resource management. Widespread evidence persuaded the committee that many people with an interest in environmental and natural resource management matters came to South Australia to look at examples of integrated natural resource management from not only interstate but also overseas. I will refer to some of those specific examples later.

The committee took particular note of the interaction between the 30 animal and plant control boards and the 27 soil conservation boards around South Australia. It also took into account that there were many other natural resource management groups around the state. Indeed, although it is hard to put precise figures on it, we were given to understand that there are around 400 Landcare groups in South Australia, involving at least 10 000 volunteers.

The committee would like to acknowledge the enormous amount of effort and enthusiasm that was put into this report by the research officer, Mr Gareth Hickery, and the Secretary of the committee, Ms Christina Willis-Arnold. They have been very enthusiastic and very professional in their pursuit of information for the committee. It has been a difficult and complex inquiry, and on behalf of the committee members I would like to thank them very much.

The history of natural resource management in South Australia is of interest. As early as 1851 the Legislative Council considered legislation for the control of the Scotch thistle. Then the Pest Plants Act of 1875 was introduced to develop appropriate state-wide policies to control community pest plants. There was a Rabbit Destruction Act in 1875. The Agricultural Bureau of South Australia was founded in 1888 with a view to improving the agricultural industry and to bridge the gap between scientists and farmers.

During the 1930s there was massive erosion, particularly in the marginal agricultural districts of South Australia which had been opened up, and there was a meeting of state and commonwealth agriculture ministers in that year who, in

conjunction with the CSIRO, made recommendations. That led the South Australian government to pass the Soil Conservation Act of 1939.

In 1986 the management of animals, plants and vertebrate pests was brought together when the Pest Plants Commission and Vertebrate Pests Authority—two separate bodies—were amalgamated. There was a mixed reception to that amalgamation. People do not like change: it is inherent in the human condition. However, the Animal and Plant Control Board amalgamation with the Vertebrate Pests Authority in 1986 has worked well: there is little doubt of that. In 1986 the Animal and Plant Control Act was introduced into parliament and became fully operative in July 1987.

The Soil Conservation Act, which I referred to earlier, and which was passed in 1939, was progressively updated, and in 1989 the Soil Conservation and Land Care Act was passed, which established a Soil Conservation Council as a peak body for soil conservation boards around the state. So, it came to be that there were two separate bodies responsible for land management in South Australia. There were the animal and plant control boards and the soil boards in South Australia with two peak organisations over-arching them—the Soil Conservation Council and the Animal and Plant Control Commission.

In 1995 a move was made to amalgamate these two land management groups. A green paper was prepared and there was discussion about the possible amalgamation of the two statutory bodies and the integration of the local boards. However, there was strong opposition in certain parts of the state, so the then Minister for Primary Industries, the Hon. Dale Baker, pulled back from pushing ahead with the amalgamation and it did not proceed.

The other part of this inquiry which is vital is the recognition of proper management of our water resources. In 1997 the Water Resources Act was passed by this government, and it has become recognised as an ideal model for water resources management. It has been widely acclaimed throughout Australia and, indeed, elsewhere. The Water Resources Act gave the power to establish catchment water management boards. Those boards are responsible for water allocation, vegetation and land use planning as it relates to water resources; they have an educative role in raising community awareness about water resources issues; they are responsible for preparing and implementing catchment water plans; and they advise the minister and councils about water resources management in their particular region. So, there are now eight catchment water management boards covering all regions of South Australia, with the exception of Kangaroo Island, Fleurieu Peninsula, Yorke Peninsula and the Mid North, which, we understand, will have boards in the near future.

The Hon. David Wotton, when he introduced the water resources legislation in 1997, made the following statement:

> The bill has only one stated object: the establishment of a system for water resources management which will achieve the economically sustainable development of the state's water resources, that is, a system which will provide the maximum social, economic and environmental benefits for present generations while still allowing the same benefits to be reaped by future generations.
>
> The bill takes an holistic view of water resources, ensuring comprehensive consideration of all types of naturally occurring water as well as possibilities for use and development of alternative sources such as waste waters.
>
> The need for better integration and co-ordination of efforts in natural resources management has been raised as a major issue for natural resource managers at all levels. The Water Resources Bill is an important step towards a resolution of this matter.

That is a very good statement, which was embraced and accepted by the committee as an important point to focus on, that is, the need for integration of natural resource management in South Australia. Notwithstanding that South Australia is undoubtedly a national leader in natural resource management, it was accepted that we could do better. The committee asked the witnesses from whom we took evidence what, if we had nothing in place, they would construct as the ideal model for natural resource management in South Australia. Even those people who intuitively may not want integration and may prefer to stay with their animal and plant control boards and soil boards as separate entities were forced to admit that if you were starting from scratch you would develop a model that would integrate water resource and land resource management together into one unit. The committee is not seeking to suggest that is where we should proceed in the immediate future, but we recognise that is the ideal model.

So, the water management boards have elevated community interest in and awareness of many environmental issues, particularly in the metropolitan area, where they have been established for some time. Catchment water management boards have recently been established on Eyre Peninsula, where the catchment management issues are quite different; in the South-East; and in the Murray basin, where the issues are of particular complexity. There are also a number of other important natural resource management bodies in this state which the committee acknowledged, including the State Revegetation Committee and the Native Vegetation Council, which has an important role and interacts with soil boards and animal and plant control boards. The Environment Protection Authority—

The Hon. T.G. Roberts: All this knowledge will go with you when you retire!

The Hon. L.H. DAVIS: That is why the report is being tabled, Terry: so you can continue to learn from it. The Environment Protection Authority and the Environment Protection Agency are obviously also very important bodies. The Pastoral Board of South Australia, which does outstanding work in the range lands of the Far North of this state, and the Australian Weed Management Centre are also other bodies that have been created by statute or have an important role to play. The Conservation Council and Australian Conservation Foundation are other overarching bodies which also have important roles to play in natural resource management.

The committee took evidence from the Animal and Plant Control Commission, the Soil Council and many members of soil boards and animal and plant control boards and other interested parties, and we came to several important conclusions. The first is that a large amount of integration has already taken place. I refer, for example, to the Pastoral Board, which has been in existence since 1893 and covers the majority of the state. Already in that area the soil boards carry out the function of the animal and plant control boards and in fact there is a linkage between the two already. In the eastern Eyre Peninsula area, the soil and animal and plant control boards have wanted to amalgamate but, ironically, have not been able to do so because of legislative constraints. That is the ultimate paradox, is it not? But there is that desire.

In other parts of the state, the boards have worked hand in glove, sharing their problems and consulting closely with each other. The committee saw many practical examples of this on Eyre Peninsula and in the South-East where, when addressing one particular land management issue, if the

proper decision was not made it could result in another problem: for instance, clearing a noxious weed may result in soil erosion.

In other words, there is interaction between animal and plant control board functions and soil board functions. Whilst a few witnesses gave evidence that they would prefer these functions not to be integrated, the overwhelming evidence and logic is that the time is now right to amalgamate animal and plant control boards and soil boards because, clearly, there is an interaction and a link between the two.

Whilst the committee accepts that specialist knowledge is required in these areas, it noted with interest that the more recent trainees in natural environment management have a holistic approach to their subject: they look at a problem from the point of view of soil, animal and plant control. Their professional training has given them an awareness of all the issues as well as the interaction and linkages between the issues and how best to solve problems. So, I think the committee was persuaded that there is certainly a growing view—I would think a majority view—that the time is now right for an amalgamation of these very worthy groups: animal and plant control boards, which have a lot of support from local government, and soil boards.

The committee also recognised that there are some problems with soil boards as presently constituted. Unlike animal and plant control boards which can rely on paid officers to do their work, soil boards rely on volunteer board members to, for instance, enforce a soil order against someone who may well be a neighbour. So, the policing role of soil board members sits very uncomfortably and has led, obviously, to a breakdown in the ability of soil boards to act in a way in which they would otherwise be required to if they were to carry out their objectives properly.

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: Well, I don't know. If an amalgamation is to take place, the committee believes that: the new bodies should be called land management boards; the role of local government should continue to be recognised, because it is a key player in this area and does a very good job; local government should not be put under any additional funding pressure; there should be some recognition of the need to pay adequate fees and expenses to board members, many of whom travel long distances and make considerable sacrifices—which is another anomaly that we discovered, that is, one group is paid fees and the others are not; and the other prerequisite to a successful amalgamation is recognition that adequate funding needs to be provided so that the boards can do their job properly.

If the amalgamation of the 30 animal and plant control boards and 27 soil conservation boards around South Australia were to proceed, it would also follow that there should be an amalgamation of the Soil Council and the Animal and Plant Commission into one body, which the committee suggests should be known as the Land Management Council. So, there would be two streams looking after natural resource management (established by legislative change): land management boards under a Land Management Council and catchment water management boards under the overarching Water Resources Council, which was set up under the 1997 Water Resources Act.

The Hon. T.G. Roberts: A drainage board?

The Hon. L.H. DAVIS: We did not discuss the drainage board issue, which is a local matter in the South- East, but it is—

The Hon. M.J. Elliott: The pine board?

The Hon. L.H. DAVIS: I always have difficulty with Australian Democrats humour—I generally miss the point, I am sorry. As I have said, the South Australian water resources legislative framework has been recognised as a model, and the committee believed that, legislative change in the land management board structure could well be based on the South Australian water resources legislative framework. As Mr Kym Good, the CEO of the Northern Adelaide and Barossa Valley Catchment Water Management Board said in giving evidence, a very useful component to water resources management is that there is an integration in the catchment boards managing water resources. They are required to have regard for the other pieces of legislation that perhaps deal with soil, vegetation and national parks, for example.

The committee looked at some particularly exciting initiatives that have taken place in South Australia. The national Landcare program has been very successful and has supported and assisted landholders and the community in many areas of the state. We took evidence from the Landcare groups, which were particularly impressive. Mr Claringbold, Chairman of Landcare Australia, in a broadcast on ABC radio's *Country Hour* was quoted as saying that he believed that the most important work of recent years in land care was protecting remnant native vegetation and stopping the felling of trees on farms. Landcare has a very strong education program aimed at encouraging farmers to protect remnant vegetation.

An outstanding example that we visited and took evidence on involved the widely publicised Coorong Local Action Planning Committee, which won the national BP Landcare catchment award in March 2000. That was an initiative of the Coorong District Council, which is the largest council in South Australia in geographic size and involved an enormous collaborative effort between the Coorong District Soil Conservation Board, the River Murray Catchment Water Management Board, the South-East Drainage Board, the Coomandook Agricultural Board, the Landcare Association, the Murray-Darling Association and many other groups. One of the features of that project which impressed the committee was the incentive packages offered to landholders on the basis of their doing work which recognised the importance of natural resource management and protecting remnant vegetation and wetlands. There were incentive payments to those landholders under a cost sharing arrangement. That was an exciting program.

The South-East Natural Resource Consultative Committee (known as SENRCC) is a model that could well be taken on board by the government for the rest of the state where the natural resource management groups in the South-East have come together geographically. We are talking of an area covering Lacepede, Tatiara, Robe, Coorong and districts and the Lower South-East areas of the state. SENRCC takes in not only membership of natural resource management groups such as animal and plant control boards, soil boards and water catchment boards but also the Local Government Association and the South-East Economic Development Board. So, economic and environmental issues are considered hand in hand—a totally integrated approach in that region. That committee is working very well. The northern agricultural districts regional land management strategy was also obviously a worthy project, funded by PIRSA, where the six soil conservation boards in the northern agricultural district came together.

The Mount Lofty Ranges Integrated Natural Resources Management Forum was of particular interest. This, of course, is a vitally important region for metropolitan Adelaide. Some 90 paid officers are working in natural resource management in the Adelaide Hills. There is some duplication, obviously, but the Mount Lofty Ranges Integrated Natural Resources Management Forum is a very real effort to cope with the complexity and variety of demands in this region. Recently, the state government announced a five year, $40 million project to improve water quality in the Mount Lofty catchment, and a watershed protection office will be established in Stirling to monitor water resources in the region. Obviously, an integrated approach will be required.

In evidence to the committee, Dr Jill Kerby, Leader, Mount Lofty Ranges Catchment Program, said:

> There are three soil conservation boards, three, perhaps four, animal and plant control boards, 10 local governments, five catchment water management boards and our program [the Mount Lofty Ranges Integrated Natural Resource Management Forum] working together in this region.

That is a particular challenge, but that forum, which was—

The Hon. Diana Laidlaw: Over what region?

The Hon. L.H. DAVIS: The greater Mount Lofty region in the Adelaide Hills. That forum, which was formed in September 2000 after an extensive consultation process, seems to be working very well. The committee was informed that 156 individuals participated in the consultation workshops. The forum is developing a five-year strategic plan and regional investment strategy, encouraging the formation of partnerships, as well as an overarching role in auditing activities and outcomes in the Mount Lofty Ranges, etc. That is a particularly good model that the committee believed was heading in the right direction, even though, of course, it is still in its formative stage.

In his evidence to the committee, Mr Mathison, Deputy Chair, Mount Lofty Ranges Animal and Plant Control Board, described the future objectives and strategies of the forum. He said this involved:

> . . . having animal and plant control as an integral component of property, district, catchment and region natural resource management plans and programs. Those strategies include forming closer working relationships with other sectors of the community that are interested in natural resource management, cooperating with council fire prevention officers and identifying areas where working groups can be established that would bring together community stakeholders to develop policies and strategies for sustainable animal and plant control specific to those groups' needs.

This very important report comprises some 143 pages. The committee made several key recommendations. The committee recognised that some savings might be achieved through the amalgamation of animal and plant control boards and soil boards, although we do not say that is the focus of the amalgamation by any means, but it would require legislative change. We believe that it is essential that the role of local communities should not be diminished: they have been the drivers and key players in natural resource management around South Australia, and the work of the volunteers is admired and appreciated by the committee.

We recognise the importance of funding and we recognise also, as I have said, the key role of local government. The amalgamation process always provides some difficulty, and we believe that that should take place over a period of up to five years, although we would like to think that it may proceed sooner. We would also suggest that the amalgamated board should retain all members for initial meetings, with the membership to be rationalised over a two-year period.

The committee has considered the draft Integrated Natural Resource Management Bill, which has been distributed by the government together with an explanatory paper, and is supportive of this regional approach to natural resource management.

We believe that the integrated approach suggested in the explanatory paper is essential. However, we should also recognise the need to consider economic development programs in the region. We should also recognise the importance of land use planning issues in the region. We believe that the provisions of the Water Resources Act 1997 should be adapted to cover the proposed integrated natural resource management regions. That act provides strong accountability mechanisms that could be incorporated into the draft bill.

The government has proposed that the nine integrated INRMs should, in the first instance, be based on the Natural Heritage Trust regions. We agree broadly with that proposal as a starting point but recognise that there will be special problems in the Murray Basin and the greater Mount Lofty area. We also recognise that the Natural Heritage Trust funding, which has been such a wonderful boost for natural resource management projects around South Australia, has no certainty beyond October 2001. That funding, of course, derived from the privatisation of Telstra. However, with no further privatisation on the horizon, alternative funding will have to be put in place. Some suggestions have been made of a levy and continuing government funding from other sources; however, that is not for this committee to comment on.

The Hon. T.G. Cameron: How will they sell the next tranche of shares at a lower price than the first and get away with it?

The Hon. L.H. DAVIS: That is another matter for another day. In any event, we believe that the integrated natural resource management regions will bring together land management boards and catchment water management boards in a strategic sense and, obviously, they will be the key players in those regional groups. The committee recognised also that one of the problems that people working in the natural resource area have is the uncertainty of employment.

The people involved develop great skills and have a great commitment to the environment, and many of them have completed tertiary training. They may become a development officer or a land care officer with a particular project for two or three years, perhaps through Natural Heritage Trust funding, and then that funding dries up and all that skill and knowledge can be lost. Therefore, the committee believes that more attention should be paid at federal and state level to ensure continuity in funding and programs so that the talents of these people are not lost because of an ad hoc approach.

Finally, the committee hopes that all members of parliament will recognise the need for and the benefits of a more integrated approach to natural resource management. We believe that this report, and the framework for integrated natural resource management legislation proposed by the government, can provide the springboard that not only will ensure that South Australia maintains its leadership role in natural resource management in South Australia but will also ensure a more integrated approach to this all important subject in the coming years.

The Hon. R.K. SNEATH secured the adjournment of the debate.

DEVELOPMENT (ADULT BOOK/SEX SHOPS) AMENDMENT BILL

The Hon. T.G. CAMERON obtained leave and introduced a bill for an act to amend the Development Act 1993. Read a first time.

The Hon. T.G. CAMERON: I move:

That this bill be now read a second time.

This bill is about fairness. It seeks to ban sex shops and adult bookshops from operating within 200 metres of any school. I recently accepted a petition outside the Love Bug Sex Shop. It was signed by over 300 Elizabeth South residents and called for a ban on sex shops operating within 200 metres of schools. That petition, signed by more than 300 Elizabeth South residents, has been lodged with the parliament, but I should inform members that, following a bit of recent publicity in relation to this sex shop, further petitions will be lodged with the parliament.

While some people may believe that sex shops have their place, SA First does not believe that that place should be near schools, in this case, a primary school. The issue recently came to a head when the Love Bug sex shop opened at the Elizabeth South shops, just 20 metres directly across from the local primary school. Local residents were unhappy about the location and, after their protests fell on deaf ears, they were assured by the manager that the shop would not stock for rental or sale illegal, X rated or XXX rated videos, or videos which, in some places, have no classification at all.

However, following complaints to the police, the store was raided and 400 explicit illegal sex videos were seized and confiscated. Parents of schoolchildren and local residents were outraged, and Hazel Dermody, the SA First candidate for Taylor, took up the fight on their behalf to have the shop closed.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: The Hon. Terry Roberts interjects and says that she has run a tireless campaign, and I thank him for his interjection. Hazel Dermody has run a tireless campaign for some six to nine months against this sex shop being placed next to a primary school, and no wonder, with reports that 13, 14 and 15-year old children have been seen leaving the sex shop. Only recently, a parent had to retrieve their four-year old child from the sex shop.

Be that as it may, the Love Bug sex shop has been thumbing its nose at both the law and at the wishes of local residents. As I have just explained, it is very easy for a child to wander into the sex shop and be confronted with graphic pictures. Quite frankly, it is not good enough when one considers the dozens of other locations in which this sex shop could have been placed, but it has been placed within 20 metres of a school.

As I understand it, sex shops can open up anywhere in South Australia, near schools, churches, hospitals—anywhere. The purpose of this bill is to prevent sex shops from locating within 200 metres of the boundary of a children's services centre or school. It will also force sex shops operating near schools after 1 July 2002 to move, although I am considering an amendment to that date. If they refuse to move, they will be fined a maximum penalty of $50 000.

The premise here is simple: that we cannot and should not allow these shops to operate anywhere near children, particularly young primary school children. As one local resident has stated, 'There are enough strange characters in the world without them hanging around our school.' What concerns me about the Love Bug sex shop is that it is knowingly operating outside the law of this parliament. As I understand it, it is against the law to rent and sell X-rated videos in South Australia.

The Hon. Diana Laidlaw: That is what this shop is doing?

The Hon. T.G. CAMERON: That is what this shop is doing. Not only did this shop have 400 explicit illegal sex videos set up all around the shop, after they were seized and confiscated, according to reports which I received and which were corroborated, the sex videos were available back in the shop within two days. I understand that the shop has been raided again and that the videos are still available, only on this occasion people have got to ask for them and they will take you—

The Hon. Diana Laidlaw: Did the police return them?

The Hon. T.G. CAMERON: No, no, they are confiscated but as I understand it—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Well, they replaced them, and they replaced them because they were able to purchase them for $3, $4 and $5 each. As I understand it, they rent them from anywhere between $20 and $40, and sell them for prices between $40 and $60. Quite frankly, the sex shop would not be able to operate unless it sold or rented these X-rated videos. I am fully aware of the fact that it is not illegal to view these videos in South Australia, and that it is as simple as picking up *People* magazine, or what have you, and ordering some videos, and they will turn up in two or three days through the post; they can be purchased for as little as $5.

The point I am making with this bill is that, despite the objections of the local residents and the local shopkeepers and small business people, and despite concern expressed by the council, the sex shop proprietors ignored their queries and opened the sex shop. Then, as if to rub salt into the wound, they put 400 illegal videos in the shop for rental and sale. This seemed to me to be rather an odd way of trying to appease the local residents who were concerned about a sex shop opening next to their school. As I understand it, without the proceeds from these X-rated videos, it is not profitable to keep the sex shop open. As I understand it, something like 80 per cent of their revenue comes from the sale and rental of these videos.

This bill is merely about sending a very clear message to the proprietors of these establishments that if they want to set them up, first, they should not place them within 200 metres of a school and, secondly, if they are going to set these shops up, they should operate within the law. I look forward to your support of this bill and its expedient passage through the parliament.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

CAFFEINATED BEVERAGES

Adjourned debate on motion of Hon. M.J. Elliott:

That the Legislative Council requests that the South Australian Government—

I. (a) Examines whether caffeinated drinks should be banned from sale to minors, in the same manner as tobacco and alcohol;

(b) Promotes caffeinated energy drinks as being unsuitable for the general population, particularly children and caffeine-sensitive people;

(c) Endorses proposals by the Australian New Zealand Food Authority for stricter labelling and marketing controls for caffeinated energy drinks; and

II. Uses its role on the Australia New Zealand Food Standards Council consisting of Health Ministers, to lobby for the passage of strict food standard regulations to cover formulated caffeinated beverages.

(Continued from April 4. Page 1241.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I provide qualified support for this motion moved by the Hon. Mike Elliott relating to caffeinated drinks. The proposal is that the South Australian government should examine whether caffeinated drinks should be banned from sale to minors in the same manner as tobacco and alcohol. I have received advice from the Minister for Human Services seeking to have paragraph I(a) of the motion amended to read:

Examines what sale labelling and marketing restrictions should be imposed on formulated caffeinated beverages.

I have spoken to the Hon. Mike Elliott as mover of the motion and he has some sympathy for the terms. However, he would wish to see reference to minors within that examination of any restrictions, even banning I suspect, that may be imposed on formulated caffeinated beverages. I thank him for giving some serious thought to the amendment that the Minister for Human Services has requested that I move. It may well be moved by the mover himself in a varied form.

For my own part, I have some reservations and have some questions for the mover about paragraph I(b), that is, that the Legislative Council request that the South Australian government promotes caffeinated energy drinks as being unsuitable for the general population. My advice is that it would be hard to sustain that they were unsuitable for the general population. Why would you restrict it, if you wished, only to caffeinated energy drinks as being unsuitable and not expand it to include coffee and tea? I believe that, while I have not had formal advice from the Minister for Human Services whom I represent in this place, I have some unease personally about such a defined request by this Council to the government to promote such drinks as being unsuitable. Perhaps the honourable member may be prepared to consider whether the South Australian government should examine this issue as well, rather than considering a defined request that the South Australian government should promote such drinks as unsuitable?

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: A whole lot of things that are legal or restricted are unsuitable but, as to promoting them as being unsuitable, perhaps I would need to seek some reassurance from the honourable member about the form of such promotion. My own view as one who has purchased such drinks is that they taste great and have been a wonderful aid on a—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, but it adds a bitterness to the whole of the drink, and that is what we—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: You think it might be some after-taste of tobacco?

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: But our water has additives also. I suppose there is nothing we eat or drink—or even the chewing gum I have in my mouth now—that does not have something unsuitable for me.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: But you can get a fright out on the street. Life is a bit risky. I will not get too sidetracked, but I remember that, when we were debating rollerblades some years ago, I actually wondered why some people even got out of bed because of the stress of the possibility one day of encountering a kid on rollerblades on a footpath. You can look at danger and fear and practices that are unsuitable, if you wish, in any action taken at any time by any person. I actually think that anything done in moderation is essentially fine if you are an adult and if you have reasoned the issue.

On this motion, even though I am representing the Minister for Human Services, my view is that it would be promoted as being unsuitable—no qualification, simply unsuitable—for the general population, irrespective of age, gender, or any other matter, and I think that that should be considered again by the honourable member. Certainly it is widely accepted, despite the American report mentioned by the Hon. Mike Elliott, that caffeine is added to drinks because of its desirable bitter flavour. I am aware that it is widely sold throughout the world and, despite concerns expressed from time to time and varying expert views, the balance of scientific opinion is that such drinks are not harmful if consumed in sensible quantities. That would essentially reinforce my view about measures undertaken in moderation.

I accept that there may well be special concerns for children. Those same concerns are comparable to tea and coffee, according to my advice. I am advised too that non-cola caffeinated drinks are not permitted to be manufactured in Australia, but they can be sold if they are imported from New Zealand where they are legal under the provisions of the trans-Tasman mutual recognition arrangement. I am also advised that there is a proposal to regulate these drinks as 'formulated caffeinated beverages', and this matter is currently being considered by the Australian New Zealand Food Authority (ANZFA), the body that is mentioned in the honourable member's motion. A standard for these drinks would apply in both Australia and New Zealand if this proposal was advanced by the authority and by jurisdictions generally.

Lastly, I advise that an expert working group established by ANZFA has looked at the wider aspects of the safety of dietary caffeine and has concluded that more studies are needed to confirm its effects on children. In the meantime, ANZFA has recommended that drinks be labelled 'not suitable for children'. Certainly any such marking, if agreed, would not create an offence of selling drinks to children. There is no question that they would have an impact. You cannot imagine, for instance, a school canteen selling drinks clearly labelled 'not suitable for children', even though, as I mentioned, such labelling would not create an offence in itself.

As I say, I have qualified support for the honourable member's motion. I am pleased that he is advancing the issues. I simply have some concerns about the specific words contained in two parts of the three part motion.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

DAIRY INDUSTRY

Adjourned debate on motion of Hon. Ian Gilfillan:

I. That, in the opinion of this Council, a joint committee be appointed to inquire into and report on the impact of dairy regulation on the industry in South Australia and, in so doing, consider—

(a) Was deregulation managed in a fair and equitable manner?

(b) What has been the impact of deregulation on the industry in South Australia?

(c) What is the future prognosis for the deregulated industry?

(d) Other relevant matters.

II. That, in the event of a joint committee being appointed, the Legislative Council be represented thereon by three members, of whom two shall form a quorum of Council members necessary to be present at all sittings of the committee.

III. That this Council permits the joint committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

IV. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

(Continued from 4 April. Page 1245.)

The Hon. CAROLINE SCHAEFER: As members of parliament we have a responsibility and an obligation to be very careful when dealing with emotive issues, and I think anyone who has even a passing understanding of some of the difficulties that the dairy industry has been through in the last few years would admit that this is an emotive issue.

The Hon. M.J. Elliott interjecting:

The Hon. CAROLINE SCHAEFER: It is—going broke is a very emotional issue. It is easy to stand up here and espouse our views on what is right and wrong in the world, but we also need to be cognisant of the impacts and likely outcomes of anything we might vote for or might vote against. In this instance, the Hon. Mr Gilfillan has called for the establishment of a committee, which, at greatest expense to the taxpayers, would travel around taking evidence from a wide number of people in the dairy industry. People would drive, in some cases many hundreds of kilometres, to attend the hearings and they would have their hopes and emotions lifted by the expectation that something might happen as a result of the committee that would benefit them personally, yet all of us know that there is nothing that the state government can do about the situation as it is now. So we would take endless hours of evidence from people. We would raise their hopes. We would sit and nod and look sympathetic, knowing full well that there was nothing we could do.

The committee would not have the ability to broker a better outcome for these people, and I will explain why. The inevitability of dairy deregulation on 30 June last year has been known for a number of years. In 1999, a survey held in the form of a vote was conducted of Victorian producers to check on their views in respect of the impending deregulation, and the overwhelming majority of Victorian dairy producers supported deregulation. An overwhelming majority of dairy farmers come from Victoria.

Since federation it has been impossible to stop moving milk or any other commodity across borders so, when Victoria decided to deregulate, effectively South Australia and New South Wales had no option but to do the same. The industry itself realised the potential impact on farmers in other states and negotiated with the federal government a financial package to buffer the effects on farmers at risk. I admit that in some cases the buffer has not been great enough, but I also ask members to compare that negotiated deal with compensation offered to any other sort of primary producer or, indeed, to any other business.

It must be realised that there are winners and losers through deregulation and that many producers in South Australia strongly support deregulation and are benefiting from it. Others, particularly the smaller producers, will struggle, and a financial package was put in place to help them restructure their business and, in some cases, to exit the industry with some dignity. My advice is that a study of the potential impacts on South Australian producers as a whole was undertaken by ABARE, and the net impact on the state was roughly neutral.

I realise, perhaps more personally than most people here, that that does not compensate the individual but that the overall effect is neutral; that is, the benefits enjoyed by some are balanced by the negative impacts on others. In states such as Victoria, there was an overall benefit to the state, despite the fact that some producers were still big losers from deregulation. I should mention the package that was brokered at the time, because most other primary industries were envious of such a package.

It is a $1.8 billion package that is funded by an 11 cents per litre levy on milk for the next eight years. For every litre of milk bought, 11¢ goes towards compensating dairy farmers, and that money is dedicated to dairy farmers who are negatively affected. There have been some comments in the press recently that the package is not big enough. That is always an arguable point but, on face value, $1 800 million does not sound like a bad deal.

If we compare dairy farmers with other farmers who have had challenges in recent years, they are already well ahead. The citrus farmers, for instance, did not receive any compensation when orange juice concentrate started coming in from overseas. Pork farmers did not receive any compensation when Canadian and Danish pork was allowed to be imported. The poultry industry did not receive any compensation when imported chicken meat arrived. The wool industry did not receive any compensation, nor were there are any levies on woollen products, over the 10 years or more that they have been struggling. There was no levy on a loaf of bread but, for many years, grain farmers struggled, particularly during the 1980s, yet they were not compensated to this degree, and they were certainly not compensated by the taxpayer.

I am not saying that dairy farmers are not deserving of support but, if you want to go further, perhaps everyone else should get their fair share, too. Then we end up with fully subsidised primary industries such as many other countries have, and we do not have the taxpayers to fund such generous things. Dairy farmers in general do have a distinct advantage over, say, a wool producer in Hawker. The land that is dedicated to dairy farming in Australia, particularly in this state (which I know well), is much more adaptable to other things than is our pastoral industry, for instance.

The wool producer has little alternative option while a dairy farmer generally has more highly productive, irrigated land which, in many cases, can be used for other activities such as horticulture or wine. Do not get me wrong: I am very concerned about the impact of deregulation on a number of dairy farmers and their families, but the question is: how far can this or any other government go and should they indeed interfere?

In summary, dairy deregulation was a decision of the dairy industry itself. The problem at the moment with the cost of a litre of milk in the supermarket is a supermarket law which, I believe, has affected the price of milk and the fate of dairy farmers far more than deregulation has. There is a very large support package in place. The support package was negoti-

ated directly between the industry and the federal government. The only changes to legislation enacted by South Australia were at the request of the industry to allow affected farmers to receive the benefits of the package.

Currently, a federal government committee is reviewing the dairy industry so, again, what possible effect could a state select committee have running at the same time? Absolutely nothing can be achieved by the establishment of this proposed committee other than to unfairly raise the hopes of people that something might be done when, in fact, nothing can be done at the state level.

The Hon. J.S.L. DAWKINS: I wish to speak briefly on this motion. I support wholeheartedly the comments made by my colleague the Hon. Caroline Schaefer. I am certainly not an expert on the dairy industry, although I can say that many years ago I worked in a dairy for some months. I remind members that as recently as 1 June 2000, this Council overwhelmingly passed the Dairy Industry (Deregulation of Prices) Amendment Bill. I concur with what the Hon. Caroline Schaefer said, that is, that there was a certain degree of inevitability about what this state parliament and other state parliaments did in relation to the dairy industry.

I cannot see the point of any committee of this parliament looking at this industry at the moment. Deregulation came into effect only some nine months ago. As the Hon. Caroline Schaefer pointed out, the federal government has instituted a review of the dairy industry which will cover all the issues in relation to that industry. Having said that, I emphasise my support for the comments made by the Hon. Caroline Schaefer. I cannot support the initiative by the Hon. Mr Gilfillan.

The Hon. T. CROTHERS: I indicate that I support much of what this motion contains. However, paragraph III of the motion disturbs me. It states:

> That this Council permits the joint committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

I do not support that at all, and there is a very good reason why: I do not support that for the same reason why I would not support the publication of witnesses' names on evidentiary matters in the federal or Supreme Court. I wonder, if members do support that, just how many people will want to come to give evidence but who do not want their names to be known. Yet here we are giving the committee the right to do that prior to the evidence being taken here as a result of a final report.

I can support everything else in the motion moved by the Hon. Mr Gilfillan, except paragraph III. I cannot support that paragraph and, because it is included in the motion, it means that, unfortunately, I cannot support the position of the inquiry.

The Hon. T.G. Roberts: You can amend it.

The Hon. T. CROTHERS: I can, but I do not know what support there is for that, either.

The Hon. T.G. Roberts: Test it.

The Hon. T. CROTHERS: I will move—

An honourable member: Now look what you've done.

The Hon. T. CROTHERS: I am moving an amendment. I will move—

The PRESIDENT: Order! I do not think that now is the time to move an amendment.

The Hon. T. CROTHERS: I was only trying. Apart from that, I would be supportive of the matter. If anyone else wants to move an amendment, they may. But I cannot support it with that paragraph.

The PRESIDENT: Sorry, the Hon. Mr Crothers, you can amend it. We are discussing a motion, so you can foreshadow your amendment, and we have to have a seconder for it.

The Hon. T. CROTHERS: I thought I could move the amendment.

The PRESIDENT: Yes, you can.

The Hon. T. CROTHERS: Does anyone propose to second my amendment?

The Hon. T.G. Cameron: We would like to hear it first.

The PRESIDENT: Order!

The Hon. T. CROTHERS: My amendment—

Members interjecting:

The PRESIDENT: Order! Let the honourable member think it through, please.

The Hon. T. CROTHERS: —is to leave in paragraphs I and II, to delete paragraph III and to leave in paragraph IV. That is my amendment.

The PRESIDENT: So, the amendment is to delete paragraph III.

The Hon. T. CROTHERS: That is correct.

The PRESIDENT: Is that amendment seconded?

The Hon. T.G. Cameron: Yes.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

ELECTRICITY, PORTFOLIO

Adjourned debate on motion of Hon. S.M. Kanck:

> That this Council recommends that the Premier should relieve the Treasurer, the Hon. Robert Lucas, of all responsibility for the South Australian electricity industry and create a special minister for electricity supply to oversee and facilitate the security and reliability of the industry in this state.

(Continued from 4 April. Page 1260.)

The Hon. R.R. ROBERTS: I rise to support the motion in an amended form. I move:

> Leave out all words after 'electricity industry'.

This would then leave a motion for consideration by the Council as follows:

> That this Council recommends that the Premier should relieve the Treasurer, the Hon. Robert Lucas, of all responsibility for the South Australian electricity industry.

This motion is obviously doomed to failure, but it is worth while looking at it because the content of the motion has some validity. However, the same suspects who were present in the Council at the time of the motion to lease long term the electricity assets of South Australians are still present so, obviously, we will have the same result.

This bill talks about the failure not only of the Hon. Robert Lucas, of course, but also the failure of the privatisation coalition—that is, the Hon. John Olsen, the Hon. Robert Lucas, the Hon. Trevor Crothers and the Hon. Terry Cameron, who are all responsible for the current situation in which South Australians find themselves with respect to their electricity assets.

They are the people responsible for the 30 per cent price rise for all contestable customers in South Australia. They are the ones who will duck and weave, and we will hear—as we did in the contributions of the Hons Trevor Crothers and

Terry Cameron—all this wisdom given in hindsight about all the facts of which they have become aware in the last month. Hindsight is a great substitute for wisdom which was not present at the time decisions were made. Not only does the Olsen/Lucas/Cameron/Crothers privatisation coalition stand condemned for what it has done in this industry but we have to remember that those people are the same suspects who have privatised a whole range of other concerns that were rightly the property of South Australians.

An honourable member interjecting:

The Hon. R.R. ROBERTS: Yes, one person was involved in that and claims the credit for getting the numbers for it, which I find quite bemusing, I must admit. But that is another story. Here we are seeing finally what has been achieved by the Hons Robert Lucas, John Olsen, Trevor Crothers and Terry Cameron—the absolute obliteration of the Playford vision for South Australia which was brought about by a process that quite clearly would have been open to this government if it wanted change in the ownership and control of the electricity assets of South Australia. The Hon. Mr Playford was a far greater politician and statesman than anyone in the Liberal Party today. He recognised the failings of the private electricity industry in South Australia and determined that he wanted to do something about it. He sought leave of the parliament to have some control over the Adelaide Electric Supply Company as it was known at that time.

He was once again frustrated by the Legislative Council, which was a far different chamber than that which we have today. One of the problems he faced was that many of those members had shares in the Adelaide Electric Supply Company, and they made the mistake of suggesting that they would support his proposal if it was backed up by some independent inquiry. The Hon. Mr Playford determined to set up a royal commission. That royal commission did not deliver what he was seeking; it recommended that, in the best interests of South Australia, the government should own the electricity assets and have control of them. He went to a federal Labor government, sought the funding, and that is what he achieved. There was a process in the annals of Liberal Party history. Members opposite want to hold up Tom Playford as a martyr and visionary when it suits them, but when it comes to the practice of everyday politics they wipe off that legacy, and it has now gone for ever.

In South Australia the government had the ability to provide cheap water and reduce power costs for people wanting to set up or expand their business—such as BHP in Whyalla and BHAS in Port Pirie—and extend the population of the state of South Australia. All those assets that we were able to provide to companies that wanted to come into our state have been stripped away. We have seen the privatisation of the TAB, and the Lotteries Commission will also be privatised if members opposite get their way. A referendum on the Lotteries Commission was carried very clearly, but the control of those assets was to be placed in the hands of the people, for the benefit of South Australians. That same argument was used when we set up the TAB. Those proponents of setting up the TAB said, 'This can be done on the same basis as the Lotteries Commission, because it is a successful model.' We are seeing the stripping away of all those things. In the past couple of days in the papers (a reference to this matter even appeared in the editorial of the *Advertiser*, which is not a big fan of the Australian Labor Party, I might add) Liberal members, in particular, are being asked, 'What are you going to do about us? Why are we in this position?' They did make one point that bears elaboration, as follows:

> If South Australia did not go along with this bizarre feature of national competition policy, it would be at risk of losing a considerable part of this year's $36.1 million in compliance payments from the federal government.

During the contributions of others, and during the contribution made by the Treasurer himself, he, on a number of occasions, said, 'We had some blackouts in 1989.' We did, and it was very bad but, since this industry has been privatised, it has been blackout after blackout after blackout. He invited us to ask: where would we be today if the government had not privatised the electricity industry? I will tell you where we would be today: we would be at exactly the same place that the Liberal Party and John Olsen told the people of South Australia at the last election we would be. It is exactly the same proposition.

Members will remember that at the last election we gave a warning—not without foundation, because we had received leaked documents. I remember that one document talked about how to sell ETSA without going to parliament. Then some bills were introduced, and we had to pass them: the Hon. Mike Elliott will remember that we had to pass these bills, otherwise we would not get compliance payments from the federal government. I remember that one night the Hon. Sandra Kanck and I were extremely concerned when a motion was put up by the government that the national electricity market, or NEMMCO, could not be sued if it made mistakes or implemented some policy or practice which put businesses to the wall.

During those debates, when negotiations started to break down—and I remember them well because I handled the bill—the Hon. Sandra Kanck and I believed that the sale of ETSA was being set up, and we had discussions with and were given guarantees by the Premier, John Olsen, that the government would not sell ETSA. But they have a little trick: they say 'at this time'. It is quite clear and we all know what that means: 'We are not going to do it at this time but we may do it tomorrow,' because 'at this time' only means right now. So, given those assurances, the Hon. Sandra Kanck was disposed to trust the government—a very shaky practice—that they would not, in fact, sell ETSA, and I desisted pressing the amendments that I was moving which would have ensured that, in fact, this matter could not go forward.

So, history shows that there has been a long line of deceit. All that we have left is privatisation which relates to private customers. What is the relief? What is the safeguard for private consumers? What can they expect in coming years? If you think it through, it is very obvious what is going to happen. If the average price of electricity has gone up between 30 per cent and up to 80 per cent for industrial customers, does anybody believe that a private company is going to give away electricity for private consumers when, collectively, they use a fair amount of electricity? It may be not precisely the same; it may be more. I am not certain of that and I apologise that I did not research it. If anyone thinks that the private company is going to give away electricity cheaply for private consumers, they are wrong.

What is the guarantee for those people who reside in country South Australia? Well, they have a guarantee: the Treasurer, who is the subject of this motion, has assured us that they will not pay any more than 1.9 per cent more for electricity than metropolitan consumers. So, what is that going to mean? It will mean they are going to pay 31.9 per cent more for their electricity, and that is supposed to be

some comfort. We have seen what happens when privatisation takes place. None of the promises that were made and the assurances that were given to the Hon. Trevor Crothers and the Hon. Terry Cameron that this was going to be good for the state and would result in cheap power has come to fruition.

What we have had is blackouts and price increases, which do not look like going away. As was pointed out in the ETSA sale debates, the private consumers are there to make money. So, why were we surprised to find out in question time today that sharp practices are being employed to try to lock South Australian consumers into five year contracts—at a 25 per cent increase, I might say—after all the promises that were made to South Australians and South Australian businesses that the price of power would be cheaper? If that proposition was true, these people are trying to dupe consumers into long-term contracts which, if the price of electricity does drop as it was supposed to do and as was promised it would, they will be locked into paying the 25 per cent extra.

During their contributions the Hons Terry Cameron and Trevor Crothers indicated that they are fully in support. I would have expected that to be the case, because when you are guilty of a crime it is not the usual practice to go out and admit it. What has been achieved by the Hons Terry Cameron and Trevor Crothers, who brought matters into the discussion which I will not go over again? If you are a student of *Hansard* and want to go through their contributions, you will find that most of the arguments they used in support of the position they took was information that has been revealed since the sale of ETSA, so they would convince us that they knew about it.

I will touch on the contribution of the Hon. Trevor Crothers, who has an enormous ego in raising this issue and being involved in the debate. We all know the proposition put by the Hon. Trevor Crothers when he decided that he would rat on the Labor Party and vote with the government on a matter which had been before the caucus for months and which was part of the policy of the Australian Labor Party, which he endorsed. I would have thought that at this stage of the game, given the parlous state of the power industry, he would keep his head down. Members will recall that his proposition was that he wanted an industry fund of $150 million, which was to attract industry to South Australia. That was for the 99 year lease, as proposed by the Treasurer at that time.

After that, the numbers changed dramatically and the Independents—not the Labor Party—in the lower house introduced amendments which cut out the proposition put by the Hon. Trevor Crothers, but the linchpin of his support, stated publicly and on the record, was that we would have that industry fund. We can all remember the debate, when the Hon. Trevor Crothers was going to stare down Mitch Williams, who at that time was an Independent, and what happened. The Labor Party had to consider its position, and it was very clear that our opposition to the sale—or the now proposed lease—of ETSA would fail, simply because the numbers were not with us in the upper or lower houses. The only option left to us at that stage was to get what we believed to be the best out of the situation.

We saw that Mitch Williams would not cop it, so here we had a situation where, having been seduced by the Treasurer on this new theory of a lease, which had been discussed ad nauseam when they were trying to seduce the Hon. Nick Xenophon, the Hon. Trevor Crothers then said he had a new proposal about a lease. At that stage, we were all talking about a 100 year lease. So, amendments were moved in the lower house, and the Labor Party could see that it would not have the numbers. If there was one thing we knew, it was that we did not have the numbers. Mitch Williams was staring down Trevor Crothers and the government, so what did we actually have? This proposition into which the Treasurer seduced Trevor Crothers was that we would have this lease and he would have his industry fund.

It was that good an idea that I will tell you who voted for it: not the Independents in the lower house, not the Liberal Party, not the Labor Party, not the Hon. Terry Cameron, the Hon. Nick Xenophon or the Democrats, and neither did the Hon. Trevor Crothers, who, on a number of occasions in this Council, has raised the matter of his industry fund. Let us get this in perspective. His proposition was not delivered. He delivered the vote for the government to lease the assets of the people of South Australia, despite the promises made by the Liberal government. He delivered that legacy to South Australians for nothing—absolutely nothing!

The only thing that he has got out of it is this private school prefect routine which the Liberal Party seems to like: they now call him 'TC' instead of 'that bloody Crothers'. That is all he has got out of this, and that is the current situation. All those facts will not cause this motion to be carried, but I believe that the Hon. Sandra Kanck should be commended for raising this issue and airing it just one more time so that the people of South Australia can get a clear picture of what their legacy is now: no more Tom Playford vision—that is gone forever; no more government incentives; and no more government intervention to see that they get a fair price for electricity.

The other question that was asked during the contributions by other members is: what would the opposition do about it? One of the—

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: Well, what we would do about it is exactly what you told South Australia you would do about it at the last election. The answer is very clear. You have let down the people of South Australia. You have destroyed the ability of governments to intervene in the price of electricity for the benefit of South Australians or to provide incentives for companies to come to South Australia to decentralise our state and provide jobs in country areas.

The government has given away the legacy that was left to it by a combination of the statesmanship of people such as Tom Playford and the Labor government under its leadership at that time. That has gone. That is what the government has condemned this state to. It also needs to be pointed out that this situation was not brought about by Rob Lucas alone. This is one thing of which he is not guilty. One could well say that he has not handled the situation very well, but he is not alone: other people should be named in this respect. Unfortunately, those people were part of this privatisation coalition which systematically sold off every productive paddock on the farm of this state as they came through.

They now have another situation where, today, when they had the floor, they wanted to talk about WorkCover and what the opposition would do about that. Why would we tell the government what the opposition would do about power, workers compensation or anything else? For 12 months the Hon. Legh Davis said that perhaps we might come up with a health ombudsman, but what did they do: they stole it. For once in their lives, they will have to do some thinking of their own, because the opposition will have a policy on electricity and workers compensation. They might want to burn the

bunker or booby trap the bunker on their way out, as they surely are, because the people of South Australia believe in a policy that the people ought to be put before politics. Not only do they believe in that but also they expect it to happen.

If we want to talk about putting the people before politics, let me finish on this note. If the Hon. Terry Cameron was half dinkum about worrying about what the people want (he wanders around in some country area saying, 'We want to do what the people want, not what some politicians want'), let us remind him of what all the polls showed and the reason why the government would not take up the invitation of the Hon. Nick Xenophon to have a referendum on it. It was because they knew that 75 to 80 per cent of South Australians did not want the government to sell their electricity assets. They made the mistake, as did the Hon. Sandra Kanck and I, of believing the government at the last election when it promised—swore on a stack of bibles—that it would not sell our electricity assets.

If they were dinkum about that they would have had the referendum, but they knew that the people did not want their assets sold. The Hon. Terry Cameron knew that they did not want them sold, but that did not stop him from crossing the floor, breaking every Labor tradition, and dispossessing South Australians of their assets and their ability to expand their state. I know with some regret that we will go into this vote and lose it. But this is not a question of what I want or what I like. The people will lose and the people will ultimately pass judgment. It will not be a vote of this Council that will wreak retribution on this government; it will be the people of South Australia, at the next election, who will remember what the promise was and what the delivery was.

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.R. ROBERTS: Do you want me to go on for another 20 minutes? The Hon. John Dawkins wants to provoke me and talk about what has happened in Frome. We can talk about the electricity assets in Frome and what the Liberal candidate did about it. The last part will not take long because he did nothing. He turned up at the ETSA station with John Olsen, the then Minister for Mines and Energy, on about 11 April, and told the workers there, 'Don't worry about that scuttlebutt that Ron Roberts and the Labor Party are talking about, that we are setting up ETSA to be sold.' He said, 'Read my lips: I will give you a guarantee there will be no relocation of those ETSA workers working in Frome and in Port Pirie.' So, what did he do? He lied again!

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.R. ROBERTS: Port Pirie is where I come from. He turned up in Port Pirie at the ETSA station.

The Hon. R.I. Lucas: Where is the power station at Port Pirie?

The Hon. R.R. ROBERTS: That is more reinforcement of why this motion ought to succeed: he does not know the difference between a power station and an ETSA station. But he said that there would be no forced relocations from the area. They felt quite comforted. 'Read my lips', he said. That is the greatest dumb practice in politics: read my lips. They duped them again. They extended the area so that the area they were working then became Frome. You would not be transferred from Pirie out of your area because now Clare and Riverton were involved.

Your government has systematically stripped Frome of all government services. You have knocked the guts out of country towns like Crystal Brook where your member supported—at the cabinet table he put up his hand—closing the highways at Crystal Brook, cutting the workers at SA Water and dismantling the Pipelines Authority. He was there when it happened. He cannot hide, not like the Hon. John Dawkins who can hide up here in cowards' castle away from the glaring lights of the public; but Rob Kerin cannot. He can run but he cannot hide because we know where he lives. He lives in Crystal Brook, which has been decimated by closures of government offices.

The PRESIDENT: Order! The honourable member is straying a long way from the motion.

The Hon. R.R. ROBERTS: When it comes to the ETSA debate, Frome is one of the worst areas. All that you can offer them is that their electricity will be only 1.9 per cent more. It will now be 31.9 per cent instead of 30 per cent. If I were the Hon. John Dawkins I would keep my head down, stay in Gawler and talk to the *Bunyip*, because I would be better off.

I believe that this motion, worthy as it may be, will fail. However, I do encourage those members who have any conscience and who have any respect for the parliamentary system to bear in mind that if you make a promise to the people of South Australia you ought to keep it. Members opposite have broken all those promises; they do not deserve the respect or the votes of the people of South Australia. I commend the motion to the Council.

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

DIGNITY IN DYING BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1246.)

The Hon. CAROLINE SCHAEFER: My contribution will be very short today. In fact, I have been very tempted not to speak at all on this bill, because I have been a member in this place now for seven years and I think that I have already made three speeches on this issue. A group of people within this parliament have made it very public that they will not rest until we have legal euthanasia in this state. As long as I vote within this chamber, I will not be voting to legalise euthanasia. I chaired the Social Development Committee, which brought down a majority report not supporting the legalisation of euthanasia in this state.

The Hon. Sandra Kanck and the Hon. Bob Such, who have now moved this motion, were the only two members who disagreed with the committee's findings, yet they continue to allege that, because the other members found against their beliefs, somehow we were biased. I do not think that there is anyone who does not have a personal bias on conscience issues. If they do not have, one wonders whether they have thought about the issue at all. I will not support euthanasia in this state, because I cannot—and I have read extensively about it—see how sufficient safeguards can be implemented to protect the innocent, the old and the frail.

I believe that we will see in Holland an increase of emotional blackmail on older people who will, even if they have the right, be pressured in many cases; or, even if they are not pressured by their families, they may well believe that they should volunteer for euthanasia so as not to be a burden on their families. My beliefs are supported by such groups as the AMA and the seniors clubs of South Australia, both of which groups have already written to me. One aspect that the general public still fails to understand about euthanasia legislation, as it has been introduced anywhere in the world,

is that no-one will be granted euthanasia without specifically requesting it of their own free will.

Nowhere in the world is anything else suggested, yet the very people who, it is suggested, may need to take advantage or, if one likes, disadvantage of such legislation are always the old and the infirm. People will say, 'If I ever become in a vegetative state I do not want to go on living—apply euthanasia.' Yet, for instance, at no time could the elderly and demented be granted voluntary euthanasia, because there is no way that anyone could say that they had requested it; nor, in my belief under our legal system, could they leave an advanced directive stating, 'If at some stage in the future I become demented, euthanase me—or, in fact, kill me', because it could not be proved that that was still their will at the time. So, the very people it is believed would take advantage of this legislation would, in fact, not be able to do so; and neither would minors, in any case.

I believe there is sufficient legislation in this state now. Under common law anyone can refuse treatment. We have a bill that allows for the administration of pain relief, even if it decreases one's time to live. We can leave advance directives. I do not believe that we would be doing the right thing by this state—and nor do I believe that any other state would be doing the right thing—if legislation is brought in that essentially allows someone to say, 'I can't be bothered living, I want to be killed after lunch on Sunday,' and that is about what this legislation says.

I know that I will be again inundated by people with contra beliefs to mine. They will abuse me because I happen to be a Catholic and say that my opinion has been not just influenced but taken over by the Catholic Church. Yet those very same people believe that, because they disagree with me, they have that right, but I somehow lack mental fibre because I do not agree with them. I will not be supporting this bill and, as I said, for as long as I draw breath I do not expect to be supporting any euthanasia bill.

The Hon. R.K. SNEATH secured the adjournment of the debate.

LEGISLATIVE REVIEW COMMITTEE: EVIDENCE ACT

Adjourned debate on motion of Hon. Nick Xenophon:

That the Legislative Review Committee inquire into and report on the operation of section 69A of the Evidence Act 1929, and, in particular, the effect of the publication of names of accused persons on them and their families who are subsequently not convicted or not found guilty of any criminal or other offence.

(Continued from 4 April. Page 1247.)

The Hon. IAN GILFILLAN: I speak in favour of the motion. I believe it is an issue that is worthy of closer attention than just the casual observation that the publication of names is something that we feel makes people vulnerable. In my view, it is an area that could properly be addressed by the Legislative Review Committee. I indicate my support and that of the Democrats for the motion.

The Hon. NICK XENOPHON: I thank honourable members for their contribution and constructive remarks in relation to this motion. It has been brought about as a result of the campaign by Mr Peter McKeon, and he deserves credit for his active citizenship in exploring this issue. I look forward to this motion being carried and the Legislative Review Committee dealing expeditiously with the terms of reference that are recommended.

Motion carried.

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 6 December. Page 832.)

The Hon. SANDRA KANCK: I support the second reading of this very important piece of legislation introduced by my colleague the Hon. Ian Gilfillan. The free exchange of government information is the lifeblood of a functioning democracy and, without it, the effectiveness of the parliament is undermined. Without it, media analysis of government policies is impoverished and, without it, the people's ability to make an informed decision is denied. It is appropriate that the free flow of government information is enshrined in legislation but, unfortunately, in the hands of the Olsen government, the current Freedom of Information Act has become an Orwellian concept. Freedom from information better represents the Olsen government's views.

Its contempt for its democratic obligations is stitched into its soul. Our paranoid Premier now demands that his office vet all FOI requests, so the struggle to extract even relatively innocuous information is best described as tortuous. Real information requires an appeal to the Ombudsman and years of waiting, and I still await a determination by the Ombudsman as to whether EPA documents related to the 1996 Port Stanvac oil spill will be released to me.

As a further example of just how far this government is prepared to go in secrecy, I indicate that I took up an issue on behalf of a constituent of mine over a period of time, which ultimately resulted in the Minister for Human Services employing a former magistrate, Mr Jim Cramond, to review the matter. My name is even in the title. The title of the document is 'A report to the Minister for Human Services in respect of concerns raised by the Hon. Sandra Kanck MLC on behalf of. . . ', and it names my constituent. I have not been able to get hold of that report.

When, it appears, the government did not get the right answer on that review, it paid for that same report to be further reviewed by the University of Western Australia, so there is another report, a review report for Family and Youth Services South Australia, and both of them relate to my constituent and the way this matter was handled. I have been knocked back by the department and it is now going through the Ombudsman. The whole matter was raised by me, the report has my name on it, yet I cannot get a copy of it.

The government's dismissive response to the Legislative Review Committee's report, tabled last October, only reinforces the need for this legislative overhaul of the Freedom of Information Act. Rather than respond in the required time, the Olsen government preferred to remain mute. It is just not good enough; hence this bill has my full support and I urge the rest of the Council to follow suit.

The Hon. T. CROTHERS secured the adjournment of the debate.

STATUTES AMENDMENT (DUST-RELATED CONDITIONS) BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 680.)

The Hon. R.K. SNEATH: I begin with a quote from a book called *Blue Murder*:

> A long time ago in the wild north-west of Australia, a prospector stumbled on a seam of one of the world's rarest minerals—blue asbestos. He pegged a claim, dug a mine and began a rush that would lead to the building of a boom town out in the desert, a place called Wittenoom. Fifty years later that town is dying, and so are the men, women and children who lived there and worked there. Two thousand people—more than the toll from [some of the worst chemical explosions in the world]—will eventually die or be disabled because of their exposure to the deadly dust of Wittenoom. It is the world's greatest industrial disaster. And it could all have been prevented.asbestos.

I have picked up a number of quotes from various journals, such as this one from the *Medical Journal of Australia* of March 1989, which states that diffuse malignant mesothelioma is the cause of:

> . . . more work related deaths per year in Australia than any other single disorder or injury. The rising incidence of [cancer that is caused by asbestos] is the most disastrous occupational epidemic in Australia's history.

Another quote from WorkSafe Australia states:

> South Australia has registered the second highest number of cases of mesothelioma in Australia.

In the August 1987 edition of the *Medical Journal of Australia*, another article states that Australia leads the world in the rate of mesothelioma. This is a distinction that no country would want. It also states that 'only England and Wales have a rate of cancer that approaches the annual Australian rate. The rate in the United States is only half as large.'

Many statistics are available in relation to occupational health and safety. I will mention some of them here. More than 1.2 million workers die because of their work. This is nearly double the number of people who die in war. Around the world, approximately 335 000 deaths, including 12 000 children, result from workplace accidents. Another 325 000 die from occupational diseases, most of which result from exposure to hazardous substances. Asbestos is the single largest killer, claiming about 100 000 lives each year. More than 440 workers are killed in dramatic accidents; that is more than eight per week. Work related diseases such as cancer, asbestosis, occupational asthma and others cause an additional 2 300 deaths. This equates to a total of approximately 50 deaths per week, whereas the corresponding figure for road deaths is about 30 per week.

The National Occupational Health and Safety Commission estimates that during the period 1987 to 2010 there will be 16 000 mesothelioma deaths. Whilst most of these deaths are due to the mining, processing and the widespread use of the material, there are now groups of other workers who are being affected. Cancer and asthma related diseases are now appearing in the so-called well-controlled industries such as friction part manufacturing and repairs. It is also a problem for domestic workers and those working in buildings which contain asbestos-containing materials.

In July 2000, the World Trade Organisation supported the 1997 French ban on the importation of white asbestos. This is because, like other forms of asbestos, it causes asbestosis, lung cancer and mesothelioma—which I have a lot of trouble saying. There have been bans on white asbestos in nine other European countries for much of the 1990s. They are Iceland, Norway, Denmark, Sweden, Austria, the Netherlands, Finland, Italy, Germany and the United Kingdom. These countries are complying with an EU directive that white asbestos will be banned by all EU member states by January 2005. Brazil and the Gulf States also intend to follow the EU lead.

The Australian government shows no inclination at this time to take similar action. Despite the great death toll caused by asbestos in this country, Australia currently imports up to 1 500 tonnes of white asbestos to put into various products which are used and which affect the workers. The urgency to pass this bill as soon as possible for those cases that can be settled after death, so their next of kin can be compensated in some way for a workplace injury that has resulted in death—

The Hon. Nick Xenophon: A number of people have already died.

The Hon. R.K. SNEATH: Yes. The Hon. Mr Xenophon indicates that a number have already died since this bill was introduced. It would be a disaster if one more died before it is passed. The current situation is that those cases that are settled are settled for poor amounts because they know that death is pending, so they are taking amounts as small as $5 000 or $10 000 to give themselves some comfort while they are alive, because they are worried that their next of kin will get nothing on their passing away.

The government cannot afford to continue to delay this bill whilst people are continuing to die. I put it to the government that we pass this bill very quickly before one more person dies of an asbestos related disease. I am certainly supporting the bill.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES AND PAYMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 337.)

The Hon. NICK XENOPHON: I move:

That this order of the day be discharged.

Motion carried.

The Hon. NICK XENOPHON: I move:

That this bill be withdrawn.

Motion carried.

[Sitting suspended from 5.59 to 7.45 p.m.]

GOVERNMENT FUNDED NATIONAL BROADCASTING

The Hon. NICK XENOPHON: I move:

I. That a select committee be established to inquire into and make recommendations on the role and adequacy of government funded national broadcasting and to examine the impact of these broadcasters on the South Australian economy and community, and in particular to examine—

(a) The current and long-term distribution of government funded national broadcasting resources and the effect of this distribution on South Australia;

(b) The effects on industry, including broadcasting, film and video production and multimedia;

(c) The effects on the arts and cultural life in South Australia, including whether government funded national broadcasters adequately service South Australia;

(d) Whether government funded national broadcasters adequately service South Australia in respect of South Australian current affairs coverage;

(e) The programming mix available from government funded national broadcasters and how programming decisions are made and whether the programming which is delivered is geographically balanced.

II. That standing order 389 be suspended to enable the chairperson of the committee to have a deliberative vote only.

III. That this Council permits the select commit to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

IV. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I propose to touch briefly on a number of aspects in respect of this motion this evening and seek leave to conclude at a later time. I have discussed this motion with a number of members. The view of some members is that we ought not be looking at a matter that clearly some consider is within federal jurisdiction in terms of the ABC's role. However, I beg to differ in relation to that approach, given that in Victoria—

Members interjecting:

The PRESIDENT: Order! It is a bit hard to hear the honourable member.

The Hon. NICK XENOPHON: There is a precedent for this type of inquiry—that there is a positive role to be played by a state parliamentary committee in relation to the role of the ABC in the context of its role in the South Australian community. In 1998, the Victorian Minister for Industry, Science and Technology, at that time the Hon. Mark Birrell, moved terms of reference for a joint parliamentary economic development committee on the effects of government funded national broadcasting in Victoria. In many respects this motion is based on the motion moved by the Hon. Mark Birrell, something that was supported quite strongly by the Kennett government as a whole.

That committee looked at a number of factors, including the current and long-term distribution of government funded national broadcasting resources and the effect of its distribution in Victoria. It examined the effects of industry, including broadcasting, film and video production and multimedia. It examined the effects on the arts and cultural life in Victoria, including whether government funded national broadcasters adequately serviced Victoria—and Melbourne is Australia's second largest city—and it also looked at the issue of whether programming which was delivered was geographically balanced. That report was handed down in May of 1999. An article by Gabrielle Costa in *The Age* of 27 May 1999, which summarises quite well the findings of that committee, is headed 'ABC blasted over Sydney bias'. The article states:

> The ABC should be denied federal government funding to expand in Sydney, according to a Victorian inquiry that criticised the broadcaster's 'culture of centralisation'.

It also referred to a number of matters, including a bias towards New South Wales in terms of ABC staffing, and stated:

> The ABC, less so SBS, did not appreciate their role as broadcasters whose function was to provide a service not available through commercial networks.

It stated that the cancellation of the state-based *7.30 Report* was unacceptable and that the weekly *Stateline* did not compensate. It also made a number of references, including that radio news should be provided around the clock; that new radio studios should be established in Geelong and Ballarat; and a number of other points, the essential thrust of which was that the ABC was Sydneycentric and that it did not adequately acknowledge and fulfil the needs of Victorians, including regional Victorians.

It is worth mentioning in relation to the findings of that report that one of the key complaints of the ABC's role in recent years was that the *7.30 Report*, which was lost as a state-based program in 1996, had been the subject of much criticism. Members will recall in the mid-1990s Hendrik Gout's role during the State Bank royal commission and his pithy analysis of what occurred during the State Bank royal commission. It was something that did not receive the same degree of coverage in any other news media, and the *7.30 Report* played a key role in the ongoing debate, of uncovering what occurred with respect to the State Bank and the report of the State Bank royal commission. In June of last year, in an article in the *Australian* by Matt Price, headed '7.30's sad state of affairs', Matt Price was very critical of the ABC's role in removing a state-based *7.30 Report* and replacing it with a 6 p.m. edition of *Stateline* on Fridays only.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: The Hon. Mike Elliott says that he understood that, until Jonathan Shier (the relatively new Managing Director of the ABC) arrived, there was a plan to have a state-based *7.30 Report* or *Stateline* throughout the week. Matt Price's article is worth referring to briefly. It states:

> For weeks ABC television's *The 7.30 Report* has been trying to recruit a journalist for its Perth office. The last poor soul bailed out to take up a job with Triple J radio, and Sydney-based producers have since been unable to lure a replacement to serve the whims of presenter Kerry O'Brien and the cabal that runs the flagship national current affairs program. Occasionally you'll see a story filed from Brisbane, Adelaide, Perth or Hobart—the so-called BAPH states—but correspondents in these bureaux either resign themselves to cameo appearances once or twice a fortnight. . . or resign. Although it's fashionable to knock the national broadcaster, for what it is *The 7.30 Report* does a good job.

Matt Price goes on to say that it does cover issues such as federal politics and international affairs very well, but he also says:

> But almost five years after the ABC terminated its commitment to prime-time state-based TV current affairs, the grieving continues. . . It's dangerous to become too nostalgic about the old 7.30 format, which incorporated Paul Lyneham's distinctive Canberra interviews and observations into a rundown dictated by local producers.

He goes on to say that, for all its faults, the state-based program was more relevant to its audience and attracted significantly more viewers when it had the flexibility to focus on state issues. He states:

> All of the important government scandals over the 1980s and 1990s—including corruption in Queensland and New South Wales, WA Inc, the South Australian State Bank crisis and the collapse of Pyramid in Victoria—embroiled state governments. While state MPs have always escaped the white-hot scrutiny applied to their federal counterparts by the Canberra press gallery, the prospect of appearing on *The 7.30 Report* at least kept them on their toes.

That goes to the nub of one of the aspects of this motion, that is, it ought to look at the issue of current affairs and news coverage in this state, and the ABC's role in this state is particularly important given that we have only one newspaper. This is not a criticism of the *Advertiser*, but the fact is that the ABC—

The Hon. Carolyn Pickles interjecting:

The Hon. NICK XENOPHON: Well, I think it is endemic in any one newspaper town that the role of the ABC becomes more important in terms of a competitive source for news, and I think the fact is that in this parliament the press

gallery, as such, is inhabited by only the *Advertiser* and the ABC. In terms of competition for news, that is basically it. The ABC does play an important role in this state given the relative lack of diversity of media compared with—

The Hon. Carolyn Pickles interjecting:

The Hon. NICK XENOPHON: The Hon. Carolyn Pickles interjects and says, 'Especially for media junkies'. I think it goes beyond that. The whole issue of the importance of the ABC is that the media does play a very important role in keeping governments and politicians accountable, in raising issues and setting agendas on a range of topics. It is important that we acknowledge the role of the ABC, particularly in the context of a state such as South Australia, where media diversity, perhaps because of the size of this state, is not the same as it is in Victoria and New South Wales.

Much has been said recently about the appointment of Jonathan Shier to the ABC. He is referred to as one of the 'most besieged men' in the country according to a recent piece in the *Australian*. In March this year, in a piece headed, 'Do not adjust your set', Jonathan Shier set out his vision for the ABC which included decentralisation, and he also flagged that there will be many changes for the ABC and ABC staff. Many do not necessarily share this vision. It is not envisaged that this motion should be critical of Jonathan Shier but, rather, to acknowledge that in the past few years the whole issue of local content, the importance of news and current affairs, particularly regional news and current affairs coverage in this state, is something that has been under pressure because of budget cuts.

That is not Mr Shier's fault, but in terms of Mr Shier's priorities he has indicated that the ABC will continue to play a key role in educational television in this state. There is quite a bit of local production—which is certainly welcomed—but my concern relates to a fair distribution of funding, particularly for the ABC and, to another extent, the SBS given that SBS is also a national broadcaster.

I have heard criticism from my friends in the non-English speaking media that SBS's presence in this state is minimal; that South Australian issues are not getting adequate coverage. These are issues into which this committee, if established, could look into a constructive manner. We should also bear in mind, given the precedent with respect to the Victorian committee, that, if we believe in a federal system, there is a role for state parliaments to play in influencing the debate with respect to a national broadcaster, notwithstanding that it is federally funded. The charter of the ABC speaks in the following terms:

> The functions of the corporation are—
>
> (a) to provide within Australia innovative and comprehensive broadcasting services of a high standard as part of the Australian broadcasting system consisting of national, commercial and community sectors. . .
>
> (i) [Its] broadcasting [should] contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community.

I believe that should also refer to the role of the ABC in a community such as South Australia, a so-called BAPH state, which is an acronym used by ABC journalists outside the Sydney and Melbourne axis. Our concerns ought to be noted, and this committee could play a constructive role in furthering and advancing the role of the ABC in South Australia, in particular regional radio, which I believe has been under significant pressure in recent years because of the budget cutbacks. That is something that regional communities feel greatly, given that ABC Radio is often an integral part of their communities, given a lack of commercial alternatives.

The aim of this inquiry is to provide a constructive role in the context of the flux, change and, some would say, dislocation that the ABC is currently undergoing. Whatever honourable members may think of the vision of Jonathan Shier, it is a fact that the ABC is undergoing quite significant change and, because of that, we ought to look at an inquiry at a state level that can provide constructive criticism and suggestions in the context of the ABC's funding commitment to South Australia, its commitment to programming—particularly regional programming—and its commitment to news and current affairs in this state.

If we do not have this inquiry, my concern is that we will miss an opportunity to be able to call evidence as to the ABC's plans for South Australia, in order to hold the ABC accountable. Notwithstanding the fact that the ABC is federally funded, there is a real role for this parliament to play in holding the ABC accountable for setting out its plans for South Australia and, in a sense, by bringing those plans out into the open by asking relevant questions as to the reduction in funding over the years with respect to regional broadcasting, and news and current affairs, in particular, to set the scene for a constructive debate in the context of the ABC's being truly a part of this community.

I understand that the Hon. Diana Laidlaw may contribute to this debate in due course, particularly in relation to those parts of the motion that refer to the effects on the arts and cultural life in South Australia. I very much look forward to the Hon. Diana Laidlaw's contribution, particularly given her portfolio responsibilities and her passion and commitment to the arts in this state.

The Hon. Diana Laidlaw interjecting:

The Hon. NICK XENOPHON: I didn't get one. Another honourable member has suggested to me that perhaps another way of dealing with this issue is to have a motion supporting the ABC to be conveyed to the federal parliament. That may be an approach that the majority of members ultimately wish to take, but I think it is important that we at least explore the benefits that can be gained by having a select committee inquiry.

The Friends of the ABC has indicated to me (through discussions I have had with its local representatives, Friends of the ABC in South Australia) that it is broadly supportive of the motion. The representatives have suggested that there ought to be an amendment where reference is made to current affairs that also should refer to news, and I propose to move an amendment in due course, if it appears that this Council will support the motion.

I seek leave to conclude my remarks on the basis that I wish to obtain some further information for those honourable members who are still considering whether they wish to support this motion.

Leave granted; debate adjourned.

LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Land Acquisition Act 1969. Read a first time.

The Hon. K.T. GRIFFIN: 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.

Prior to the commencement of the *Native Title Amendment Act 1998* (Cth) in September 1998, South Australia was the only state to have obtained determinations for alternative right to negotiate schemes under the *Native Title Act 1993*. One of these schemes was contained within the *Land Acquisition Act 1969*.

Whilst the *Native Title Amendment Act* substantially amended the *Native Title Act*, the transitional provisions to that Act provide that determinations already made under the old section 43 for existing schemes will remain in place as if it they had been made under section 43 as amended. Nevertheless, it is desirable that the state right to negotiate provisions be consistent with the right to negotiate provisions of the *Native Title Act* to the extent that it may be appropriate.

This bill proposes to amend the *Land Acquisition Act* so that it is consistent with the amendments to the Commonwealth right to negotiate process as well as any other relevant changes to the *Native Title Act* provisions relating to this area.

The history of this bill is long and somewhat complex. On 10 December 1998, the *Statutes Amendment (Native Title No.2) Bill 1998* was introduced into parliament. That bill represented the first part of the government's response to the amendments made to the *Native Title Act*. At the time of introduction of this bill approval had been given to the drafting of amendments to the *Land Acquisition Act* in response to the changes made by the *Native Title Amendment Act*. In the second reading speech on the introduction of the bill, the introduction of legislation amending the *Land Acquisition Act* as amendments to the *Statutes Amendment (Native Title No.2) Bill* was foreshadowed.

The preparation of draft amendments to the *Land Acquisition Act* was completed in December and released to stakeholders for consultation on 24 December 1998.

Significant consultation was undertaken with representatives of indigenous and non-indigenous interest groups in respect of this draft. In June 1999 a revised draft of the amendments, based on consultation to that point, was sent to interest groups for further consideration and consultation. Extensive consultation with relevant commonwealth officials was also undertaken to ensure that the legislation remained compliant with the relevant provisions of the *Native Title Act.*

The initially proposed draft amendments have been substantially altered as a result of this consultation, largely to address comments made by indigenous representatives and commonwealth officials.

As you are aware, the *Statutes Amendment (Native Title No.2) Bill* lapsed in 1999. As a result it is now proposed to deal with these amendments as stand alone legislation.

In this form these amendments will now be released for broader final consultation prior to dealing with this bill.

As previously stated, this bill contains amendments to the *Land Acquisition Act* to bring that Act into conformity with the amendments made to the *Native Title Act* in respect of compulsory acquisitions of native title interests by the *Native Title Amendment Act*. This involves a number a changes.

Indigenous Land Use Agreements

The bill amends section 7 of the Act to expressly provide that the processes relating to the acquisition of native title are to be subject to the terms of any relevant registered indigenous land use agreement under the *Native Title Act.* This reflects the provisions of the *Native Title Act* and the desirability of using such agreements to deal with native title issues.

"Third party" acquisitions

All acquisitions of native title land by state government authorities for the purposes of transferring interests in the acquired land to other parties ("third party" acquisitions) are, as the *Land Acquisition Act* now stands, subject to the alternative "right to negotiate" provisions in Division 1 of Part 4 of the *Land Acquisition Act*. Since the *Native Title Amendment Act* came into operation, the *Native Title Act* excludes a "third party" acquisition by a state government from the "right to negotiate" where the acquisition relates to land within a town or city (as defined in the *Native Title Act*), "onshore" land or waters on the seaward side of the high water mark, or where the acquisition is for the purpose of providing an "infrastructure facility" (which is also defined by the *Native Title Act*). The amendment to be moved will introduce a definition of "prescribed private acquisition" into the *Land Acquisition Act*. That definition reflects the classes of "third party" acquisitions no longer subject to the right to negotiate under the *Native Title Act*. Under the amendment, a "prescribed private acquisition" will not be subject to the right to negotiate provisions of the *Land Acquisition Act*. Such an acquisition will, however, be subject to a right to object by any registered holders of, or claimants to, native title over the affected land under clause 12B of the amendment. The process in clause 12B will also cover acquisitions by non-government entities for the transfer of interests to non-government parties. This clause reflects the rights conferred on those holders or claimants under section 24MD(6B) of the *Native Title Act*.

Acquisitions for Government purposes

In order that an acquisition by a state government be excluded from the right to negotiate, the *Native Title Act* now requires that the government acquiring authority to make a statement in writing before the acquisition takes place that the purpose of the acquisition is to confer rights and interests in the land concerned on the government itself. The bill now requires such a statement to be included in a notice of intention to acquire issued by a government acquiring authority in such a case.

Right to Negotiate

This bill makes changes to the alternative state right to negotiate provisions in division 1 of Part 4 of the *Land Acquisition Act* so that those provisions will be consistent with the amendments made to section 43 of the *Native Title Act* by the *Native Title Amendment Act*. These changes include altering notice and time limit provisions to bring them in line with the changes made to the *Native Title Act* as well as providing for moneys payable as a condition of a right to negotiate determination to be held on trust.

Sections 15 and 16

Sections 15 and 16 of the *Land Acquisition Act* are amended by this bill to ensure consistency with the *Native Title Act*, to take into account the potential impact of the new procedures on acquisition time frames, and to ensure that native title claimants are treated fairly under the processes.

The previous clauses dealing with extinguishment of native title have been removed as they reflected the position under the *Native Title Act* prior to amendment. Under this bill the extinguishment of native title by acquisitions of land is left to be governed by the relevant provisions of the *Native Title Act 1993* as amended.

Compensation 'Ceiling'

As a result of suggestions that the compensation payable for the extinguishment of native title may well exceed that which would have been payable if a fee simple interest in the same land had been acquired, the *Native Title Amendment Act* introduced section 51A into the *Native Title Act*. That section provides that the total amount of compensation payable under Division 5 of Part 2 of the *Native Title Act* for an act that extinguishes native title must not exceed the amount payable if the act were the compulsory acquisition of a freehold estate. Section 51A is, however, expressed to be subject to section 53, which requires compensation for any future act that is an acquisition of property to be such that the acquisition is on "just terms" for the purposes of section 51(xxxi) of the Commonwealth Constitution

To reflect this change, the amendment proposes to include a new subsection (3) in section 25 of the *Land Acquisition Act*, providing that if all native title in land is extinguished by an acquisition under the Act, the total compensation payable to the native title holders must not exceed the amount that would have been payable if the acquisition were instead an acquisition of a freehold estate in the land. Consistently with the *Native Title Act*, however, that limit is expressed to be subject to subsections (1) and (2) of section 25, which set out the general principles of determining compensation under the Act and require native title holders to be compensated for the loss, diminution, impairment or other effect on the native title of the acquisition or the subsequent use of the land for the purpose for which it was acquired. These subsections provide, in effect, "just terms" for the acquisition of native title. The inclusion of subsection (1) in this qualification was made at the request of indigenous representatives during the consultation process.

The inclusion of new section 22B expressly clarifies an interest holders entitlement to compensation if their interest is divested, diminished or adversely affected by an acquisition. This includes native title holders.

Determination by Court as to Existence of Native Title

Section 23C of the *Land Acquisition Act* is amended so that, where a claimants claim to hold a native title interest in land is in dispute, the Land and Valuation Court will adjourn any hearing of a claim for compensation until the matter is resolved by virtue of a native title determination or declaration under the *Native Title Act* or the *Native Title (South Australia) Act 1994*. If no claim for native title is made the Court may reject the claim for compensation, however, this would not preclude a further claim for compensation being made

once the claimants native title interest in the land concerned is established.

This amendment ensures that determinations about the existence of native title are made via the appropriate processes required by the *Native Title Act* and the *Native Title (South Australia) Act*.

Section 23D of the *Land Acquisition Act* is repealed for similar reasons.

Temporary Entry and Occupation of Native Title Land

Section 28 of the *Land Acquisition Act* enables an Authority to occupy and use land temporarily, eg, for the purposes of carrying out construction works on adjacent land, subject to complying with certain procedural requirements. This bill amends section 28 to ensure that the activities authorised under this section do not include mining as defined in the *Native Title Act.* In light of this, section 28A of the Act is repealed and the provision requiring a minimum 7 day notification before the power in section 28 can be exercised becomes part of this section.

I commend this bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 6—Interpretation

The following new definitions are inserted:

- acquisition project
  The term encompasses the acquisition and the development or use of the land following acquisition and is used in proposed section 12B(3), 19(2), 21 and 25(2).
- Commonwealth Registrar
  The definition is inserted for the purposes of the notification requirements set out in new section 10(2)*(b)*(ii).
- infrastructure facility
  The definition is inserted for the purposes of the definition of prescribed private acquisition.
- instrumentality of the Crown
  The definition is inserted to make it clear that a Minister or other representative of the Crown is to be regarded as an instrumentality of the Crown.
- owner
  Various notices must be given to the owner of land (ss. 27(2) and 28(2)). This definition extends the notice requirements to a person who holds native title in land.
- prescribed private acquisition
  Under the Commonwealth Act (see s. 24MD(6B)) certain kinds of private acquisitions do not attract the right to negotiate but native title parties must be given a right to object. This definition is included to define those acquisitions (see s. 12B).
- town or city
  This definition is included for the purposes of the definition of prescribed private acquisition and reflects section 251C of the Commonwealth Native Title Act.

The definition of claimant is altered to encompass a person who asserts a claim to compensation under the Act. The definition of native title is converted to a general reference to definitions relating to native title in the *Native Title (South Australia) Act 1994*.

Subsection (3) is introduced to ensure that a reference to Crown in the South Australian Act has exactly the same meaning as in the Commonwealth Native Title Act.

Clause 4: Amendment of s. 7—Application

This amendment removes the express reference to another Act excluding the application of a provision of the principal Act.

The amendment also provides that a registered indigenous land use agreement may override the Act in its application to the acquisition of native title.

Clause 5: Substitution of s 10—Notice of intention to acquire land

The new section alters the scheme for giving notice of intention to acquire native title in land in circumstances where there is no native title declaration.

The requirement to give notice to all who hold or may hold native title in the land remains.

The requirement to give a copy of the notice to the Registrar of the ERD Court is altered. Firstly, it is limited to circumstances where there is a requirement to negotiate with native title parties under Part 4 Division 1. Secondly it is expanded to require notice to also be given to the Commonwealth Registrar and to require the Authority to provide a statutory declaration to relevant persons setting out when the requirements for service were completed (ie when time will start to run for various purposes) and providing supporting materials.

New requirements are set out in subsection (3) specifying the contents of the notice of intention to acquire.

Subsection (5) introduces appropriate limitations on the requirement to notify about changes in the boundaries of the land proposed to be acquired. If an interest is no longer held by a person or a claim has been abandoned or determined in the negative, notice of the change need not be given.

Clause 6: Amendment of s. 11—Explanation of acquisition scheme may be required

This amendment continues the right of the relevant representative Aboriginal body to require explanations for acquisitions but only where there are no registered representatives of claimants to, or holders of, native title in the land to exercise that right.

Clause 7: Amendment of s. 12—Right to object

This amendment continues the right of the relevant representative Aboriginal body to object to acquisitions but only where there are no registered representatives of claimants to, or holders of, native title in the land to exercise that right.

Clause 8: Insertion of s. 12B—Additional right to object to prescribed private acquisition

New section 12B provides native title parties with a right to object to the relevant Minister to a prescribed private acquisition. Prescribed private acquisitions are—

- acquisitions for the purpose of conferring interests on a private body to enable an infrastructure facility to be provided;
- acquisitions within a town or city for the purpose of conferring interests on a private body;
- acquisitions beyond the mean high-water mark for the purpose of conferring interests on a private body;
- acquisitions that are not made by the Crown and are not for the purpose of conferring interests on the Crown.

The Minister is required to consult the objecting native title parties about ways of minimising the impact of the acquisition project on registered native title rights and, if relevant, access to the land. The objection is to be heard by an independent person or body if the native title parties so request. The decision of the independent person or body must be complied with unless the Minister responsible for indigenous affairs is consulted, the consultation is taken into account and it is in the interests of the state not to comply with the recommendation. This section derives from sections 24MD(6B), 26(2) and (3) of the Commonwealth Native Title Act.

Clause 9: Amendment of s. 13—Notice that land is subject to acquisition

This amendment excludes native title land from the application of section 13 which deals with acquisitions of land that has not been brought under the provisions of the *Real Property Act*.

Clause 10: Amendment of s. 15—Acquisition by agreement, etc.

The amendments—

- insert a footnote to subsection (1) to explain that where native title parties have a right to negotiate about acquisition of native title, they may enter an agreement with the Authority to surrender and extinguish the native title (see section 24MD(2A) of the Commonwealth Native Title Act);
- introduce appropriate limitations on the requirement to notify about a decision not to proceed with the acquisition—if an interest is no longer held by a person or a claim has been abandoned or determined in the negative, notice of the decision need not be given;
- extend the period for acquisition of the land from 12 months or a longer period agreed or decided by the Court to 18 months or a longer period agreed or decided by the Court or, in the case of a proposed acquisition of native title, fixed by the Minister;
- extend the period within which compensation may be claimed for a decision not to proceed with an acquisition from 3 months to 6 months;
- provide that a registered claimant to native title has sufficient interest to make a claim for compensation for a decision not to proceed with an acquisition.

Clause 11: Amendment of s. 16—Notice of acquisition

The clause—

- makes consequential amendments to the extension of the period for acquisition;
- removes subsections (3a) and (3b) relating to the extinguishment of native title and replaces them with a reference to extinguishment of native title to the extent permitted by the Commonwealth Native Title Act;
- introduces appropriate limitations on the requirement to give notice of the acquisition—if an interest is no longer held by a

person or a claim has been abandoned or determined in the negative, notice need not be given.

Clause 12: Amendment of s. 17—Modification of instruments of title

Section 17(2) requires Registrars to be notified about acquisitions of native title land. The amendment limits this to circumstances in which the native title is acquired.

Clause 13: Substitution of s 18—Application of Division

Part 4 Division 1 currently applies to a proposed acquisition by an Authority for the purpose of conferring proprietary rights or interests on a person other than the Crown or an instrumentality of the Crown.

The amendment excludes prescribed private acquisitions from the application of the Division. It also limits the Division to acquisitions by the Crown or an instrumentality of the Crown (see s.26 of the Commonwealth Native Title Act). The reference to 'proprietary' is removed to match the Commonwealth Native Title Act.

Clause 14: Substitution of s. 19—Negotiation about acquisition of native title land

The requirement to negotiate with native title parties in an attempt to reach agreement about the acquisition of native title in land is limited to matters related to the effect of the acquisition project on the registered native title rights of the native title parties (see section 31(2) of the Commonwealth Native Title Act). It is also made clear that the right to negotiate only continues while the native title party continues to be registered as a claimant or holder of native title. In line with the Commonwealth Native Title Act (see section 30), to be a native title party with a right to negotiate the application for a native title declaration must be made not later than 3 months after notice of intention to acquire the land.

The new section contemplates a series of agreements with one or more of the appropriate native title parties where there are distinct claims or entitlements to native title in relation to the land concerned.

The new section also requires an agreement reached to be filed in the Court and contains provisions relating to the confidentiality of the agreement or part of the agreement.

Clause 15: Amendment of s. 20—Application for determination if no agreement

In line with the Commonwealth Native Title Act (see section 38), the amendments contemplate the Court reserving a question that is not reasonably capable of being determined immediately for further negotiation between the parties and providing for determination of such a question by arbitration or in some other specified manner.

The strict six month time limit for determination of an application by the Court is removed. Instead, in line with the Commonwealth Act (see section 36), the Court is required to make its determination as quickly as practicable.

Various other minor adjustments are made to more closely reflect the Commonwealth Native Title Act.

Clause 16: Insertion of s. 20A—Constitution of trust

This provision is included to reflect provisions in the Commonwealth Native Title Act (in particular sections 36C(5), 41(3), 42(5) and 52.)

The new section provides for amounts to be paid into court as a result of an agreement or determination that an amount is to be held in trust for those who ultimately establish a claim to native title in the subject land.

Subsection (3) sets out how the Court is to deal with amounts held in trust.

Clause 17: Substitution of s. 21—Criteria for making determination

Section 21 is altered to reflect the criteria and other provisions set out in section 39 of the Commonwealth Native Title Act.

Clause 18: Amendment of s. 22—Overruling of determinations

The amendment extends the Minister's power to overrule determinations to circumstances where the Minister considers it to be in the national interest (see section 43(2)(i) of the Commonwealth Native Title Act). Currently, the power is limited to where the Minister considers it to be in the interests of the state.

Clause 19: Insertion of s. 22A—Notice on behalf of state for prescribed private acquisition

This is a technical amendment to ensure compliance with the Commonwealth Native Title Act. It requires an Authority (other than the Crown or an instrumentality of the Crown), on behalf of the state, to give any additional notice required under the Commonwealth Act in the case of a prescribed private acquisition.

Clause 20: Insertion of s. 22B—Entitlement to compensation

The new section sets out when a person is entitled to compensation for the acquisition of land—if the person's interest in land is divested or diminished by the acquisition or the enjoyment of the person's interest in land is adversely affected by the acquisition. Currently, section 23(2) is to similar effect.

Clause 21: Amendment of s. 23—Negotiation of compensation

Technical adjustments are made to section 23 to more closely match the Commonwealth Native Title Act and consequential to the other amendments to Part 4.

Clause 22: Amendment of s. 23A—Offer of compensation and payment into court

This is a technical amendment to accommodate the process under which an Authority may already have paid an amount into the ERD Court under Division 1.

Clause 23: Substitution of s. 23B—Agreement

The new section requires the filing of an agreement about compensation and enables the court to make orders to give effect to the agreement.

Clause 24: Amendment of s. 23C—Reference of matters into court

The provision as amended will provide a more flexible system for reference of matters into court. It also sets out a clear separation between determination of compensation and determination of a disputed claim to native title. The latter is a matter for the relevant Commonwealth law or the processes set out in the *Native Title (South Australia) Act*.

Clause 25: Repeal of s. 23D

This section is repealed. The matter is dealt with by the above amendments.

Clause 26: Amendment of s. 25—Principles of compensation

Subsection (2) is altered to more closely reflect section 51 of the Commonwealth Native Title Act.

Subsection (3) is introduced to reflect section 51A of the Commonwealth Native Title Act.

Clause 27: Amendment of s. 27—Powers of entry

The separate process for native title holders set out in section 28A and referred to in section 27(2) is no longer necessary because the activities covered by Part 5 are amended to exclude mining. New subsection (2) requires owners (including native title holders) and occupiers to be given at least 7 days notice of a proposed entry to land.

Clause 28: Amendment of s. 28—Temporary occupation

New subsection (1a) excludes mining from the purposes for which land may be temporarily occupied under section 28. The new subsection (2) requires owners (including native title holders) and occupiers to be given at least 7 days notice of a proposed temporary occupation.

Clause 29: Repeal of s. 28A

Section 28A dealing with the exercise of powers under Part 5 in relation to native title land is removed. This is consequential on the amendments to section 28 excluding mining from the permitted purposes.

Clause 30: Insertion of s. 36A—Recovery of compensation from Authority

The new section expressly provides that compensation payable under the Act may be recovered from the Authority as a debt.

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

CRIMINAL LAW (LEGAL REPRESENTATION) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to ensure that legal representation is available for persons charged with serious offences; and for other purposes. Read a first time.

The Hon. K.T. GRIFFIN: 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.

Members may be aware of the High Court's decision in the 1992 case of *Dietrich v R*, to the effect that serious criminal trials may be stayed indefinitely where the trial might be unfair, because the defendant is, due to indigence, unable to secure legal representation. This decision has resulted in several serious criminal trials being stayed in this State, until funding was provided by the government to pay for representation.

As a matter of policy, the government considers it undesirable that such trials should be indefinitely stayed. It is unfair to the accused person, who is entitled to have the case determined, and also to the community, which is entitled to expect that trials will proceed and that the guilty will be brought to justice. This bill is intended to resolve this situation by removing both the entitlement to a stay and the need for it.

The bill provides that, with a few exceptions, anyone charged with an indictable offence against State law, which will be tried in the District Court or the Supreme Court, can get legal aid. It does not matter whether the person meets the legal aid means test. In general, this grant of aid is similar to an ordinary grant of aid under the *Legal Services Commission Act 1977*. Conditions can be set. Financial contributions can be required. A statutory charge can be taken over the person's real estate (if any). The ordinary solicitor/client relationship arises between the aided person and the assigned solicitor.

However, there are some important differences. First, the person will be required to pay for his or her representation to the full extent of his or her means. Second, the Commission's usual practice of assigning the solicitor of the defendant's choice will not apply to defendants who would otherwise be ineligible for legal aid. Instead, the Commission will choose the lawyer.It should also be noted that this aid is limited to the trial and associated proceedings. It does not extend to cover any appeal that the defendant may wish to make against conviction or sentence. Aid for that purpose is in the Commission's discretion and the usual tests will, no doubt, apply.

The bill tries to ensure that the question of legal representation is sorted out well before the trial. It is a waste of everyone's time and money if trials have to be adjourned at the last minute because the defendant does not have a lawyer. For this reason, the bill requires the court to address this issue as soon as practicable after arraignment, at the first directions hearing. The court will check whether the defendant has a lawyer who is willing to see the case through to conclusion, or has obtained legal aid. If neither is the case, then the court will direct the defendant to apply for legal aid. If he or she does so, legal aid must be granted. In this way, no-one will be able to complain that his or her trial will be unfair for want of legal representation.

The only exception is where the defendant wants to represent himself or herself. Every defendant has this right. In that case, the court will not direct an application. The case will proceed with the defendant unrepresented. However, he or she cannot then say that the trial will be, or was, unfair because of a lack of representation. Of course, most people charged with serious crimes prefer to have a lawyer and, under this bill, they will be able to have one.

Once aid is granted in these cases, it may only be terminated by the Commission if the defendant later secures private representation (for instance, where the defendant comes into money), or decides to represent him or herself; or, if the offence is a minor indictable offence, the defendant decides, after all, to be tried summarily. The Commission may also apply to the court to terminate aid, where the defendant fails to comply with the conditions of aid, or cooperate with the assigned lawyer.

Obviously, if the Legal Services Commission is to be required to grant legal aid to people who are not currently eligible, this will entail significant expense. Some serious criminal trials may be complex and expensive. The bill therefore intends that the defendant will pay for his or her legal aid to the full extent that he or she is able. It provides several avenues by which the Commission can achieve this.

The Commission has always had the power to require an aided person to contribute to the cost of legal representation, and, it usually does so. However, under the bill, it will have new powers to investigate the person's financial affairs. It will be able to require information about the defendant's finances, not only from him or her, but also from third persons, such as the defendant's employer, accountant or stockbroker, the trustee of a family trust, or an institution with which the person has financial dealings. It will be able to require such persons to produce documents and answer questions. This should help the Commission to find any resources which have been hidden or have been put beyond the defendant's control, such as by means of a family trust or company structure.

If the Commission finds assets which could be used to pay for the defence, it can apply to the court for orders to preserve the assets and to apply them to the cost of the case. It can also apply conditions to the legal aid, such as conditions that the person make an up-front payment, or reimburse it in full.

Further, not only can the Commission apply for orders about the defendant's current assets, it can also inquire into what has become of past assets. (At present, the Commission can refuse legal aid if it can see that assets which could have been used to pay for representation have been dissipated. Because the Commission has no power to refuse aid under this bill, it needs to be able to recover those assets to pay for representation.) Transactions entered into during the 5 years prior to the alleged offence, or at any time since, in which the defendant has disposed of property, can be examined. If the property was not disposed of in a genuine transaction for value, the Commission can ask the court to undo the transaction, and make orders about the resulting assets. The asset can thus be retrieved and used to pay for legal aid. This is to catch the person who sells assets for obviously inadequate sums, gives them away, or removes them from his or her control by transactions, such as setting up trusts, in order to avoid the assets being used up in legal fees.

Of course, some cases will be so expensive that they exceed the maximum which the Commission would normally pay for any one case—called the 'funding cap'. In that case, the Commission is not expected to cover the full cost of the case, because to do so would unfairly divert funds from other deserving cases. The bill intends that the Commission will enter into an agreement with the government about the funding of these cases. Under the agreement, the government will provide funding for these cases, to the extent that they exceed the cap, but will require the Commission to manage these cases effectively, consistently with giving the defendant a proper defence. For example, the agreement may include principles about when senior or multiple counsel are to be instructed, about the agreement of non-contentious matters, or requirements about not taking technical points which have little or no prospect of success. The purpose of the agreement will be to ensure that the defendant has a proper and adequate defence, and also that public funds are used responsibly and not wasted.

When an expensive case arises, the Commission will prepare a case management plan for approval by the Attorney-General. The plan will identify the work to be undertaken in defence of the charges. If the plan conforms with the agreement, the Attorney-General must approve it. The Commission is then entitled to reimbursement by the Treasurer for the amount by which the net cost of the case exceeds the funding cap, as long as it conducts the case in accordance with the approved plan. Of course, the amount due from the Treasurer is reduced to take account of any money recovered or recoverable from the defendant's resources.

Further, the bill will also permit some recourse to the resources of a person who is financially associated with the defendant. It is important to understand how the bill will affect such persons. Under the national legal aid means test, the Legal Services Commission, like other Legal Aid Commissions, takes into account the financial situation of a person who is financially associated with the defendant. This can be an entity, such as a family trust of which the defendant is a beneficiary, or a family company of which he or she is a director or employee. Equally, it can be a natural person, such as a spouse, or, in the case of a minor, a parent. It might even be a person who is not related, but who provides financial support. However, not all companies, spouses or parents will be financially associated. This depends on whether a relationship of financial support exists; that is, whether it is reasonable to regard that person's resources as being potentially available to the defendant (for example, because he or she has received support from that person before, or has involved his or her financial affairs with those of that person).

Persons who will not usually be regarded as financially associated under the means test include separated spouses, or persons who have a contrary interest in the legal case. Also, the Commission always has a discretion not to treat a person as being financially associated if, in all the circumstances, it decides that it would not be fair to do so.

The Commission will be able to inquire into the financial circumstances of a person it regards as financially associated, or possibly so. It will be able to apply to the court to decide whether, and to what extent, a person whom it identifies as financially associated should be required to contribute to the cost of the case. (The financially associated person can also make this application should he or she wish to.) This is a decision for the court and not the Commission. The court must do what it considers just and equitable in the circumstances. No doubt, it will consider such matters as the extent of the associated person's resources, how the relevant assets were acquired, what is the relationship of support between the parties, what are the other claims on the assets, and so on. The bill

does not set any constraints on how the court is to make this decision. It must do what is just.

The rationale for this aspect of the bill is twofold. First, where 2 persons have a relationship of financial support or merge their financial affairs, it is often the case that an asset which is legally the property of one of them has been acquired by their joint efforts, or by the efforts of the other, and should be regarded in fairness as shared and available to both. Second, the law generally expects parents to support children, and spouses to support each other, to the extent that they are able to. This is why, for example, the spouse of a fully employed person will not generally be eligible for unemployment benefits during periods out of work.

No doubt, it may be a difficult question in some cases whether one person or entity should be expected to contribute to the legal costs of another. This is why the bill gives that decision to the courts.

It should be pointed out that the bill does not intend these decisions about financial matters to be made as part of the trial of the accused. Under this bill, there will no longer be any need for the trial court to concern itself with questions of whether the defendant is indigent, or how much the trial will cost. They are unrelated to the trial and should not hold it up. For this reason, the bill provides that they are to be made by a Judge or Master other than the person who presides at trial.

Finally, it will be noted that this bill is limited to offences against State law. This is because under the present funding arrangements for legal aid, State money is used to pay for the defence of State charges, and Commonwealth funds for Commonwealth charges. It would not be appropriate that the State incur liability to cover the cost of expensive Commonwealth cases. Instead, funding for those matters will remain a matter for negotiation between the Commission and the Commonwealth.

This bill will, therefore, address the problem of serious criminal trials being stayed for want of legal representation. It will enable all persons charged with serious crimes against State law to be represented, and all such trials to proceed. It regularises the process by which the revenue may be called on to fund these matters, and it ensures that the aided person pays, to the full extent that he or she is able, for the cost of the case. It addresses, as far as possible, the hitherto difficult problem of the person who has structured his or her affairs so as to protect assets which ought rightly to be available to pay for legal representation.

Perhaps it will prove to be the case that the remedy afforded by this bill is not often used. Those defendants who can really afford to pay for legal representation will, perhaps, prefer to do so, rather than incur the consequences of a grant of aid under the bill. Those defendants who are really without means to pay for the representation they need may qualify for aid in the ordinary way. There will be some, however, who cannot otherwise obtain legal representation and whose trials might otherwise have been stayed. Their cases will now proceed with proper representation and without delay.

I commend this bill to honourable members.

Explanation of Clauses

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Object

The objects of this measure are—

- to ensure that legal representation is available to a person charged with a serious offence (*as defined in clause 4*) and, thus, to limit the application of the rule under which the trial of such a person may be stayed on the ground that the trial would be unfair for want of legal representation; and
- to ensure that trials are not disrupted by adjournments arising because the defendant lacks legal representation and defendants who obtain legal representation pay for it to the extent their means allow.

Clause 4: Interpretation

This clause contains definitions of words and phrases used in the bill. In particular, an assisted person is one for whom legal assistance is, or has been, provided in connection with the trial of a serious offence, whether or not the case actually proceeds to trial.

Assisted persons are divided into 2 categories—

- category 1—being persons eligible for legal assistance under the *Legal Services Commission Act 1977* (the LSC Act); and
- category 2—being persons not eligible for legal assistance under the LSC Act.

A serious offence is an indictable offence under the law of the State that is to be tried in the Supreme Court or the District Court (and includes any summary offence that is to be tried together with such an offence in the same proceedings).

Trial means a trial of a serious offence before the Supreme Court or the District Court.

Associated proceedings, in relation to a trial, means proceedings that are preliminary or ancillary to the trial (including proceedings in which the validity of the charge is challenged) but does not include—

- any such proceedings that commence before the first directions hearing after arraignment; or
- an appeal; or
- proceedings under this measure.

Clause 5: Territorial application of Act

The measure will apply—

- to property within or outside the State; and
- to transactions occurring within or outside the State; and
- outside the State—to the full extent of the extra-territorial legislative capacity of the Parliament.

PART 2: ENTITLEMENT TO LEGAL ASSISTANCE

Clause 6: Entitlement to legal assistance

The Commission must grant legal assistance by way of legal representation for the trial and for certain proceedings associated with the trial of a person charged with a serious offence if the person applies to the Legal Services Commission (the Commission) for such assistance.

Subject to this clause, the LSC Act applies to an application for, or grant of, legal assistance under this clause, but the Commission's obligation to grant legal assistance does not prevent it from imposing conditions under the LSC Act on the grant.

The Commission must not terminate legal assistance granted under this clause unless—

- the assisted person obtains privately funded legal representation for the trial or an associated proceeding or notifies the Commission of an intention to do without legal representation at the trial; or
- the assisted person contravenes or fails to comply with a condition on which the legal assistance was granted and the court authorises the Commission to terminate legal assistance because of that; or
- the assisted person refuses or fails to cooperate with the legal practitioner assigned to provide the legal assistance and the court authorises the Commission to terminate legal assistance because of that; or
- the defendant is charged with a minor indictable offence and legal assistance was granted on the basis that the defendant was to be tried in the Supreme Court or the District Court but it now appears that the trial is to proceed before the Magistrates Court.

If legal assistance has been so terminated and a further application for legal assistance is made—

- the Commission has an absolute discretion whether to grant or refuse the further application and is under no obligation to grant it; and
- if the Commission grants the application, it has an absolute discretion to terminate the legal assistance on any ground it considers sufficient (and a decision to do so cannot be challenged in any way).

Clause 7: Commission to choose legal practitioner by whom legal assistance is to be provided

The Commission will choose the legal practitioner by whom legal assistance is to be provided for a category 2 assisted person, having regard to (but not being bound by) any preference expressed by the assisted person.

PART 3: REPRESENTATION PROCEDURES

Clause 8: Procedures to be followed at directions hearing

At the first directions hearing to be held after the defendant's arraignment, the court must consider whether a direction is required under this clause and determine the question at that hearing, or as soon as practicable afterwards.

Where the defendant is represented legally, his/her lawyer must, at least 7 days before the day fixed for the first directions hearing, file in the court a certificate certifying that—

- the defendant is an assisted person; or
- the lawyer undertakes that the defendant will be provided with legal representation for the duration of the trial; or
- the defendant is not an assisted person and the lawyer will not give any such undertaking.

At the directions hearing, the court must direct the defendant to make an application, within a fixed time, to the Commission for legal assistance unless—

- the defendant is already an assisted person; or
- the defendant's lawyer has given an undertaking in the above terms; or
- the court is satisfied, on the basis of the defendant's written assurance, that he/she does not want to be legally represented at the trial.

Clause 9: Representation of certain defendants

Clause 9 applies to a defendant who is not an assisted person and who—

- has given the court a written assurance that he/she does not want to be legally represented at the trial; or
- has been directed by the court to make an application for legal assistance and has failed to comply with the direction.

Such a defendant may only be represented by a lawyer at the trial or in an associated proceeding if a lawyer's certificate is filed in court certifying as to an undertaking that the defendant will be provided with legal representation for the duration of the trial. Certain limitations on fees for the lawyer's services are imposed in those circumstances.

Clause 10: Certain costs may be awarded against defendant personally

If the court adjourns a trial or an associated proceeding to allow the defendant to make an application for legal assistance, or to obtain legal representation in some other way, and the adjournment is attributable to some failure of the defendant to make proper arrangements, or to the defendant's change of mind about legal representation, the court may make an order against the defendant personally for the costs of the adjournment and the costs of the proceedings thrown away by the adjournment.

PART 4: MODIFICATION OF COMMON LAW RIGHTS

Clause 11: Modification of common law

The fairness of a trial (or a prospective trial) cannot be challenged on the ground of lack of legal representation unless—

- the Commission has refused or failed to provide legal assistance for the defendant, contrary to this measure; or
- the Commission has withdrawn legal assistance for the defendant on the ground that it has been unable to reach agreement with the Attorney-General on a case management plan (*see below*).

PART 5: RECOVERY OF COSTS OF LEGAL ASSISTANCE

DIVISION 1—INVESTIGATIONS AND INQUIRIES INTO ASSETS

Clause 12: Commission's powers of investigation

The Commission may conduct an investigation into the financial affairs of an assisted person, a financially associated person or a person who may be a financially associated person. This clause sets out the powers of the Commission for the purposes of conducting such an investigation.

A person is financially associated (*see clause 4*) with an assisted person if—

- a financial association exists between them under criteria generally applied by the Commission for determining whether a financial association exists; and
- the Commission has determined that a financial association exists between them.

DIVISION 2—CONTRIBUTION BY FINANCIALLY ASSOCIATED PERSON

Clause 13: Contribution from financially associated person

The court may, on application, determine the extent to which it is reasonable that a person who is financially associated with an assisted person of category 2 should contribute to the costs of providing legal assistance for the assisted person and may make consequential orders providing for contribution by the financially associated person reflecting the determination and/or dealing with the assets of the financially associated person under this proposed Part.

DIVISION 3—POWER TO DEAL WITH ASSETS AND TRANSACTIONS

Clause 14: Power to deal with assets

This clause applies to assets of an assisted person of category 2 and of a person who is financially associated with an assisted person of category 2.

On the Commission's application, the court may make orders in relation to an asset that it identifies as being available for application towards the costs of legal assistance. The clause sets out the type of orders that the court may make.

Clause 15: Power to set aside transactions

An examinable transaction is liable to be set aside by the court unless the parties to the transaction satisfy the court that the transaction was entered into in good faith and for value.

An examinable transaction is one involving a disposition of property entered into after the relevant date (as defined in subclause (2)) by—

- an assisted person; or
- a person who is financially associated with an assisted person of category 2, or an assisted person who would fall into category 2 if it were not for the transaction or a series of transactions of which the transaction is one.

PART 6: MISCELLANEOUS

Clause 16: Exercise of jurisdiction

The court's jurisdiction under this measure may be exercised by a Master or a Judge with the proviso that a Judge who deals with any financial aspect of the proceedings must not preside at any aspect of the proceedings that determines the guilt or innocence of a defendant or has the potential to dispose of the charges. The funding issues are to be kept separate (as far as possible) from substantive issues.

Clause 17: Periodic accounts and final accounts

The Commission must give to a person who is financially associated with an assisted person and liable to contribute to the costs of the legal assistance—

- periodic accounts showing the total cost of the legal assistance provided to the date the account is made up; and
- at the conclusion of the assignment—a final account setting out the total cost of the legal assistance.

Clause 18: Reimbursement of Commission

The Commission is entitled to be reimbursed by the Treasurer an amount by which the net cost of providing legal assistance for an assisted person exceeds the funding cap fixed under the *Expensive Criminal Cases Funding Agreement* (an agreement between the Attorney-General and the Commission).

That right, however, depends on—

- the Attorney-General's approval of a case management plan in relation to the relevant trial under the Agreement; and
- compliance by the Commission with the approved plan and other conditions of the Agreement.

The Attorney-General must approve a case management plan if it complies with the criteria for approval fixed in the Agreement.

The Commission may withdraw legal assistance if, after making reasonable attempts to reach agreement with the Attorney-General on a case management plan, the Commission fails to obtain the Attorney-General's agreement (*see clause 11 above*).

Clause 19: Protection for Commission against orders for costs

An order for costs cannot be made against the Commission in proceedings under this measure.

Clause 20: Service

A notice or document required or authorised to be given to a person may be given personally or by post, or be transmitted to the person by fax or e-mail.

Clause 21: Transitional provision

The new Act will apply to a person committed, on or after the commencement of the new Act, for trial of an offence whenever the offence is alleged to have been committed.

Clause 22: Regulations

The Governor may make regulations for the purposes of this measure, including a regulation providing that contravention of a regulation is a summary offence punishable by a fine not exceeding $10 000.

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

STATUTES AMENDMENT (AVOIDANCE OF DUPLICATION OF ENVIRONMENTAL PROCEDURES) BILL

Adjourned debate on second reading.

(Continued 27 March. Page 1107.)

The Hon. M.J. ELLIOTT: On behalf of the Democrats I express support for the second reading of this bill. I can understand a desire to avoid duplication of effort such that

when developers are seeking to get a project up they would not want to have to go through two essentially similar procedures to produce two sets of documents, which could have significant cost implications. I do not have problems with the existence of federal legislation in areas which, it could be argued, are really the province of the states in the first case, other than that there are times when South Australia leads the rest of the nation—in some areas of legislation at least—and I would hate to think that federal law could give us something that was inferior. When addressing duplication of environmental procedures, one could fear that a bill of that sort is accepting what happens under federal jurisdiction which perhaps has the potential to be weaker than the legislation we have in the state.

On my reading of this bill that is not the case because, whilst a document is perhaps created under the federal act, any process which is necessary within South Australia must also be complied with. Therefore, although one might have only one set of documents, the requirement, as I understand it, would be that, in seeking to fulfil the requirements of the federal legislation and produce the relevant documentation, if there is a requirement under state legislation which may be more rigorous, one would need to have complied with the state legislation at the same time in the creation of that document. Once that is done, that document would then be acceptable, or I presume otherwise. The minister might care to respond at the close of the second reading stage. If the document did not fulfil all requirements under state legislation, they would still have to be fulfilled in some other way: whilst the state might accept that document, it might then have additional requirements.

I note that some of the bits of legislation to which this bill is sought to apply are acts on which I think this parliament needs to spend much more time. The Development Act, Environment and Protection Act and the Native Vegetation Act, in particular, all are proving to be inadequate as they currently stand. I have been a longstanding critic of the assessment processes under the Development Act, and I think the failings of those development assessment processes, particularly in relation to major projects, have been underlined by what is now happening at Glenelg. In my view, we have a significant environmental disaster, which also has significant economic implications for this state—all because, in my view, the environmental impact assessment process is inadequate. I will not talk further about that at this stage, but people who have heard me talk about the Development Act on other occasions will remember that I have gone into this at some length.

I note that the state government has moved partly along the track that I suggested in terms of creating an assessment panel, but at this stage the assessment panel only determines what level of environmental assessment is necessary—whether it be an EIS, a PER or a DR—and also, as I recall, produces a document which states the questions that need to be addressed. Unfortunately, at that stage the assessment panel plays no further role. I think that, if the government chose to let the assessment panel monitor the progress of an EIS from beginning to end, we would have a far better result, but I will not go into that further at the moment.

In relation to the Environment Protection Act, I note that the Environment, Resources and Development Committee of this parliament made a number of recommendations for change last year when it reported to this place and, until this time, there has been no response to that report that I am aware of, in an administrative or a legislative sense. However, the report from the ERD Committee clearly identified a number of significant weaknesses in the way the Environment Protection Authority currently functions.

Finally, in relation to the Native Vegetation Act, we know that illegal clearance is still going on in South Australia now. In some cases, the illegal clearance is ratified by the government even after the event. There have been very few prosecutions, despite the fact that illegal clearance appears to be happening on an ongoing basis.

I suppose one important question is how much is a deficiency in the legislation and how much is a lack of will on the part of the government, reflecting a lack of resources for the Native Vegetation Council to be able to carry out its work. I indicate that, in terms of allowing the use of a document for both federal and state requirements, the bill does not cause a problem so far as any existing South Australian standards are not undermined, but I indicate at the same time that I think that, in relation to several pieces of legislation, South Australia's current legislative framework is inadequate.

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

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 April. Page 1304.)

The Hon. M.J. ELLIOTT: I rise to support the second reading of this bill and in so doing express some surprise that the government did not consult a little more on this matter before bringing it before parliament.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I do not know what they have done with the Labor Party. It seems to me that, when one is in a functioning democracy and you want to get a piece of legislation through fairly quickly, one would seek to ensure that all groups likely to have an interest would—

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: I have to say that I do not think the changes here are actually creating problems; I have just said I will support the second reading. I have not identified any particular issues in relation to the existing clauses, but I will be listening carefully to the contributions of other members. All I am saying is that I am a little surprised that, in an area like electoral reform, particularly where the government is keen to move it along, there was not a little more consultation than there has been. I note that in the past the Democrats have introduced legislation on electoral reform, but I would also note that we never expected it to move particularly fast. It suffered the fate of most pieces of private members' legislation, spending an inordinate amount of time in the parliament and then lapsing at the end of the session.

I will address a few of the matters that are covered, in no particular order. The government has looked at the issue of declaration votes, and this is something that I would have liked to take a closer look at, along with the role of intermediaries. During an election period it is a common practice of both Liberal and Labor Parties to offer to assist people in their voting and, when people respond to this offer, it goes through their party office and they handle all the processes. I do not have any evidence that this has been abused so far,

but it provides an opportunity for abuse if one chose to do so. I know for a fact that certain MPs have databases of their entire electorate, down to the extent of indicating that this person votes Liberal, this person votes Labor and this person is a member of certain parties.

The Hon. T.G. Cameron: Name them.

The Hon. M.J. ELLIOTT: Michael Atkinson keeps one, for a start, and he would not be the only one.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Yes. If political parties are maintaining those sorts of programs, down to the extent of knowing reasonably well who is voting for whom and they are acting as intermediaries and processing things, if they so choose they are in a position to move things along a little faster or a little slower. I am surprised that something which is capable of being abused in this way should be allowed at all. There is no problem with political parties encouraging people to seek a postal ballot and perhaps even providing the appropriate forms, but actually working as a go-between (backwards and forwards) is capable of significant manipulation if an individual or a party chooses to do so. There is no evidence that this has happened at this stage, but what is the justification for allowing people to act as intermediaries as distinct from facilitators who tell people, 'You are able to do this; here are the forms'?

So, at the end of the second reading debate I will ask the Attorney-General to address this question of why we should allow people to act as intermediaries at all, because it could be abused. The very fact that it could be abused means that it is only a matter of time before that will happen, and we will then try to shut the gate after the horse has bolted.

Regarding the voting forms, as I understand it, the government essentially is doing what has already been done under regulation not long ago: that is, seeking to ensure that the voting cards, particularly for the Legislative Council, do not become the sort of tablecloths that have been created in New South Wales, in particular. There is no question that, with the demise of the Liberal and Labor Parties, a rash of small parties and independents is emerging. We will see large numbers wanting to contest the next state election, and the ballot paper will be enormous.

One of the challenges for many people will be trying to work out who the bodgie candidates are. They have always been there at every election, but I suspect that there will be a lot more in this election. From what I have seen, I think the media is a wake-up to it. The last election was the first time that I had seen the media pay any real interest in it at all, but I suspect there will be a lot more interest this time. Just as an aside: because of the very large number of candidates that we will see, I think there will be a very large number of bodgie candidates amongst them that will be put up by other parties' candidates simply to try to harvest votes.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: You could be right, too.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: It would not be very hard to name the candidates, either.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I would have to concur with that. The government also wants to increase from 150 to 300 the number of people necessary to be members before a party can be registered. I think that is reasonable, but I do not think it will make much difference to the number of parties that will run. You would only have to do a dollar membership and even the bodgiest of parties would be able to get 300 members; that would be remarkably easy. In fact, someone could write a cheque for $300 and get 300 one dollar memberships. So, at the end of the day it should not make a lot of difference. It is worth noting that people cannot be a member of more than one party. That will make it a little more difficult for one of the major parties to establish another party insofar as they cannot use their membership—

The Hon. T.G. Cameron: The Labor Party has already done it.

The Hon. M.J. ELLIOTT: Using its members twice?

The Hon. T.G. Cameron: Yes—Country Labor and New Labor.

The Hon. M.J. ELLIOTT: The point I make is that, under this legislation, you cannot count a member twice. However, I guess that even the Labor Party would have enough members over 300 to find a further 300 to form a second party. As I said, you can be a member of more than one party, but you need 300 signatories from one party to ensure that you can be registered. I suspect that, at the end of the day, this requirement will not do much more than be a confounded nuisance in terms of more forms to fill in for the existing parties. Anyone who is trying to launch a new party will not have to try very hard to reach 300. I suspect that it will not make a huge amount of difference.

In relation to how-to-vote cards, the government has picked up that some fairly dodgy practices are happening in terms of parties that put out a how-to-vote card telling voters how they might vote for one party but their second preferences then go to the party which puts out the how-to-vote card. Many people who pick it up think it comes from the party of the person receiving the No.1 vote. I do not think that what is being done here will make a significant difference.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: There have been cases where the brother and nephew of a candidate for one party was handing out how-to-vote cards for an Independent who happened to be providing all the preferences to the brother and uncle, with the candidate saying that she did not even know she had how-to-vote cards.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: I do not think it would be too hard for this person the next time around to make sure that somewhere on his piece of paper he says that he actually issued it, but nothing in this amendment talks about the size of print or making it quite clear. You could put out virtually the same form, with a few extra words on it buried at the bottom where nobody sees it, and it would do exactly what previous how-to-vote cards have done. That did not happen in the seat I was talking about, but all sorts of strange practices happen. I do not think this amendment addresses the problem that it seeks to address.

There are two solutions: one can simply ban how-to-vote cards and put them in the booths only, and the only cards will be the official party how-to-vote cards and not all sorts of other bodgie things that are going on out there. The other option is to ban them altogether and ensure that the voters have thought about it before they go into the booth.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: How-to-vote cards are not used in some places. I understand that they are not used in Tasmania, where they have multi-member electorates also using what they call Robson rotation, which makes a how-to-vote card almost impossible because all the ballot papers are different. The Tasmanians manage to cope with that. South

Australians, generally speaking, might match the intelligence of Tasmanians and would cope with not having how-to-vote cards. People in the past may have said, 'Well, the Democrats don't like it because they might be struggling to cover booths.' Over the past couple of elections I have been at booths where we have outstaffed the Liberal and Labor Parties.

The Hon. R.R. Roberts: With former members of both parties.

The Hon. M.J. ELLIOTT: Sometimes with existing members of both parties—they are so cheesed off. The time for how-to-vote cards to go is with us. They are open to all sorts of abuses, including the sort of abuse that the government claims to be attacking here and not making much difference in relation to it. They will have to put a few extra words on the same sheet of paper and not change the style or layout of it one iota.

In summary, having gone through this I am not opposing the second reading because it is really not changing anything in any substantive sense. It is a case where the legislation appears to do something but has made no substantial change at all. Theoretically it has addressed some serious issues, but it has done so in such a way that it will not change the status quo, and I am disappointed with that. Although I have not yet tabled amendments, I will be tabling a number of amendments to seek some real substantive change to the Electoral Act.

The Hon. CARMEL ZOLLO: Having been actively involved in many state and federal election campaigns over the years, even if just the once as a candidate—

The Hon. M.J. Elliott interjecting:

The Hon. CARMEL ZOLLO: —I would not say that, the Hon. Mr Elliott—I agree that there is always room for improvement in the manner in which election processes are conducted. Having said that, I am also mindful that processes are all relative. We only have to look at the debacle of the last United States presidential elections to appreciate that Australia has in place a relatively superior electoral process; but, as I said, there is always room for some improvement as attitudes and technologies change. I believe that the main reasons for our good system of governance are the fact that we have compulsory election attendance and the efficient federal and state (often complementary) administrative procedures that have been developed over the years.

My colleague the Hon. Carolyn Pickles, Leader of the Opposition in this chamber, has already made some comments in relation to the amendment to section 30, which seeks to ensure consistency with the commonwealth Electoral Act to facilitate the joint roll arrangements. With the commonwealth having amended its act several years ago, it is appropriate that the state act also be amended to ensure such consistency, especially if it assists in minimising electoral fraud and maintaining the integrity of the system.

However, whilst establishing the identity of an elector in the first place is paramount to the integrity of the votes cast on election day, the opposition has expressed concern that these amendments should go no further than the commonwealth requirements, and certainly we do not agree that they should be by regulation. I am pleased to see the increase in penalty for failure to comply under section 27A of the Electoral Act when it comes to misuse of information obtained under the section. The misuse of personal information for commercial purposes is an increasing concern in our community.

Never before has it been possible to obtain quickly so much information on so many people at the one time. Certainly, it is up to governments to provide standards and protection in ensuring the privacy that our community expects. The bill also provides for the amendment to section 27(1)(a) which requires all public sector agencies to provide information to the Electoral Commissioner, not just those public servants employed under the Public Sector Management Act. Whilst I appreciate the need to ensure greater accuracy of the role, this increases the volume of data and the number of people involved in its collection.

I welcome the increase in penalties to section 27A in relation to failing to comply with the confidentiality requirements in providing information to prescribed persons and authorities. The commissioner is rightly concerned that the current maximum penalty of $1 250 for failing to comply with conditions of confidentiality may not act as sufficient deterrent; and the bill before us prescribes a maximum penalty of $10 000 for failing to comply. Again, it is up to government to set an example with respect to the manner in which confidential information about its constituents is handled.

The opposition is in the process of filing amendments which it believes will be of further assistance in assessing who can be provided certain information. The tightening of section 113 in relation to misleading statements in electoral advertising is also timely. I agree that the current penalties—$1 250 for a natural person and $10 000 for a body corporate—do not act as a sufficient deterrent to stop some people behaving unethically. They may, indeed, be willing to risk the payment of a fine rather than withdraw the advertisement. Such protection is, I am sure, welcomed by all candidates and political parties.

The last few elections have seen the number of political parties growing at an enormous rate. In the upper house, in particular, one has the absurd situation of electors being faced with massive sheets of paper, often full of political parties with very low membership. Needless to say, the Legislative Council is the chamber most affected. I understand that allegations were made in the last New South Wales state election that minor parties were being used simply to funnel preferences. As a result of this experience, New South Wales has recently increased its membership for registration from 200 to 750. The requirement in South Australia is now 150, or the need to have a member in either house. The bill before us proposes a doubling in membership to 300 members. Given our population, it is considered that it strikes the right balance between ensuring a reasonable level of support for a political party that registers itself and the need to ensure that minority groupings of people are still able to form a political party to voice their concerns.

The other issue that this bill seeks to address is the registration of parties with different names but with the same or similar membership lists, to try to prevent more than one party relying on the same or similar list of persons in order to satisfy eligibility requirements. To assist in the monitoring of eligible parties there will be a requirement that a registered officer must provide an annual return to the Electoral Commissioner.

My colleague the Hon. Carolyn Pickles spoke yesterday about the proposed amendment by the opposition under section 62 which addresses the issue of confusion caused by candidates using existing registered party names in their description. I am certain that this proposed amendment will be welcomed by all. There is also a provision to provide that

no injunction may be brought in relation to a decision made by the Electoral Commissioner under section 62(3). It is an attempt by the commissioner to stop a description of 'independent' candidates seen to be obscene or frivolous.

Amendments to sections 59 and 63 relate specifically to the Legislative Council concerning the printing of tickets and the requirement to print an additional square which provides for the casting of votes in accordance with the candidate's ticket. It also provides for the onus of lodging a ticket with a candidate, following the Electoral Commissioner taking reasonable steps to inform the candidate or candidates in relation to the lodgment of such tickets.

There are several other sensible amendments that seek to make the processes leading up to election day run more smoothly. The other amendment, which has obviously come out of practices during the period of an election, is the insertion of new section 112A, which is a special provision relating to how-to-vote cards. This new section attempts to stop bogus how-to-vote cards by seeking to prevent another party distributing how-to-vote cards for a candidate without the need to clearly identify themselves and the party that would be the main beneficiary of such a vote. Obviously, such practices have not been illegal in the past and, of course, there is nothing wrong in seeking to solicit the second preferences of voters as a means of boosting the vote of the main beneficiary. However, it certainly does make sense to make sure that electors are clear as to whom their preferences benefit.

Increasingly, more seats are determined on the distributed preferences of minor parties and candidates of various descriptions, and it is important to ensure that the outcome in such seats is a reflection of the true intention of the voters. As has been mentioned, amendments will be filed by the Hon. Carolyn Pickles which we believe will further assist in the integrity of the vote that is cast. I support the second reading.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

STATUTES AMENDMENT (LOCAL GOVERNMENT) BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 1089.)

The Hon. T.G. ROBERTS: I indicate that the opposition will be supporting this bill. However, negotiations and discussions between the parties are far from complete. I understand that at least one if not two amendments are still being discussed between the stakeholders, the government and at least one Independent member. However, I have indications from the stakeholders that the amendments being discussed are in an order to be introduced by agreement that everyone can live with.

This is a technical bill, and it is part of a total package of legislation that sets out some mechanical procedures emanating from the review of the Local Government Act 1934 and its replacement with the new local government legislation. At least one of the clauses reflects the differences of opinion that emanated from the provision relating to the opening and closing of roads and the debate that we had in this chamber some time ago in relation to Barton Terrace. For those of us in this place who have heard as many words about Barton Terrace as we have heard about prostitution—

The Hon. P. Holloway: Electricity.

The Hon. T.G. ROBERTS: Yes, electricity and other bills, but it does seem to take prominence in a struggle that is going on across council boundaries and across parties. So it is not a surprise that, when the clause relating to the opening and closing of roads was included in the Statutes Amendment (Local Government) Bill, it raised the same old debate among the same players trying to get an agreement on this bill.

Some amendments are needed to the provision relating to the sending out of rate notices and the explanation of inclusions that accompany those notices, that is, whether the rate policy of a council is included in a quarterly rate notice or whether it goes out in only one of the quarterly notices, which would make it an annual inclusion rather than a quarterly inclusion. There is agreement on how that should be carried out and I understand that those amendments will be part of the late amendment package that will be brought in at our next sitting.

We support the bill. I have indicated that we have been talking to the LGA and other stakeholders and that there will be more clarification of the final position when these amendments have been introduced and discussed. I think that the Hon. Nick Xenophon has an amendment to table and we will wait for that to be negotiated before we draw our final position in the committee stages. Hopefully by then the LGA and other stakeholders will have come to an agreement.

One of the issues concerning the Roads (Opening and Closing) Act relates to clause 24—certain road closures cease to have an effect, and concerns were raised as to what the implications of that part of the bill would mean and whether it would be easier for councils to sell or unload roads, particularly in regional areas, that are used for other purposes. Some roads are used for grazing and, in some cases, they are temporarily fenced off and used for cropping through arrangements with local governments. They cause a lot of heartburn in country areas where competing interests would like access to some of these roads for grazing or horticultural activities. However, where councils make determinations based on democratic processes, there are always winners and losers, and approaches were made to me to determine whether the prescribed roads definition would make those transfers for other uses easier.

I notice that from time to time there are applications by landowners to acquire roads that have been surveyed, laid out, fenced off but for which federal, state and local governments have not taken up the option to use those areas for roads. The general community view is that, in a lot of cases, they would not like to see those roads become available for freehold purchase or, in some cases, leasehold. Areas of concern that I have raised before in this chamber are connected with leisure pursuits. In the Adelaide Hills for instance, near the walking trails that have been designated, such as the Heysen Trail, issues were raised in relation to the recreational use of unused roads for pony clubs and other leisure pursuits. I guess the question that I would have for the minister, when she does make a final assessment in relation to road closures, is: would this bill make it any easier for those sorts of uses? And would transfers become any easier? I suspect not.

My reading of the bill refers the road opening and closures section back to the process that we have now which has consultation stages, and it has a number of processes within those negotiating stages to avoid the transfer of those roads to a third party without community consultation. So, when we

do have the amendments before us we can make a better fist of our understanding of the total bill. The section that I query is in relation to the sale and alienation of local government land and comes under the Local Government Act, the sale or disposal of local government land. Section 201 provides:

(1) A council may sell or otherwise dispose of an interest in land—

(a) vested in the council in fee simple; or

(b) vested in the council as lessee.

(2) However, a council cannot dispose of community land or land forming part of a road except as follows:

(a) the council may dispose of community land after revocation of its classification as such;

(b) the council may dispose of land that formed part of a road after the closure of the road under the Roads (Opening and Closing) Act 1991;

(c) the council may grant a lease, licence, authorisation or permit under this act.

(3) If—

(a) State government financial assistance was given to the council to acquire community land; and

(b) the council has not resolved to use the proceeds of the sale or disposal of the land for the acquisition or development of other land for public or community use or for the provision of community facilities. . .

I suspect that under that section those kinds of inbuilt protections would avoid any conflict that may come from a council that may be heavily lobbied by a powerful individual within a community at the expense of other potential users, lessees or community organisations.

The opposition supports the bill. It has been around for some considerable time and there has been a lot of negotiation and, as I said, there will be further negotiations around aspects of this bill. We hope to see it in its final stages in the not too distant future.

The Hon. L.H. DAVIS secured the adjournment of the debate.

FREE PRESBYTERIAN CHURCH (VESTING OF PROPERTY) BILL

Adjourned debate on second reading.

(Continued from 10 April. Page 1303.)

The Hon. IAN GILFILLAN: I indicate the Democrats' support for the second reading of this bill, and I note that the bill is to be referred to a select committee. With that knowledge, we are prepared to support the second reading of this bill, even though it was introduced only yesterday. The bill relates to properties of the now defunct Free Presbyterian Church of South Australia. Many of the properties are in disrepair and have become financial burdens on the churches which have responsibility for them.

I note with interest that one of the properties dealt with in this bill was recently the subject of a front page article in the *Southern Times Messenger*, this being the old John Knox Church which lies in a ruin on William Street in Morphett Vale. The church was first built in 1856 and was actively used up until the 1960s. However, for many years it has been fenced off and allowed to decay. Notices on the fence warn people not to enter and that the building may collapse.

Over the years, considerable community effort has been put in to attempting to have the church restored or to have the site secured as a safe historic landmark. However, these efforts have been constantly frustrated by a lack of certainty over the actual owners of the property.

The John Knox Church is one of a number of buildings on the same block in the heart of Morphett Vale that formed a hub in the local community in the 1800s. The old courthouse, police station and institute building, as well as a school and an old labourer's cottage, are all still standing in what is a hidden jewel of the past not 100 metres from the Main South Road.

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: I must check the background of that. I am sure it would have been a Labor member. I assume that the other properties dealt with in this bill may also be of similar local historic significance, and I hope that this will be taken into consideration in the future uses of these properties. I repeat the Democrats' support for the second reading of the bill.

The Hon. T. CROTHERS: I rise briefly to support the bill and I will give a little potted version of some of the history of the Free Presbyterians, or, as they were known in the kirk in Scotland, the Wee Frees—the Wee Frees because of Knox being a very hardline type of Christian. Knox had been a follower of Calvin in the early days in Switzerland, to such an extent that in fact Presbyterianism still is extant in some of the European countries. I understand, for example, that one-third of the population of Hungary is Presbyterian. Of course, as I said, the kirk, the Church of Scotland in Scotland, was in fact the Anglican Church in Scotland, just as the Church of Ireland in Ireland was the Anglican Church in Ireland.

It may not be widely known in this place, but I at one time was an altar boy in the Catholic Church when I was about 13. My budding Christian career ended when the Monsignor caught me and another boy smoking in the vestry, much to my mother's horror.

The Hon. T.G. Roberts: It was something to do with the sacristy wine, too, wasn't it?

The Hon. T. CROTHERS: There was a bit about that, but you wouldn't want to know about that. However, I find religious history very interesting, most significantly because of the fact that 58 per cent of people claiming Irish extraction in the United States are Protestant. As a Catholic boy, I know the history of both sides. Of course, the history of that was that for over 100 years, at least an average of 40 000 Ulster Presbyterians emigrated out of Ulster to America for the same reason as the evangelicals: the Methodists and the Congregationalists emigrated out of England to South Australia, which had great religious tolerance. Given that the Prussians were being ill-treated by the King of Prussia because they did not quite follow the strict dogma of Lutheranism, so they left, too—and it is well recorded.

However, what is not so well recorded is that the followers of John Wesley, the Methodist, and other independent people, because they were being ill-treated by the Church of England, which was the state religion in England at that time—and, if you did not belong to that you got no preferment; there was no future for your kids. That is why so many of them came here. Indeed, it is one of the reasons why the Scots-Irish, as the Americans now call them—they were in fact Ulster Presbyterians who had crossed over from Scotland to their kin in Ulster—

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: No, that is not correct. Most of the planters were Sassenachs, not Presbyterians. Presbyterians were there long before the Elizabethan plantations. They went out in the beginning of Presbyterianism under

John Knox and Calvin in Scotland. But that is another matter. However, I do support the bill. Obviously, there will be a Gaelic speaking church or churches somewhere, because the Protestant Gaelic areas of Scotland are another area that, generally, also belonged to the Wee Frees. I understand that there is a Gaelic cemetery. I made the comment to my very good friend Bobby Sneath, when he drew my attention to that, that I would love to be buried there. He said, 'I'd love you to be buried there, too!'

The Hon. T.G. Roberts: He meant straightaway.

The Hon. T. CROTHERS: Yes. He has always been a good colleague of mine. Having made those few remarks and having given a bit of a historical reportage of the Wee Frees, I commend the bill to the Council.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for dealing with this matter so expeditiously. The bill was conceived well over 25 years ago. When the Uniting Church was formed in 1977, the issue of the property of the Free Presbyterian Church and what could be done with it engendered a great deal of uncertainty. Although the titles were identified, trustees had died, congregations had disappeared and the property had certainly not vested in either the Presbyterian Church or, at union, the Uniting Church or the continuing Presbyterian Church, so all along it has needed an act of parliament to try to resolve this.

Fortunately, we are now at the point where all those who could have an interest in this have actually agreed with the process which is being followed and which is reflected in this bill. The Leader of the Opposition remarked that she understood that the bill seeks to divest the property of the Free Presbyterian Church, which is the now defunct Presbyterian Church of South Australia.

I would like to correct that: it really represented property that belonged to a separate branch of the Christian Church, the Free Presbyterian Church, which never came into the union of the Presbyterian churches and the Church of Scotland in Australia in 1899 and in all that time has been separate and distinct. There is still a continuing Presbyterian Church, which was that part of the Presbyterian Church of South Australia which did not go into the union with the Uniting Church in 1977.

The Hon. L.H. Davis: There's one at Norwood.

The Hon. K.T. GRIFFIN: There is one at Norwood, and one at Archer Street, North Adelaide, one at Seacliff, one at Elizabeth and one, I think, at Penola. There is a handful—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: No, none on the West Coast. The Presbyterians were never very strong on the West Coast. The Presbyterian Church was particularly strong in the South-East of the state, in the Mid North around Clare, even extending up to Whyalla, and down the Fleurieu Peninsula. But, back to the topic of the bill.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order! The honourable member is out of order.

The Hon. K.T. GRIFFIN: There are all sorts of varieties of the Presbyterian Church including the Bible Presbyterian Church in Adelaide, which is fairly much fundamentalist, so the Christian Church has this capacity to divide and develop and divide and develop.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: It is a bit like political parties.

The PRESIDENT: I warn the Attorney-General to address the chair.

The Hon. K.T. GRIFFIN: I was being drawn away from my subject, Mr President. I have lived with this legislation and the development of the legislation for a long time, and I am delighted to see that it is in the Council and that it has now progressed to the second reading stage. It will go to a select committee.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: It is a hybrid bill, so it must go to a select committee. There has been extensive consultation over recent years, so I do not think there will be any difficulty and, hopefully, in a month or so we will have completed the processes required of us by standing orders.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order! This is the second reading.

The Hon. K.T. GRIFFIN: Legislation is the only way in which this particular problem can be resolved. It does not relate only to the fact that all trustees are dead: it relates to the objects of the trust. We considered taking the matter to the Supreme Court but even the Trustee Act would not facilitate resolution of these issues.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: With respect, that is a different matter. That dealt with the division of property of the Presbyterian Church. There is a special provision in the Presbyterian Trusts Act which deals with the division of property at the point of union with the Uniting and Congregational Churches. The negotiators had agreed a division of property that required endorsement or approval by a judge of the Supreme Court. That was because there is a special procedure required through the Church of Scotland and now in the Presbyterian Church of Australia about the way in which property could be divested.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: That is right. Again, I thank members for facilitating consideration of this bill.

Bill read a second time.

The PRESIDENT: As this is a hybrid bill, it must be referred to a select committee pursuant to standing order 268.

The Hon. K.T. GRIFFIN: I move:

That the select committee consist of the Hons A.J. Redford, P. Holloway, R.R. Roberts, L.H. Davis and the mover.

The Hon. Mr Gilfillan was offered an opportunity to serve on the select committee and declined the invitation. With the concurrence of members of the Council, there are three Liberal and two Labor members on the select committee. This is not a contentious select committee.

Motion carried.

The Hon. K.T. GRIFFIN: I move:

That standing order 389 be so far suspended as to enable the Chairperson of the select committee to have a deliberative vote only.

Motion carried.

The Hon. K.T. GRIFFIN: I move:

That this Council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council; that standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses, unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating; that the select committee have power to send for persons, papers and records, to adjourn from place to place; and to report on Wednesday, 25 July 2001.

Motion carried.

PROSTITUTION (REGULATION) BILL

In committee.

(Continued from 5 April. Page 1291.)

Clause 16 passed.

Clause 17.

The Hon. T. CROTHERS: I rise to oppose the amendment—

An honourable member: Which one?

The Hon. T. CROTHERS: The Cameron amendment.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): The indication from the Hon. Terry Cameron is that he will oppose the clause. No amendment has been indicated.

The Hon. T. CROTHERS: I rise to oppose the clause.

An honourable member interjecting:

The Hon. T. CROTHERS: No, I thought there was an amendment before the chair. I will oppose the bill in the final wash up. I give that indication now, because I might have to leave here early as I have been suffering with a bad back. If somebody thinks they can slide one through, they can think again.

The Hon. R.R. ROBERTS: We did touch on this clause briefly during earlier discussions. It is incongruous because clause 17(1)—

An honourable member interjecting:

The Hon. R.R. ROBERTS: I am opposed to it. Clause 17(1) provides:

> A person must not exhibit any sign, symbol or other thing visible to a person approaching a brothel that identifies the premises as a brothel.

That is a clear statement. However, clause 17(2) provides:

> This section does not prevent the exhibition of a sign that conforms with restrictions and requirements imposed by the regulations.

That is structurally very bemusing. I ask the simple question: how can we have a clause which provides that we cannot exhibit any signs yet in the same clause provides that we can have a sign that meets the regulations? This is a problem, especially in respect of the establishment of brothels in residential areas. If a brothel conforms with the requirements of DAC, it can be in a residential area. I am reasonably confident that most people living in residential areas do not want A-frame signs on their footpaths saying, 'This is a brothel; please drop in and help yourself.' I can see that, if you take the stance of agreeing with prostitution in particular areas—and I am talking about the five room premises prescribed by the Hon. Carolyn Pickles' amendment where they clearly would be within the planning laws and in a prescribed area—that would meet with less hostility than a similar sign in suburban Adelaide, especially within a residential area.

The Hon. T.G. CAMERON: I rise to oppose the clause. It is a rather oddly worded clause. Clause 17(1) provides:

> A person must not exhibit any sign, symbol or other thing visible to a person approaching a brothel that identifies the premises as a brothel.

Then it provides that there is a $5 000 fine for it. On the other hand, clause 17(2) provides:

> The section does not prevent the exhibition of a sign that conforms with restrictions and requirements imposed by the regulations.

Once again, I refer members to the bill I introduced. I am not prepared to support a bill which leaves this question of a sign open, and that is what we would be doing here. If we support clause 17, on the one hand we would be imposing a $5 000 penalty for putting up a sign but, on the other hand, we would be allowing the government of the day by regulation to put up any sign it wants. I have no idea of the restrictions and requirements imposed by the regulations. They may be in the mind of the person who drafted this bill, but I have not heard any contribution from anybody to date about just what sign might conform or what restrictions and requirements might be imposed. It is possible that they could carry a regulation stating that you can put a six foot by four foot sign with flashing lights around it on the front boundary of the property.

That certainly was not what I had in mind. I had in mind what was debated and considered by the Social Development Committee: that a very small, discreet sign, with the registration number on it, would be displayed somewhere on the front of the premises. That was for a number of reasons, one of which was that a sign on the front of the property—and I cannot recall the measurements offhand but, from memory, it was a small sign which would have the registration number in the corner and which would immediately allow people to identify it as a legal brothel—would be of some assistance to local residents, perhaps local government and the police in stamping out illegal brothels. But, however concocted, this Prostitution (Regulation) Bill 1999 perhaps does not see it that way. Therefore, I am not prepared to give some people sitting on a committee carte blanche to go away and, by regulation, come up with whatever sign they want.

There may well be some people who argue that there should be no signs. There is a problem with that as well. If you do not put up any sign in front of the property, people will be banging on neighbours' doors and going up and down the street looking for the brothel. So, it should be identified in some way with discreet signage—and we should all know what it is going to be before we pass the bill—which identifies the fact that it is a legal brothel, with the registration number, and that is the same proposition that I looked at in relation to advertising.

There seems to be a bit of tug and pull going on between those who would be prepared to support some reform. As we go through clause by clause, we keep turning this bill into a bit of a monster that I think a lot of people in this place will find it very difficult to support. Therefore, I oppose clause 17 and will vote against it.

The Hon. DIANA LAIDLAW: I will not prolong the debate. In reference to the Hon. Terry Cameron's statement 'whoever concocted the bill', we are considering a bill that has been received from the House of Assembly.

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: You may reflect on that if you wish.

The Hon. T.G. Cameron It is a patchwork quilt of compromises, and it will not work.

The Hon. DIANA LAIDLAW: That is why we are trying in this place, over many hours, to bring—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Yes. Essentially, I agree with you, although at times I question it. There is certainly a place for a house of review and a review process, and this bill proves it.

I add two or three things. I think it is very important that the provisions before us are read together. It is not an either/or position. I accept that in terms of the drafting subclause (2) could have come before subclause (1), so that it could read that this section does not prevent the exhibition of a sign that conforms to restrictions and requirements imposed by the regulations. However, if you do that, these fines would apply. So that would be a different way of

expressing it. Another way would be simply to leave out subclause (1) and put in subclause (2), and simply say that there will be a sign as provided for by the regulations. Or, we could move it in the way proposed by the Hon. Terry Cameron in his amendment on file which he has chosen not to move, and that is to get rid of subclause (2) altogether, and that means that no sign would be provided for in terms of identifying a brothel.

So, one could realise various configurations and outcomes from this issue of signs. I would highlight to members that, while I support the measure before us—and I do so because I believe that the small, discreet sign the Hon. Terry Cameron spoke about is what would be provided for in the regulations—I am not necessarily fussed if it lapses. If this bill proceeded, local government would have discretion over signs, and I think that would be unfortunate. If we got rid of this clause we would be leaving it to the discretion of councils.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Yes, you would be, because you have no measure—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I am just saying we are dealing with what is before us at the moment. You may say it is not going through, but we are dealing in committee with a clause which I am saying you can get rid of, but you would be leaving it to the discretion of councils. I would have thought that that was completely at odds with what the Hon. Mr Cameron had indicated he wanted in terms of small, discreet signage. Of course, if you do it in regulations the council can disallow it if it wishes, but you do not leave it to the discretion of councils.

The Hon. J.F. STEFANI: Will the minister advise the committee whether a red light attached to the front or door of the building could be described as the 'other thing visible', which is in fact prohibited under clause 17(1)?

The Hon. DIANA LAIDLAW: Clause 17(1) provides that a person must not exhibit any sign, symbol or other thing visible (red light) to a person approaching a brothel that identifies the premises as a brothel. A red light specifically would not; other people may put up Christmas lights that are red. We had a bit of embarrassment in Hindley Street when the symbol for Arts SA was red, and we had to adjust that quickly, because people can misinterpret a red light. It does not specifically identify a brothel.

The Hon. J.F. STEFANI: If one could use the imagination, one could have a red light.

The Hon. DIANA LAIDLAW: That is right; you could, today.

The Hon. R.R. ROBERTS: I heard the Hon. Terry Cameron saying that he moved the amendment standing in his name, and I see a list of amendments in his name in my bill fold. One provides that this clause will be opposed, but the minister tells me that the Hon. Terry Cameron has an amendment on file to delete clause 2. I cannot find it in my bill fold, but I support that amendment if that is indeed his intention.

The ACTING CHAIRMAN: The table does not have that amendment. The only documentation related to clause 17 is an indication from the Hon. Terry Cameron stating that this clause will be opposed.

The Hon. A.J. REDFORD: Sorry to correct you sir, but I have some amendments here filed by the Hon. Terry Cameron on 30 November which state that clause 17 will be opposed.

The ACTING CHAIRMAN: That is what I have just said.

The Hon. CARMEL ZOLLO: I indicate my support for clause 17 because, if this clause was removed altogether, it would leave it open, as the minister has said, for local government to have to pass bylaws in relation to signage.

The Hon. R.I. LUCAS: In response to the question asked by the Hon. Julian Stefani, one of my concerns throughout the debate on this bill has related to having brothels in residential areas. As the minister has said, everyone recognises a red light as the international symbol for a brothel, and she has highlighted some concerns with the location of Arts SA in Hindley Street in that regard. I think most people would acknowledge a red light as the symbol for a brothel without having to say anything.

Whilst this clause provides that you cannot exhibit a sign, symbol or other thing that identifies a brothel, it does not cover a red light. I do not know how a red light could be covered by legislation. I understand the problems with Christmas lights, etc., outlined by the minister. However, a situation where householders in a quiet suburban neighbourhood can have a bright red light outside their next-door neighbour's house which everyone knows indicates that there is a brothel next-door—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: This place, you reckon?

The Hon. P. Holloway: When the bells are ringing.

The Hon. R.I. LUCAS: I would never call this place a brothel. This highlights my concerns about people living in suburban neighbourhoods and the imprimatur that the passage of this bill would give in terms of providing, in essence, some legislative acknowledgment and support for the notion of prostitution and allowing brothels in residential areas—and also allowing a red light, which everyone would recognise as a brothel. This clause, on the surface of it, provides that we will stop signs being erected, but the international symbol for a brothel will be allowed.

The Hon. T. CROTHERS: This bill requires a conscience vote. How can we abrogate something to be done by regulation when both major parties, the Democrats and the Independents have determined that, because this is a social issue, it should be dealt with as a conscience vote. In spite of that, we want to give this unfettered power to a regulatory body when the bill will be decided on an issue of conscience. I find that to be in appalling bad taste.

The Hon. K.T. GRIFFIN: I think there will be disagreement on the floor about what this clause means. When I first read it, I thought it covered a red light. I believed that it was prohibited by virtue of the operation of subclause (1), because it refers to the exhibition of a symbol—not necessarily a sign, but a 'symbol or other thing visible to a person approaching a brothel that identifies the premises as a brothel'. A red light can identify the premises as a brothel in the common belief that red lights identify brothels.

The Minister for Transport says that other people might choose to have a red light for some quite innocent reason, but I think this is broad enough in the context of this bill to catch those situations where a red light is displayed.

The Hon. T.G. Cameron: Or other things.

The Hon. K.T. GRIFFIN: Or other things. So, it could be a variety of things. If there is a sign with a red light, that makes it blatantly obvious. There will be a disagreement about it. I will support the clause because it is better than leaving it to local government and the Development Assessment Commission and, ultimately, whatever is prescribed can

be the subject of disallowance, although I acknowledge that sometimes one may not get the numbers to disallow a regulation if one does not like it.

The Hon. R.R. ROBERTS: This clause really says that a proprietor of a brothel may exhibit a sign that conforms to restrictions required by regulations. It says that you cannot have the symbol or any other thing. If you read it and consider it a little longer, it really means that you cannot have a symbol or any other thing visible to a person but you can have a sign provided it meets with restrictions required by regulations. I would be happier if we were to take out in clause 17, line 24, the words 'any sign'. It would then make some sense.

Clause passed.

Clause 18.

The Hon. CARMEL ZOLLO: I move:

Page 12 line 31—Leave out ', without reasonable excuse,'.

My first filed amendment in relation to home activity affected the second amendment for the reason that perhaps the only excuse for a child being on premises where the business of prostitution is being conducted could occur in the so-called home activity or cottage environment. There should never be any reason for a child to be in a brothel, cottage industry or otherwise, especially when 'brothel' for the purpose of this bill means premises used on a systematic or regular basis for prostitution. In the other place an example given as a reasonable excuse was a child inadvertently coming home early from school and not being aware of the conduct occurring in the home. The welfare of children should always be paramount, whether in relation to being on the premises of a small brothel or other premises used for prostitution.

By leaving in the words 'without reasonable excuse' we leave a loophole in the legislation. As legislators it is our place to provide protection for children and not make excuses for adults who fail to do so. I see this exception as proposed in the bill to be too broad and I urge honourable members to support my amendment. Whilst I do not have another filed amendment, I would be concerned about 18(3) as well, which provides:

> . . . it is a defence to a charge of an offence against this section to prove that the defendant believed on reasonable grounds that the victim had attained 18 years of age.

That is an excuse used far too often in relation to children being at risk.

The Hon. J.F. STEFANI: I refer to a small brothel being operated from home where the activity occurs during the day when the children are not at home. If we look at the prohibition as such, what occurs when the children return home? The mother has finished her day's work and, obviously, it becomes the home for the children?

The Hon. DIANA LAIDLAW: We were addressing earlier the provisions for small brothels. I have reason to believe—whether this bill passes in its present form or does not pass at all—that it will continue as small brothels operated from home. Many members were seeking to ensure that women were not just subject to brothels in large premises which they could not necessarily own but over which they could have some control in terms of their lifestyle and work pattern. Other amendments provided that a person could work from home and not necessarily from a small brothel that was not a home base.

I just do not recall what happened to the second amendment about home-based activities. The provision where one could still work at home subject to DAC approval is provided for in the bill at the present time. That is why I think that it is particularly important that the provision in the bill before us remains, so I do not support the Hon. Carmel Zollo's amendment. If one can work from home, with approval from DAC, there may or may not be a child who also shares those premises—

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: Yes, but with DAC approval; that is in the bill.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Subject to DAC approval and very many other restrictions for which members have provided, such as the distance from churches, schools and a range of other facilities. If a person is working in a brothel at home, the bill provides that a person must not permit a child to enter or remain in a brothel without reasonable excuse and that, I think, is a particularly important provision in the circumstances as now provided for in the bill.

The Hon. P. HOLLOWAY: I support in principle the amendment moved by the Hon. Carmel Zollo. However, I can see one problem. The bill defines a brothel as premises used on a systematic or regular basis for prostitution. 'A premises' is defined later and includes a vehicle, vessel, aircraft or other place. One problem I can foresee with the clause, according to the definition, is that that would prevent a child riding in a vehicle that might be used systematically as a brothel.

The Hon. A.J. Redford: That is an excuse not to vote for it.

The Hon. P. HOLLOWAY: I am saying that under this definition—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I am saying that it would make it a little difficult. If a car was occasionally being used for the purposes of prostitution during the day and the child was subsequently to ride in that vehicle, it would be an offence. It is hard to foresee a situation where the police would bother to police it. However, if the purpose of this exercise that we are going through is to try to tidy up the law then there is a real anomaly. I certainly support in principle what the Hon. Carmel Zollo is attempting to do if by 'brothel' most of us would take that to mean a house or a dwelling.

An honourable member interjecting:

The Hon. P. HOLLOWAY: As I have said, it could be a vehicle, vessels, aircraft, or other places as well. So it is not only just a house. I can see that with these definitions we could have problems with this clause.

The Hon. T.G. CAMERON: I rise to support the bill and to oppose the Carmel Zollo amendment. I do not think that the honourable member has thought her amendment through very well at all.

The Hon. Sandra Kanck interjecting:

The Hon. T.G. CAMERON: I will recognise the interjection because the Hon. Sandra Kanck may well be correct. However, let us have a look at what the amendment to clause 18(1) would do. If we deleted the words 'without reasonable excuse', clause 18(1) would provide:

> A person must not permit a child to enter or remain in a brothel.

What do you do in that situation? Let me think of a few examples. The chap comes to read the electricity meter and he is 17 years old. Bang—that would be a possible $20 000 or four years imprisonment. The Hon. Carmel Zollo might frown, but there is no excuse. I may stand corrected by the Attorney-General, but when the clause provides that 'a person must not' that means that there is no excuse. The brothel

could be burning down and a fireman, who is 17 years of age, might enter the brothel. There is no excuse. If he was charged, the owners of the brothel would be up for a $20 000 fine or four years imprisonment.

It would also mean that if a 17 year old client was caught in a brothel, under the definition of a 'child' being deemed to be a child, there could be a maximum penalty of $20 000 or four years imprisonment. I would be very loath to support any amendments to clauses 18(1) or 18(3) that deleted the words 'without reasonable excuse' or 'that the defendant believed on reasonable grounds that the victim had attained 18 years of age'. I cannot see how anyone with a scintilla of knowledge about the law could support such an absurd amendment.

The Hon. T. CROTHERS: I am a former Secretary of the Liquor Trades Union, whose members are the bar people, who are supposed to be able to discern whether a person is over the age of 18 years. I can refer to a number of occasions of which I am aware, when the secretary attempted to defend our bar staff members because the customer either said they were 18 years, represented themselves to be 18 years, or looked much older than 17 years. In one notorious case in the Richmond Hotel, a 21 year old university student went around the corner to a bar and got a jug of beer and two glasses and sat down at a table with a 17 year old student. We defended the case—Chisholm v R—at the time and we lost it. He could not even see what was going on.

This is the sort of mess that can arise. I understand what the Hon. Carmel Zollo is trying to do—do not get me wrong. This is the sort of mess where we jump out of the frying pan into the fire. That is my view of this whole bill. Such has been the cobbling together of this matter that a lot of it is really a nonsense, and that is why I will not support it.

An honourable member: It's a cobblers.

The Hon. T. CROTHERS: That's right. I believe that, if this bill is passed, people—both male and female—working as prostitutes in brothels will be much worse off than they currently are. I think that the whole potage of a mishmash that has resulted in this bill being cobbled together by those extreme elements of affirmative action in this place is such a nonsense that I will not be supporting it.

The Hon. R.R. ROBERTS: I support the amendments moved by the Hon. Carmel Zollo. We are now seeing how silly we are getting with this bill. The Hon. Diana Laidlaw is saying that it is a reasonable excuse if it is the child's home and, in answer to the question posed by the Hon. Julian Stefani, she said something along the lines of the child being at school all day while the work was proceeding, and then the child would come home; but preceding clauses have determined that there will be a sign out the front of such premises indicating that it is a brothel, as if the customer is going to come along and say, 'Oh, it's school hours; I'm out of luck here!' The Hon. Terry Cameron used the argument of convenience about firemen. The firemen would be 18 years old because the fire brigade does not take them until they are 18. Members are constructing these stupid arguments of convenience.

This clause is clearly trying to prevent small children or children from being in brothels, and it comes down to what is a reasonable excuse. A few members in this place have been involved in the trade union movement and would be familiar with the argument about what is a reasonable amount of overtime. No-one has ever resolved that. So, what is a reasonable excuse? The Hon. Diana Laidlaw said it would be a reasonable excuse if it were the child's home. What about when the children are on school holidays? Does the business close through the day as well? We are just clutching at straws.

I assume that this clause seeks to provide proper protection for children from this industry, which until today in this state has been considered offensive and highly illegal, at least in the letter of the law. The argument that Carmel Zollo is somehow naive in this matter is just fallacious. She is trying to fine tune the intent, I assume, of the original drafters of the bill to prevent young children from being in brothels that are used on a regular basis for that reason.

Following through on the Hon. Diana Laidlaw's logic, it will be argued that it is a reasonable excuse for a child to be in a brothel if he or she is the child of the worker, and the worker is not able to get a babysitter that day. Is that reasonable in the circumstances? Is it reasonable for a mother who cannot get a babysitter to have the child with her? It becomes a ridiculous argument. What the Hon. Carmel Zollo has put forward in a practical sense (and it is the way any sensible law enforcement officer would view it) is that she wants to prevent young children from being in brothels. It is a very simple proposition and it deserves the support of the committee.

There being a disturbance in the gallery:

The CHAIRMAN: Order!

The Hon. J.F. STEFANI: I have some sympathy with what the Hon. Carmel Zollo is trying to do, but I have a problem in understanding how one could prevent young children from being in a small home brothel once it is registered and becomes a legal operation. The difficulty I have is this: if that is the home for the mother and the child, how on earth can the child be prohibited from being at home, irrespective of whether it is after school or at night? Once we have recognised and legalised a small brothel as an operation and it is a home, what do we do about the prohibition on children residing in their home? I have great difficulty with that.

The Hon. CARMEL ZOLLO: I think I should remind honourable members that, whilst we are talking specifically about small brothels, everybody should be talking about all brothels, not just small brothels. And children should not be on those premises. I do not see why you have—

Members interjecting:

The Hon. CARMEL ZOLLO: I am talking about all brothels—

The CHAIRMAN: Only one honourable member has the floor.

The Hon. CARMEL ZOLLO: —not just home ones. If a person does want to work as a prostitute, perhaps that person should not be working with children at home—full stop! So, there should be no reasonable excuse.

The Hon. A.J. REDFORD: I will explain why I oppose the Hon. Carmel Zollo's amendment. If we are going to have this we will have occasions when we will have women who work in this enterprise, say, between the hours of 10 o'clock and 2 o'clock while their child or children are at school, and, to all intents and purposes, when they come home there is no activity. This amendment would prevent that from happening. That is the net effect of this amendment. So, women in those circumstances might well be forced into working in larger brothels against their will and not being able to provide the sort of support that a person in that position might otherwise be able to provide. It will have the effect of creating—if this bill gets through and I doubt that very much—a large Stormy Summers style of operation with a child-care facility 300 yards up the road. It is just impractical and demonstrates a

non-understanding of how some segments of this activity currently operate.

If we are going to have it, I do not see what the issue is if the children do come home and there is absolutely no activity indicative of there being a brothel or customers, or whatever. It is the same sort of thing, although a little more far fetched, when one looks at what the Hon. Paul Holloway said. The definition of 'brothel' is 'premises used on a systematic or regular basis for prostitution'. Now, if one did it once a week—on Wednesday at 1 o'clock with one customer—that, by definition, would be a brothel. A child may never be there at that time, but there at other times, and this amendment would leave that person liable to extensive prosecution.

In terms of the definition of brothel, this could be an activity that occurs on Christmas eve on an annual basis over 20 years, while the child is somewhere else. Again, that person would be committing an offence by having their child on those premises for the other 364 days of the year. That is bizarre, and that is why I oppose the amendment.

The Hon. R.K. SNEATH: I do not see any excuse whatsoever to have a child enter or remain in a brothel. On that basis, I support the Hon. Carmel Zollo's amendment. However, I pick up on what the Hon. Angus Redford has said regarding the fact that a child might be living in the house where the activities of prostitution are taking place, with the mother working during the day while the child is at school. I would not be satisfied until something was put in the bill to ensure that no prostitution would be taking place while a child was on the premises. If the Hon. Carmel Zollo's amendment is not supported, there is nothing to stop a child being on the premises when prostitution is taking place; if there is a reasonable excuse—

Members interjecting:

The Hon. R.K. SNEATH: Well, what is a reasonable excuse? As the Hon. Ron Roberts said, and I agree, there is reasonable labour time, reasonable other things: it is very hard to understand what a reasonable excuse is. If this bill is passed there is a two-year review, and I am sure that quite a few things will have to be ironed out after that. There is no reasonable excuse to have a child enter or remain in a brothel, so I will be supporting the Hon. Carmel Zollo's amendment.

The Hon. CARMEL ZOLLO: I point out that, if we do remove the words 'without reasonable excuse', there is another fall back position because clause 18(1) does say 'a person must not permit a child to enter or remain on premises'. I think that is perhaps a fall back position for members.

The Hon. R.I. LUCAS: For those of us who are opposing home brothels, this clause is a perfect example of why they ought to be deleted, stopped and prevented—the whole bill ought to be. The impossibility almost of whether or not to support the Hon. Carmel Zollo's amendment is difficult for those of us who are opposing small brothels in suburban locations. It horrifies me to say it, but I agree in part with what the Hon. Ron Roberts has been saying in relation to 'without reasonable excuse'. This is the difference with what the Hon. Bob Sneath says. We are not now talking about brothels being illegal activities; if this legislation passes, we are talking about a legal business and a legal activity. When staff in my department have a sick child, a babysitter does not turn up at the last moment, or whatever else it is—they turn up at our offices with child in tow until they can organise another babysitter, or the child may well stay with their mother or father at the offices for the day. It is not a desirable situation but, in the end, it is a reasonable excuse and managers and departments generally—

The Hon. Carmel Zollo: It is not a very good analogy surely. Perhaps you could cancel the client instead.

The Hon. R.I. LUCAS: No, but as the honourable member rightly points out, this is not a clause just in relation to small brothels. In support of the contention that the honourable member is putting, and against the bill as it stands now, a prostitute working in a big brothel could, in the circumstances that I have outlined, have to take their child to work, and could argue that that is a reasonable excuse and that at work they made sure that the child was not in the part of the premises where the prostitution was going on and was kept in the kitchen, the reception area, or whatever it might happen to be. They could argue that there was a reasonable excuse, that there was nothing they could do about it, they had to go to work, they needed the money to provide for their child, that, in the end, the child was not feeling well, and so on—all the reasons that we have with other legal activities.

From the way in which the bill is drafted and on the understanding that the Hon. Carmel Zollo has highlighted, and others, I would have thought that it is very hard to argue that that is not a reasonable excuse to have a child on the premises. No-one wants to see that set of circumstances, either. However, to delete it, you have the range of problems that the Hon. Angus Redford and others have highlighted in relation to, in essence, locking out children from their home—and how do you do that? In relation to a small brothel, as I understand it, you cannot have a sign up outside the premises. I am not sure what happened with the red light argument.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: As I understand it, in relation to my next-door neighbour, if this bill passes, if he or she wants to operate a brothel, they could advertise in the *Messenger* the week before saying, 'Premises open from 10 to 12', or '10 to 2', or whatever it is, 'Small brothel operating in such and such a street'. You cannot have a sign, as I understand it, outside the small brothel at home—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: So, you can have a sign outside which says, 'Small brothel operating—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: As I understand it from the minister, you can advertise in the *Messenger* and you can also have a small controlled sign outside my next-door neighbour's house saying, 'This is a small brothel open for activity from 10 to 12', or '10 to 2', or whatever it is.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: I'm not sure what you're suggesting about my family! I would advise the minister not to go too far down that path or I may well respond. You are, therefore, locked into an advertisement and a sign that is up there, so you can have customers who can come during those advertised hours, I presume—

The Hon. R.R. Roberts: Except on school holidays.

The Hon. R.I. LUCAS: That is the point. It is not just school holidays. If you have a set of circumstances where you open for activities from 9 till 3 when children are meant to be at school, and at the last minute children stay at home sick, or whatever it happens to be, how is the operator of the small brothel who has advertised that it is open as a small brothel from 9 till 3, yet a child happens to be at home—

The Hon. Carmel Zollo: You cancel the work.

The Hon. R.I. LUCAS: But customers are just arriving.

The Hon. Carmel Zollo: So?

The Hon. R.I. LUCAS: So, what do you do? I think that it highlights the impossibility of having a sensible arrangement in relation to small home brothels in suburban areas. We have discussed the range of clauses and we continue to wrestle about amendments, etc. Those who support small home brothels are trying to draft a set of legislative clauses that will allow it but, the more you look at it, the more impossible it becomes in terms of trying to sensibly make provisions for home brothels.

You now have a set of circumstances where you have this conflict in respect of legislating to require children not to be in their home during certain hours. You have this difficulty that I have just highlighted and, if you go the other way, you have a set of circumstances whereby a prostitute may be able to argue that a reasonable excuse would allow them to take a child to work if the child was not feeling well and they could not adequately provide for the care and welfare of the child but had to go to work.

As I said, from my viewpoint this clause highlights the impossibility of trying to draft sensible legislative provisions for those who want to see small brothels. It is the devil and the deep blue sea in relation to this. My inclination, possibly, on balance, if we have to divide on it, is not to support the amendment. However, that is not because I necessarily oppose the intention of the Hon. Carmel Zollo: I would just be voting against the whole bill and probably the clause as well.

The Hon. T.G. ROBERTS: This clause highlights the dilemma that we have. We have circumstances whereby some people oppose the whole proposition of legalising prostitution in any form; we have people who support a proposition for large brothels and no home brothels; and we have another group of people who support small brothels and want to bring in some protective legislation that enables prostitutes to work from home. This clause, regardless of what either side says, highlights only what is already happening in the community now. In the community now—

The Hon. R.I. Lucas: It's illegal.

The Hon. T.G. ROBERTS: It is illegal, but it is happening, and there must be a recognition—

The Hon. Diana Laidlaw: There's more protection in this measure than what is going on out there now.

The Hon. T.G. ROBERTS: I would have thought so. This at least provides for a reason or excuse, and members mentioned the term 'reasonable excuse'. In the industrial awards that I serviced, it meant each according to your own needs and each according to what you thought 'reasonable' actually meant. To some people 'reasonable' was no overtime, and to other people, who were starting off a home and paying off a car, 'reasonable' was probably 20 or 25 hours a week over and above the hours they worked normally.

I would read 'reasonable excuse' as meaning people wanting the best of two worlds, that is, if they were carrying on a home-based operation, they would probably prefer to have their children off the site. However, there would be occasions in the development of a child's growth through the early years, probably to age three, where the circumstances in which those children find themselves would be no different from those of a home environment. It is only when they get older and when they start to understand what is happening and the circumstances in which they find themselves that it becomes difficult for legislators to legislate for it.

I suspect that by taking it out you would expose the people in the industry working from home to automatic prosecution, because they would not be able to find a way in which they could look after their children in a way that they felt was appropriate. Child care is not an option; to put children in child care each day would probably mean that they would have to work longer hours and take on more clients to pay for the—

Members interjecting:

The Hon. T.G. ROBERTS: There are the implications of added expenses for working prostitutes. I would think that, if we are to continue down this track, that is, to encourage the expansion of home-based prostitution, this clause should be supported. The word 'reasonable' allows us to give some leeway in the community without fear of prosecution.

The Hon. NICK XENOPHON: While I am very sympathetic to the intent of the Hon. Carmel Zollo's amendment, I share the concerns set out by the Hon. Angus Redford and the Treasurer. I think it shows the difficulties with respect to the drafting of this bill and what it is intended to achieve. I have a question for the minister: in terms of the effect of the term 'reasonable excuse', is the minister's advice that a consideration of whether or not there is reasonable excuse would be affected by whether the brothel was operating at the time or not operating, whether there has been a lapse of time, or the age of the child? We all are concerned about the welfare of the child. I am concerned about how it is foreshadowed that the term 'reasonable excuse' would operate in the context of this clause.

The Hon. DIANA LAIDLAW: The matter that the honourable member raises is pertinent and it would certainly have to be taken into account. When I was listening to the debate I wondered whether I should move this in amended form, anyway. Certainly, what the honourable member has just raised is what I intended as part of this exercise. It may be possible to move it in another way and simply say, 'A person must not—and that is the key word—permit a child to enter or remain in a brothel while it is being used for the purposes of prostitution.' I do not think any member or any parent or mother would wish the child there while it is being used for such purposes—although there may be exceptional circumstances. Because of the attitude of a number of members tonight, I do not plan to proceed in that way at this time.

The Hon. NICK XENOPHON: Can the minister clarify that she would be sympathetic to such an amendment? I think that that would allay a number of the concerns of members in terms of that caveat—in other words, whilst it is being used for the purpose of prostitution.

The Hon. DIANA LAIDLAW: As I said, I was thinking of moving it myself, but I was just thinking how futile it is to pursue the debate, because of the attitude of some members who have put their views on the record tonight, and that we might as well just go home now. But the honourable member has given me heart.

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: No, the honourable member has given me heart. If the honourable member wished to move an amendment in that form, he would certainly have my support.

The Hon. CARMEL ZOLLO: I think that members should reflect on one thing. As I have said before, I believe that the business of prostitution is not like any other business, and members may perhaps like to think about the fact that, in a legalised prostitution business, this clause could provide a loophole to increase child prostitution—that is my opinion. Perhaps members should reflect on that.

The committee divided on the amendment:

AYES (6)

Holloway, P.	Lawson, R. D.
Roberts, R. R.	Schaefer, C. V.
Sneath, R. K.	Zollo, C. (teller)

NOES (14)

Cameron, T. G.	Davis, L. H.
Dawkins, J. S. L.	Elliott, M. J.
Gilfillan, I.	Griffin, K. T.
Kanck, S. M.	Laidlaw, D. V. (teller)
Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Stefani, J. F.	Xenophon, N.

Majority of 8 for the noes.

Amendment thus negatived; clause passed.

Clause 19.

The Hon. P. HOLLOWAY: As the amendment I have on file is consequential on an earlier one that was defeated, I indicate that I will support the Hon. Angus Redford's amendment.

The Hon. A.J. REDFORD: I move:

Insert new clause as follows:

Powers of police officers

19. (1) For the purposes of the administration or enforcement of this act, the Development Act 1993 in so far as that act applies to a development involving the establishment or use of premises as a brothel, or an offence related to prostitution, a police officer may—

(a) if the officer has reasonable cause to suspect that premises are being, have been or are intended to be, used for the purposes of a sex business—at any time, enter and search the premises;

(b) require a person who has custody or control of books, documents or records—

(i) to produce or to provide a copy of the books, documents or records; or

(ii) to produce documents that reproduce in a readily understandable form information kept by computer, microfilm or other process;

(c) examine, copy and take extracts from any books, documents or records;

(d) take photographs, films or video or audio recordings;

(e) require any person to answer, to the best of that person's knowledge, information and belief, any relevant question (whether the question is put directly or through an interpreter).

(2) The power to enter and search premises under subsection (1) must not be exercised except with the consent of the occupier or on the authority of a warrant issued by a senior police officer.

(3) A person is not required to provide under subsection (1)—

(a) information that is privileged on the ground of legal professional privilege; or

(b) information that is relevant to proceedings that have been commenced under this act or for an offence related to prostitution; or

(c) information that would tend to incriminate the person who has the information of an offence; or

(d) personal information regarding the health of a person who does not consent to the disclosure of the information.

This amendment is consequential on the extensive debate we had on the definition clauses. In particular, I draw members' attention to the debate we had on the Hon. Paul Holloway's amendments to clause 3, which were lost, and my successful amendment to clause 3 which inserted the definition of 'senior police officer'. I see no reason to delay members by going through a lengthy debate in repetition of what we said earlier.

The Hon. K.T. GRIFFIN: I will not delay the committee on this matter. Although the Hon. Angus Redford says that this is consequential, it is an issue of considerable substance. This is the substantive provision which needs to be examined closely. I oppose the amendment, and I do so because it will give police quite extensive powers over a business which, under the scheme of this legislation, is proposed to be lawful. However much people might dislike prostitution, the fact is that if the bill passes it will become lawful. In those circumstances, although one can justify some greater restriction than other businesses by virtue of the fact that it is prostitution and not car repairs or a medical practice but is something which some people find morally distasteful, I think, with respect, it is hypocritical to be proposing that prostitution become lawful on the one hand but on the other hand endeavour to be so tough on it that it ceases to be able to be practised in a lawful way. It is a bit of sleight of hand. You cannot have it both ways, in my view.

Working on the basis that I have been working on consistently throughout the consideration of this bill, if prostitution is to become lawful in a variety of circumstances, there is just no justification at all to give police the wide powers proposed to be given by the Hon. Angus Redford's amendment. If we look at what is in the bill, we see that clause 19 provides:

(1) A police officer play enter and search premises if the officer has reasonable cause to suspect that—

(a) an offence related to prostitution is being or is about to be committed on the premises; or

(b) evidence of the commission of such an offence may be found on the premises; or

(c) evidence of proper grounds for a banning order may be found on the premises.

They are perfectly legitimate reasons to empower police to enter a lawful business. That is how police are currently empowered in respect of a whole range of other lawful activities. We give them power to enter and search premises on the basis of a warrant where they have reasonable cause to suspect that an offence is being committed. The Hon. Angus Redford's amendment provides:

(1) For the purposes of the administration or enforcement of this act, [or] the Development Act—

so we are going to have police enforcing the Development Act, and in so far as it relates to—

. . . the establishment or use of premises as a brothel, or an offence related to prostitution, a police officer may—

(a) if the officer has reasonable cause to suspect—

we are okay up to that point, but then we go on and qualify it—

that premises are being, have been or are intended to be used for the purposes of a sex business. . .

So, even if it is a lawful business, police will be empowered to enter. They will have wide powers to require a person who has custody or control of books to produce them and to produce documents. Police can examine them, take photographs and require a person to answer questions. The other aspect of this amendment, which I find equally offensive, is:

(2) The power to enter and search premises. . . must not be exercised except with the consent of the occupier or on the authority of a warrant issued by a senior police officer.

The bill currently provides for warrants to be issued by a magistrate. The police complain that sometimes it is a bit difficult to find magistrates after hours. I suggest that, whilst there is some cause for complaint on occasions, that is not a general complaint. It is improper, in my view, for senior officers to be given the authority to issue a warrant to enter premises—by force, if necessary—for the purposes of this legislation, particularly where the premises might be used for lawful business activities. So, there are some fundamental

differences between what is in the bill and what the Hon. Angus Redford proposes.

The powers given to the police in the bill, essentially, are no greater than police powers to investigate breaches of laws relating to the conduct of other kinds of businesses from which certain classes of people are excluded or whose range of services are prescribed by law. In fact, they do not need to be. When prostitution-related activities are prohibited by law, other illegal activities are often associated with them—such as drug trafficking, child pornography, child prostitution, sexual servitude and serious assault. It goes without saying that these activities may also be associated with illegal sex businesses under a law which allows sex businesses that comply with certain rules to operate lawfully.

However, all these associated activities may already be investigated, a point I made in the earlier debate on an earlier provision related to this. All these associated activities may already be investigated by using powers under other acts—the Controlled Substances Act in relation to drugs, or the Summary Offences Act—and if there is a problem with the powers available to police to investigate these associated activities—and no-one has made any suggestion that there is—then it should be addressed in the other acts and not in this act.

As I have already indicated, I think it is important to recognise that the Hon. Angus Redford's amendment would let police enter premises even when there is no cause to suspect that anything illegal has occurred. It entitles police to self-authorised entry and search of premises for no other reason than that it is reasonably suspected that the premises are, or even have been at some time in the past—remember, in the past—used as a sex business. It does not matter what they are used for now; if there is a reasonable suspicion that they have been used in the past as a sex business, entry may be gained.

The only conclusion that can be reached is that this clause will give police much wider powers than now exist under existing section 32 of the Summary Offences Act, because it allows police to break into premises and to break open things on the premises as well as to seize evidence and require people on the premises to answer any relevant question. It would allow these very wide powers to be exercised without a requirement for there to be any suspicion, reasonable or otherwise, that an offence is or is about to be committed or that there is any evidence of such offence or of grounds for a banning order on the premises.

It is important for everybody to recognise that, under this amendment, lawful sex businesses might expect a raid by the vice squad at any time, regardless of how law abiding the operator might be. So might an ordinary citizen whose home or premises are not being used for the purpose of the provision of sexual services. All the justification the police would need to forcibly enter a home is reasonable suspicion that at some time in the past or in the future the premises have been, are being or will be used for the purposes of a sex business. If the business is not a lawful business, that is a different matter, but we are talking about a regime where, if the bill passes, these businesses will be lawful. As I have said earlier, in those circumstances I do not agree that the powers of police should be widened to the extraordinary extent provided in the Hon. Angus Redford's amendment, and I vigorously oppose it.

The Hon. A.J. REDFORD: In response to the Attorney-General, I draw his attention to the rather extensive debate that is set out in *Hansard* on pages 1054 through to 1063, and I repeat those arguments. In fact, I think the Attorney-General expressed himself equally eloquently this time as he did on the previous occasion on which the vote to support this principle was 14 to 4 against and two pairs, making the vote 15 to 5. All I can say is that, if I need counsel for an appellate argument at some stage in the future, I am sure I will consider the Attorney-General if he is available to take briefs. The fact is that we have dealt with this.

The Hon. R.R. ROBERTS: Without harping back to the previous debate, I am supporting this at the moment because of the fact that we had the opportunity to resolve many of the issues that the Attorney-General has worried about with the amendments that were moved and lost by the Hon. Paul Holloway when he wanted to create two offences. I clearly remember that the Attorney-General opposed that proposition as well. The Hon. Angus Redford's amendment provides for a minor offence, which would have satisfied the provisions that you say should go through a warrant. I would have linked a 'serious offence' to previous discussions we have had about children in brothels where police were reasonably sure that child prostitution was taking place. It would seem to me that that would be a reasonable suspicion of a serious crime taking place, and this would satisfy that provision.

It seems to me that the Attorney is between the dog and the lamp post: whichever way he tries to go he will finish up wet, because he cannot have it both ways. I think that the Attorney's concerns about whether the police would go rushing into a legal brothel, or equally an illegal brothel, do not stand up to commonsense. They certainly do not stand up to some of the arguments that he has put persuasively in the past about why the police should have extended powers to enter and search in other areas. Indeed, fruit fly inspectors can go in and break the place down on much less suspicion of a crime having been committed.

We have been unsuccessful in determining a situation that would make it clear when the police thought there was a serious offence taking place, whether it be in the confines of a legal brothel or an illegal brothel—and I assure the Attorney-General that it is still possible for a serious offence to take place in a legal brothel, just as easily as it can take place in a legal brothel. Given the Attorney-General's persuasion on the last occasion when he helped to convince a number of swaying members of the proposition put by the Hon. Paul Holloway, he now finds himself hoist on his own petard.

I do not think that we have any alternative than to support the proposition of the Hon. Angus Redford, because it gives those police officers, who have been screaming for this for years, the reasonable tools to do the job that is expected of them by the general community. The Hon. Angus Redford's amendment goes some of the way towards the Hon. Paul Holloway's reasonable suggestion and some of the way towards satisfying the concerns expressed by the Attorney-General. This is one of those 'twixt and 'tween situations where, at the end of the day, I do not think either side of the argument will be satisfied. However, it is the best that we can arrive at on the day. In those circumstances, I support the amendments of the Hon. Angus Redford.

The Hon. K.T. GRIFFIN: The Hon. Ron Roberts misrepresents my position in relation to the Hon. Paul Holloway's amendments, which were to allow a police officer to enter and search premises without a warrant where a serious offence related to prostitution occurs. There are already provisions in the law and in the bill which enable the police, where there is a reasonable suspicion that such an

offence has occurred, is occurring or will occur, to enter premises with the aid of a warrant.

The Hon. Ron Roberts argues against his own case because, in every respect, he has been talking about those situations where there is a reasonable suspicion that an offence has occurred, is occurring or is about to occur. In those circumstances, I have no problem with the police having entree with the benefit of a warrant. What this amendment does now is remove the requirement for a reasonable suspicion that an offence has occurred, is occurring or will occur and, in relation to a lawful business, it gives entree on the authority of a senior police officer. The Hon. Ron Roberts argues against his own case.

The committee divided on the new clause:

AYES (9)

Dawkins, J. S. L.	Elliott, M. J.
Gilfillan, I.	Griffin, K. T. (teller)
Kanck, S. M.	Lawson, R. D.
Pickles, C. A.	Roberts, T. G.
Stefani, J. F.	

NOES (10)

Davis, L. H.	Holloway, P.
Laidlaw, D. V.	Lucas, R. I.
Redford, A. J. (teller)	Roberts, R. R
Schaefer, C. V.	Sneath, R. K.
Xenophon, N.	Zollo, C.

Majority of 1 for the noes.

New clause thus negatived.

Clause 20.

The Hon. A.J. REDFORD: I move:

Page 13—

Line 14—Leave out 'magistrate' and insert: senior police officer.

Line 22—Leave out 'magistrate' and insert: senior police officer.

Line 24—Leave out 'magistrate' and insert: senior police officer

In the two or three days of debate we have had, I have noted with some interest that certain members have changed their mind as a consequence of the Attorney's eloquent opposition on the last occasion. I do not wish to encourage the Attorney but he may well be encouraged by that.

The Hon. K.T. GRIFFIN: It is as a result of encouragement from the Hon. Mr Redford that I oppose his amendment. I think that it is quite exceptional to give to a senior police officer the power to issue a search warrant. I oppose it on the fundamental point of principle that the whole object of a magistrate's being involved in the issue of warrants to break forcibly into premises, to search premises, is to ensure that there is an independent authority who actually issues the warrant. I do not say that with any criticism of either existing or future police officers who might have to exercise this authority: it is a matter of principle.

Police officers themselves should welcome the fact that, although they might regard it on occasions as a hurdle to obtain a search warrant from a magistrate, it is a safeguard for them. Although complaints may be made from time to time that magistrates will not, in the middle of the night, happily issue warrants over the telephone, let me say that I do not think that very many applications are made in the middle of the night and, if they are made in the middle of the night, they must be for some exceptional reason. If initiatives are being planned for the purpose of raiding a premises, the raid does not ordinarily happen on the spur of the moment, but sometimes it does.

I do know that there is in place in the magistracy—or if there is not there soon will be—a roster system that will enable police, for this and other purposes requiring the approval of a magistrate, to gain access to a magistrate for the purpose of issuing warrants. I have a very strong view, as every member can gather, on what I regard as a fundamental issue of principle that magistrates should be issuing warrants and not police.

The Hon. A.J. REDFORD: I will respond because some people may not have access to the back issues of *Hansard* where we dealt with this issue on an earlier occasion. First, the power to issue a warrant to search has always been treated by the judiciary as one of those hybrid-type applications in which the judiciary freely acknowledges that—

The Hon. J.S.L. Dawkins: Hybrid?

The Hon. A.J. REDFORD: —yes; hybrid—it is not an exercise of judicial power per se, but an administrative function, just as their role in the courts is to conduct committal hearings, and the like. It is not technically a judicial function: it is an administrative function, always has been, always will be. Secondly, if the Attorney feels so strongly about it, I suggest that he introduces some legislation into this place and abolishes the general search warrant. There is no greater warrant with no greater power in existence in this country than the general search warrant that is possessed by senior police officers—

The Hon. K.T. Griffin: An accident of history.

The Hon. A.J. REDFORD: The Attorney says 'an accident of history', but the fact is that the Attorney has been around for a while and, if he feels so strongly about it, let us introduce a bill to deal with that and test the parliament. The fact is that there have been very rare abuses on the part of police in the issue and application of general search warrants. The police strongly and persistently defend the fact that they have access to those search warrants and that they are available. I have to say that, since I have been a member of parliament, I have never heard of any complaint on the part of anyone about the way in which the police use that general search warrant. As I said earlier, to my knowledge it is the widest and strongest warrant that exists in this country.

The third point I make is in relation to the Attorney's roster system. That may well be the case in so far as Adelaide is concerned but we all know that the magistracy, with the approval of the Courts Administration Authority, sends magistrates to country areas on a roster basis. I understand that it is the only roster that works successfully. I am not sure how the Attorney would envisage people getting warrants when magistrates are not in country areas on a consistent basis, understanding the lie of the land and, indeed, understanding the police officers who are making applications for such warrants. That is another issue I do not wish to pursue because it has been the subject of some political controversy since 1995.

So I go back to saying that it is an administrative power. General search warrants are already in existence and are used wisely and cautiously by the police. I see no reason why the police would behave in any other fashion in relation to this power than they currently do under the general search warrant.

The Hon. K.T. GRIFFIN: The issue of a warrant may well be an administrative function. It is not regarded by every judicial officer as an administrative function, but suppose it is so regarded. That does not really support the argument of the Hon. Mr Redford that police should be issuing warrants for police. Even if it is an administrative function there is a

safeguard for the community and for the police in having an independent judicial officer exercise a discretion to determine whether or not a warrant should be issued. It is one of the reasons why we have had two years of review of the listening devices amendment legislation, and that is to debate whether or not a Supreme Court judge, either with or without a public interest advocate, should be responsible for issuing warrants in relation to certain surveillance devices. So the argument in relation to this being an administrative function nevertheless does not justify the administrative function being exercised by police.

In relation to general search warrants, South Australia is the only state to have a general search warrant. Police are very conscious of the fact that they have to exercise their powers under general search warrants very carefully, because if they are abused there will undoubtedly be a move to get rid of them. I do not intend to bring a proposal to the parliament to get rid of general search warrants but that does not mean that, therefore, we ought to widen the range of opportunities for police to issue warrants which are akin to general search warrants. There is no justification at all for it.

In relation to the use of magistrates, again with respect to the Hon. Mr Redford, what he puts in relation to country magistrates is not pertinent to this issue because telephone applications can be made for warrants. Those telephone applications can be made whether you are in Adelaide or you are in the country, and the whole object of the roster system is to provide ready access to a magistrate from anywhere in the state for a police officer who wishes to have a warrant. It can be done by fax or electronically over the telephone, remembering that there are also provisions that relate, for example, to body searches and to the taking of forensic material under the Forensic Procedures Act, where the approval of a magistrate is required, particularly if it is an intrusive body search or if it is an intrusive examination and there is no consent from the person who is either being searched or from whom the forensic material is being taken. There are a number of other examples where telephone warrants can be obtained from anywhere in South Australia. The fact that magistrates do not reside in the country is not an issue that is relevant to this consideration. As I say, I vigorously oppose what is being proposed by the Hon. Mr Redford in relation to who should issue warrants.

The committee divided on the amendments:

AYES (11)

Davis, L. H.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Redford, A. J. (teller)
Roberts, R. R.	Schaefer, C. V.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

NOES (8)

Dawkins, J. S. L.	Elliott, M. J.
Gilfillan, I.	Griffin, K. T. (teller)
Kanck, S. M.	Pickles, C. A.
Roberts, T. G.	Stefani, J. F.

Majority of 3 for the ayes.

Amendments thus carried.

The Hon. A.J. REDFORD: I move:

Page 13, lines 31 to 33—Leave out subclause (6) and insert:

(6) The Commissioner of Police must ensure that a copy is kept of each warrant issued by a senior police officer, together with the affidavit verifying the grounds on which the application for the warrant was made.

Amendment carried; clause as amended passed.

Clause 21.

The Hon. A.J. REDFORD: I move:

Page 14, lines 4, 5, 7, 9, 10, 13, 17, 18 and 21—Leave out 'magistrate' wherever occurring and insert, in each case, 'senior police officer'.

The Hon. K.T. GRIFFIN: I again vigorously oppose this amendment.

Amendment carried; clause as amended passed.

Clause 22.

The Hon. DIANA LAIDLAW: I move:

Page 15, line 5—Leave out paragraph (a) and insert:

(a) prepare a notice in accordance with subsection (5); and

The amendment seeks to delete clause 22(4)(a), and specifically the words, 'prepare a notice in the prescribed form; and'. That provision relates to a police officer who is conducting a search, and the requirement is that he or she must, as soon as practicable after doing so, give the notice to the occupier of the premises, or leave it for the occupier in a prominent position on the premises. I am seeking to delete the words that this notice must be in a 'prescribed form' because subclause (5), which immediately follows, provides for what the notice must contain. So, the provision I seek to remove is really superfluous.

Amendment carried.

The Hon. A.J. REDFORD: I move:

Page 15, line 12—Leave out 'magistrate' and insert 'senior police officer'.

Amendment carried; clause as amended passed.

Clause 23.

The Hon. CAROLYN PICKLES: I oppose this clause, which seeks to set up a whole bureaucracy relating to a proposed prostitution, counselling and welfare fund. The state government presently funds the Sex Industry Network, which adequately provides assistance and services to prostitutes. The creation of such a fund and the bureaucracy necessary to support it would create a duplication of government resources.

If the parliament is intent on issuing or funding in this area, it may be more efficient to increase the funding to the Sex Industry Network. Government resources are presently available to prostitutes, as they are to other members of society who seek to overcome a drug, alcohol or sexual abuse problem as proposed by the fund, and there is no reason to single out prostitutes for special attention.

The Hon. DIANA LAIDLAW: I support the Hon. Ms Pickles.

Clause negatived.

Clauses 24 and 25 passed.

New clause 25A.

The Hon. P. HOLLOWAY: I move:

After clause 25—Insert:

Evidentiary aid relating to brothels

25A. If in proceedings under this Act—

(a) it is alleged that premises were at a specified time a brothel; and

(b) the evidence—

(i) establishes the commission of an act of prostitution on the premises at the specified time; and

(ii) leads to a reasonable inference that the premises were being used as a brothel at the specified time,

the premises will be presumed to have been a brothel at the specified time unless the defendant establishes the contrary.

This amendment inserts a new clause which is an evidentiary aid. My original intention in moving the amendment to the bill arose out of some correspondence I had from the Police Association. Its suggestion was that the definition of 'brothel'

should be a simple one; that is, a brothel means premises used for prostitution and, in proceedings for an offence under this act, premises which are used, or are apparently used, for the purpose of prostitution shall in the absence of proof to the contrary be deemed to be a brothel.

The rationale of the Police Association was that the definition of 'brothel' as currently contained within the bill will reinforce the current difficulty in policing the sex industry. The Police Association says:

> As currently drafted, this definition of brothel is easily avoided by the securing of short-term leases by illegal operators and relocating often so as to avoid the full effect of the legislation.
>
> Interestingly the Police Offences Act 1953 included a definition at section 27 which stated that—
>
> 'Section 27 Police Offences Act 1953
> Brothel means any premises:
> To which people of the opposite sexes resort for the purpose of prostitution;
> or
> Occupied or used by any woman or women for the purpose of prostitution.'

It notes that this definition was substantially more satisfactory (in spite of its genderist approach to the issue) in that it did not require proof of repeated use. That was the request from the Police Association.

Of course, one of the problems with that was that when we were looking at making such a change, it was pointed out that, if such an amendment were made, the distinction between a brothel and a place used by an escort agency would be lost. The definition would catch every hotel, motel, home residence and so on used in the course of the business of an escort agency. That is why I did not pursue it in that form. However, what we have here is an evidentiary aid that would at least make it easier for the policing of prostitution because, rather than having arguments in court over whether or not the premises was technically a brothel, the police would be able to go to the substance of the issue in relation to the commission of offences. I ask the committee to support my amendment because it will assist the police in trying to deal with policing this bill effectively.

The Hon. CARMEL ZOLLO: I indicate my support for the amendment.

The Hon. DIANA LAIDLAW: I oppose the amendment. The amendment operates as a deeming provision. It establishes a presumption that premises are being used as a brothel if a single act of prostitution can be established and there is a reasonable inference that premises were being used as a brothel unless evidence can be provided to the contrary.

This removes the presumption of innocence, and defendants must effectively disprove the existence of facts. This would bring about a great change to the criminal law for minor prosecution offences and would be a very prejudicial change in respect of the more serious offences where the defendant faces severe penalties upon conviction.

I should also point out that the definition of 'brothel' in clause 3 is 'systematic or regular use of the premises for prostitution'. This proposed amendment refers to only one act of prostitution, so it is essentially quite contradictory in terms of the measures that this place has passed defining prostitution. As the honourable member has proposed in his amendment, it follows that premises used by escort agencies could be deemed to be a brothel.

This may have implications for the planning regime, which requires planning approval for brothels. That was determined earlier in this debate for brothels of any size. For example, if one act of prostitution can be proved in a hotel room and the room (or others in the hotel) has been used as a brothel before, that would be enough to deem the premises as a brothel. I heard the Attorney interject when the honourable member was speaking, and he seemed to suggest that the police were making reference to archaic provisions in the law.

The Hon. K.T. Griffin: The old Police Offences Act.

The Hon. DIANA LAIDLAW: I think that is twice now that he has made suggestions that we could be doing something to reform that act; is that right?

The Hon. K.T. Griffin interjecting:

The Hon. DIANA LAIDLAW: The Attorney may wish to add more, but I would argue strongly against the measure. It is contradictory to the definition of 'brothel' and, in terms of deeming based on one brothel, it is also improper.

The Hon. P. HOLLOWAY: The current legislation as it relates to prostitution obviously does not work. I do not think that anyone would seriously suggest that the police, under current legislation, are able effectively to police prostitution—

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: —or brothels, or whatever. I do not want to go into the whole debate on what the current law covers and does not cover, but the fact is that, in general terms, I do not think that anyone would argue that the police are able effectively to use current legislation. That means that, if the police are to deal effectively with the problem of illegal brothels, which was the point I made early in the committee stage of this bill—and we will have them: we have them now and we will have them in the future—obviously, the legislation has to change.

It has to change in such a way that the police will be able to deal more effectively with the problem. Earlier I read out what the Police Association said. It represents the police officers who are at the front line of the debate. They are the ones who are actually responsible for policing the act; so, if they tell us that under the old act of the 1950s they were better able to deal with the problem than they can now, then it is a point of view that we must deal with.

Certainly, those who want to change the law and legalise prostitution would not want the police to be policing legal brothels. However, I would have thought that they would want us to police illegal brothels. If we want the police to deal with the problem, then they must have the powers to do it. That is a judgment for police officers. If members wish to oppose it, so be it, but all I would suggest is that, if we are to have a system of legalised prostitution, I would have thought that banning illegal brothels was an important part of it. If the police are going to do that, then they clearly need the powers to properly deal with the problem. That is the bottom line in this whole debate, that is, we are dealing with an issue that is very difficult to police.

I do not think anyone would pretend that dealing with prostitution, in either a legal sense or a social sense, is a particularly easy thing to do. After all, prostitution has been around our society for a long time. Maybe we do need more than just a legal approach to the problem. However, that is not what is before us at the moment. At this stage we are dealing purely with legal issues. If we are to deal with brothels, be they legal or illegal, we must ensure that the police have the teeth to do that. I think the evidentiary aid that I am moving is one means by which the police will be able more readily to handle the problem.

The Hon. K.T. GRIFFIN: The Hon. Paul Holloway is talking as though the powers which are in the existing law—while there is some suggestion they are not able to be used

effectively—should somehow or another be translated into this legislation and be given an added boost with this deeming provision which effectively will deal with a lawful business. I come back to the point I have consistently made, that is, this bill is about lawful businesses.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: Of course there will be. Your deeming provision deals with both legal and illegal businesses. As the Hon. Diana Laidlaw says—

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: What about the powers of entry? If someone says, 'You abused the powers of entry' and the police used the deeming provision to establish it is a brothel, then the powers have been used lawfully. It argues in a circle. Ultimately, as the Hon. Diana Laidlaw says, in any event this might have the effect of ultimately deeming a hotel to be a brothel when it is a hotel, pure and simple, although one room may have been used for the purpose of prostitution. I know we will recommit the bill whatever happens. There are a lot of significant aspects of it which are unsatisfactory in my view. If this gets through, ultimately we will have to recommit this, too. It is inconsistent and also inappropriate in the context of a lawful business.

The Hon. R.R. ROBERTS: I oppose the amendment proposed by the Hon. Paul Holloway. I think a couple of important considerations have to take place. Prostitution between consenting adults in private without causing offence has been not been illegal in this state since about 1978; so to use a 1953 law where any act of prostitution was, basically, illegal falls a little by the wayside. This deeming provision provides that one act of prostitution between consenting adults in private without causing offence—it could be in the person's home—can be deemed to be a brothel. As one person who has opposed the establishment of organised brothels, it may seem inconsistent to some that I would not support this proposition.

The other thing that needs to be remembered is that, when the Police Association made its submission to the Hon. Paul Holloway, the police did not have the powers extended to them that have now been extended to them by the amendments moved by the Hon. Angus Redford which give them many more tools than ever before.

If we are talking about policing acts of illegal prostitution, as opposed to those brothels which people propose to make legal, I oppose that but I accept their proposition. It also imposes unreasonable deeming on people who engage in an act in private without causing offence, which is legal now and which does not need the bona fides of the passing of this bill. Given all that, I think that this becomes a weapon for intimidation and unwarranted intrusion into what is an act between consenting adults in private.

If we are talking about a situation where illegal sexual activity is taking place, that would be handled under the Summary Offences Act or under some other act, and that ought to be the case. However, on this occasion, I am moving away from supporting the amendment proposed by the Hon. Paul Holloway for those reasons. It is a little like saying that, because you have your shoes on, you are guilty of dancing: it does not follow.

The Hon. P. HOLLOWAY: If we legalise prostitution, a place where that prostitution takes place will be, under the current definition, a brothel—unless, of course, the act of prostitution happens just once. If it happens just once, maybe it is not a brothel under this bill. But if it happens on a regular or systematic basis (which is, I think, the definition used in this bill), it becomes a brothel. If it is legally a brothel, no-one will be really interested in establishing in evidence whether or not it is a brothel. All we are interested in here as an evidentiary aid is: if it comes down to policing a matter where the question of the premises being a brothel is in dispute, providing an act of prostitution took place at that time, the police do not have to be concerned about proving whether or not the place is a brothel. Can the Attorney suggest a situation, because I cannot envisage one, where the question of a premises being a brothel is an issue when it has approval to operate?

Earlier when we were discussing clause 18, I think it was, we had a lengthy debate about the problems that would exist with the definition of a brothel. I think the Treasurer mentioned that, if the situation was that a child was living on the premises—if we had these small brothels where the prostitute had a child—we have this problem. It is a fundamental issue for those of us who are opposed to this legislation. We have great difficulty in terms of dealing with that issue. Given the problems that we are facing with the definition of a brothel—

The Hon. Ian Gilfillan interjecting:

The Hon. P. HOLLOWAY: I think I had better start again.

An honourable member interjecting:

The Hon. P. HOLLOWAY: It is late at night. The problem that we faced earlier was with the definition of a brothel in respect of whether or not a child should remain there. These are fundamental issues that will enter into this debate whenever these sorts of issues are raised. That is why I suggest that, if we have an evidentiary aid, at least in relation to questions where the police need to intervene, we dispose of that problem. But when it comes to legal brothels, I suggest that this will not be an issue, because, after all, the question about whether or not it is a brothel is not likely to be raised in any proceedings, as far as I can see. If anyone can suggest an example where that might be the case, I would like to hear it.

The Hon. SANDRA KANCK: The Hon. Paul Holloway earlier was suggesting that part of the reason he is doing this is to assist the police in their policing of the act. He was saying that, as things stand, it is very difficult for them. It is not only difficult, it is impossible. When the Social Development Committee heard evidence from Operation Patriot, which was the then name for the Vice Squad, I asked the police officers who presented evidence how much money they would need to stamp out prostitution in the state, and their response was that they could use the entire police budget and they would not be able to do so.

I do not know whether the Hon. Mr Holloway is being ingenious or whether he is being sold a pup by the police. He also made the comment that the police union represents those at the front line. I am really querying whether the police union does represent those at the front line. I am really querying whether or not they have consulted them. One police officer who had that dubious privilege of raiding brothels asked me, 'When will you guys do something about stopping this happening? We are wasting our time; we are not policing crime.'

The role of the union ought to be to protect its members. The only protection I can see that occurs here for police officers is that the police union is succeeding in creating more jobs for the police in this state, rather than having the existing police numbers that we have get out there and properly police crime. I will be opposing this measure, just as I opposed the

amendments to clauses 19 and 20, because that really is what I believe is behind them.

New clause negatived.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.24 p.m. the Council adjourned until Tuesday 1 May at 2.15 p.m.