LEGISLATIVE COUNCIL

Wednesday 28 November 2001

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K.T. Griffin)—

Capital Expenditure and Maintenance Deed—Port of Port Adelaide, Port Giles and Port Wallaroo
Port Leases—
Klein Point
Port Adelaide
Port Giles
Port Lincoln
Thevenard
Wallaroo
Probity Auditor's Final Report—Divestment of South Australian Ports Corporation 2001
South Australian Ports Business and Asset Sale Agreement—
Volume 1 of 3
Volume 2 of 3
Volume 3 of 3
South Australian Ports (Disposal of Maritime Assets) Act 2000 (SA)—
Ministerial Determination
Ministerial Direction
Tripartite Deed

By the Minister for Justice (Hon. K.T. Griffin)—

South Australian Country Fire Service—Report, 2000-2001

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

National Road Transport Commission—Report, 2000-2001.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the 35th report of the committee.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. L.H. DAVIS: I lay on the table the report of the committee on an inquiry into the Aboriginal Lands Trust, Coast Protection Board and Veterinary Surgeons Board and move:

That the report be printed.

Motion carried.

JOINT COMMITTEE ON IMPACT OF DAIRY DEREGULATION ON THE INDUSTRY IN SOUTH AUSTRALIA

The Hon. IAN GILFILLAN: I seek leave to move a motion without notice concerning the Joint Committee on Impact of Dairy Deregulation on the Industry in South Australia.

Leave granted.

The Hon. IAN GILFILLAN: I move:

That the members of the Council appointed to the Joint Committee on Impact of Dairy Deregulation on the Industry in South Australia have permission to meet during the sitting of the Council this day.

Motion carried.

WESTERN DOMICILIARY CARE SERVICE

The Hon. R.D. LAWSON (Minister for Disability Services): I seek leave to make a ministerial statement on the subject of the Western Domiciliary Care Service.

Leave granted.

The Hon. R.D. LAWSON: Yesterday in the House of Assembly the member for Elizabeth made a series of extravagant claims in relation to the Western Domiciliary Care Service. No-one should be surprised that these claims were raised by the Labor Party on a day when its former deputy leader, Ralph Clarke, announced his resignation from the Labor Party and embarrassed the party and Mike Rann. Indeed, it succeeded in having the Western Domiciliary Care Service on page 1 of the *Advertiser* rather than Ralph Clarke. These claims need to be put into the proper perspective. The parliament should be made aware of the full facts, which I intend to now outline.

The government views these allegations seriously. However, they are nowhere near as sensational as the member for Elizabeth sought to portray. Western Domiciliary Care Service is part of the North Western Adelaide Health Service and is responsible to the board of directors of the North Western Adelaide Health Service. That board is also responsible for the Queen Elizabeth Hospital and the Lyell McEwin hospital. Western Domiciliary Care presently employs 140 full-time equivalent staff in a range of disciplines, including specialist medical staff, social workers, physiotherapists and occupational therapists, paramedical aides, nurses and administrative officers. The organisation provides home and community based health and supportive care and rehabilitation services to frail elderly people and those with disabilities in the north-western metropolitan region of Adelaide.

Last financial year Western Domiciliary Care expended $8.6 million and was servicing 3 237 active clients as at 30 June 2001. In February 2001, two staff members of the Western Domiciliary Care Day Centre were investigated as a result of allegations made by a number of their colleagues. The allegations related to 'improper conduct' and 'improper use of property of the Crown'. The Australian Nursing Federation objected to the use of private investigators, and Mrs Mary Malone, an executive director at the Queen Elizabeth Hospital, and the Employee Ombudsman, Mr Gary Collis, took over the investigation. They found that the allegations were substantiated, and in April one employee was demoted and reassigned. The other employee resigned before the investigation was completed.

During the course of their investigations, Ms Malone and Mr Collis heard allegations of misappropriation of funds, fraud, misuse of motor vehicles, cronyism, nepotism and intimidation, and they recommended that these matters (which were outside their terms of reference) also be investigated. The board of the North Western Adelaide Health Service endorsed those recommendations and directed that the internal auditors, Ernst and Young, conduct a special audit of Western Domiciliary Care Service in order to ascertain whether there was any basis for the allegations of misappropriation. Ernst and Young completed their investigation and found no evidence of misappropriation or fraudulent conduct. They confirmed that there was 'insufficient evidence to proceed to taking the matter to the police'. The auditor did, however, identify a number of internal control deficiencies, and these were addressed.

The Chief Executive Officer commissioned an independent investigation by Mr Ian Dunn, an experienced officer within the Department of Human Services:

To conduct an independent investigation into allegations of misconduct by staff of the WDCS involving workplace bullying and intimidation, cronyism, nepotism and poor Human Resource management practices including undue pressure being applied to staff performing client visits, inappropriate staff contracts and poor performance management.

To conduct necessary interviews with staff from WDCS and any other person who can assist and review related documentation to establish the validity of any written and signed allegation brought forward by staff.

To provide for the Board of Directors of the North-West Adelaide Health Service a report of findings and recommend any actions considered necessary to address the findings. The report is to be supported by relevant statements signed by staff.

Staff of the Western Domiciliary Care Service were informed of the review on 31 August, and 29 staff requested to be interviewed by Mr Dunn, who also met with the Clinical Director, the Executive Director and the Deputy Executive Officer.

Mr Dunn also examined pay office records. His examination shows that 'some staff received payments above the approved classification of their substantive positions.' The documents approving those payments did not appear to comply with the relevant departmental requirements. Prima facie, these overpayments might be as high as 15 per cent over their duly authorised pay. Whilst this is a serious issue, it is a far cry from the sensational $2 million mentioned by the member for Elizabeth. Mr Dunn recommended that a thorough analysis of all higher duty payments be undertaken by an experienced officer, and this will be undertaken. Mr Dunn's findings, based on the staff interviews, led him to conclude that there were 'substantial inadequacies in human resource management practices at the Western Domiciliary Care Service'.

Mr Dunn's report is dated 18 October. It was a report to the board of the North Western Adelaide Health Service and not to the minister. It was considered by a subcommittee of the board on 24 November and again on 27 November—yesterday—when it was resolved to accept the recommendations. As a result of my examination of the report today, I have directed that the matters raised in it be referred forthwith to the Crown Solicitor for determination of what steps ought to be taken to resolve all outstanding issues. This will include the use of a government investigation officer, and I have requested the report by 7 December. In particular, I have requested the Crown Solicitor to advise whether there has been contravention of any law warranting a prosecution or civil action.

In conclusion, the following points should be noted. Contrary to the opposition claims, there was no allegation in the report of a $2 million misappropriation. Indeed, there is no mention of any amount at all, and the issues raised by the staff could not by any stretch of the imagination total that amount. The so-called allegation concerning the misappropriation of drugs is that a staff member was ordering Panadol and using it himself. This is typical of the sensational approach which the opposition has taken. The suggestion that a manager used a contract worker to clean a bird cage actually relates to three hours—a serious but hardly sensational matter. I should emphasise again that the report contains only allegations. They have not been responded to by the persons against whom they were made. I can assure the Council that these allegations will not be allowed to be swept under the carpet. However, there is no suggestion that the board is endeavouring to sidestep the issues; indeed, it is addressing them.

If any substantiated evidence of criminal activity is found, the Crown Solicitor will refer such evidence to the police. I have agreed that the department should assign a senior manager to assume the role of co-director of the Western Domiciliary Care Service to work with the organisation to address the management deficiencies raised in the report. I note that in the second to last line of the ministerial statement the word 'coordinator' appears; it should read 'co-director'.

QUESTION TIME

WESTERN DOMICILIARY CARE SERVICE

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Disability Services a question about the Western Domiciliary Care Service.

Leave granted.

The Hon. CAROLYN PICKLES: The minister has just made a ministerial statement on this issue and today he also made a statement to the media, but there are still some unanswered questions which I would like the minister to answer almost immediately if he can. Given that the written allegations made by a staff member in February this year included allegations detailing serial occasions of theft and misappropriation, will the minister explain his statement (reported today) that there is nothing in the material to suggest that police action is appropriate; does the minister agree that staff who were required to sign statements to the Dunn inquiry should be provided with all details of the report's findings and, if not, why not; and will the minister now release the Dunn report and, if not, why not?

The Hon. R.D. LAWSON (Minister for Disability Services): I do not propose to release the report prepared by Mr Dunn, which is an interim report containing allegations made by some 29 staff members. This is a report for the board of directors of the service, and it is really a work in progress. The honourable member says that certain action should have been taken in February in relation to occasions of, as she described it, theft. The allegations in February related to improper conduct and improper use of property of the Crown, as I mentioned in my ministerial statement. I think it is correct to say that the improper use of the property involved taking meals from a service home for domestic consumption rather than consumption by others. This is a serious matter, and it resulted in that particular staff member being disciplined and demoted. It also resulted, apparently, in one staff member against whom that allegation was made resigning from the service before the investigation was complete. That was the end of that matter, and it was dealt with appropriately.

If the authorities had thought at the time that these incidents warranted more severe disciplinary action or even prosecution, they would have taken that step. It was not recommended, as I gather, by the Employee Ombudsman or by Mrs Malone, who undertook the inquiry—and I believe that they acted appropriately in this matter. What occurred was that, in consequence of their investigations, they suggested that other matters be looked into—and those matters were looked into and are being pursued at the moment.

The honourable member said that those staff members who were required to sign statements containing their allegations should be provided with copies of the report or the

statements of all other persons. I do not believe that is the case. These allegations were made basically about inappropriate management practices. The Western Domiciliary Care Service required that the staff members who wanted to make those complaints should do so but that they should sign their statements. I think that was entirely appropriate. Once those statements had been signed and handed to Mr Dunn as the inquirer, it was entirely appropriate that they not be circulated further until the matter is concluded when a decision can be made as to whether or not the allegations are substantiated or whether they have been contradicted or disputed. The board will then be in a position to make appropriate decisions.

I have not sought to take this matter out of the hands of the board, which is continuing to act. However, the Crown Solicitor will be in a position to provide evidence on not only the best way forward but also whether there is, in his view, any evidence which discloses a contravention or possible contravention of any law warranting prosecution or civil action.

ABORIGINES, HEALTH

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question about Aboriginal health.

Leave granted.

The Hon. T.G. ROBERTS: On the ABC online news posted yesterday, Tuesday 27 November, under the headline, 'Baby born with alarming lead levels due to mother's petrol sniffing', an article states:

> A baby born at Alice Springs Hospital last week has been found to have more than five times the normal level of lead in its blood because its mother is a petrol sniffer. The baby was one of two newborns delivered at the hospital last week to mothers who are chronic petrol sniffers. One baby has confirmed lead poisoning and is receiving treatment, while doctors are still waiting for results on blood tests from the other baby. Paediatrician Gavin Wheaton says the lead passes from the mother to the baby across the placenta and poisoning can cause brain damage or developmental problems. Dr Wheaton says it is the first time there has been actual data that proves a mother's lead levels can be passed onto their babies. 'One of the issues with these babies was that their mothers were fairly severely affected by their petrol sniffing so a judgment was made that the infants were more likely to be affected than other babies.' He says so far the baby is not showing any signs of brain damage, but the long-term effects are not known.

The article confirms what all members in this Council, I think, are becoming increasingly aware of, that is, that the incidence of petrol sniffing and alcohol and drug abuse in the remote communities is reaching proportions where urgent action needs to be taken. In response to an article appearing in the *Australian's* magazine on Saturday, the government spokesperson's solution to the problem was to bring in a blue army of volunteers—consisting of cadets—to assist communities to restructure themselves, although I am not quite sure in which way. I do not think that the problem can be solved by taking Army Reserve volunteers into remote communities to deal with the myriad problems faced by the remote and regional communities.

I have been asking for an emergency meeting of commonwealth-state ministers and shadow ministers to discuss the issue and to take a snapshot of all of the problems faced by the remote communities across Australia, not just South Australia. In this case the article highlights the problems associated with dealing with one incident involved in the breakdown of the communities, that is, petrol sniffing by young pregnant women. The issue—

The PRESIDENT: Order! I did warn one honourable member yesterday that question time is not for debating an issue. The honourable member has leave to make an explanation. He should simply make his explanation before he asks his question.

The Hon. T.G. ROBERTS: Thank you, Mr President, for your guidance; I will get to the question shortly. The issue that we face, I think, is how we highlight the reality of the problems in the remote communities. It is quite clear that the situation faced by these communities is not getting into parliament or into the media accurately enough for solutions to be drawn. I think that we all need to work on this issue in a tripartisan way. My question to the minister is: will the government, as a matter of urgency, call for a commonwealth-state emergency meeting of ministers, shadow ministers and departmental heads across human services to discuss issues associated with the breakdown of many remote communities which is reflected in the alcohol and drug abuse and the petrol sniffing that we see brought before us today?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): My recollection is that, when he raised similar issues some two weeks ago, the honourable member called for a conference of aboriginal affairs ministers across Australia, and today it is a health ministers' conference.

The Hon. T.G. Roberts: Human services.

The Hon. DIANA LAIDLAW: A human services ministers' conference. I will pass on that suggestion to the honourable minister. In the meantime, the Minister for Aboriginal Affairs in South Australia (Hon. Dorothy Kotz) yesterday, I think, announced a task force to look at these important issues, and I trust that that will work with the coroner's proposed inquiry. Certainly it is important that these issues, which have been around for far too long and are far too destructive to individuals and communities, are addressed, whether by a human services ministers meeting, a health ministers meeting, an Aboriginal affairs ministers meeting, either in this state or across Australia, or by way of the coroner reporting, or a task force.

Something must be done urgently by way of Aboriginal communities taking a lead role to get on top of some of the destructive behaviours and engender respect for individuals within their communities. There are some big issues to deal with, including domestic violence—perhaps that arises from some of the issues relating to petrol sniffing or perhaps it is otherwise related, but there are some very destructive behaviours. Aboriginal communities, which have long wanted to be in control of their own affairs on their own land, in particular, must also accept some strong discipline within their communities and see that exercised, in my view.

Certainly, outside help can be provided, and in some forms it is; but to me, as Minister for the Status of Women, it is very distressing to see the lengths that women are required to go to in many instances to take leadership in their community. Often, this is contrary to traditional community behaviour, and it is a difficult role that they try to pursue. Certainly, I would like to see every opportunity given to them. But the men, in terms of their leadership as traditional leaders, must also exercise responsibility in this regard. Of course, other government agencies can and will support that leadership effort but certainly I will, in the meantime, pass on all of the honourable member's genuine concerns and the

avenues by which he is seeking to have these matters dealt with expeditiously and in the long term.

WESTERN DOMICILIARY CARE SERVICE

The Hon. P. HOLLOWAY: My question is directed to the Minister for Disability Services and follows the question asked by my colleague the Leader of the Opposition. Specifically, what allegations were investigated by Mr Dunn, given that two allegations raised in the House of Assembly yesterday concerned the engagement of contract staff without due process and a claim that a $10 000 bequest for a day centre at the domiciliary care service was converted to pay for the fit-out of an office; and what were the findings?

The Hon. R.D. LAWSON (Minister for Disability Services): First, they are allegations. Evidence has been collected by Mr Dunn: it has not yet been responded to by the management of the service. This is, as I said in answer to an earlier question, a work in progress. Mr Dunn took statements from the 29 staff members who requested to be interviewed and he has compiled that information. The allegations which were examined by Mr Dunn were, as I outlined in my ministerial statement, a series of generalised allegations which had been turned up by the Employee Ombudsman and Mrs Malone in their investigation into the matter concerning the two staff members of the day care centre.

The allegations to which the honourable member referred have been turned up, as I understand it, in that manner. I have only this morning read the report myself. I can assure the honourable member that allegations of that kind, which as I emphasise the government does take seriously, are being investigated and will be pursued if evidence exists.

DNA DATABASE

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question on the topic of DNA testing and databases.

Leave granted.

The Hon. A.J. REDFORD: It was extremely pleasing this morning to see in today's *Advertiser* a very positive article about what this government is doing in relation to crime and offences. In that respect, I draw members' attention to an article entitled 'How [cigarette butt] or [coke can] helped unravel mystery crimes'. The article goes on to say that police have linked suspects with 27 unsolved cases as a result of the convicted offenders' database. The article also states, 'Attorney-General Trevor Griffin has indicated he may consider amendments to the legislation next year,' and in that respect it refers to the DNA forensic legislation. I note in other places that the Attorney-General has indicated that he will be introducing amendments to the legislation either this year or next year. My question is: can the Attorney-General clarify what is the case in relation to this proposed legislation?

The Hon. K.T. GRIFFIN (Attorney-General): There has been a lot of hype about the DNA and forensic procedures over the last couple of weeks, largely contributed to by the shadow attorney-general, Mr Atkinson, who has made a very bold commitment, or so it appears from the media, to support any bill that the government puts up to deal with this issue. In some respects that might be regarded as blind faith but, nevertheless, it might also be shown to be quite cooperative and positive because, if he is proposing to support legislation unseen, I will take him up on other issues as well as on forensic procedures.

I suspect from the comments that he has been making publicly that he has been relying very much on the New South Wales legislation which has received some publicity over the last few days, particularly in relation to the testing of the prison population in New South Wales and under legislation which largely follows the model legislation adopted by the commonwealth and enacted by the commonwealth. If he is referring to the New South Wales legislation, he is obviously referring to the fact that prisoners who have been convicted at any time of offences which in this state we regard as major indictable—that is, where the legislation imposes a penalty of not less than five years, even though they may have only been sentenced to a much lesser period—then that is consistent with what is happening under the commonwealth legislation.

It is not universally agreed across Australia that that should be the threshold. There are some jurisdictions, like Queensland and the Northern Territory, which adopt a different approach. That is really one of the issues that is subject to consultation in South Australia: what is the threshold? Should it be the New South Wales threshold and the commonwealth threshold, to require prisoners and others to be tested for DNA, or should it be some lower threshold?

Whilst the article in the *Advertiser* this morning was positive and reflected factual information about the successes that are presently occurring in this state in relation to the use of DNA, the paragraph referred to by the Hon. Mr Redford that I as Attorney-General may consider the introduction of legislation really does not reflect an accurate position. I have made it clear publicly that there will be legislation. We were not able to get it ready in time to introduce it this week. But legislation will be produced publicly, and there will be an opportunity for public comment on it as well as an opportunity to test the resolve of the shadow attorney-general in the parliament.

It is important to recognise that this issue is potentially controversial because of issues about consent—not just the threshold, but issues of consent—and who should give the order to submit a forensic sample for DNA purposes if consent is not given. Under the commonwealth legislation, very largely that responsibility is given to magistrates. That is, of course, the model under which we presently operate in South Australia.

In this state forensic procedures legislation was enacted in 1998. We were among the first of the states and territories in Australia to enact what was then the model criminal code provisions relating to forensic procedures. That was before the commonwealth government announced its Crimtrac model which caused a quite radical re-think of the legislative framework within which DNA testing should occur within Australia.

As a result of work done by the Model Criminal Code Officers Committee, a model bill was published, I think last year, and that is the bill which in large part has been enacted at the commonwealth level and by New South Wales. Victoria has had a piece of legislation which has been amended over a period of time and which does not necessarily follow in every respect those model criminal code provisions. Western Australia, I understand, has only recently introduced some legislation. It does not have legislation which follows the model code at this stage. In fact, I am not sure that it even has legislation which deals with DNA.

In this state, it is important to recognise that already a number of profiles are on the database. About 180 new samples are presented to the Forensic Science Service each month. That has more than doubled since last year. Whilst last year there were 1 080 samples, this year there have been 2 160. The DNA section in the Forensic Science Service currently has 15 staff. The last state budget approved an increase of four staff. They are now on staff, and they have been trained. The total expenses this year are budgeted at about $2.15 million, with about $290 000 of that spent on the profiler plus test kits. They cost $3 000 a kit, and on average they do 100 tests. Of course, additional staff will be required as the work in relation to DNA expands.

I am told that one of the major difficulties with Crimtrac at the moment is that there is such a disparity between jurisdictions of the authority in respect of which DNA samples may be taken, and that issue is still to be resolved. I am told that the samples on the Crimtrac database at this stage are only those which have been taken by New South Wales.

Other states and territories are at different levels of preparedness for samples to go on the database. It is not correct to assert that South Australia is significantly lagging. Right around Australia there are different stages of progress in relation to DNA testing and the database, but I assure members that it will not be too long before we have a legislative framework to be considered by the community and the parliament.

SCHOOL ASSET MANAGEMENT PLANS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Education and Children's Services, a question about school asset management plans.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to future resource allocations for many South Australian public schools under the Partnerships 21 scheme. Under P21, public schools currently receive funding for buildings from two sources. The first is a dollar per square metre or per child formula that goes directly to maintenance for buildings. This formula differs only between primary and secondary schools. The second is an asset management plan. This plan identifies the objectives and management needs of a school. Based on this plan, money for maintenance is allocated to the school's P21 per capita funding, while money can be secured from the department for special projects.

It has been brought to my attention that there are a number of concerns with the current funding system. First, these funding arrangements do not take into account that the majority of public school buildings were not built with IT and new curriculum demands in mind. I am informed that this has resulted in a situation in some schools where they could not fit extra computers into classrooms, even if they had them. Secondly, these funding arrangements do not take into account that some basic needs must be met by all public schools. I am informed that small secondary and regional schools are struggling because of the combination of small student numbers, and the per capita formula means that not all curriculum areas can be provided, because the necessary classrooms cannot be maintained. Thirdly, these funding arrangements do not take into account the impact of programs outside the normal school curriculum. I have two examples of that.

The first has just been brought to my attention in relation to a federal Department for Education, Training and Youth Affairs plan to start a mobile child care service in the Mallee next year. That move has been welcomed in many Mallee communities, but they have expressed concern that many schools right at this moment are carrying out their asset management plans. This may involve the removal of buildings, because they are outside the funding formula. As a consequence, this mobile service that was proposed to be provided through school sites may not be possible, because the spaces simply are not there.

Another example of concern about programs relates to the North Adelaide Primary School, which first wrote to me and the minister in the middle of the year. My letter arrived in June. They had an out of hours school care program. Under the asset management plan being developed there, buildings on that site were to be removed. The school wished to retain a building sufficient for the out of hours school care program. If they were unable do so, the consequence would have been that every day they would have had to disassemble a facility that was used for music and reassemble it next morning to allow for the out of hours school care program. My questions are:

1. Does the minister acknowledge that, due to a range of reasons, including a reduction in class size—which is being proposed politically at this stage at least—and also the provision of services such as out of hours school care and the program I spoke about in the Mallee, space may be required above the formula available in schools?
2. Does the minister acknowledge that new curriculum with an IT focus as well as problems encountered by small secondary regional schools, often with old school buildings, mean that the per capita maintenance formula does not always work for them?
3. Will the minister reassure the Mallee community that any plans for the establishment and location of child care services in their area will be fully supported by the department through assistance with the school asset management plans? If not, why not?
4. What plan does the minister have to review the current funding formula to take into account the issues raised in my question?

The Hon. R.I. LUCAS (Treasurer): I am happy to refer the honourable member's question to the minister and bring back a reply. I would say at the outset that my experience is that on most occasions these things can be sensibly worked out by local communities and the education department public officers. Sometimes it does not always work out as might be desired, but on most occasions it can be worked out. The only other point I would make is that I am sure the Hon. Mr Elliott, who continues to raise his concerns about education and schooling in South Australia, would have been delighted that his fellow travellers, the left wing Evatt Foundation, ranked education—

An honourable member interjecting:

The Hon. R.I. LUCAS: —and the Hon. Terry Roberts—ranked education services in South Australia as No. 1 in the nation.

LABOR PARTY POLICY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government in the Council and the Treasurer, the Hon. Robert Lucas, a question about Labor policy.

Leave granted.

Members interjecting:

The Hon. L.H. DAVIS: That even attracted some amusement from members of the opposition, because they did not know that they had one. My attention was irresistibly drawn to page 2 of the *Sunday Mail* of 25 November, where there was a smiling photograph of the Leader of the Opposition, Mr Mike Rann, with a blur in the background. I think they were speeding cars, and perhaps one of them might have been Ralph Clarke. This article was headed 'Speeding fines to fight crime', an article by Rachel Hancock, and I quote directly from this article:

> Revenue from speeding fines will be spent on state roads and fighting crime under a special Labor fund. Under the initiative, a Labor Government would report annually to parliament details of where speeding revenue was spent—down to the last cent.

I stopped eating my cornflakes at that point—'down to the last cent'. The article then notes:

> Last financial year, nearly $43 million was collected from speeding fines alone. State Labor leader Mike Rann announced the Road and Community Safety Fund yesterday, claiming the public was tired of seeing money from speeding spent on fat cat bureaucrats and privatisation.

My question to the Treasurer is, first, did he have an opportunity to see this extraordinary article which, of course, did reveal a Labor Party policy, something which I am sure was seen as something of a novelty? But, more importantly, will the Treasurer advise the Council as to what the implications of this new Labor initiative might be in terms of the impact on other funding requirements in the state such as education and hospitals, given that, as I understand it, moneys raised from speeding fines goes into general revenue at this point?

The Hon. R.I. LUCAS (Treasurer): I must admit I was intrigued by the article in a number of respects, one of which was that there was no invitation to the government to comment on the Labor policy. It may well be that this is a new approach from the *Sunday Mail*, that when the government releases a policy it will not be seeking comment from the opposition or, indeed, anybody who might put a different point of view. We will watch with interest the *Sunday Mail's* approach to these issues.

The Hon. Mr Davis has highlighted this statement from Mike Rann. As we have indicated before, the Labor Party in South Australia is making the same mistake that Kim Beazley made federally, just whingeing and whining and opposing, and making themselves the politics of the small target, trying to just coast into victory without putting down any costed policies in relation to any issue. This was their first feeble attempt at putting any sort of costing on anything, that is, the Labor government would put $43 million from speeding fines into transport and into fighting crime.

The reality is that at the moment that $43 million is being spent on essential public services such as funding for schools and hospitals in South Australia. The first policy released by the Labor Party is that it will take $43 million out of essential public services such as funding hospitals and schools.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, what's the alternative?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: You aren't going to explain it?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says that he's not going to explain. That is because he is not able to explain it.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. Will you inform the leader of the government that he is not—

The Hon. L.H. Davis: Being fair to you?

The Hon. P. HOLLOWAY: No, that he should not pose questions knowing that we cannot answer them.

The PRESIDENT: Order! There is no point of order.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. R.I. LUCAS: I apologise profusely to the Deputy Leader of the Opposition. Imagine me asking whether the deputy leader could explain this policy (put out by the Leader of the Opposition) which says that they will spend an extra $43 million on fighting crime and on roads and that it will not have any impact on school and hospital funding in South Australia. I apologise profusely for asking the deputy leader to explain the policy. The simple fact is that the Hon. Mr Holloway cannot explain the policy because he does not understand it himself—and neither does the Leader of the Opposition. It was a cute way to get a headline in the *Sunday Mail*—a stunt to try to get a headline. When you ask whether the Leader of the Opposition or the Deputy Leader of the Opposition in the upper house (the shadow minister for finance) can explain how this policy will operate, of course they—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Well, that's probably true. The Hon. Mr Cameron is probably correct, but the sad reality is that all we are getting from opposition members is whingeing and whining, making themselves a small target, and every now and again they burst out with something like this which makes no sense at all. I challenge either the Leader of the Opposition or the shadow minister for finance, within the next two days, to get up in this Council without whingeing and whining and complaining that I am breaching standing orders and explain how an extra $43 million from speeding fine revenue will go into fighting crime and managing roads in South Australia without having any impact on schools and hospitals and other public services in South Australia. We will check tomorrow evening at 6 o'clock to see whether the Deputy Leader of the Opposition will get up in this chamber and explain this policy to the people of South Australia.

GREEN PHONE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Treasurer a question about Green Phone.

Leave granted.

The Hon. R.K. SNEATH: A number of questions has been asked in recent times about Green Phone, some by the Hon. Terry Roberts and some by the Hon. Angus Redford, but there have been very few answers. Judging from recent reports in the *Border Watch* of 22 and 23 November and the *Naracoorte Herald* of 16 November, it now looks like a collapse is not far away. According to a report in the *Naracoorte Herald*, Green Phone's debts as at 16 November were $4 million and rising. On 22 November, it was mentioned in the *Border Watch* that an attempt had been made to rescue some funds and that a decision to sink Green Phone Corporation into liquidation had been deferred for three weeks following a meeting of creditors.

On 23 November, the *Border Watch* also stated that, after the Mount Gambier branch of the Liberal Party hosted a meeting on 11 September 2000 where Mr Grant King, Mr David Hood and Mr Tony Brown gave a presentation about the benefits of Green Phone, the Mount Gambier branch of the Liberal Party issued an invitation to the Limestone Coast Redevelopment Board and the South-East Local Government Association to attend another meeting to explain the collapse of Green Phone. My understanding is that Mr King represents the South-East Economical Development Board and that Mr David Hood represents the South-East Local Government Association and has also stood for preselection for the Liberal Party on a number of occasions. I also understand that the federal government is now saying that it will not bail out Green Phone. My questions to the Treasurer are:

1. Was the Mount Gambier Liberal Party branch explaining the collapse of Green Phone to Mr King and Mr Hood or were Mr King and Mr Hood—who, I understand, recommended Green Phone in September 2000—explaining the collapse to the Mount Gambier branch of the Liberal Party?
2. Will the Treasurer update the Council on any rescue attempts for Green Phone or inform the Council whether Green Phone will go into liquidation and at what cost, and what effect will a rescue attempt or liquidation have on local councils, local ratepayers and businesses in the South-East?
3. Will an inquiry be conducted into the matter or does the Treasurer already know where the money has gone?

The Hon. R.I. LUCAS (Treasurer): Certainly, much better questions have been asked in this chamber by the Hons Mr Roberts and Mr Redford in relation to Green Phone. The first question is a relatively feeble attempt to involve the Mount Gambier Liberal Party branch in relation to all of this. All I have seen is a reference in the *Border Watch* newspaper to a meeting where the local representatives named by the Hon. Mr Sneath were evidently invited to, and perhaps did, attend a discussion. Anything more than that I do not know. The Liberal Party has a very active branch in Mount Gambier.

I am sure that if the Hon. Mr Sneath is interested he can contact the members of that branch and ask them what they said or what was said to them at that meeting. I have no ministerial responsibility for the operations of the Mount Gambier branch of the Liberal Party. In relation to the ongoing concerns of Green Phone, as I have indicated to other members, it is a matter of some concern. Officers from the Department of Industry and Trade, and other government departments and agencies, are working with those concerned to see what might eventuate as a result of the unfortunate circumstances that confront the South-East at the moment in relation to this venture.

Certainly, at my last briefing, no conclusion had been reached in relation to those particular discussions. In relation to the issue of an inquiry, the Hon. Mr Roberts asked me about that earlier. I am not convinced of the benefits of a Senate inquiry but, certainly, if at any stage the federal government does rule out providing additional funding (and the Hon. Mr Sneath claims that it has already made that decision) and that is confirmed, I think there would be some substance and I would be prepared to support sympathetically the notion that the federal government (as the chief funding agency in relation to this matter), through one of its agencies, ought to inquire into what has occurred to Green Phone.

As I understand it, some $2 million of federal government funding is tied up in this venture. I would have thought that a new minister—although it is now a re-elected federal Minister for Communications—would probably want to ensure that either an agency of his or officers of his would conduct an inquiry into what has eventuated in relation to Green Phone, hopefully, to assist in cleaning up the process down there but, more importantly, I hope, to ensure that, at some stage in the future, similar circumstances do not eventuate.

LABOR PARTY POLICY

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about revenue from speeding fines.

Leave granted.

The Hon. J.S.L. DAWKINS: My question relates to an article in the most recent issue of the *Sunday Mail* which detailed Labor Party proposals for speeding fine revenue to which my colleague the Hon. Legh Davis referred in his question earlier today. My understanding is that funding for state roads is derived from the dedicated Highways Fund. My question is: will the minister indicate whether the Leader of the Opposition's proposed road and community safety fund would be in conflict with the Highways Fund?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Certainly, there appears to be no regard taken by the Labor Party for the Highways Fund, and I found the Labor Party's joint press release of Mr Rann and the shadow minister, the Hon. Ms Pickles, particularly interesting reading. It is a pity she is not here at the moment, because she may be able to help us by explaining what the Labor Party means. They suggest that Labor will commit all speeding fine revenue to police and roads. It goes on to suggest that all $42.9 million of speeding fines would go to these purposes. It does not say what proportion of those funds will go to policing or to roads. I see that the RAA has already said that it should not go to general policing and crime purposes or to roads.

What is interesting—and it is perhaps not necessarily surprising—is that the investigative journalists have not taken this up with the Labor Party or put any heat on them to explain this policy. In one breath Mr Rann says that he wants to ensure that more money, it would appear, goes to roads and road safety programs, but he will not say what proportion of the fines and, in the next breath, he says:

> This initiative is not designed to raise more money from fines. I hope we get less money from speeding fines.

He goes on:

> Of course, everyone can avoid making a contribution to the proposed road and community safety fund altogether, simply by not speeding.

So, while he seems to be advocating that they do not need the money and, therefore—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Well, I am just saying that what is frightening is that he seems to be suggesting that they do not want money from speeding for any purpose across government, whether it be education or hospitals, and he is saying, 'We do not even want this money for roads or road safety programs. We are not sure whether we are going to get them if we can get people to stop speeding.' It is an inherently incoherent policy and certainly—

The Hon. T.G. Cameron: All style and no substance.

The Hon. DIANA LAIDLAW: Style but no substance is the Hon. Mr Cameron's analysis. My comment is that it is a policy with mirrors, suggesting that they give something but not providing any basis for the delivery of that policy. What is even more alarming is this Clayton promise of more money for roads and road safety programs but no reference to whether that means that the Highways Fund will be maintained at current levels of funding—and I should say that there is $15 million extra funding this financial year for road construction and maintenance purposes when you take out the issues of the Southern Expressway. We actually have $15 million more, of which an additional $7 million went into road safety programs this year.

Are they going to maintain the current funding level for the Highways Fund, which is the dedicated fund for road and road safety programs? Are they maintaining, within the Highways Fund appropriations, the money for road and road safety programs, or are they going to run them down and have a Clayton mirrors policy of putting in some additional funds for road safety and roads through speeding fines but saying, 'We actually do not want to collect revenue and people could avoid giving us money, anyway'? I think it is incoherent, deceptive and poor policy, and I think it begs an enormous number of questions.

I hope the Labor Party will have the decency to provide me, the RAA and motorists in general some further advice on this, and I pose these questions to the shadow minister: do you intend to retain the Highways Fund? Do you intend to retain the current levels of funding that this government is giving to roads, including increased funding this year? Will you maintain the increased funding allocations for road safety purposes that are in the budget this year? There is deathly silence opposite. I hope that, before the election, the shadow minister will come clean and have some integrity with the policy development process, not just a policy with mirrors.

WALLAROO HOSPITAL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, questions regarding the Wallaroo Hospital X-ray department.

Leave granted.

The Hon. T.G. CAMERON: I have been contacted by a constituent who is very upset that patients are forced to wait for more than two weeks to receive an X-ray at the Wallaroo Hospital. Mr Alby Brand of Wallaroo has been sent by his doctor to have an X-ray for kidney stones at the Wallaroo Hospital. Kidney stones can be not only a serious illness but also life-threatening. Even though Mr Brand is in excruciating pain, he has been told that he will have to wait 16 days before he can have an X-ray, because the hospital has only one doctor to do the X-rays one day per week, and that there is a waiting list of up to three weeks. The only alternative is to travel down to Adelaide, which is apparently what everybody is told to do in the country when they cannot get health care, to have the X-rays done there. There are no other X-ray facilities on the whole of Yorke Peninsula. This presents its own challenging problems for Mr Brand, who has a visual impairment.

X-ray facilities being available just one day per week for a catchment area the size of Yorke Peninsula is simply unacceptable, and urgent government action is required. Despite the fact that the Social Development Committee has handed down a report on country health, there has been very little action to date. One would have thought that the Minister for Human Services, representing a country seat on Fleurieu Peninsula, would have more empathy with some of the difficulties that country people are experiencing as they seek to get health care, which is a standard that we have taken for granted in this country. My questions are:

1. Considering the distance from Adelaide and the number of people who rely on this service, does the minister believe it is acceptable that the X-ray facilities at Wallaroo Hospital are available just one day per week, causing delays of up to three weeks?

2. Will the government, as a matter of urgency, investigate the current arrangements for X-ray facilities at the Wallaroo Hospital with the aim of increasing services as a matter of priority?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply.

NATIONAL HIGHWAY ONE

In reply to **Hon. R.R. ROBERTS** (31 October).

The Hon. DIANA LAIDLAW:

1. Transport SA has advised that the contract was let on 5 February 2001 and scheduled to be completed within 12 weeks. Weather and materials supply constraints delayed sealing of the lanes to mid June 2001.

The season had broken by then, with cool damp weather predominating, making it too risky to apply the final seal. In these unfavourable weather conditions, it is common engineering practice to apply a temporary primer seal to prevent water soaking into and softening the underlying pavement, and to allow traffic to use the overtaking lanes.

The contractor placed a temporary seal. However, within a few weeks, it became apparent that this seal would not hold as expected. To avoid serious damage, and hence major repair costs to the underlying pavement, a decision was made by Transport SA to keep the lanes closed over winter.

I am pleased to advise notwithstanding the wet spring weather, that the lanes are now sealed and open to traffic.

2. As mentioned in my reply on 31 October 2001, I have not interfered with Transport SA's contractual arrangements, nor would I entertain such a course of action.

In reply to **Hon. P. HOLLOWAY** (31 October).

The Hon. DIANA LAIDLAW: As a result of the decision by Transport SA and the contractor to close the lanes last July, the new road sections do not require replacing. The application of the final seal was all that was required, and this has now been completed. I am advised that provision for the temporary seal was included in the contract.

The contractor engaged by Transport SA has done a splendid job under the circumstances.

TALKING COUNTRY

In reply to **Hon. CAROLYN PICKLES** (1 November).

The Hon. DIANA LAIDLAW:

1. The community event *Talking Country* was withdrawn from the 2002 Festival program, prior to the program launch on 31 October 2001, when it was realised that the project budget could not be met by the project's partners—Country Arts SA and the Adelaide Festival. The event was cancelled for financial and not artistic reasons.

2. The costs of the development of the project were minimal. The investment on the part of the Adelaide Festival was in terms of time, not production expenditure. The project was cancelled before incurring any production expenditure.

ENERGY AUDIT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Minerals and Energy, a question

concerning the need for an energy audit of state government buildings, including Parliament House.

Leave granted.

The Hon. SANDRA KANCK: This week the World Solar Congress is meeting in Adelaide to discuss ways and means of generating greater amounts of energy from the sun. Developing sources of sustainable energy is only half the battle regarding energy consumption: conserving energy is the other half of the equation. This building, Parliament House, is a profligate user of energy. Lighting in the corridors is opulent. The number of corridor lights could be halved with no discernible impact upon safety or security. Parliament House's air-conditioning produces conditions ranging from balmy to chilling on the same day in different parts of the building.

The Hon. A.J. Redford: It's a bit like Melbourne weather, really.

The Hon. SANDRA KANCK: It is a bit, yes. That indicates an excessive reliance upon artificial temperature control. The use of photocopiers, computers and other electric appliances, which are often left on overnight and over the weekend, also needs to be assessed. The absence of dual flush toilets is another example of this building's waste of resources. The failure to recycle cardboard is another black mark on the operation of this building. The failure to minimise the use of resources in Parliament House—indeed, in any state government building—is a waste of taxpayers' money.

When I was the administrative officer of the conservation council back in 1992, I directed that all of the lights had to have the transparent covers removed, and we removed every second fluorescent globe. We had more light at the end and, in the process, we saved $600 per annum on electricity rates at the time as well as contributing a great deal to reducing greenhouse gases going into the atmosphere. An energy audit of our state government buildings is a way for this parliament to demonstrate commitment to meeting—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —South Australia's commitments under greenhouse gas protocols. My questions are: will the minister initiate an energy audit for Parliament House? If not, why not? Will the minister initiate a program to ensure all state government buildings are subject to energy audits? If not, why not?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the questions to my colleague in another place and bring back a reply.

SCHOOLS, TOP TEN

The Hon. CAROLINE SCHAEFER: I wish to ask a question of the Treasurer representing the Minister for Education. Does he have a list of the *Australian*'s top 10 schools in Australia? If so, what are they and what states are they from?

The Hon. R.I. LUCAS (Treasurer): I am happy to refer the member's question. I can say that I was delighted to see in the *Australian* yesterday that, of the 10 schools nominated by the *Australian*'s panel, five (or 50 per cent) are from South Australia. They include Mount Gambier High School—which I was delighted to see, it being a school that both the Hon. Mr Elliott and I attended—Salisbury High School, East Murray, Glenunga International and LeFevre.

I was delighted in particular in relation to Salisbury and Mount Gambier high schools. Back in the early 1990s, Salisbury was suffering significantly from its image in the local community. I pay credit to the local leadership of the school, in particular, Mr Turner and latterly Ms Helen Bethitis, the current principal, and the other leadership of the school. It became the state government's first enterprise high school in South Australia, incorporating vocational and enterprise education as key items of its curriculum. It is a credit to the staff, the leadership, parents and students of that school that they have turned it around to the extent that it is acknowledged in the top 10 list in the *Australian*.

I acknowledge all the schools, but I have a particular bias with respect to Mount Gambier High School. In the 1970s, it was a school of considerable reputation, not only in the South-East but in South Australia as well. Many of the teachers who taught in that school during that period went on to become principals of other schools throughout South Australia. I met them in my period as shadow minister and then as Minister for Education. I would have thought that between six and 10 of those staff at that time went on to become principals in schools throughout South Australia, which is testimony to the leadership capacity of the staff in the school at that time.

When I became minister in the early 1990s, the situation had been turned right around in Mount Gambier. The reputation of Grant High School had risen considerably as a result of the efforts of the school community, and Mount Gambier was struggling. Considerable efforts were made by the state government in terms of additional significant funding to the school. I pay tribute in particular to the local education department leadership and in particular the decision taken to appoint Mr Gary Costello as the principal of Mount Gambier High School, a person who had taken leadership of Grant High School during its reinvigoration period. He was made principal at Mount Gambier High School and he, together with the other staff and parents of the community, has turned it around with considerable assistance from the department and the government in terms of funding. It is not uncommon now to find examples where on a weekend Mr Costello and his staff have organised up to 200 volunteers, including parents and community representatives—

The Hon. T. Crothers: Is that the Abbott and Costello show?

The Hon. R.I. LUCAS: No, it is not the Abbott and Costello show: it is Mr Gary Costello. He has organised up to 200 members of the community in a working bee over a weekend to improve the operations and appearance of their school. I remember that as Treasurer I visited the school recently and he informed me that they had painted and maintained the majority of the school buildings for less than $10 000 in paint and other equipment they had had to purchase. The rest was being done through voluntary effort to maintain the magnificent external appearance of the school buildings to the local school community.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I am allowed to go on after question time. I am saying good things about schools here. I would like to congratulate Gary Costello, the other members of the leadership team at Mount Gambier High School, all the staff and particularly the commitment that was given by the Mount Gambier High School council. It gave a considerable commitment in concert with the leadership of the school. Together they have turned it around and, with the support of the students as well, Mount Gambier High School now is a

much different school from what it was some four or five years ago. Testimony to that is the fact that the enrolments—

The Hon. T.G. Roberts: A strong local member.

The Hon. R.I. LUCAS: I think that, with due respect, even the local member would say that he had little to do with the turn-around of the Mount Gambier High School. He might claim some credit for the TAFE college operation in Mount Gambier, but he certainly cannot claim credit for the turn-around of the school. With a number of these schools we have seen that strong leadership of school communities—something we have talked about before in the political context in this chamber—is the most important ingredient in turning around a school's fortunes.

The Principal of the Glenunga International School, Bob Knight, indicated that, in the latter days when Greg Crafter was Minister for Education, it was actively contemplated for closure, because its enrolments were down to fewer than 400. But, again, that community turned around the fortunes of its school and there are now, if not waiting lists, at least very full enrolments at that school. Again, the state government has played its role, because considerable funding has been provided to that school for improvements in school facilities and buildings.

I highlight those three. I could say similar things about Le Fevre and East Murray as well. East Murray is a particularly good example of a school community in the Murray-Mallee which has its own challenges and which has adapted its curriculum, program and circumstances to meet the needs of its local community. It is a tribute to public education in South Australia that, in that first list compiled by the *Australian* from its panel, five out of the 10 schools were government high schools and area schools in South Australia.

Sadly, when one listens to the opposition and the Australian Democrats in South Australia and, sadly, when one listens to the Australian Education Union, one never hears of the excellence of government schooling in South Australia when compared with other states and territories. In fact, the current President of the AEU is saying such things as that we had a once great school system, and I forget his exact words but, in essence, he says that we have now dropped away from the pace and are no longer at that level of acceptance of our government school system in South Australia.

I point to the *Australian* survey and a number of examples that the Minister for Education has been able to highlight in recent times regarding our performance in international science and maths testing and even the Evatt Foundation ranking that I referred to earlier—not that I would use it to judge what is correct in the states and territories of Australia. Nevertheless, for the Labor Party and Australian Democrats, one of their own think tanks has ranked South Australia No. 1 in education services in Australia. With that, I am happy to refer the honourable member's question to the minister and if he can offer anything more I will provide a further response. He may well think that my response has more than adequately covered the situation.

TAXIS, SECURITY CAMERAS

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a short ministerial statement on the subject of security cameras in taxis.

Leave granted.

The Hon. DIANA LAIDLAW: I wish to advise the Council that through the Passenger Transport Board an application has been received from the taxi industry asking for a short moratorium on the installation of security cameras in Adelaide taxis. The Passenger Transport Board has recommended to me today, and I have agreed, that over the next two months there will be a moratorium on the fitting of security cameras. Members will appreciate that all Adelaide taxis—some 900—are required to be fitted with security camera systems from 1 December. However, the taxi industry, which is responsible for overseeing the contracts and the fitting of these cameras, has advised that there are delays and has sought from the Passenger Transport Board agreement that any taxi driver who does not have a security surveillance camera fitted by 1 December will not be prosecuted between now and 1 February. The PTB has recommended that that be the case and I have agreed.

In the meantime, I urge the taxi industry to get on with it. In 1997, elected representatives of the taxi industry statewide looked at this whole issue of taxi driver safety and recommended a 1 per cent taxi safety levy to help taxi owners pay for safety improvements to their vehicles, including the fitting of security cameras. So, since 1997 a 1 per cent safety levy has been gathered by taxi drivers and owners. It is estimated that the average taxi would have earned $800 per year from the levy since 1997; if an operator had been in receipt of the levy for the full period this would have equated to over $3 200 per taxi. It is not before time that that sum of money was allocated to the purpose for which it is being levied, and that is security devices in taxis and, in particular, the security camera systems.

These camera systems are also important in relation to the amendments that the Attorney-General introduced and had passed through this Council earlier this week concerning people 'running' from taxis without paying their fare. With their passage through the House of Assembly, the amendments passed through the Legislative Council earlier this week will ensure that there will be new, higher penalties. But the penalties alone will not necessarily work unless we can catch these individuals. Certainly, the security cameras will help because, when a taxi driver has an uneasy feeling about the passenger they are taking, they can activate these cameras with an encrypted voice message downloaded by the police.

I believe that it will guarantee greater safety for taxi drivers and ensure that more taxi drivers who have longstanding service to the industry and a commitment to service overall will be able to remain in the industry if they feel safer, and certainly their families will be prepared for them to do so. It is very important that the taxi industry gets its act together fast and gets these cameras installed. It will help address the issue of taxi driver turnover in the industry and guarantee their safety far more effectively in the future. In the meantime, the pressure is on for the installation of security cameras in taxis, but there will be no prosecutions if they are not installed before 1 February.

MATTERS OF INTEREST

STEELE, Mrs J.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I refer to a ceremony to honour the first woman member of the House of Assembly, Mrs Joyce Steele, who

entered the parliament in 1959. We should also recall that, at the same time, Jessie Cooper also entered this place. So, two women came in in 1959 following the passage of legislation in 1894. Unfortunately it took a long time to get them here. I congratulate the government on choosing a very fine artist in Robert Hannaford to do this portrait. It is a beautiful portrait, and I urge all honourable members to look at it. I understand that it is in the House of Assembly sitting room. It will soon grace the walls of the House of Assembly, along with the two tapestries that also represent the achievements of women in parliament in this state.

Some people were discussing how we could hang this portrait, and it was suggested that we could either remove the portrait of one of the gentlemen presently hanging on the walls or perhaps adopt the way they are hanging them in the 19th century Art Gallery building where they are doubled up. We could start with Joyce Steele and leave a space for a lot of other women who might follow her and distinguish themselves in this state. That is an optimistic viewpoint.

It is pleasing to note that we can still celebrate across all parties the kind of achievements that women who went before us have made. I spent the weekend at an annual general meeting with women where it was brought up that women will have found their place in society when we no longer have to even mention the passing of something unique. I would hope that, even when that day does come, we will still manage to celebrate those who went first, because I think that back then it would have been a very difficult climate for any woman to enter parliament. Certainly, Jessie Cooper had a difficult road. I cannot exactly recall the details of the court case in which she was involved. However, I know it was particularly awful. I understand that she was considered not to be a natural person because she was a woman—an appalling state of affairs.

Quite frankly, I have heard rumours in the past about the two tapestries, and I know that for some time there has been some kind of a move to remove them, but I remind honourable members that the tapestries were woven in celebration of the Centenary of Women's Suffrage in 1994. They were a very generous donation by the Perry Trust, and Kay Lawrence was commissioned to do the two tapestries which hang in the House of Assembly. Kay Lawrence also has a tapestry hanging in the federal parliament, so it is a great honour that we have this wonderful artist. She has created tapestries that represent wonderful women of the past who achieved so much. Now we will have a portrait of Mrs Joyce Steele who was the first woman minister in any state parliament, and also interestingly in the war years (1940-42) she was the first woman announcer for the ABC in South Australia. So she obviously had a very interesting career.

I have also heard it said that it might be good to have a portrait of Jessie Cooper, and I would support that. However, we have rather strange rules in this chamber. Maybe we could find another place to hang a portrait of Jessie Cooper. It would be nice to honour the two women who achieved this amazing first in South Australia.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: And Anne Levy, the first woman President, is on the wall already. Then maybe one day we will see the first woman Premier.

AMBULANCE SERVICE

The Hon. IAN GILFILLAN: I express my profound concern at the Ambulance Service's not awarding to its volunteers the medallion recommended by the United Nations in this Year of the Volunteer. In my allotted time I will provide some background to this matter, and I hope that it urges the Ambulance Service to re-think its stance. I have been informed of the current feeling of disappointment by a person who wishes to remain anonymous. I quote from a letter, as follows:

> . . . hurt and anger among the volunteer ranks of the South Australian Ambulance Service (SAAS). As you are well aware, 2001 is the International Year of the Volunteer.
>
> In relation to the United Nations sanctioned medal for emergency service volunteers, the CFS, Correctional Services and SES have awarded their volunteers a medal whilst the SAAS is not. The decision not to award the SAAS volunteers was deliberated at the Country Ambulance Service Advisory Committee (CASAC) meeting held on 14 September. The committee made comment that the medals were too expensive and that an off the shelf IYV2001 lapel pin, coffee mug or pen may be a better option.
>
> The suggested options are an insult to the men and women that give their time to the community. I was also informed that some members of CASAC were against the medal owing to the green SAAS uniform, claiming that the ribbon cannot be worn on the service uniform and hence there is no point in awarding the medal.

I interrupt to indicate that these are trivial and demeaning reasons for not awarding the medal. The letter continues:

> Considering all of the above, CASAC did reconsider their decision and opted to give the volunteers an off the shelf 58¢ lapel pin in lieu of a medal. The option to award a lapel pin is once again an insult to the men and women that give their time to the community. . .

So, it is quite clear that those serving volunteers feel hurt and insulted, and I agree with them. When members wrote to the SA Ambulance Service, it brushed them off and said that CASAC—that is, the country service—had made that decision.

It is clear that CASAC represents volunteers who are often modest about awarding to themselves appropriate recognition. The zones are stunned at the failure of their organisation to recognise their service. In the *Bunyip* of Wednesday 24 October, an article headed 'Service medal veto under fire' referred to CASAC Chairman Rick Butler and stated:

> . . . the medals were deemed inappropriate because the SA Ambulance Service no longer had a dress uniform and its officers would have no opportunity to wear them. 'The decision was taken because we thought we'd investigate more appropriate options and we feel the whole Year of the Volunteer has become a bit out of hand'.

What a way for someone who represents the volunteers in one of our most valuable community services to deride this year of recognition for them! On first getting this information, I was stunned; I had no idea that this was the case. Yesterday, I wrote to the chairperson of the SA Ambulance Board expressing my deep concern and indicating that I was amazed that these people who had given so much to the public and trained so diligently were not to be honoured in this manner. I wanted to make sure that the board, which was sitting last night, got the message loud and clear. I indicated that I was sending a news release as well, in an attempt to get as much publicity as possible so that, as this year fast comes to a close, we could be reasonably confident that these men and women, who are on call and who provide a 24 hour a day service, in an area where there are no paid staff, get the proper recognition for their service to the community.

If one can look on the bright side, the efforts and the publicity have borne fruit, because I believe that there may be a change of heart, for which I would be very grateful. I want to put on the record, however, that I believe that all of my colleagues in this place—and, in fact, right throughout the

parliament—would be bitterly disappointed if ambulance volunteers were not able to be recognised with the official style of medallion recommended by the United Nations.

STATE ELECTION

The Hon. T. CROTHERS: I have been pitched in at short notice; however, I will use the opportunity which has been given to me to talk about the forthcoming state election with a little bit of reference to the past federal election. Regarding the forthcoming state election, I will refer to both major parties, because it seems to me that, as I witness events unfolding in front of me—particularly over the past seven months here—the Liberal Party in government and the Labor Party in opposition appear to have formed an unholy alliance to do nothing or to agree not to vote on anything that might be badly reported and, as such, damage them in the forthcoming election. Never mind about the people out there who are crying out for the justice that only this parliament can give them.

In the interests of pure politics, I put to members that the forthcoming state election has been stigmatised by what I have observed going on as some form of tacit agreement between the government and the Labor opposition. In fact, the only effective opposition in this Council now comes from the three Democrats, the independent poker machines man, the SA First independent and—modesty will not prevent me this time from saying—Independent Labour (spelt properly, as it ought to be, with a 'u'—in other words, putting 'you' back into Labour). Since the Americans came here in World War II and commenced to call the corner shop 'the deli' and to talk about 'labor', it is a wonder that we have not started saying 'tomayta'—although I have heard that pronunciation flaunted around from time to time.

I want to say to the state Labor Party—because I am still a Labor man at heart even though I had to resign from the party and, as such, really have no loyalty to the party after almost 50 years of membership—that the lesson that the Labor Party must learn comes from the federal election where the Labor Party was so sure of its position that it produced no policies. In fact, Howard ran on no policies, but he defeated them because he was seen to be the stronger, more pro-Australian leader. Such is not the case. I have known Kim Beazley for a long time. Perhaps he did not have the backbone that a leader needs. The present leader, Simon Crean, has such a backbone. Had I still been a member of the federal executive I would have voted for him as the leader of the Labor Party five or six years ago, as my friend the Hon. Mr Cameron would tell you.

It is important, therefore, for the state Labor Party to get its policies out. It cannot play the journalistic game of leadership making negative pronouncements on everything that this government has done. Let me say that it is my humble view that one of the better premiers that we have had during my time in this state was John Olsen. And let me say that, were Terry Cameron and I still eminent amongst the strategists in the Labor Party, we would have opposed the Labor factions (somewhat disoriented and somewhat perhaps less intellectually inclined as past leaders have been) and would not have got rid of John Olsen.

John Olsen could have been attacked with might and main by the Labor Party in this state at the forthcoming electoral fiesta. Instead of that, the Liberal Party has done the job and Olsen has resigned, the Liberal government has no blood on its hands, and it has put in a man called Kerin. The latest public opinion poll, which the leader has had in his office for seven days but has not released yet, shows that since Kerin assumed the leadership of the Liberal Party the Liberal vote has gone up from 45.5 per cent to 50 per cent and the Labor Party vote has gone down from 54.5 per cent to 50 per cent. It is too close to call—I rest my case.

SCOTT, Mr A.

The Hon. R.K. SNEATH: I take this opportunity to speak proudly about a great Australian and South Australian. This person has made a large contribution to Australia, South Australia and, in particular, the South-East. He is not always loved by all, mainly because of his straight shooting style and the fact that he does not pull any punches, as some people in politics, football, racing, business and the media would testify after being on the receiving end. His recent criticism of the Liberal Party would not endear him to some Liberals just now. However, over a period of time he has been critical of all political persuasions, and that clearly makes him a person who votes with the intention of supporting his business, his state and his country. This would be why he has come out in strong support of the Labor Party in recent times.

The great Australian of whom I speak is Allan Scott of Mount Gambier. Allan is well-known throughout Australia (and particularly South Australia) not only for his transport empire but also for his up-front opinions on the subjects of politics, business and current affairs.

Members interjecting:

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

The Hon. R.K. SNEATH: Allan was brought up by hard-working parents in South Australia's Angus River region and has continued to follow their example all his life. He started driving trucks whilst serving in the Australian Army and, by the age of 29, had bought his first truck. This was to be the start of a hugely successful business venture and, with a career spanning over 50 years, Allan has created Australia's biggest private transport empire. With a fleet of 500 trucks and depots Australia wide, his transport companies include the well-known Scott Transport Industries, Ascot Haulage, Ascot Freightlines, Hahns Haulage and Northern Territory Freight Services.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.K. SNEATH: Allan Scott is the Chairman and majority shareholder of Scott Corporation Limited, which, in turn, is the major shareholder of K&S Group Ltd. Based in Mount Gambier, K&S is the holding company for K&S Freighters Pty Ltd, which operates road, rail, parcel and express services to every state of Australia. This is a very successful South Australian venture turning over an average of $300 million per annum. The Scott group of companies consists of 51 private companies which cover not only widespread transport operations but pastoral operations, hotel properties, service station properties, fuel distribution, investments and media interests throughout Australia and New Zealand, and employs over 2 100 staff.

Apart from being a hugely successful businessman, Allan Scott is also a keen Port Power supporter whose substantial sponsorship has enabled the team to build its new sporting complex, which is rightly called Allan Scott Headquarters, at Alberton Park. Allan's sporting interests do not stop at football. He has 20 years of active service to the South Australian racing industry under his belt, he has served as

President and is a life member of the Mount Gambier Racing Club, and he has carried out a three-year term as Deputy President of the South Australian TAB Board. South Australians should be proud of one of their greatest business pioneers who has not relied on taxpayer assistance but got off his backside and done it himself.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.K. SNEATH: It is interesting the way in which government members are interjecting. Clearly, they have got their nose out of joint after Mr Scott came out and gave them a bagging, and I am sure that that is why they are interjecting and being quite derogatory about this great South Australian. When you meet this person face to face, you realise what a generous man he is and that he has a heart as big as his company. Most of his generosity to charities and the unfortunate remains very private indeed. Mr Allan Scott is a great success story and one of the great South Australians.

PLANE, Mr T.

The Hon. L.H. DAVIS: I wish to speak about Mr Terry Plane. I have just conducted an audit of Mr Terry Plane's *City Messenger* column. He has written 42 columns for 2001, 37 of them are pro ALP or have an anti-Liberal bias, just two have a pro Liberal or anti-Labor bias and three are neutral.

It is good to see, for the growing band of Plane watchers, that the extraordinary Plane bias continues. I urge all members and, indeed, professional journalists in South Australia to become Plane watchers because his columns are predictable, partisan and puerile. Let me give the chamber some examples.

The year started with some possibilities. The very first column is just one of the two in favour of the Liberal Party. He did a set piece on the fact that the Hon. Di Laidlaw was positive about cycling, and he rather liked that but, after that, it was all downhill. On 24 January he said:

> 99 per cent of the chatter about Mike Rann's leadership is generated by the Liberal Party.

On 14 February he bagged Ralph Clarke and said that there were three reasons why 'pineapples' Clarke should disappear, and he showed his clear Labor bias by saying:

> Affable barrister John Rau will contest the seat of Enfield.

On 14 March he said:

> People are sitting on their verandahs with baseball bats in their hand just waiting to belt the government. They want to know what Labor policies are, what a Rann government will do for South Australia and, from what they are telling me—

this impartial journalist says—

> they like what they hear.

On 21 March he talks about open wounds, festering sores. In April a headline reads:

> Wresting back control from the Emperor's Kremlin.
> Last weekend's convention of the SA branch of the Liberal Party was the first for eight years.

An absolute misconstruction of the reality of the structure of the organisation of the Liberal Party. On 23 May he states:

> The Emperor's mob released a document.

He further states:

> The current state government is the most corrupt government in this state in living memory.

A defamatory remark, surely. Of John Bannon and Premier Lynn Arnold, he said:

> None of those governments were less than competent.

I beg your pardon, Mr Plane? I beg your pardon? On 30 May he says:

> The Emperor's first act on assuming his stolen premiership was to grant a pay rise to teachers the state could not afford.

He could not even give a back-handed compliment properly. In that same article he says:

> It is arguable that this is the worst government South Australia has had in more than half a century.

Of course, we know that premiers Bannon and Arnold were most competent—losing just a lazy $4 billion with another $1 billion interest on top of that—$5 billion! On 6 June, Mr Plane says:

> The long face of (Treasurer Lucas) portrayed an inner fear that he would not be there after the next election.

On 25 July he goes to the celebrations for the Darwin-Alice Springs rail link, and says:

> On the train to Alice Springs for the ceremony I had the opportunity to sit down to dinner with Mike Rann.

Notice that there were no negative nicknames for Mike; and was it not just a coincidence? Would it have taken everyone by surprise that he actually sat down to dinner with Mike Rann? On 1 August, in his column he suggested that, if he were Graham Gunn:

> I would seek the services of a psychiatrist.

Again, he referred to a corrupt government. In all this time he has not fingered the Labor Party. Of course, we should remember that, on 15 August, Murray De Laine resigned in fairly dramatic fashion from the Labor Party. Was there a column on that? There was no column on that—what a surprise! It really was not a surprise to anyone. There we are. This is the same reporter who, in defence of the Labor Party's signing up 2 000 members in 1999, said:

> There is a bit of signing up going on. I frankly see it as reasonably legitimate with Labor. It is all part of the old left-right tug of war and they tend to keep each other honest.

This man is an extraordinary journalist. He really gives journalism a bad name, and I know that many other journalists feel the same as I do about this most biased and very average reporter named Terry Plane.

TIME ZONES

The Hon. CAROLINE SCHAEFER: I would like to speak, as I have on many occasions in this place, about the South Australian time zone. I was disappointed again to read in the press the intention of Business South Australia to push for South Australia to move to eastern standard time, and the suggestion that a line should be drawn through South Australia with Eyre Peninsula put on a different time zone to the rest of the state. To me this sends a clear message that Eyre Peninsula is of no importance to Business SA—this, in spite of the fact that Eyre Peninsula is by far our largest supplier of seafood, which is one of our most successful export stories.

Eyre Peninsula is also one of our major producers of grain, wool and meat, and I remind members that primary industries is still our major export earner. Eyre Peninsula and its adjoining pastoral company are the sites of some of our most exciting mining and exploration areas. Peter Vaughan would,

as I understand it, have our steel works in Whyalla and possibly the Olympic Dam mine all on a separate time zone from Adelaide on the premise that the eastern states are more important to our economy. I am sorry, but I beg to differ. I am amazed that, in an era of increased technology, Business SA cannot and/or does not communicate with other businesses, not just in the eastern states but all around the world 24 hours a day and seven days a week. In fact, I am sure that it does.

If, however, as Mr Vaughan seems to imply, we should move to one time zone, would it not be logical that that zone be through the middle of Australia, that is, through South Australia and the Northern Territory, not along the eastern seaboard? Some members may remember that in 1995 I chaired a select committee considering the economic and social implications of altering our time zone to 135° east, or to three equal one hour time zones across Australia. The people who served on that committee, from memory, were the Hon. Ron Roberts, the Hon. George Weatherill, the Hon. Angus Redford, the Hon. Sandra Kanck and me, and our recommendations were unanimous.

The Chamber of Commerce, as it was then, did not even bother to put a submission to our committee in spite of several approaches. It then condemned the report and said that its membership was opposed to our recommendations. However, several regional chambers indicated to me that its opinion had never been sought, and notably the Mount Gambier Chamber of Commerce supported the proposal in writing. The recommendations of the time zone select committee were, first, to adopt the standard time meridian of 135° east; and, secondly, to adopt daylight saving for the same period as normally prevails in South Australia for a trial period of not less than two years commencing at the beginning of a daylight saving period.

Any shift would need the cooperation of the Northern Territory to make the central part of the country a separate entity ready and willing to trade with Asia. This change would put us on the same time zone as Japan and Korea and, with the advent of the Adelaide-Darwin rail line, I believe this could be an advantage both for trading and for tourism. People could fly straight from Tokyo to either Darwin or Adelaide without having to change their watches. Perhaps it is time for a revisit of the findings of the select committee. I would urge Business SA and anyone else who has an interest to read the report carefully and to look at it with an open mind.

STATE/LOCAL GOVERNMENT PARTNERSHIPS FORUM

The Hon. J.S.L. DAWKINS: Over the past 12 months I have been pleased to be a member of the State/Local Government Partnerships Forum. This forum was established as the focal point for the State/Local Government Partnerships Program. Members of the forum, which is chaired by the Minister for Local Government (Hon. Dorothy Kotz), include Mrs Johanna McLuskey, Mayor of Port Adelaide Enfield and, of course, the President of the LGA; Mr Brian Hurn, Mayor of the Barossa Council and the immediate past President of the LGA; Mrs Joy Baluch, Mayor of Port Augusta; and the member for Waite in another place.

I am pleased to advise that the state government recently signed off on a memorandum of understanding and a statement of intent under the auspices of the partnerships program with two regional local government associations, paving the way for development of partnership agreements between the government and the two organisations. The agreements were signed with the Murray and Mallee and South-East local government associations at meetings which were held at Mannum and Naracoorte.

The regional partnership agreement will ultimately achieve improved cooperation, more effective working relationships and joint action via state government and councils within those regions to advance social, economic and environmental priorities. A negotiating team has been established to report back to the regions and to the government with a project plan that is to include the nature of the proposed activities. The two agreements are seen as pilots for a process that can be extended to other regions in due course. Importantly, the partnership agreement will assist our regional areas to build on an improved economic climate through a range of measures that will see improved conditions and ultimately deliver greater economic growth, job creation and improved community facilities and services.

Already initiatives such as the roads infrastructure database project, initiated by the partnerships forum, are providing real benefits for local communities. The database will assist councils, the state government and the Local Government Grants Commission in making funding decisions relating to expenditure on local roads. The project will also provide valuable road data to government for other purposes such as transport planning, development and related infrastructure needs.

Many areas of our state are experiencing rapid economic and employment growth, but the supply of adequate housing stock has not kept up with the demand. The regional work force accommodation study will help regional communities to find solutions to work force accommodation shortages. Under this project, best practice examples in which local government has taken a leadership role to develop work force housing in those areas where demand is outpacing supply are being explored. This will be followed up by identifying ways to attract private sector involvement, the style and type of work force accommodation options, and innovative solutions to overcome the impediments to regional economic and employment growth caused by insufficient housing.

This issue was one of the first raised with the Regional Development Issues Group which I chair. The study, which is being conducted as part of the program, has been supported by a number of country councils and a range of government agencies, including the Office of Regional Development, the Office of Local Government, and the Department of Premier and Cabinet. I am also pleased with other successes being seen across the state as a direct result of the partnerships program.

The government is committed to a series of major priorities for advancing the program at this stage, and they include the further development of principles agreement between the state and local government sectors and the further development of partnership projects on the ground, particularly at regional and local levels.

My work on the State/Local Government Partnerships Forum has also highlighted some of the existing examples of both levels of government working together well. One of these which readily comes to mind was the extraordinarily successful campaign against locusts last summer. This campaign featured excellent cooperation between PIRSA, the animal and plant control boards, and local councils, along with land-holders and private companies such as AusBulk.

I have also experienced the benefits of local government representation on the Regional Development Issues Group, and in the recently completed Regional Coordination Trial which was conducted in the Riverland.

LIGHT REGIONAL COUNCIL

Notice of Motion, Private Business, No. 1: Hon. A.J. Redford to move:

> That Regional Council of Light By-law No.3 concerning Streets and Roads, made on 21 August 2001 and laid on the Table of this Council on 25 September 2001, be disallowed.

The Hon. A.J. REDFORD: The council by letter dated 21 November 2001 indicated the following:

> That council undertakes further draft amendments to by-laws 3 and 4 to address the comments made by the Legislative Review Committee and that those amendments be as follows:
> By-law 3-2(6), 3(2) and the inclusion of 4; by-law 4-5(2) and the inclusion of 7. Further, that in accordance with its public consultation policy, council undertakes community consultation to allow for comment on the amendments made to by-laws 3 and 4 only.

In the light of that undertaking, the Legislative Review Committee recommends that no further action be taken in relation to this by-law or by-law No. 4. I seek leave to withdraw the motion.

Leave granted; motion withdrawn.

JOINT COMMITTEE ON TRANSPORT SAFETY

The Hon. A.J. REDFORD: I move:

> I. That, should the Joint Committee on Transport Safety complete its report on its enquiry into traffic calming schemes while the Houses are not sitting, the committee may present its report to the Presiding Officers of the Legislative Council and the House of Assembly, who are hereby authorised, upon presentation, to publish and distribute that report prior to the tabling of the report in both Houses; and
> II. That a message be sent to the House of Assembly requesting its concurrence.

I will not speak at length other than to say that I commend the motion to the council and look forward to unanimous support.

The Hon. CAROLYN PICKLES (Leader of the Opposition): The committee supported this motion unanimously. Therefore, I place that on the record.

Motion carried.

SELECT COMMITTEE ON WILD DOG ISSUES IN THE STATE OF SOUTH AUSTRALIA

The Hon. A.J. REDFORD: I move:

> That the final report of the select committee be noted.

It was with great pleasure that I yesterday tabled the final report of the Select Committee on Wild Dog Issues in the State of South Australia, and I know that there was a rush from all members to obtain a copy of the same. Since the interim report, the committee received correspondence from the Premier (Hon. Rob Kerin) indicating that the new processes concerning the Sheep Advisory Fund and the Dog Fence Board have been proceeding very well. The committee, in the absence of further submissions or responses, indicated that there is no further work to be done and, accordingly, concluded that appropriate action has been taken by the government, in part due to the focus on the issue applied by the select committee. I am sure that members of the committee will join me in congratulating the minister.

The Hon. P. HOLLOWAY: I endorse the final report of the committee, the reasons for which were adequately outlined by the Hon. Angus Redford.

Motion carried.

The Hon. DIANA LAIDLAW: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

STATUTORY AUTHORITIES REVIEW COMMITTEE: ABORIGINAL LAND TRUST, COAST PROTECTION BOARD AND VETERINARY SURGEONS BOARD

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

> That the Report of the Statutory Authorities Review Committee on an Inquiry into the Aboriginal Lands Trust, Coast Protection Board and Veterinary Surgeons Board be noted.

In presenting this 30th report of the Statutory Authorities Review Committee, I again commend members for their cooperative efforts and, in particular, pay tribute to the work of the research officer, Mr Gareth Hickery, and the committee secretary, Miss Tania Woodall, who has recently joined us.

This inquiry focused on the fact that over the past decades three particularly recalcitrant statutory authorities have been very slow in reporting: the Aboriginal Lands Trust, the Coast Protection Board and the Veterinary Surgeons Board all have very chequered reporting histories. Indeed, the Aboriginal Lands Trust record in annual reporting over the past 10 years has been absolutely abysmal. Two reports from the early 1990s could not be located; the report for 1995-96 was 17 months late; and the 1999-2000 report was tabled 15 months after the reporting period expired. By any standards, that is unacceptable.

These statutory authorities have budgets of large amounts—in the case of the Aboriginal Lands Trust the annual budget was a figure of $2 million annually in 1999-2000, and the board members are paid fees and travelling expenses, meeting quarterly. In this situation one would expect that the statutory authority should report with alacrity. The trust receives, holds, acquires, possesses and disposes of property. It negotiates minister's leases and is responsible for the integrity of each title. So, it has significant responsibilities, with six freehold titles to 64 land parcels (including reserves such as Yalata, Koonibba, Davenport, Point Pearce, Point McLeay and Gerard).

The Statutory Authority Review Committee took evidence and established that some of the reason, in part, for reporting being late was that there had been financial discrepancies requiring investigation in the case of the 1999-2000 annual report. Mr Graham Knill, who has recently been appointed the administrative officer of the trust—I think bringing some discipline and order into the administration—explained the delay as follows:

> A number of transactions were not supported by documentation. These were identified by the auditors in that investigation and the matter was then handed over to the police for an investigation, which is still proceeding. I believe a lot of the anomalies that the auditor discovered have subsequently been found to not be dishonest, deliberate or criminal activity, but would show some incompetence.

One of the dilemmas facing the government of the day is that there is a statutory authority at arm's length from the government, responsible for its own administration operations pursuant to its act and aware of its statutory duties. Its board members should, with the information available from government, be aware of their responsibilities and the importance of timeliness in reporting.

Yet for 10 years in a row, they have not reported. On two occasions that I have indicated, they did not report at all, or there is no report available to the committee, and on two other occasions they reported either 15 or 17 months after the end of the reporting period. The committee was disappointed to see that a significant statutory authority such as the Aboriginal Lands Trust had such a poor record.

The same can also be said for the Coast Protection Board, which again has a very important function. The Coast Protection Board has reported on time only once in the last nine years. The board did not satisfy the committee in terms of explaining why it had been so persistently late. Indeed, the 1998-99 report was made available to the committee, but the committee discovered that it had not been tabled in parliament until November 2001. That says something about procedures in the minister's office, the fact that a minister, hopefully, would have a system in place that would ensure that statutory authorities are reporting on time and, if not, they should be following through to make sure that they do report, albeit late. It was not until this was drawn to their attention by the committee that the board's report for 1998-99 was tabled.

The Hon. T. Crothers interjecting:

The Hon. L.H. DAVIS: You can talk about this, Trevor, if you want to. Again, the board has not complied with the requirements for the annual report for 2000-01. It has not been tabled within the reporting requirements of either the Coast Protection Act or the Public Sector Management Act, as I speak, although I understand from staff today that this report is not far away. Again, there was an attempt to explain why there had been some delays and, as the Hon. Trevor Crothers, who has been a lively and longstanding member of the Statutory Authorities Review Committee, explained in his interjection, there were changes in accounting which did perhaps justify some delay in their reporting in recent years.

The committee was impressed with the new presiding officer of the Coast Protection Board, Professor Ian Young, who was quite candid in his disappointment about the failure of the board to report on time, and he assured the committee that he would take steps to ensure that reporting in future would be within the provisions set down in the act. The committee also recognised that the Coast Protection Act has been subject to lengthy review by the Department for Environment and Heritage and, to the committee, that review seems to have been going on for perhaps rather too long, but that was not a matter that we pursued.

Finally, we noted that the Veterinary Surgeons Board had had some problems with tabling, particularly in the mid-1990s. The Veterinary Surgeons Board explained that, in at least one of the years, late tabling was due to the fact that there had been some fraudulent activity by one of the members of the staff. That matter had been addressed and the board now had reported on time for the last year. Again, I think that the committee was impressed with the quality of evidence given to it by the part-time executive officer.

There were some other issues that the committee examined in taking evidence from Mr Dick Edmonds, who complained about the board's structure and procedures. The committee took evidence from Mr Edmonds and also from the board and concluded that Mr Edmonds' complaints lacked substance. Whilst we were sympathetic to the issues raised by Mr Edmonds, we felt that the board was doing everything it could to address the issues raised by him.

Again, the Veterinary Surgeons Act is subject to review and some evidence was given to the committee that the board had not been given the opportunity to participate in the review. I think as a matter of practice it is important and basic for government to give statutory authorities the opportunity to participate, at least, and have some input into any revision of the legislation which governs that statutory authority.

The Hon. Diana Laidlaw: Do you mean that they are a member of the group assessing or that they want an opportunity to be heard or provide a submission?

The Hon. L.H. DAVIS: I am saying that, as the key stakeholders, the Veterinary Surgeons Board should have been consulted about any proposed amendments and changes to the Veterinary Surgeons Act.

The Hon. Diana Laidlaw: But not necessarily a member of the committee reviewing the act.

The Hon. L.H. DAVIS: No, I am not necessarily saying that. The problem from their point of view was that there had been a long running debate about complaints procedures and they have certain points of view which they would like to put, and they have felt that perhaps there has not been enough attention given to the views of the profession.

In conclusion, the committee believed that the Veterinary Surgeons Board was well administered. There were certain defects in the act, which had been under review for a certain time, and the committee felt that it was timely to review the legislation. There is no great weight to put to this observation of the Statutory Authorities Review Committee because we did not go into it in any detail, but we were persuaded on the evidence we heard that there was a reasonable case put by the board on this matter.

That was the final report for the year from the Statutory Authorities Review Committee. I think, again, it is a report deserving of attention, and, again, it underlines the efforts of the Statutory Authorities Review Committee to ensure greater effectiveness and efficiency of operation and more diligence and timeliness in providing annual reports which, of course, are of interest not only to the parliament but to the public as well.

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

POLITICAL PARTIES

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

That the Legislative Council expresses its disappointment at the continuing negative attitude of the Australian Labor Party and the Australian Democrats.

I move this motion with some conviction because it is apparent to me in the remaining weeks that I have as a member of parliament that this state can only go forward if there is a positive attitude from the legislators, on whatever side of the chamber they may sit. Over the last several years, I have become dismayed at the extraordinarily negative attitude of the major opposition parties, namely, the Australian Labor Party and the Australian Democrats.

When one looks at where we have come from in the last decade, we see a state that was on its knees from the extraordinary financial collapse of the early 1990s to a state which is much more prosperous, much more confident and much more certain of its future. My starting point is that the calamities of the State Bank, SGIC and timber operations in South Australia accounted for losses totalling $4 billion, interest flowing from those borrowings of $1 billion, making a total of $5 billion, which in fact was a sum greater than the total state budget of 1991-92. In other words, we wiped out

more in those losses than the whole state budget in a particular year.

When the state has a haemorrhage of that dimension, it takes enormous effort to recover. It means financial discipline and some pain on the part of both the government and of course the taxpayers of the state, and some unpopular decisions had to be made. It involved selling assets, which was a common feature of both federal and state Labor governments in the early 1990s. It involved cutting back expenditure and increasing taxation, and of course it meant that the government of the day—the Liberal government for the past eight years—has had some unpopularity associated with its decision making. But, when one sees the Labor opposition and the Australian Democrats in particular attacking every issue, irrespective of its merits, then I call, 'Enough is enough.'

I want to start by talking about privatisation, because Mike Rann, the Leader of the Opposition, has argued publicly over a period of time, with the support of his colleagues publicly, even though privately they might disagree, that his party is opposed to privatisation. Yet this was the very same politician who in January 1996 on Radio 5CK said that Labor 'supported the privatisation of the State Bank. We supported the privatisation of SGIC and the Pipelines Authority.' His natural modesty no doubt prevented his mentioning that the state Labor government in recent years also sold off its controlling interest in the South Australian Gas Company, Boral.

In what I thought was a very telling and interesting interjection, which really should be followed up, the Hon. Mr Terry Cameron claimed that the only way that the then Labor government of Premier John Bannon managed to persuade unionists and workers associated with the gas company that it should be privatised was to offer jobs on boards to the key union officials. I have not had a chance to check on the veracity of that claim, but I have no reason to disbelieve the truth of what the Hon. Terry Cameron said.

The Hon. R.K. Sneath interjecting:

The Hon. L.H. DAVIS: The Hon. Bob Sneath may well know the truth or otherwise. Mr Cameron as the State Secretary of the Labor Party at the time would be well placed to know what the truth was. Knowing the Hon. Mr Terry Cameron from his observations to the Council, I would suspect that what he has said is very close to the truth, if not the whole truth. The fact is that the Labor Party sold off the 82 per cent interest that the government had in the gas company—a listed company on the share market—for hundreds of millions of dollars. Frank Blevins, the federal member for Adelaide, Bob Catley and a whole range of other Labor identities publicly justified the sale of the shares in the gas company by saying it was done to reduce state debt.

It is worth noting that this was not done by motion of parliament or legislation as we did with ETSA: this was done with the stroke of a pen and a phone call to Boral. As I observed at the time eight or nine years ago—because it was done in two tranches—the price was ridiculously low, which did not surprise anyone, because the naivety of the Labor government in those days was there for all to see.

Of course, Mike Rann was a key player—a minister—in the Bannon government when the Hawke Keating federal Labor government went on a privatisation binge with the Commonwealth Bank, Qantas and the Commonwealth Serum Laboratories, and it was also ready and willing to sell off Telstra. We heard recently in the federal election campaign that telling admission by Kim Beazley the second time around (because he did not want to tell the truth the first time around) that he was actually present at a meeting with Paul Keating negotiating or talking about the possibility of privatising Telstra at the time when Paul Keating was Prime Minister.

Then we have had this continued negative campaign by the Labor Party and its leader, Mr Mike Rann, deliberately telling lies about the water issue. Mr Mike Rann continually says that water has been privatised in South Australia, but it has not been privatised. The state government still owns the assets and still sets the price of water.

The Hon. T.G. Cameron: We were instructed in the caucus to go out and say it had been privatised.

The Hon. L.H. DAVIS: The Hon. Terry Cameron tells me that Mr Mike Rann, the Leader of the Opposition, actually instructed Labor members to go out and tell lies about the nature of the leasing or outsourcing of the water assets in South Australia.

The Hon. T.G. Cameron: We were to use the word 'privatised'.

The Hon. L.H. DAVIS: The Hon. Terry Cameron says that Mr Rann told members of the caucus that they had to use the word 'privatise' even though they knew it was not true. The word they should have used was 'outsourced' or 'managed'. It is merely the management of the water and waste water that has been outsourced—it has not been privatised.

The Hon. Diana Laidlaw: Not the ownership.

The Hon. L.H. DAVIS: Not the ownership. This initiative cut the annual cost of water management from $50 million to $40 million and has created new jobs and new opportunities to suppliers in the water industry. That is another example of the negativity of the Labor party.

I want to move on to look at several areas where there has been obviously whining and whingeing about major projects. I want to consider the Australian Democrats particularly in dealing with this issue. In 1998 we had the debate on the Local Government (Memorial Drive Tennis Centre) Amendment Bill. Ian Gilfillan, who as we know is passionate about the preservation of the parklands, led off and made several speeches about it. On 24 March Mr Gilfillan said:

> The proposal is so blatantly commercial that it stuns me that it could be presented as a sporting athletics leisure entity.

Think about that; what does it mean? The Hon. Mr Gilfillan is so naive as to think that the only thing that can be done is to have a tennis stadium and leave it at that. Never mind that Memorial Drive has been used as the headquarters for tennis in South Australia; that it has been the venue for some famous and historic Davis Cup ties; and that it has had some wonderful tennis tournaments down through the years. Mr Gilfillan was objecting to the fact that this proposal was commercial. What does he mean by that? Does he mean by 'commercial' that it actually makes a profit? Does it become good only if it makes a loss? Is that the implication of what the honourable member is saying?

Mr Gilfillan talked about the scope of this proposed building, saying that it would be a two storey building with lounge, dining, kitchen, child minding and function rooms; club offices and concessions to be used by members (it does not define what the concessions are); squash courts, indoor and outdoor pools; fitness, health and beauty facilities; and undercroft car parking—as if there is something evil about all these functions. Then he said that the plans show that there was scope for a pool, as if that is something evil; never mind

the fact that there had been a pool there for many years. Again on 24 March 1998 the Hon. Ian Gilfillan said:

> It is tragic in our view that we are so glibly signing away a very significant part of the parklands in one of the most precious parts of any city in the world. . .

In rebuttal the Hon. Robert Lucas said that the land in question has been used for tennis for some 75 years. In very effectively rebutting the claims of Mr Gilfillan, the Hon. Robert Lucas said:

> This is not virgin parkland untouched by human beings.

Talking about when he was playing country tennis, he went on to say:

> When I first experienced the facilities 30 years ago they were substandard and they are certainly still substandard today.

Then the Hon. Robert Lucas said—and this goes to the heart of this motion:

> . . . the Democrats tried to stop this bill even being discussed and considered in Committee.

In other words, the Democrats tried to knock out this bill at the second reading. They tried to stop it at the second reading, which is almost unprecedented in terms of allowing debate. Then the Hon. Ian Gilfillan said that he would ideally support the removal of the facility from Memorial Drive, as the Hon. Robert Lucas observed:

> Yes, the Democrats would support the removal of the Memorial Drive facility from the parklands completely.

Then the Hon. Mike Elliott got into the act. He said:

> I understand that the centre will include hair salons, restaurants, swimming pools—

Then the Hon. Mike Elliott said:

> In this case, a particular white shoe brigade has arrived and persuaded the government to allow it to come onto the parklands to run a commercial operation.

The emotive words—the connotation of a white shoe brigade coming in, cleaning up in the parklands, doing something evil and wicked, having amenities which people demand! How bizarre!

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: It is. Mr Mike Elliott said:

> . . . there was general consensus about in South Australia . . . that we wanted the parklands not to be commercial operations.

That is what Mike Elliott says. The Hon. Robert Lucas, arguing against Mr Elliott in committee, said:

> The Hon. Mr Elliott railed against swimming pools down at Memorial Drive. There has been a swimming pool at Memorial Drive for 30 years, I am told, which tennis players from Port Pirie, Port Augusta and Mount Gambier have enjoyed after a hot day contesting the country carnivals on the facilities provided.

Still on 26 March 1998, the Hon. Ian Gilfillan, who was the lead speaker for the Democrats, said this:

> The buildings which I certainly would not object to seeing removed from their site are the current Memorial Drive Tennis Club facilities. They are not particularly attractive buildings, so I do not see any objection to them being removed.

Further he said:

> If those players need to go a couple of kilometres to play their game of squash, to have dinner, to go to a beauty parlour or to swim in a pool, I do not see that it will be of any significance as to the holding or otherwise of major tournaments at Memorial Drive.

In other words, there is the Hon. Ian Gilfillan talking about the capital city of South Australia, saying, 'Okay, you can have a 64-draw tournament with some of the top players in the world.' However, if they want to go for a swim afterwards, or go to dinner or a beauty parlour, his attitude is, 'I don't care if they have to go two kilometres away from Memorial Drive to somewhere else, because I don't believe it is appropriate for those facilities to be there.' How bizarre is that?

I have spent some time developing that point, and I must say that I have not done it without reason. The reason is that the Hon. Mike Elliott, who specifically attacked the Next Generation leisure centre, along with his colleague the Hon. Ian Gilfillan, has something to answer for in this chamber. In 1998, that facility had not been built. Anyone who drives down Memorial Drive now, past the wonderful Bradman Stand, which is one of the most delightful pieces of architecture built in Adelaide in the last 20 or 30 years, and then comes across the new development at Memorial Drive would have to say that it is very appropriate and that it is done in a very stylish fashion, sympathetic to its environment.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: Exactly! As the Hon. Terry Cameron said, it is so much part of the scenery that you are not really aware that it is there. It is an addition that looks as though it has always been there, which is the real test. What I want to say very publicly in this place today is that the Hon. Mike Elliott and the Australian Democrats stand condemned for the hypocrites they are. In 1998 and in later contributions, as recently as last year I believe, the Hon. Mike Elliott is on the record attacking the Next Generation leisure centre. Of course, the Hon. Ian Gilfillan went even further and argued that the new leisure centre should not be there at all, and the Hon. Mike Elliott was of the same view. Who now is a member of the Next Generation leisure centre? Who goes on the treadmill at the Next Generation centre? Who goes swimming at the Next Generation centre? Who is it? It is none other than the Hon. Michael Elliott. What hypocrisy is this?

The Hon. Mike Elliott said the centre was a violent attack on the sanctity of the parklands. He could not believe that the government would dare introduce what he called the white shoe brigade to mastermind this development. The same Hon. Mike Elliott who stood up in this Council and publicly railed against the Next Generation centre is revealed to be a member of the very development that he condemned as having been developed by the white shoe brigade. I do not know what the Hon. Ian Gilfillan thinks about that. If it was someone else, the Hon. Ian Gilfillan would be standing up saying, 'That's hypocritical; that's shameful. He should apologise.' I call on the Hon. Mike Elliott to stand up in this chamber and apologise for the hypocrisy and the deceit that goes hand in hand with the contribution he made in this debate and for his ongoing sniping at the centre, all the while being a member of the very development that he condemned so publicly.

The Hon. A.J. Redford: Are you sure you're right? Are you sure he is a member?

The Hon. L.H. DAVIS: My sources are pretty good. If he is not a member, he certainly goes there regularly.

An honourable member interjecting:

The Hon. L.H. DAVIS: I don't know about the Hon. Ian Gilfillan; he can speak for himself. I think he just jogs through the parklands and destroys the native grasses. I think that is what he does. I offer the following quote to show the level of this hypocrisy. As recently as 4 July 2000, in relation to the Le Mans car racing bill, the Hon. Mike Elliott said:

> We have the wine centre, which is not only a wine centre because it also incorporates offices; a tennis centre, which is not just a tennis centre because it also has physiotherapists, masseurs, and a laser clinic (which advertises in the local papers) and it was supposed to

be only a minor adjunct to Memorial Drive; and now we have what is becoming a permanent street circuit in the east parklands.

If you are on a treadmill or you are swimming it is all right. However, if you go to a physiotherapist at Memorial Drive—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: —it is not all right. I turn now to the lights of Adelaide Oval, because this is another example of the whingeing and whining Australian Democrats in action—the negative attitude of the Australian Democrats paraded for all to see. Appropriately, the Hon. Ian Gilfillan steps into the spotlight for this, because he has rabbited on about the need for retractable lights at Adelaide Oval. He is on record as saying in public that we should have retractable lights. We all know that the Labor candidate for Adelaide, when she was a councillor for the Adelaide City Council, made it known very strongly that the lights at Adelaide Oval had to be retractable if they were going to get a tick from the Adelaide City Council. In what was a world first, little old Adelaide tried to get retractable lights. No other sporting complex in the world had retractable lights at that time. A lazy $25 million later they decided it was not a good idea, because there had been some engineering difficulties leading to the collapse of the lights and very nearly a fatality.

The Hon. T.G. Cameron: And who footed the bill?

The Hon. L.H. DAVIS: Exactly! I will leave that for another day. The South Australian Cricket Association administration quite correctly decided that enough was enough, that it would not go on with the attempt to develop retractable lights. There was litigation, which I will not debate in this chamber, and also there was the matter of time. I do not think that the Hon. Ian Gilfillan is a member of SACA, so he may not be aware that cricket is played at Adelaide Oval; and in fact, on the international sporting arena, competition for the prestigious test cricket and one day matches is very much something which is under review. Adelaide was the only capital city on mainland Australia which did not have lights. So it did not have the ability to have day/night matches which have been a feature of one-day cricket in Australia, involving international teams.

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: Ron Roberts is being clever again—

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Ron Roberts is trying to be clever. Ron Roberts would not know too much, so let me tell him something. The one-day matches—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: Let me educate him. The one-day cricket matches in Australia finance, underpin and underwrite cricket administration, management and promotion in Australia. The big money is in one-day cricket. That is when the crowds come, rather than test cricket. South Australia traditionally has had two one-day cricket matches, and it became obvious that it had to have day/night cricket if it was going to remain on the calendar. Adelaide Oval administration was told that and, as a result, moved to install lights. Of course, it is not only for cricket, as the Hon. Ron Roberts might admit, but night football is becoming increasingly popular. As I understand it, you actually have to have lights on to play night football. Adelaide Oval has been a very popular venue for Friday night matches for the South Australian National Football League.

So SACA had to press on and fix the lights. Of course, the Hon. Ian Gilfillan was right in there saying, 'They must not be fixed; they must be retractable.' I do not know where the money comes from. It must be one of those magic puddings that the Australian Democrats have in their backyard. But it again illustrates the naivety, stupidity and negativity of the Australian Democrats when he rails on about the fact that the lights should be retractable.

Next I want to move on to the Botanic Gardens and State Herbarium. The Democrats again attacked the notion of a rose garden and the notion of a wine centre. They had been on record in 1988 attacking the Bicentennial Tropical Conservatory in the grounds of the Botanic Gardens. They argued that this was not an appropriate site for the National Wine Centre—it should have been somewhere else.

It again shows the naivety of the Australian Democrats. They do not understand how tourism can be made to succeed, that all of the evidence about successful tourism is to gather popular venues together to bring people into a precinct, such as North Terrace, with the Art Gallery, the Museum, the Migration Museum, and the Library next to each other. That is something which Adelaide does so well along North Terrace. By adding a wine centre and a rose garden to the existing tropical conservatory, the Botanic Gardens and the nearby Adelaide Zoo, you have really added a brand-new precinct which has a lot of weight for not only local visitors but also national and international visitors.

The Hon. T.G. Cameron: Now we just have to get people to go to it!

The Hon. L.H. DAVIS: Exactly. The Hon. Ian Gilfillan in debate on the Botanic Gardens and State Herbarium motion, on 29 November 2000, objected to the fact that the rose garden was fenced off from access by the public. He said that we have roses in the east parklands that are not fenced off, so why should the rose garden be fenced off? For this very good reason: if you have a rose garden which boasts expensive and the best species from around the world, if you have a garden anywhere in the world which is internationally rated, you find them generally fenced off.

I do not think Mr Gilfillan could cite one garden in the world (which is regarded as top rated) which is not fenced off from the public. It must be protected so that people do not take to it. It is quite proper for it to be fenced off just as it is quite proper that the Botanic Gardens is fenced off. Why is the Botanic Gardens fenced off? The Hon. Ian Gilfillan does not have an answer to that, either. If he is to be consistent, the Botanic Gardens should not be fenced off. That is an absolutely ludicrous argument. The Hon. Ian Gilfillan states:

> It (the rose garden) has a fence structure which looks like a palisade around a compound.It is rather forbidding.

I suggest that he drive past there now and see how much this forbidding complex has been softened by the climbing roses, which were always going to be a feature of the Rose Garden. Mr Negative is at it again.

Then we had the extraordinary experience of the Australian Democrats and the Mount Lofty Summit where they railed against the cutting down of 10 to 15 foot (3 to 5 metre) regrowth eucalypts, because the general idea at the summit was for people to have a view of Adelaide. The Hon. Mike Elliott wrote himself into history on page one of the *Advertiser* by objecting to this. He said that this was precious, native bushland that should not be touched. These trees might have been 10 or 15 years old—nothing special about them.

How bizarre! That is the sort of positive attitude that we get from the Australian Democrats!

Then they objected to the Australian Formula One Grand Prix, Le Mans and the wine museum. The Hon. Mike Elliott said in relation to the wine museum:

> This land will be used for significant commercial use. It will not simply be a wine centre.

What are the Democrats on about? 'It will not simply be a wine centre.' That is the same sort of pathetic, pallid argument that we had about the tennis centre: that, once it becomes commercial, it is naughty, that people cannot enjoy themselves. The Australian Democrats have not had a lot to enjoy in recent weeks, I accept that, but other people are allowed to enjoy themselves, and, after all, the National Wine Centre focuses on the fact that South Australia is the headquarters of the wine industry with 70 per cent of all wine from Australia exported out of South Australia.

This is a non-parochial project in the sense that wine regions throughout Australia will be on display. People will be able to buy wine—horror of horrors! Money will change hands, it might actually create jobs, people might be able to enjoy themselves by wining and dining at the National Wine Centre. The Democrats say that this will simply not be a wine centre, that it will have a commercial function—horror of horrors! It will include a wine tasting centre and the promotion of wine sales, wine appreciation, entertainment facilities, a bistro/cafe, event facilities, master classes, a retail outlet for products, and conference facilities. It will be a centre with significant commercial activities. That was Mike Elliott: how shocking it was that this National Wine Centre might be commercial.

Mike Elliott went on record in May 1997 in this debate saying that the wine centre was being put at risk because of stupid site selection. I argue against that strongly. I think that, in time, the location of the wine centre will be proven to be very popular indeed. It has been born in a very difficult period immediately after the tragic events of 11 September. People, not only internationally but nationally, have stopped travelling. The figures are there for all to see. Sydney hotels are predicting a 20 to 25 per cent decline in occupancy rates over the next 12 months—and South Australia is not immune from that sort of a downturn. The Hon. Mike Elliott went on to show the sort of mindset that the Australian Democrats have which I find quite scary. He said:

> There is no doubt that Mr Pendry and Mr Sutton—

I think Mr Pendry is the Chairman of B.R.L. Hardy, one of the most successful wine companies in Australia, and Mr Sutton is the top administrator in the wine industry in Australia, but the Hon. Mike Elliott had the gall to say:

> There is no doubt that Mr Pendry and Mr Sutton had their hearts set on having an office in Hackney. Who wouldn't? What a delightful place to have an office—in the middle of the Botanic Gardens and in that great old building there.

I find that absolutely insulting. I think it belittles the Australian Democrats rather than anyone else. To argue that two of the most successful and leading people in the wine industry in Australia who are internationally recognised chose this site because they would like to have an office in the Botanic Gardens precinct is pathetic and pitiful. I think the Australian Democrats have revealed themselves for what they really are.

The Hon. Ian Gilfillan, finding yet another reason to be negative, said (on 24 March 1998) that there was serious concern about the State Herbarium. He picks up anything that is blowing in the wind. He will feed in any negative comments and stir the pot of negativity until it is boiling. He expressed concern that the State Herbarium people were upset that the storage of the 800 000 specimens in the Herbarium might be jeopardised because they had to be moved from their existing site to the new site in the tram barn. What has been the outcome of that? We did not hear the Hon. Ian Gilfillan say that the people who run the State Herbarium, highly regarded people with this wonderful collection of 800 000 specimens, say that the facility that they now have is better than they have ever had and that it is wonderful. Have any of you ever heard a positive word come out of Ian Gilfillan?

The Hon. Diana Laidlaw interjecting:

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

The Hon. L.H. DAVIS: The Hon. Terry Roberts shakes his head. He hasn't—

The Hon. Diana Laidlaw interjecting:

The ACTING PRESIDENT: Order!

The Hon. Diana Laidlaw interjecting:

The ACTING PRESIDENT: Order!

The Hon. L.H. DAVIS: Then the Hon. Ian Gilfillan says, 'I don't like the Rose Garden. What we should've had is native vegetation growing in front of it (the tropical conservatory).' A highly original idea—native vegetation! I do not know what is growing on so many hectares of the parklands if it is not native vegetation. The one thing that I have learned from national and international visitors and people with some expertise in landscaping is that the Rose Garden sets off the Bicentennial Conservatory in a lovely fashion—albeit that, of course, the rose garden is still quite immature.

Then the Hon. Ian Gilfillan expressed concern about parking. Where will people park? Will they be able to go to the wine centre and the Rose Garden? Will cars park on land which is supposed to be returned to the parklands? He is full of hope and optimism; he reeks with optimism. The honourable member was disappointed to learn that the land used for parking was originally owned by the STA. I think that rather devastated him.

Then, of course, we had the wonderful spectacle of the Australian Democrats' view on Roxby Downs. The Hon. Sandra Kanck—

The Hon. T.G. Cameron: What about Mike Rann's view of Roxby Downs?

The Hon. L.H. DAVIS: Shall we give him a bit of a touch-up too on that? Let me say quickly that the Hon. Terry Cameron has reminded me that the Hon. Mike Rann produced an orange covered 30 page booklet attacking Roxby Downs. He said that it should not happen. He was there and no doubt wrote the words which have become immortalised as John Bannon's epitaph in respect of Roxby Downs. John Bannon said, 'This will be a mirage in the desert.' His speech writer was probably Mike Rann.

The Hon. Mike Elliott, representing the Democrats and, of course, the views of his colleagues the Hons Ian Gilfillan and Sandra Kanck, said,'We oppose the mining of uranium at Roxby Downs. It is the largest known uranium ore body in the world.' Of course, an Australian Democrat federal senator actually believed in the theory that this radioactive cloud would float from Roxby Downs and hover over Adelaide bringing death and destruction to Adelaide. That was the evidence heard by the uranium select committee in the early 1980s from Sister Bertell—

Members interjecting:

The Hon. L.H. DAVIS: But that is the view, I am sure, that the Hon. Sandra Kanck believes. She has not yet come to grips with the fact that Roxby Downs is real, that it has 4 000 people, that the average income per capita in Roxby Downs is the highest of any postcode in South Australia, that it is one of the great mines of the world, that it produces hundreds of millions of export dollars for South Australia, that it produces large royalty income for the state and that it has actually created a new geological awareness in South Australia which might manifest in the discovery of many other significant deposits.

One of the world's greatest geologists, Roy Woodall, who was responsible for discovering Kambalda nickel (I am not sure what the Democrats think about nickel—that might be bad, too) and also Roxby Downs, of course, would be delighted to have seen that discovery at Roxby Downs create so much benefit for the state of South Australia. The most recent development at Roxby Downs, I think, cost $1.9 billion.

Then we can talk about the Holdfast Quay development where, again, the Hon. Mike Elliott was at his negative best talking about the fact that it was only for rich people and that money was being squandered.

Never mind about the quality of the development; never mind about the creation of lifestyle opportunities down there and creating something worth while for the benefit of not only the people who live at Holdfast Shores but also the people who go to Glenelg for a meal in a restaurant or who like to stroll along the promenade. Not only were the Democrats opposed to that but they were opposed to the West Beach marina.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: Who, SA First?

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: Who are, the Australian Democrats?

Members interjecting:

The ACTING PRESIDENT: Order! The honourable member should ignore the interjections.

The Hon. L.H. DAVIS: The Australian Democrats were at it again objecting to the Convention Centre and the Labor Party was right there objecting to the Convention Centre. Jane Lomax-Smith, the candidate for Adelaide, who squandered $500 000 on Peter Duncan's outdoor cafe in Victoria Square, made that—

The Hon. T.G. Cameron: I asked her whether she is going to reclaim it.

The Hon. L.H. DAVIS: Right. Jane Lomax-Smith, candidate for Adelaide for the Labor Party, said that we had made a fatal mistake with the Convention Centre: it turned its back on North Terrace; it looked like an airport hangar, she said two years ago. Of course, we now see that we have one of the most gracious and appropriate developments.

The Hon. Diana Laidlaw: It is a beautiful building.

The Hon. L.H. DAVIS: It is a beautiful building; a wonderful and practical facility—

The Hon. T.G. Cameron: And well managed.

The Hon. L.H. DAVIS: And beautifully managed by Peter van der Hoeven. That $90 million spent by this government was well worth it. To wrap up this motion—

The Hon. Diana Laidlaw: Jane Lomax-Smith apologised to me last year for criticising the museum.

The Hon. L.H. DAVIS: Who did?

The Hon. Diana Laidlaw interjecting:

The Hon. L.H. DAVIS: Let us get this on the record: Jane Lomax-Smith, who sounds good at first glance but, when you analyse her, is just froth and bubble and usually wrong, actually apologised to the Minister for the Arts for bagging the redevelopment of the South Australian Museum and said that she was wrong, again. The most remarkable thing of all—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. L.H. DAVIS: —is the negative attitude of the Labor Party by attacking and, indeed, trying to block the development of Pelican Point, which has been one of the most successful projects this nation has ever seen in terms of the time that it took to build a major power station, providing an extra 450 to 500 megawatts of power at a time when it was sorely—

The Hon. T.G. Cameron: Despite their best efforts to disrupt construction.

The Hon. L.H. DAVIS: Exactly. As the Hon. Terry Cameron said, there was an active policy of the Australian Labor Party to disrupt construction. The Hon. Mike Rann policy of maximum mayhem was—

The Hon. T.G. Cameron: There were union Labor members on the pickets.

The Hon. L.H. DAVIS: There were Labor members on the pickets trying to block the development of the site. Mr Kevin Foley, the member for Hart, whose electorate, of course, takes up Pelican Point, was arguing strongly against it. There was negativity about Pelican Point—no positive options for the proposal; fear was created—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: The Hon. Ron Roberts says, 'Not true.' Go to Whyalla. That was the Labor Party option: go to Whyalla. Okay. What sort of nonsense would that have been? No-one with any knowledge of electricity generation would have said that that was the best option. Pelican Point was, indeed, the best option. Labor created fear. You had people saying that dolphins will be boiled.

The Hon. T.G. Cameron: It was about propping up the local Labor member in Whyalla, I think.

The Hon. L.H. DAVIS: Right. I want to say that this state has had enough of negativity. This state has turned around the economy under the leadership of the Liberal Party government. What we need now is more positive contributions from the Labor opposition, which is yet to develop any meaningful policies, notwithstanding the fact that, 18 months ago, the Leader of the Opposition said that they would be on the table by the end of last year—they still have not appeared. The Australian Democrats have demonstrated, as I have argued this afternoon, that they are full of bile, negativity and gloom and that they have no options either.

So, as we face a state election in the next few weeks, the people of South Australia have a very clear choice: to choose a Liberal government, which has put down a plan for economic restoration and recovery, backed by some wonderful capital projects which have enhanced the economic and social structure of this state and which, most importantly, have brought back some confidence to the community.

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

SPRAYING AND CROP DUSTING

The Hon. A.J. REDFORD: I move:

That District Council of Mallala By-law No. 5 concerning Spraying and Dusting of Land, made on 6 August 2001 and laid on the Table of this Council on 25 September 2001, be disallowed.

This by-law prohibits the spraying and dusting of land in the District Council of Mallala in cases where it would be a nuisance to another person or where dust would be deposited on another person's land causing a nuisance. The prohibition is enforced by way of an injunction whereby a person seeking to spray or dust land must first consult with the council, which may or may not allow the activity. The committee notes the severity of an injunction which in this case may impact upon an individual's farming activities and quality of crop production. The committee also notes that the by-law does not provide for matters such as a review of the injunctive order and procedures to ensure that an individual is given an adequate opportunity to argue the injunction. Consequently, the by-law contravenes one of the committee's principles of scrutiny which states that regulations must be consistent with the principles of natural justice.

In addition, the committee queried the power of the council to issue this type of injunctive order. Consequently, it sought clarification separately from the Crown Solicitor and also from the office of the Minister for Local Government (Hon. Dorothy Kotz) who, in turn, also sought an opinion from the Crown Solicitor. The Crown Solicitor's advice confirmed that the operative provisions of the by-law are, in fact, ultra vires. It, therefore, contravenes another of the committee's principles of scrutiny, which is that regulations must be in accord with the general objects of enabling legislation.

It is also important to note that the committee fills an important role in ensuring that those regulations or by-laws which are ultra vires are dealt with expeditiously and quickly, as opposed to the extensive and lengthy court processes that might subsequently prevail should the provisions of such a by-law be imposed.

Therefore, in conclusion, I note that the activity of spraying and crop dusting is already subject to regulation under the Environment Protection Act 1993 and that the council has indicated that, in future, it will refer any related disputes to the relevant government agency. I thank the minister for assisting the committee in consideration of the by-law. I also note that the committee has since received correspondence from the council which indicates that it understands the basis upon which the Legislative Review Committee recommends the disallowance of this regulation.

Motion carried.

LOCAL GOVERNMENT (CONSULTATION ON RATING POLICIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 2671.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): As I recall, I spoke on this topic two weeks ago, on 14 November, and I sought leave to conclude my remarks. I indicated that, while the minister and the Local Government Association were aware of the amendment and, in general, supported the sentiments expressed, the minister had not yet had time to take the matter to the joint party. Accordingly, the minister asked that I make some general comments and then adjourn and conclude my remarks after she had had an opportunity to take this matter to a joint party meeting of the Liberal Party on Tuesday this week.

At that time, a number of amendments were mooted, which I understand have now been put on file in my name and that the mover is happy with them and they will be accepted. I understand, further, that the LGA has raised matters about the inclusion of an amendment to section 171 in the Statutes Amendment (Local Government) Bill, but I am told that it is not possible for that issue to be advanced on behalf of the LGA because the matter is already before parliament and the same amendment cannot be included in another bill before parliament at the same time. I am further advised that the LGA was lobbying for an amendment to insert a 'saving' provision in sections 151 and 156 which would protect councils' decisions from challenge on the ground that they fail to comply with the proposed new public consultation requirements in the section.

The government, for various reasons, will not support this measure. We believe that it would not necessarily prevent mischievous challenges, because the court is already able to dismiss actions which it considers to be mischievous. The LGA argued that this will not undermine the intent because councils that fail to comply will be dealt with by ministerial investigation. The minister has argued, in reply, that reliance on ministerial investigation powers runs counter to the framework of enhancing council capacity and encouraging dispute resolutions at the local level. Once a rate is declared, the minister's capacity to overturn or challenge it, with current investigation and direction powers, are severely restricted, especially if the LGA provision is inserted.

The LGA indicated that it wants these amendments because it would, in turn, prepare guidelines for councils to ensure best practice, and the minister has acknowledged that this will be helpful and will reduce the risks of councils failing to comply with the procedural aspects of the changes, thereby negating the need for a protection provision. So, the minister is essentially questioning the rationale of the LGA's argument. Further, the LGA argues, in terms of these saving provisions, that there are precedents. The minister does not believe that that is the case—certainly not in terms of other provisions of the Local Government Act involving councils following the steps in their consultation policy.

For all those reasons, the government will not support the two further matters raised by the LGA. But, there are other amendments in regard to which the government will accommodate the LGA, and those amendments are now on file in my name.

The Hon. T.G. ROBERTS: I indicate that the opposition will be supporting the bill presented by the Hon. Nick Xenophon to amend the consultation processes for a change to the rating method and I also indicate that, on the latest instruction, we will be supporting the amendments put forward by the government, which, I understand, has consulted with the LGA to make the progress of the principle of the Xenophon bill more administratively correct.

After being consulted by the LGA about the consultation on this rating policy amendment bill, its position had to be considered because it is a key stakeholder, but we also had to have a considered position in relation to the impact on ratepayers. If a change in the rating system from one formula to another results in a decrease in rates, ratepayers tend not to have too many concerns about it but, when it results in an increase in rates, they certainly get fired up when their new bill comes in. As a ratepayer, I include myself in that camp.

By way of an example, the Light council changed its rating system from rural to rural residential without any

consultation with the community and, in some cases, the rates increased $500, which is a significant rate increase. It was not hard to get 400 people to attend a public meeting out of a couple of thousand, which is a huge percentage turnout for ratepayers in country areas or semi-rural areas to debate such issues. Councils would be well advised when changing their forms of rating, if they result in increases, to get their explanations out posthaste and before the vote is taken to incorporate the change in the method of rating into their constitution so that the people have some input.

I understand that the bill does that, bringing about a consultation process that enables ratepayers to intervene or at least make their positions clear at a particular time that is relevant so that councils can take into consideration the views that are necessary for the smooth transition of that change. It is very rare that, without explanation, ratepayers will agree to an increase. In fact, even with an explanation, it is rare for them to agree to a rate increase, but if ratepayers can see that a changed rating system will bring about a more equitable system that can be more broadly applied in fairness, with a social justice strategy built in, in most cases people will agree to pay the increase in rates. They will also pay an increase in rates if they see that an extra service is being provided that they think will benefit either themselves individually or their community. There are not many circumstances where people will agree to increased rates where their property values are not enhanced or where improved service provision is not made. This bill, drawn up by the Hon. Nick Xenophon and as proposed to be amended by the government, goes to the heart of the matter and we support it.

The Hon. NICK XENOPHON: I thank members for their contribution and I am grateful for the support of both the government and the opposition on this bill. The amendments to be moved by the minister in consultation with the Minister for Local Government will strengthen the bill. They provide for a report to be prepared to address the reasons for a proposed change, the relationship of the proposed change to the council's overall rates structure and policy and, in so far as may be reasonably practicable, the likely impact of the proposed change on ratepayers and other issues concerning equity within the community.

I am aware that the amendment also refers to the report being available to ratepayers, and it also broadens the categories of proposed rate changes that will be included. So, I commend the Minister for Local Government for introducing these amendments via the Minister for Transport. I believe they strengthen the bill and, in effect, having a report prepared by council on proposed rate changes really gives ratepayers an opportunity to make an informed choice at any public meeting in terms of the process of consultation. It clearly is an anomaly or an oversight in the current act, where ratepayers do not have an opportunity to be consulted in relation to such a basic issue as rates.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron makes the point that some council rates are skyrocketing. At least this provision ensures that there is a process of public consultation. A letter from the LGA that has been circulated today to honourable members indicates support for my bill, subject to a provision being added to ensure that the entire rates process is protected from a legal challenge. In many respects, that would defeat the purpose of this legislation. I believe that the point made by the minister is quite pertinent in that, if it is a challenge that is not of substance, there are consequences for that in the courts, and I am concerned that this proposed amendment by the LGA would make the bill unworkable.

The LGA has been critical of the government's amendments, but I believe that requiring the provision of a report to be circulated to ratepayers is a positive step and it is only if the basis of rating changes that such a report has to be prepared and the consultation process put in place. With those remarks, I thank members for their support for the bill and I look forward to its speedy passage.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. DIANA LAIDLAW: I move:

Page 3—

Line 9—After 'land' insert:

(including by imposing differential rates on land that has not been differentially rated in the preceding financial year, or by no longer imposing differential rates on land that has been differentially rated in the preceding financial year)

After line 10—Insert:

or

(c) changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land,

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I apologise—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order!

The Hon. DIANA LAIDLAW: I have been provided with clear notes, and certainly the minister has worked closely with the LGA and the mover of the bill. In relation to the first two amendments, they seek to clarify the intent of the scope of the bill by making it explicit that a change to the basis of rating includes the imposition or removal of differential rating or the imposition of any separate rate, service rate or service charge.

So, for the benefit of the Hon. Mr Cameron, in effect this adds the words after 'before a council changes the basis of the rating of any land,' and clarifies that this includes 'by imposing differential rates on land that has not been differentially rated in the preceding calendar year.' We also provide a third point that, before a council changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land, the government must go through various responsibilities.

So, we clarify the circumstances where there is a change in the basis of rating of any land and add a further example in terms of changes of imposition on land by declaring a separate rate, service rate or service charge on any land.

The Hon. T.G. CAMERON: I thank the honourable Hon. Diana Laidlaw for explaining those amendments. I was not even aware until it was brought to my attention by the Hon. Nick Xenophon that there were amendments to his bill to be moved by the government. One would have expected some notice on a bill such as this, when you are submitting two and a half pages of quite detailed and complicated amendments. It is all right for the minister, she has an army of personnel and legal advisers, etc., to advise her. But this has been dumped on our plate in the last 24 hours. We have an enormous amount of material.

Individual members like the Hon. Nick Xenophon, the Hon. Trevor Crothers and I have to cope with an enormous amount of legislation with quite limited resources, and we do

not even get the courtesy of a letter, fax or email to say that there are major, significant amendments going forward. One can only conclude, because the minister has shown this form before, that if she does not need—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: No, I am not talking about the Minister for Transport. The Minister for Transport is one of the most communicative ministers that we have, and she is always open to have discussions. I can recollect calling the office of the Minister for Local Government on an occasion, seeking to get advice on a matter that was going through, and asking whether it could be held up for a few hours while I had the opportunity to look at it. What was the reply I got? 'The Labor Party is supporting us.'

Well, that is fine, if the minister wanted to adopt that position, but she is adopting that position again. These amendments were lodged on the 27th of the 11th. It was good enough for the Local Government Association to give us a detailed explanation of what the amendments were about. I thank the Hon. Nick Xenophon for giving me an explanation of his bill, and he has indicated to me that he is satisfied with the minister's amendments, but, to date, as far as I can recall, the Hon. Trevor Crothers and myself have got nothing whatsoever from the minister on this. I suppose I could ask whether the Democrats have received anything on it. Again, the Australian Democrats have received diddly-squat, too. It is about time this minister lifted her game.

The CHAIRMAN: Order! There are three members standing. I have called only one, and that is the Hon. Mr Cameron.

Members interjecting:

The CHAIRMAN: Order! The honourable Mr Cameron has the call, if he wants to keep going.

The Hon. DIANA LAIDLAW: I have got the message that the briefing by the government has not been sufficiently adequate to the Hon. Mr Cameron—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Okay, worse than not sufficiently adequate. Apparently, my instructions were provided to my office this morning, but I only discovered them two minutes ago. So I think we are almost all in the same boat.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I know you are not being difficult. I am just trying to be helpful. So what I will do is get from the minister's office for the Hons Mr Cameron, Mr Crothers, Mr Terry Roberts and Mr Gilfillan, and the mover of the bill, the same briefing notes that I have. Would the mover be prepared to report progress to enable us to do this after dinner?

The Hon. T.G. CAMERON: I accept, with my appreciation, the minister's offer, Mr Chairman.

The Hon. T. CROTHERS: Equally graciously, Mr Chairman, I accept the most kind offer of the Minister for Transport, who is acting for the lacklustre Minister of Local Government in another place.

The Hon. NICK XENOPHON: Can I just indicate before I move that progress be reported that the amendments were shown to me by the minister for the first time yesterday at lunchtime. I am not critical of the minister at all. I have not received the briefing notes, so this may well help expedite the passage of the bill.

Progress reported; committee to sit again.

[Sitting suspended from 5.50 to 7.45 p.m.]

MANOCK, Dr C.

Adjourned debate on motion of Hon. Nick Xenophon:

1. That this Council expresses its deep concern over the material presented and the allegations contained in the ABC's *Four Corners* report entitled 'Expert Witness' broadcast on 22 October 2001, involving Dr Colin Manock, forensic pathologist, and the evidence he gave from 1968-1995 in numerous criminal law cases;
2. Further, this Council calls on the Attorney-General to request an inquiry by independent senior counsel or a retired Supreme Court judge to report whether there are matters of substance raised by the *Four Corners* report that warrant further formal investigation; and
3. That the Attorney-General subsequently report, in an appropriate manner, to this Council on the allegations made in the *Four Corners* report and their impact on the administration of justice in this state.

(Continued from 14 November. Page 2678.)

The Hon. T. CROTHERS: I rise to make my position clear to some of our more loquacious members in this chamber. I normally am not of that variety: I am normally short, sharp and shiny. However, this subject is very dear to my heart and I may well be on my pins for some three-quarters of an hour. I do not watch *Four Corners* all the time, but just as it happened on that night—

The Hon. L.H. Davis: Can you see around them?

The Hon. T. CROTHERS: I could. I just envisaged you in my mind and I could see everything. On that night—

The Hon. T.G. Roberts: On the slab.

The Hon. T. CROTHERS: Yes, exactly. Not moving. On that night I was watching *Four Corners* and, from what I saw with respect to what was made of the evidence by doctors, by other qualified medical specialists and witnesses, and by several detectives, certainly there seemed to be something quite rotten in the state of Denmark relative to the occupation of the office of forensic pathologist in the state of South Australia by the now retired Dr Manock.

From the outset in respect of this contribution I wish to mention the Keogh case. What the Attorney understands of that is that Dr Manock, the former State Forensic Pathologist, only gave evidence of what he saw and did not express any opinions. The government believes that Dr James gave the opinions. I am reliably informed that that is not true. In fact, the reverse is true, that is, that Dr James did not give any opinion and the state relied on Manock.

If this stands true, then the Attorney may wish, in the interests of justice, to reconsider the matter as it relates to the Keogh case. An experiment using the bath alleged to have been involved in the Keogh case indicated that in this case, in the opinion of the presenters, 'Manock's theory is what it always has been: bullshit.'

I turn to other matters. Suffice for me to say that what concerns me as an ordinary citizen of this state (secondly) is that innocent people have been unjustly punished. But first, and even worse than the contents of the second, is that some of the real murderers could still be running free. I am led to believe that this view that I hold is held by a significant number of investigating police.

Some of these cases went before the Coroner, Mr Wayne Chivell, a man known to me in another life and a man whose absolute integrity is beyond dispute. Let me now for the benefit of honourable members turn to three coronial cases heard by him, each of which came before him for examination and discussion. The three babies in question, ranging in age from three months to nine months, were, first, the infant Storm Deane, aged three months; secondly, the infant

William Barnard, aged nine months; and, thirdly, the infant Joshua Nottle, aged nine months.

If I may, let me return to the coronial inquiry into the death of the infant Storm Deane. Little Storm Deane was found to have multiple rib fractures of varying ages and two skull fractures. Let us now pause to consider the diagnosis and the assertions of the then State Forensic Pathologist Dr Manock. Dr Manock's diagnosis of the infant's death was bronchopneumonia, and he also asserted that a histological examination confirmed bronchopneumonia—

Members interjecting:

The Hon. T. CROTHERS: I am trying to get justice for infants, and all the Hon. Carolyn Pickles and the Hon. Mr Davis can do, in the light of these poor innocents' death, is to carry on across the parliament like two insane Charlies. I ask you to call them to order, sir: this is a very serious matter.

Dr Manock's diagnosis of the infant's death was bronchopneumonia. He also asserted that a histological examination confirmed bronchopneumonia. It was further opined that Dr Manock did not observe the skull fractures. He said the rib fractures could be caused by rough play such as throwing the child in the air and catching the child. Members should remember that this infant was only three months old, and Detective Fielder—the investigating officer—found that difficult to accept.

Further medical evidence was led by Dr Donald, the Director of Child Protection Services—he is not a forensic pathologist—and Dr Richard Burnell, consultant physician at the hospital and senior lecturer in paediatrics. Like Dr Donald before him, he is also not a forensic pathologist. Thirdly, evidence was given by Dr Roger Byard, a consultant histopathologist at the hospital. He agreed with the evidence already led by Dr Donald and Dr Burnell. In fact, Dr Byard said that Dr Manock did not conduct an appropriate histological analysis: in other words, he lied. To complete this medical picture, honourable members must understand that, regarding Dr Donald's evidence, when that worthy individual asserted that infant Deane had been the subject of serious physical abuse on at least two different occasions before his death, the Coroner accepted his evidence.

I turn now to Dr Richard Burnell, who, honourable members will recall, was the consultant physician at the hospital and senior lecturer in paediatrics. He led that he agreed with his medical colleague, Dr Donald, about infant Deane's fractures. He further said that neither the clinical fracture nor the sole X-ray in the child's life were compatible with bronchopneumonia. In the light of this overwhelming evidence given by these three doctors, the Coroner ordered that Dr A.C.Thomas, senior specialist in tissue pathology, review the case. His findings were as true as they were deadly. He found:

> Manock's work did not conform to basic forensic pathology procedure.

Further, Dr Lloyd Morris, Director of Radiology, agreed that the injuries were non-accidental and, in addition, both of these latter physicians disagreed with Manock's diagnosis of bronchopneumonia. As a result of this foregoing evidence given under oath in the court, the Coroner found the death was not caused by bronchopneumonia. This decision means that either Dr Manock was incompetent, at least, on this occasion. In fact, I put it to honourable members that there are two points worth considering that arise from Manock's assertion that examination of tissues (that is, histological) under the microscope confirmed his diagnosis of bronchopneumonia. First, he did not examine the tissues under the microscope and, secondly, bronchopneumonia was not the cause of death. In fact, Dr Donald said with respect to Dr Manock:

> That's the kind of opinion I'd expect from a relatively untrained, inexperienced junior medical officer, not a person practising as a senior forensic pathologist. It just doesn't add up. It doesn't make any sense at all.

In the light of all the medical opinions—that is, those of Dr Donald, Dr Burnell, Dr Byard and Dr Morris—and the opinion of Detective Fielding, of the South Australia Police, and another doctor whose name I do not have, and some commonsense (that is, throwing a two month old baby in the air for fun), I ask how is it possible, with even just a modicum of commonsense, for anyone to say that Dr Manock's mistakes are only related to some lack of skill in a particular specialist area against the weight of all the evidence laid against Dr Manock? My mind boggles at trying to embrace such a concept. The only apparent thing I can say is that this was all a big mistake by Dr Manock.

I turn now to the untimely death of a nine month old infant, William Barnard. When this child was medically examined, he was found to have, first, a fracture of two bones in the right forearm (two to four weeks old), which would have been very painful every time he was being dressed (the pain would have been reproduced because of the movement of the bone ends) and, secondly, an unusual pattern of bruises and scars.

Turning now to Dr Manock's diagnosis, which stated that the infant's death was related to bronchopneumonia with fractures of the right radius and ulnar (that is, the infant's forearm), Dr Manock asserted that histological examination confirmed a diagnosis of bronchopneumonia. The mother admitted a serious assault on her son, thereby breaking his arm, and he 'whinged' when he was dressed. It appeared that Dr Manock failed to inquire about this and, again, the Coroner asked Dr Thomas to review the case. Dr Thomas found, and the Coroner agreed: first, the diagnosis of bronchopneumonia was wrong; secondly, Dr Manock did not follow basic forensic pathology procedures; and, thirdly, Dr Manock did not conduct an appropriate histological examination.

Two points emerge from the Coroner's findings: first, the Coroner found that Dr Manock's explanation for his failure to consult with the police investigators was spurious; and, secondly, William Barnard, an infant aged nine months, suffered an agonising period of at least two weeks before his death. It is obvious that those responsible for this little child's death escaped justice due to basic elementary mistakes made by Dr Manock and, again, the point must be made that this piece of incompetence, coupled with his mistakes, have nothing whatsoever to do with lack of skill in a particular specialist area.

Turning now to the third infant, Joshua Nottle, aged nine months, he was found to have suffered the following: first, multiple rib fractures of varying ages and, secondly, bruising to the spine, back and head. The diagnosis of Dr Manock was as follows:

> Bronchopneumonia associated with multiple rib fractures.

His assertion was as follows:

> The spinal injuries were associated with vigorous attempts to resuscitate and the rib fractures with throwing the child in the air and catching the child.

The investigating police officer, Detective Frick, was unhappy with Dr Manock's explanation. In fact, he complained to Dr Donald and Dr Byard. In addition to the foregoing, Dr Byard reviewed Manock's work. He found, and the Coroner agreed with him: first, the diagnosis of bronchopneumonia was wrong; secondly, Manock's explanation for the spinal injuries was not possible; thirdly, Manock's explanation for the rib fractures was not possible; and, fourthly, Manock had not carried out histological analysis, as he should have (and Dr Thomas agreed with Dr Byard and Dr Donald). The Coroner therefore found as follows:

> 1. Dr Manock's diagnosis of cause of death was wrong.
> 2. Dr Manock's investigations and his subsequent report provided innocent explanation for the most serious injuries found on Joshua's body, explanations which I am now satisfied were incorrect.
> 3. Dr Manock's explanations for failing to consult with police investigators were spurious.

When I look at the Coroner's findings, I have to believe that, at best, Dr Manock is incompetent or, at worst, he is an absolute liar.

I would like to make some generic points germane to this long and sad saga. First, whoever killed Joshua Nottle escaped justice because of Manock's incompetence. Secondly, Dr Manock was the senior forensic pathologist in this state. He claimed that he had the qualifications and the skills to carry out the autopsies on these babies. Since the Attorney-General and the Director of Public Prosecutions now say he did not have those special skills, how many other babies have been killed without the killers having been brought to justice? Thirdly, since the mistakes and incompetencies are not just related to the investigation of infant deaths (ask the people who know, such as Detective Fielder, Detective Frick and Drs Donald, Burnell, Byard, Thomas and Morris), how many other people have escaped justice? An example of this could be the Szach murder, the Gambardella bullet in the head case, and the Keogh case, more recently.

Fourthly, how many people are in prison because of Dr Manock's proven incompetence? This question, and this question alone, is sufficient reason why there must be an inquiry; and, equally, I imagine that the three infants are crying out for justice from their early graves because of the pain and suffering they endured in their short and very sad lives. I direct the following questions to the Attorney-General. Does the Attorney-General accept the following:

1. That throwing a two month old child in the air and catching the child in such a way to break the baby's ribs is just rough play, as Manock asserts?

2. That three incompetent diagnoses are acceptable from South Australia's foremost forensic pathologist?

3. That the Coroner's finding that Manock's explanation for his failure to cooperate with police investigations were spurious (that is, Manock lied) is a matter of the gravest concern?

4. That Dr Donald's assessment—that is, what you would expect of 'an untrained inexperienced junior medical officer'—refutes the explanation that Manock's mistakes in infant cases are solely related to these cases?

Commencing my conclusion, I return to Mr Xenophon's proposition and, in particular, paragraph 2, which states:

> Further, this Council calls on the Attorney-General to request an inquiry by independent senior counsel or a retired Supreme Court judge to report whether there are matters of substance raised by the *Four Corners* report that warrant further formal investigation.

Mr Xenophon's motion contains two other paragraphs, that is, paragraphs 1 and 3, which also assume importance when linked with paragraph 2. However, in my view, it is the legal application of paragraph 2 which, if carried by both houses, would enable justice to be done.

There are two further points that I wish to emphasise in support of the Xenophon proposition. First, innocent people may have served and, indeed, still may be serving long gaol sentences for crimes they did not commit. Secondly, murderers may well still be free, thus enabling them to commit further crimes in addition to the crimes already committed. There is also the fact that the three infants, and perhaps other infants, are crying out for this House to give these innocents proper justice.

This Council is the only place capable of giving those instructions to its ministers. This can best be done in the first instance by carrying out the proposition standing in the name of the Hon. Nick Xenophon. Finally, this House is the last court of appeal on this matter. The Attorney, I am sure, well realises like the rest of us that a nation's laws work at their best and fairest when they are seen by the population at large to be applied with justice as their end view and without any fear or favour. I have much satisfaction in supporting the Xenophon proposition and I call on all other honourable members, in the interests of justice, to do the same.

The Hon. T.G. ROBERTS: I indicate my support for the intentions outlined in the motion moved by the Hon. Nick Xenophon. I will not go into detail on the cases mentioned in the *Four Corners* report because the information that was provided by the *Four Corners* reporter was very detailed and very graphic. The justice that the Hon. Mr Crothers spoke of can be sought by those people who may be concerned by some of the accusations made by the *Four Corners* report, who, through the current justice system, could seek an investigation that may bring about the justice that they require, given that those broad accusations have been made. The first paragraph of the motion reads:

> That this Council expresses its deep concern over the material presented and allegations contained in the ABC's *Four Corners* report entitled 'Expert Witness' broadcast on 22 October 2001, involving Dr Colin Manock, forensic pathologist, and the evidence he gave from 1968 to 1995 in numerous criminal law cases.

If all the accusations made in that *Four Corners* report were true, the honourable member's concerns and the concerns raised by the report would be the concerns of every member in this House. Of the other two paragraphs in the motion, one calls on the Attorney-General to request an inquiry by independent senior counsel or a retired Supreme Court judge to report whether there are matters of substance raised by the *Four Corners* report that warrant further formal investigation. The third paragraph states:

> That the Attorney-General subsequently report, in an appropriate manner to this Council, on the allegations made in the *Four Corners* report and their impact on the administration of justice in this state.

As to the opposition's position in relation to those two paragraphs, I will leave them open to allow the mover of the motion to discuss any further actions that may be supported by the shadow Attorney-General in another place. I do that not because the opposition wants to be awkward about the way in which we would like to pursue this case as set out in the motion but because we have some sympathy with the government's position that, if any or all of those accusations were found to have merit, the justice system that we have would be failing, particularly those infants and those who have possibly been wrongly charged.

If that were the position, a number of guilty people would have gone free in relation to some of those infants' deaths and, in relation to the accusations that some of the evidence in some of the murder cases was wrongly assessed by the accused forensic pathologist, Dr Colin Manock, some people would have been wrongly incarcerated. It appears to me that our justice system could not have failed in so many cases. As I said, I have indicated that discussions will go on, so I will seek leave to conclude and have this motion adjourned while they continue. The opposition's position is that processes are in place to investigate the accusations contained in the report, and that relatives and interested parties can make an application for a further investigation through the Attorney-General's office.

In his contribution, the Attorney-General indicated that, if evidence was available to open up all or any of those cases, an avenue was open for individuals to seek justice if they thought that justice was not done. That is the opposition's position, and I seek leave to conclude.

Leave granted; debate adjourned.

SOCIAL DEVELOPMENT COMMITTEE: INQUIRY INTO BIOTECHNOLOGY, PART II, FOOD PRODUCTION

Adjourned debate on motion of Hon. Caroline Schaefer:

> That the report of the committee on an Inquiry into Biotechnology, Part II, Food Production, be noted.

(Continued from 31 October. Page 2546.)

The Hon. SANDRA KANCK: Part I of the Social Development Committee's inquiry into biotechnology dealt with health, and I will speak on that later this evening, while Part II, which is the subject of this motion, dealt with food, which of course is something that impacts very much on matters of health, anyhow. In response to this report of the committee, I have made dissenting statements at two points and I have made three dissenting recommendations, so it is fairly clear that I did not have a huge amount of agreement with the committee.

I have to acknowledge that, in the main, the report itself is reasonably balanced, presenting both sides of the arguments very well. It was because of the balanced nature of the report that I did not dissent from the whole report, but on the evidence that we received I consider that the green light which the committee has given to GM crops to be unjustified and ill considered. As I listened to the evidence I found myself being insulted and patronised by some who told us that genetic modification of plants is essentially the same as selective breeding.

The Hon. T. Crothers: It certainly is not!

The Hon. SANDRA KANCK: It certainly is not; the Hon. Trevor Crothers certainly understands that. But, for those who are arguing that it is the same thing, it is almost a doctrine. It is certainly a belief. They call this 'substantial equivalence'. Earlier this year the Canadian Royal Society put out a statement strongly criticising the agri-chemical industry's claims of substantial equivalence as being completely unscientific and unjustifiable.

One of the written submissions that we received came from Elaine Attwood, who is a consumer advocate. I have known Elaine for a number of years through my interest in the issue of genetically modified food, and I think that at some stage she might have had a role in ANZFA. She made some comments in her written submission about substantial equivalence. She states:

> The use of so-called substantial equivalence whereby a product that looks, tastes, smells and has the basic nutrients of the conventional counterpart is deemed to be the same must be one of the greatest furphies ever foisted on an unsuspecting populace. In submissions I and many others have made to ANZFA over the years it has been constantly pointed out that this is not science but quasi science.

This is pretty powerful stuff, but she obviously feels the same as I do: that the attempt to tell us that these things are substantially equivalent is quite an insult to any of us who cannot claim to have a scientific background.

But many scientists who have a background in these fields do argue against the release of genetically modified foods into our diets and the agriculture cultural system. Dr Judy Carman, who has an honours degree in organic chemistry and a PhD in medicine, specialising in metabolic regulation and nutritional biochemistry, told us of the inherent inaccuracies in the techniques involved in genetic modification. She stated:

> One of the methods they use is called biolistics. They take small gold or tungsten micro-projectiles, coat them with the DNA that they want, shoot at it and hope that some of it sticks. This is not the same as traditional plant breeding. One of the problems is that when you shoot it into the plant, you do not know where it has gone in that plant. It may go into an active gene of the plant and therefore disrupt the action of that gene. It may disrupt the action of that gene a little to actually disrupt the action of another gene distant to the first. It can turn things off. It might revert things to a previous wild form.

Dr Kate Clinch-Jones, the President of the South Australian Genetic Food Information Network, told us that the genes used can come from viruses, from non-food plants, from animals and even from humans, yet some of these arguing strongly for this technology to be let loose argue that this food is substantially equivalent to what we now eat. How is it possible that food that has a human gene in it is equivalent to what we now eat? Dr Clinch-Jones referred to the cauliflower mosaic virus used as a gene switch. It is a retrovirus, which can modify DNA. It can function in human DNA and therefore has the potential to cause unpredictable gene expression in humans. She states:

> . . . the kinds of problems associated with unpredictable gene expression are changes in your gut, changes in the immune system and possibly even cancer. These risks need to be assessed fully before we assume that genetically modified foods are safe.

In addition to the patronising arguments that were advanced to us about substantial equivalence, I was also insulted by the argument that the introduction of GM foods would solve the problems of hunger and starvation in the third world. Fortunately, the committee was able to see through those arguments, and pages 63 and 64 of our report quote from a number of witnesses and submissions with a counter argument. If members are interested in that, I would urge them to look at those pages.

Another of the pieces of written evidence that were given to us included a statement from the Institute of Science in Society, which put out an open letter from world scientists to all governments on 1 September 2000. The society comprises 391 scientists from 51 countries, including a number of Australian scientists. Part of point 6 of that statement refers to the issue of genetically modified food being there to help the third world. A number of African countries wrote to the OECD, and this statement from the scientists quotes that letter to the OECD, as follows:

> We . . . strongly object that the image of the poor and hungry from our countries is being used by giant multinational corporations

to push a technology that is neither safe, environmentally friendly nor economically beneficial to us . . . we believe it will destroy the diversity, the local knowledge and the sustainable agricultural systems that our farmers have developed for millennia and undermine our capacity to feed ourselves.

Also, a message that went from the peasant movement of the Philippines to the Organisation for Economic Corporation and Development stated:

The entry of GMOs will certainly intensify landlessness, hunger and injustice.

From my own point of view, there is a problem with the increasing size and continuing growth of the world's population, but the solution will not lie with finding apparently quick-fix solutions in an attempt to produce more food. We all know that there is enough food in the world now to feed the hungry; it simply takes the political will.

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: I think that is the message that these people in the third world countries were giving the OECD, but we must certainly look in the longer term to limiting the population in all countries.

The committee has recommended that 'state and federal governments increase investment in gene technology research to further develop and commercialise food crops that are grown sustainably in Australia'. I have recommended instead that 'the state government monitor developments in gene technology research and public perception about the use of gene technology and provide research funding only to those projects which would be socially and environmentally acceptable to the public'.

The demand for genetically modified foods has not been generated by the public. Indeed, to the contrary, those who stand to make the greatest financial gain from widespread acceptance of genetically modified crops, namely, the large agri-chemical companies, were obviously the ones most loudly singing the praises of this form of biotechnology.

The Eyre Peninsula GMO task force expressed a degree of cynicism about this. It said:

We are sceptical that the driving motive is profit motive for the shareholders of a handful of multinationals, and we view that with some jaundice.

In the light of positive views from those who have so much to gain compared to what I regard as inconclusive evidence and conflicting views from others, it seems inappropriate for the Social Development Committee to have recommended that governments increase funding for research aimed at commercialising genetically modified crops.

No matter how smooth are the PR consultants of the multinational agrochemical companies, it is quite clear to me that the introduction of genetically modified material must be accompanied by widespread public acceptance or else farmers who choose to use it could be faced with the prospect of environmental commandos destroying their crops.

Those advocating caution with regard to GM foods called consistently for a minimum five-year moratorium on the release of GM crops but a majority of the committee fudged on this. Sadly, they accepted that the release was inevitable and instead recommended that 'the ministerial council ensure that the commercial release of GM food crops is undertaken under strict compliance with licence requirements.' Therefore, the committee has upheld the rights of any one individual farmer versus the risk of one crop contaminating all the rest. The committee's stance was not acceptable to me, and instead I have recommended:

Where a majority of producers and consumers in a specified area so indicate their desire for such action, the State Government to declare a minimum five year moratorium on the release of genetically modified material in that area.

The Interim Office of the Gene Technology Regulator, in its submission to the Senate Community Affairs References Committee, makes it clear that mechanisms are available in the Gene Technology Bill 2000 under which GMO free zones could operate. For my part, given the number of outstanding and unanswered questions, a minimum five-year moratorium is a reasonable request. However, having lost on that argument, I then went for the fall back position of segregation of genetically modified harvested crops from the rest.

The Eyre Peninsula GMO task force argued for the development of a segregation system for the handling of grain and its subsequent marketing, and that such development must happen before any genetically modified material is released. The rest of the committee and I were in agreement that a segregation system was needed, but they chose to reject the arguments about the timing of the development of such a system. The committee recommended:

Protocols be developed in conjunction with producers for both the handling of genetically modified produce and the segregation of that material from the mainstream where there is a commercial or scientific justification.

I have dissented with a recommendation that rightly puts the horse before the cart. My alternative recommendation reads:

Protocols be developed in conjunction with producers for both the handling of genetically modified produce and the segregation of that material from the mainstream, and that no release of genetically modified material be permitted until such protocols are established.

It is very dangerous to go down the path of releasing genetically modified material without a foolproof segregation system to ensure that mainstream produce is not irretrievably contaminated by—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The level of audible conversation is too high.

The Hon. SANDRA KANCK: —the experimental crops. It makes no sense at all to develop a segregation system after genetically modified materials have entered the system. Given the inexorable approach of this technology, this matter needs to be investigated and settled now. If a workable system is not able to be accommodated for segregation, then the genetically modified material should not be released. When this group of farmers from the Eyre Peninsula came to the committee to present their evidence, Mr Foster said:

We had a meeting at Lake Wangary with the Lincoln district SAFF branch at which a Director of AusBulk spoke and he stated that if one truck load of canola came into the system the whole system would be treated as GM modified on the world markets and if there had to be a reduction in price to clear it that would happen.

I then asked him:

Do you know, if your crop was deeply contaminated under those circumstances, whether you would have any legal right to sue the producers of that crop?

His response was:

I would be having a very good look at that situation.

There are some very clear warnings in the evidence that we heard.

The committee was addressed by Dr Phillip Davies, an agricultural scientist whose PhD is in genetics. He told us that his expertise was in plant breeding and the genetic engineering of plants, an area in which he had worked for 19 years.

However, he got out of the genetic engineering aspects because, as he said:

I could just see so many problems and see how risky a technology it was.

Dr Davies told us of the imprecise nature of genetic engineering. He said:

The genes you introduce could end up anywhere on the chromosome. They can go in backwards or forwards and go in multiple copies, and it has been demonstrated fairly frequently that they will go in and work for a generation or two and then be switched off, by processes not fully understood. It is a process very far removed from natural breeding, and it is a fairly random process where you are putting in genes and you do not know what they will do. . . I have done these experiments myself. . . It is not precise technology; it is actually a shotgun sort of approach. . . many scientists will have you believe that it is a very precise technology and that we know what we are doing. That is not the case.

With regard to risks, Dr Davies told us that scientists will tell you:

That the risks are low, and it is true, they are. They may be less than 1 per cent. But . . . when you are releasing lots of organisms the chances actually add up. It is a compound risk. So, if the chance of a problem with the first organism is 1 per cent and the second is 1 per cent and the third is 1 per cent, those percentages add up and it means that there will be a problem eventually. I can say categorically that, if we release genetically engineered organisms into the environment, there will be environmental problems and health problems from them.

Dr Clinch-Jones, responding quickly to a committee member's observation about the commonality of human genes with primate genes, observed:

That is absolutely true. There is a huge overlap between, say, our DNA and a gorilla's DNA. It is very similar. That shows that very small DNA changes can have huge effects: as Dr Such points out, we are not all sitting here eating bananas and scratching our armpits. We need to bear that in mind when we say 'We are just inserting a few genes into a crop and changing it a little bit.' We need to recognise that very small changes in DNA can have big changes in the outcome.

A number of submissions and witnesses raising concerns about GM foods mentioned the precautionary principle. Dr Davies quoted this principle as follows:

When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relations are not fully established scientifically. In this context, the proponent of an activity, rather than the public, should bear the burden of proof.

Dr Clinch-Jones told us:

Basically the assumption is that these foods are safe until they have been proven to be harmful. The people who are having to prove them harmful are not in companies which are making profits by marketing them and they are not food regulators: they are people like me—a GP and a mum. They are people in organisations such as consumer organisations. We do not have resources to run lab tests and prove whether these things are safe or dangerous, but the burden of proof is shifting to people like us.

While agrochemical companies have so much to gain, in contrast to doubting consumers who are generally not asking for these foods and are, indeed, questioning their value, it seems fair to me that the onus of proof should be placed on the businesses that want to intrude their inventions onto our plates.

In evidence, comparisons were made about the pharmaceutical industry and the expectations we place on that industry to prove the safety of their product over a period of years before it is allowed onto the market. Dr Judy Carman made some observations about the minimal testing done on GM foods compared to that of pharmaceuticals. In referring to ANZFA, she said:

. . . they do almost none of their own safety tests. When a genetically engineered food comes to them and the applicant company says, 'We believe that this will be perfectly safe for the Australian population to eat,' ANZFA do not do any of their own safety assessments.

They take what Monsanto or Aventis have done and they look at it. They have a document on how they assess these foods, and quite clearly written in that is this idea that they are regarded as safe until proven to be harmful. It is the opposite of the precautionary principle that says that we do not believe it is really safe until you prove it to be safe. On the contrary, they say that it is safe until you prove it to be harmful.

I want to look at the gold standard for how you prove something safe in human health aspects, and this is clinical trials. The pharmaceutical industry has been using these for quite some time: it is best practice, gold standard. Before you go to people, you start doing animal tests to make sure that you are not going to kill people unnecessarily. Once you start moving to humans, you start phase 1, in which you take a small number of healthy volunteers. And it is safety first: you make sure that you will not make them any more sick than they are.

In phase 2 you look for the therapeutic effect, once again with small numbers of volunteers. If it passes each of these stages you then go into phase 3, and this is called the randomised control trial. Essentially, you get a group of patients who have a disease such as cancer. You take one group and give them the new drug that you want to test and you take another group and give them either a placebo or the existing therapy, the idea being that you can compare them.

The patients do not know what they are on, the doctor or nurse giving out the drug does not know what they are on. Everything is completely blind, so that there is no placebo effect creeping in. There is no, 'I am taking a pill, therefore I must be feeling better' type of thing. Hundreds of thousands of people are involved in these. At the end of that, you can then do a statistical test and work out whether the new treatment is better than the old or than the placebo.

If it goes past that stage you then go to phase 4, monitoring it in the community, and a new step has also been put in, which is Cochrane collaboration. There might be six of these clinical trials done around the world, and they collect the data from all of those and do one summary measure. Let us now compare that with what has been done in genetically engineered foods.

As a scientist, I want to work out what safety test is being done in genetically engineered foods. If I want to look at the safety assessments of something I will go to the medical literature and do a literature search, and I will pull out all the general articles that various scientists have done on that particular thing. I cannot do that with genetically engineered foods because they have not been put in the medical literature. Of all the genetically engineered foods that we are currently eating, only soy and nothing else has been published in the medical literature, so I cannot determine what has been done.

The other thing is that not many independent assessments are done. If Monsanto, for example, want to bring out a new type of soy, corn or whatever, they are the ones who do the safety assessments, and no-one else has done them. The only other one has been a fairly controversial work done on potatoes, and recently one other potato study was done by a group in Egypt. But of all the foods we are eating, and we are eating dozens of these foods, they are not being published in the peer review scientific literature. Essentially, therefore, they have sidestepped that whole thing.

That is part of the evidence that Judy Carman gave to the committee.

It is interesting also to note that the Canadian Royal Society has suggested that 'if thorough and appropriate testing were carried out then general mandatory labelling of all GM products would be unnecessary.' One of the committee's recommendations, which I strongly support, is that regarding labelling. Recommendation No. 4 is:

The Australian and New Zealand Food Authority Council be urged to introduce comprehensive and informative labelling of food produced using genetic engineering as soon as possible.

I introduced a private member's bill for the labelling of genetically modified foods back in 1996. At that time, this government rejected my bill, claiming that we in South Australia could not take unilateral action. That argument sees

us still waiting for something to happen five years on and, unfortunately in the interim, our Prime Minister has taken a very partisan position on this matter, arguing the industry's line of a need for the weakening of labelling requirements.

So, the failure of the South Australian government to take up my initiative at that time has allowed groups such as the Food and Grocery Council to impose its desire for minimal labelling and, if it can get away with it, no labelling. However, I have noted in recent times in my supermarket that some companies are taking the initiative to put that information on their labels. Obviously, those who have genetically modified products are not advertising it, but the ones who are able to say that there is no genetically modified material in their product are doing so. I am already making the choice to buy products that make that statement on their label, and I suspect that other companies, as they do that, will begin to obtain a market advantage.

I cannot complete my contribution without making some reference to the role played by the Australian New Zealand Food Authority (ANZFA) in the matter of genetically modified food. ANZFA is a statutory authority responsible for the development of food standards so that the health and safety of Australian people is not compromised, but at the same time it is required to promote trade. With that potential for conflict in its objectives, to many ordinary consumers ANZFA has appeared to be representing the Australian Food and Grocery Council, which is just one of its members. The consequence has been a consumer backlash against ANZFA. I referred earlier to the written submission from Elaine Attwood from which I again quote, as follows:

> An Authority set up to protect the public health and safety with regard to food matters should not have the conflicting objective of promoting trade. This is more properly the role of industry, not an 'independent' government Authority. In addition, there is nothing in ANZFA's objectives that requires decisions to take into account nutritional integrity, which is the cornerstone of good health. Surprising isn't it? One would imagine that protecting the nutritional integrity of food would be a primary objective of our primary food protection authority—but it doesn't rate a mention.
>
> ANZFA has scientific 'experts' within its ranks and can call upon others from outside its organisation. Yet it has no ethics committee nor a community group committed to ensure its decisions fairly represent the views of the community. The public perception of ANZFA, rightly or wrongly, is that it is owned by industry—and its decisions reflect that perception. One of ANZFA's principal failings is that it has tunnel vision and although supposed to be an independent body, must follow the policies of the government of the day. It therefore dismisses any expert opinion brought before it that does not coincide with the desired outcome they seek. Any contrary views are considered just 'scientific debate'.

In its submission to the committee, ANZFA said that there are no known clinical or epidemiological indicators or negative health outcomes associated with genetically modified foods. They should tell that to ISIS or the Canadian Royal Society. Despite all its failings and the biased position it has taken, nevertheless ANZFA is an entity which is visible and which can be tackled, but it is now being restructured so that it will not be the health ministers of the different states which govern it but more likely those with trade or agriculture portfolios. I understand that as a body it will become less visible and much less able to represent the consumers than it currently is able to do, and also it will be much less able to be tackled when it is less visible. In fact, it may even have a completely different name.

As I indicated earlier, the Social Development Committee's report is about biotechnology in food, and because what we ingest directly impacts on our health we cannot look at this issue merely in terms of profitability for large agrochemical companies or some short-term profitability for some farmers; we must look at the health impacts.

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: That's not a bad idea. We know that genetically modified soy—in particular, the infamous Monsanto version, Roundup Ready (the type that can be heavily doused with glyphosate)—has been on the market for a number of years. The submission we received from the Organic Federation of Australia pointed out that in the UK in one year soy allergies went up by 50 per cent. Is it coincidence that this has happened when GM soy has become more endemic in our food?

One of the widely known examples of a consequence of ingestion of a GM food is that of the amino acid supplement L-tryptophan. It was manufactured using a genetically modified strain of bacillus amyloliquefaciens. Hundreds of consumers in Europe developed EMS, eosinophilic-myalgia syndrome, with some people even dying as a consequence. In relation to that outbreak, I would like to quote from the written submission of the National Genetic Awareness Alliance:

> EMS patients presented with a series of symptoms, including itchy skin rashes and bruising, muscular pain, fatigue, breathlessness and insomnia. It is now estimated that by June 1992, the number of EMS cases reported was around 1 535 with approximately 27 deaths occurring between 1989 and 1992.

That has come from Science 1990 and Nature 1992. I understand that the number of deaths ultimately was 37. It continues:

> Although EMS is an example of the effect of a GM food supplement, we cannot even start to imagine the many new and unsolved health mysteries that we will see in the near future, in particular in young children and in persons with already compromised health, with the introduction of GM crops into our ecosystem. Moreover, the biggest concern is the fact that multiple GMOs in food not only will have crossed the gene boundaries across species but that of the genera, family, order and even gene kingdom and that these multiple gene manipulations will be introduced within a very short period in evolutionary terms.

Lest someone accuse me of an unscientific approach, I acknowledge that it could not be proved that genetic modification was actually the culprit, because the company concerned, Showa Denka, destroyed the GE organisms believed to be responsible for the contamination of that batch. So the strong belief about the source could never be tested.

The Catholic Earth Care Commission, in its written submission, quoted Sean McDonagh, an ecologist, regarding the introduction of new proteins, as follows:

> It is well known that allergies in humans are caused by particular proteins. Genetic engineering involves adding new proteins to latered products. The FDA warns that new proteins in foods might cause allergic reactions in some people. Transgenetic crops could bring new allergens into foods that sensitive individuals would not be in a position to avoid. It is possible, for example, to transfer the gene for one of the many allergenic proteins found in milk into vegetables like carrots. People who ought to avoid milk would not be aware that transgenetic carrots contained milk proteins.

Antibiotic resistance may be another unintended side effect of GM foods with the use of antibiotic resistant marker genes. In September 2000, scientists from 51 countries put out a statement about genetically modified organisms. That statement contained 29 clauses, and I quote from four of them. Clause 18 states:

> The potential hazards of horizontal transfer of GM genes include the spread of antibiotic resistance genes to pathogens, the generation of new viruses and bacteria that cause disease and mutations due to the random insertion of foreign DNA, some of which may lead to cancer in mammalian cells. The ability of the CaMV promoter to

function in all species including human beings is particularly relevant to the potential hazards of horizontal gene transfer.

19. The possibility for naked or free DNA to be taken up by mammalian cells is explicitly mentioned in the US Food and Drug Administration (FDA) draft guidance to industry on antibiotic resistance marker genes (48). In commenting on the FDA's document, the UK MAFF pointed out that transgenic DNA may be transferred not just by ingestion, but by contact with plant dust and airborne pollen during farm work and food processing.

This warning is all the more significant with the recent report from Jena University in Germany that field experiments indicated GM genes may have transferred via GM pollen to the bacteria and yeasts in the gut of bee larvae.

Clause 22 reads:

Antibiotic resistance marker genes from GM plants have been found to transfer horizontally to soil bacteria and fungi in the laboratory. Field monitoring revealed that GM sugar beet DNA persisted in the soil for up to two years after the GM crop was planted. And there is evidence suggesting that parts of the transgenic DNA have transferred horizontally to bacteria in the soil.

Clause 23 reads:

Recent research in gene therapy and nucleic acid (both DNA and RNA) vaccines leaves little doubt that naked/free nucleic acids can be taken up and, in some cases, incorporated into the genome of all mammalian cells including those of human beings. Adverse effects already observed include acute toxic shock, delayed immunological reactions and auto-immune reactions.

The Hon. L.H. Davis interjecting:

The Hon. SANDRA KANCK: I have said, if you were listening earlier, that the report itself is quite balanced. My concern is that the recommendations do not match up with the balance that is in the report. The GeneEthics Network, in its written submission, talked about viral promoter sequences and, as it is written as well as anything I can say, I will quote it, as follows:

The potential for viral promoter sequences to undergo recombination is still poorly understood and precaution demands we should obtain more information on the implications of using viral promoters in gene technology before releasing GEOs. The possibility that recombination could generate new viruses was dismissed as negligible by GMAC and the Office of the Gene Technology Regulator, with no real justification. Recombination events that create new pathogens do occur. One example is when two varieties of the cassava mosaic virus recombined in their natural host to form a new, particularly virulent form. . . This is why some scientists, like virologist Professor Gibbs, caution against the risks of using viral DNA sequences, the basis of current gene manipulation. Even if the likelihood of such events is low, the potential hazards are too great to justify the release of viral gene sequences in every cell in transgenic crops.

Ho et al. . . warn of the potential dangers of recombination of cauliflower mosaic virus sequences, commonly used in genetic engineering. These sequences may contain a 'recombination hotspot'. . . Recombination at the 'hotspot' does not require the presence of the viral recombinase enzyme, indicating it could occur in host plants. Recombination could generate new viable viruses. . . and could enhance horizontal gene transfer. . .

There is still a scientific debate on this matter but the precautionary principle says we should not proceed where relevant evidence is missing, so releasing GEOs that contain viral sequences contravenes the precautionary principle. More work is needed to assess the dangers of employing viral gene sequences in gene technology. GEO releases should not be permitted in the meantime.

In concluding, I quote from a media release issued by the Royal Society of Canada earlier this year and tendered to the committee in evidence:

When it comes to human and environmental safety. . . there should be clear evidence of the absence of risks; the mere absence of evidence is not enough. The onus is on the government to establish testing and approval mechanisms that meet the highest scientific standards.

I am sorry that the other members of the Social Development Committee were not able to see it that way. Once the genie is out of the bottle, we will not be able to put it back, and we must therefore act wisely in the present to ensure that the introduction of genetically modified foods will not harm our health, the environment or the economy.

The Hon. CAROLINE SCHAEFER: I thank the Hon. Sandra Kanck for her contribution. As usual, I do not agree with a word of it. It has taken her some 45 minutes to say not one thing that I agree with. She is, I believe, living proof of the old saying: a little knowledge is a dangerous thing.

I will not waste any more of the Council's time, but I do need to refute her allegation that there are human genes in food. There are no transgenic genes in any food anywhere in the world at this time. With that, I appreciate her contribution and her contribution to the committee.

Motion carried.

AUDITOR-GENERAL

Adjourned debate on motion of Hon. T.G. Cameron:

That the Legislative Council requests the Auditor-General to provide the following information in accordance with the Auditor-General's Annual Report 1999-2000—

I. (a) Was 17 per cent ($1.6 million) of the budget of the Auditor-General's Department spent on various consultancies?
(b) If so, for what purposes were the following expenses incurred, including to whom they were paid and the respective amounts paid—
(i) contract audit fees of $687 000;
(ii) various consultancies of $192 000; and
(iii) special investigations of $775 000?
(c) (i) Was a competitive tendering process undertaken for all of these consultancies; and
(ii) If not, what other process was used and what was the reason?

II. Why does the Schlumberger contract (mentioned on page 123) not require formal review, such as the annual performance appraisal and the triennial review, like all other SA Water contracts?

III. What matters of concern were found by Pannell Kerr Foster, the auditors auditing the Auditor-General's Department, in a management letter dated 18 August 2000 (as referred to on page 595) of the report?

(Continued from 14 November. Page 2676.)

The Hon. R.I. LUCAS (Treasurer): I commenced my remarks two weeks ago when parliament was last sitting and I will summarise the essential points that I was seeking to make. Firstly, as we will acknowledge later on in another motion either today or in February, the government's position is, as always, that we respect the independence and integrity of the office of the Auditor-General. That is a given from the government's viewpoint and, certainly from the government's viewpoint, we see nothing in the debate about this particular motion which should in any way be seen to be threatening the integrity or the independence of the office of the Auditor-General.

The second in principle which I think is paramount—and I hope that all members would subscribe to it—is that, ultimately, parliament is paramount. If parliament decides that a particular issue ought to be pursued in a particular way, that is the right of parliament. Parliament has the ultimate authority. The office of the Auditor-General reports to parliament and, indeed, that is the way that it should be. If parliament, a chamber of this parliament or, indeed, both houses of parliament, expresses a point of view, then due respect and due regard, I am sure, would be given to that expression of opinion. So, those two principles, I hope, would

be supported by all members in this chamber, irrespective of the way they may approach this particular motion.

As I alluded to when I spoke last in this debate, while I am prepared to support this particular motion (and I will outline the reasons for doing so), I believe that we should not be in a position where we have to pass a motion of the parliament to seek responses from the Auditor-General. We have, in this case, an example where a member of parliament has raised, in the appropriate forum (that is, parliament), during question time (which is the appropriate forum, again), questions in relation to the expenditure of moneys by the office of the Auditor-General, in particular, amounts spent on consultancies, the purposes for those consultancies, whether or not a competitive tendering process was undertaken and, if not, the reasons for not undertaking a competitive tendering process. They are normal accountability questions which are asked of ministers and governments on a regular basis and, if a member of parliament chooses to ask those questions of the Auditor-General, then, in my view, it having been raised in parliament (in this case it was raised with me: if it was in the House of Assembly it would be raised with the Premier, so either I or the Premier would refer the member's questions to the Auditor-General), then, in my view, the Auditor-General should respond appropriately.

As I said, in relation to this particular drafting, I think it would be quite appropriate, if the Auditor-General chose to do so, that, in relation perhaps to question 2 (which is a question about the Schlumberger contract), that the Auditor-General might respond and say, 'I have nothing more to add to what I have already included in my report and if you want any further responses, ask the Minister for Government Enterprises.' It is, ultimately, an issue for the Minister for Government Enterprises. It is true that the Auditor-General has given an opinion on the issue but, in my judgment, in terms of accountability and responsibility, one can argue that that contract is the responsibility of the Minister for Government Enterprises and, ultimately, they are issues for him to be accountable to parliament for.

But certainly in regard to actual expenditure on consultancies within the Auditor-General's office, no other minister is responsible for that. As Treasurer, I have no knowledge, for example, how that money is expended and whether competitive tendering processes were followed or not. I am, therefore, not in a position to answer a question from a member of parliament about those issues. The only person who can answer such questions is the Auditor-General.

In relation to question 3, for example (which, evidently, was referred to on page 595 of the Auditor-General's report), the auditors who audited the Auditor-General's department, in a letter dated 18 August, had evidently raised some matters of concern, according to a question from the Hon. Mr Cameron. Again, I am not in a position to answer that particular question. The Premier certainly would not be in a position to answer the question. If there is anybody who can answer the question, it is clearly only the Auditor-General. Certainly, it relates to the operations of the Auditor-General's own office. Again, in the context of accountability for taxpayers' money, it is taxpayers' funding which is utilised—in not inconsiderable sums, I might say. It is an important office and, therefore, considerable sums of taxpayers' money are spent, appropriately, on the independent office of the Auditor-General—not just in South Australia but in all states and territories, and in the commonwealth jurisdiction as well.

So, my fundamental view is that a member should be able to raise a question in the appropriate forum (which is parliament), at the appropriate time (such as question time), in relation to the accountability of the Auditor-General for the expenditure of taxpayers' money in that area: if you cannot ask the question in parliament, where on earth can you ask the question? If parliament cannot, in essence, hold accountable taxpayers' money spent in the Auditor-General's office, who, indeed, can? So, it is an issue of whether or not parliament itself has primacy in relation to these issues, and I would be surprised if anyone would argue, rationally, that parliament does not have primacy in relation to these issues.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: I think I am going to bow to the greater historical knowledge of the Hon. Mr Crothers, who may well grace us with his knowledge of the historical context of that particular case later in the debate. No-one here is talking about cutting kings' heads off or anybody's heads off. It is really just an issue of whether or not parliament is entitled to seek accountability for taxpayers' funding which has been expended by an officer who reports to parliament.

I admit that I was dismayed at the approach from the shadow minister for finance when we last debated this, who said that this is an outrageous attack on the Auditor-General.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, the Hon. Mr Holloway has changed his story in the last two weeks. He is now saying that it is only question three. When we last debated this, the Hon. Mr Holloway attacked me and the mover of the motion and said this motion was an outrageous attack on the Auditor-General because of the questions that were being raised. As I understand it, there are members in his own caucus who do not agree with the position that he was putting, and the Hon. Mr Holloway now says it is only question three that is a problem from his viewpoint. I will be interested to see whether the Hon. Mr Holloway's position, when he puts it in a moment, is different from the position he put two weeks ago, which is that this is all an outrageous attack.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, he spoke considerably by way of interjection two weeks ago, Mr President, when he said that all of this was an outrageous attack on the Auditor-General. Again, I return to the position that, while we are prepared to support this motion, frankly, I think it is not an appropriate—

The Hon. P. Holloway interjecting:

The Hon. Diana Laidlaw: We should never have to move it.

The Hon. R.I. LUCAS: We should not have to move a motion to seek responses from the Auditor-General in relation to these issues. So, certainly, while supporting this particular motion, I indicate that it is not a precedent for the way the government thinks these sorts of issues should be pursued. Certainly, as Treasurer, as someone who is interested in public accountability for taxpayers' money—and I would have hoped the shadow minister for finance would have been interested in public accountability for taxpayers' funding, and if he is not prepared—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, I do not have access to information.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, they might be audited but, if the Hon. Mr Holloway is putting a proposition that parliament does not have the right to ask questions of the Auditor-General—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I intend to, but you keep interjecting. If the opposition is going to put a position that parliament does not have the right to ask questions of the Auditor-General and seek responses to genuine questions about expenditure of taxpayers' money, then there is something wrong with the opposition in South Australia in its oft-claimed support for the notion of public accountability for taxpayer funding.

I repeat that our support for this motion is not a precedent that this is an appropriate way for us to go. We certainly believe that it should be possible for a member to ask a question of a minister in the parliament and, through that forum, to get responses from the Auditor-General rather than going to the stage of moving a motion and getting the support of a majority of members in a house of parliament to get answers to a question to the Auditor-General.

I do not know the answers to the questions. I know that, in the response that I have provided to the Hon. Mr Cameron from the Auditor-General, the Auditor-General has put a view that he is not required, I think that is the word, to respond to questions from an individual member of parliament under the Public Finance and Audit Act. We need to look closely at the words in relation to that. I am not a lawyer—and this is an issue that we will need to explore—but it may well be that it is correct that the Auditor-General is not required to give an answer to an individual member of parliament. Equally, we need to take advice from Crown Law as to whether there is anything that prevents the Auditor-General giving a response to an individual member of parliament should the Auditor-General choose to do so.

It would be my layperson's view of the law that, if a member of parliament asks a question in the appropriate forum of parliament and it is referred by the Premier or the Leader of the Government in the Legislative Council to the Auditor-General, there is nothing to prevent the Auditor-General, who could choose to—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: The estimates committee is a possibility, but if you are saying that the only time of the year when there should be any questioning of the Auditor-General is the 20 minutes that the Auditor-General is at the estimates committee, then—

The Hon. T.G. Cameron: How do I get to ask a question in the estimates committee?

The Hon. R.I. LUCAS: The Hon. Mr Cameron cannot ask a question in the estimates committee. I was diverted by the interjection of the Hon. Ron Roberts. It would be my non-lawyer's interpretation of the act that there is nothing that prevents the Auditor-General from responding to a question asked in the House by a member, referred by the Premier or Treasurer to the Auditor-General, and he could choose to answer that question if that was his desire or wish. That is an issue between now and February that we will need to take legal advice on. However, I would be surprised if there was anything in the Public Finance and Audit Act that prevents the Auditor-General from responding to questions.

I can understand the view that perhaps the Auditor-General would not want to be in a position where members of parliament rang him up at home or at the office and asked him for information—

The Hon. T.G. Cameron: I understand some do.

The Hon. R.I. LUCAS: The Hon. Mr Cameron indicates that that might be the case, and in his response he might be able to give examples of that, but I would have thought that it is up to the Auditor-General. He can choose to respond, if he wants, to telephone inquiries or letters that he receives from individual members. At the very least, if a question is asked in the forum of the parliament and then referred to the Auditor-General by the Leader of the Government in the Legislative Council or by the Premier in another place, I would have thought that it is appropriate protocol for questions to be raised with the Auditor-General and for him to be able to respond accordingly.

He retains the discretion of saying, 'I do not want to answer that question,' or he can respond in whatever way he may choose, as indeed ministers do when they have questions put to them. How he responds to the questions is ultimately an issue for the Auditor-General, as it is for ministers. In my view, in terms of public accountability for funding, the office of the Auditor-General should not be treated differently from ministers of the Crown who, on behalf of the government, are required to respond to questions put to them in question time about the expenditure of taxpayers' money within their responsibilities.

I hope that these questions and this motion can be resolved satisfactorily tonight in a responsible way. If the parliament passes this motion, I would be very surprised if the Auditor-General responded, given the views that he has expressed to the Hon. Mr Cameron via the letter from me to the honourable member that the Auditor-General would not respond. I do not think this is the appropriate way for us to go in the normal course of events; nevertheless I hope that, between now and February, we might be able to give further consideration to the appropriate protocols and we might be able to exchange views with the Auditor-General as to his concerns with the general process and protocol, and see whether or not there can be some resolution.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Mr Holloway said we should have done it before I wrote in reply to the Hon. Mr Cameron. All questions asked in question time are referred to the appropriate authority, minister or agency, and, in this case, the Auditor-General, and a reply is provided to members. In this case the Hon. Mr Cameron pursued the issue nine months later and asked, 'Have you got an answer yet from the Auditor-General to a question I asked in October or November last year?' and it was as a result of that that I can advise that the clerk in the Premier's office, to whom it had been referred, followed up the issue. I can advise that the Auditor-General personally rang the clerk in the Premier's office and put a point of view to the clerk about his response to the issue. I can advise that there were then further questions that I raised through my office to the clerk in the Premier's office and, as a result, further inquiries were put to the Auditor-General. It was at that stage that the Auditor-General provided the form of words which I have referred to in the letter to the Hon. Mr Cameron.

As I said in my letter, and I have repeated it again tonight, I do not believe that the response and what we have seen is a satisfactory process. I support the view that a member who asks a question in question time is entitled to a response when we are talking about public accountability for taxpayers' funding that has been provided. I hoped that we would not arrive at this situation and—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Mr Holloway needs to be very careful about some of the things that he was saying two weeks ago, and I guess that we will hear in a moment—

The Hon. P. Holloway: I am not aware of anyone who has had a written answer from the Auditor-General.

The Hon. R.I. LUCAS: The Hon. Mr Holloway needs to be very careful in relation to this issue.

The Hon. P. Holloway: I said I am not aware of any.

The Hon. R.I. LUCAS: The Hon. Mr Cameron is sitting right behind you and he has indicated knowledge of some issues. He was a member of your caucus for quite some time, so I advise the Hon. Mr Holloway to be careful.

An honourable member: Not an active member.

The Hon. R.I. LUCAS: He was a very active member of your caucus. I understand it is up to the Hon. Mr Cameron what he places on the public record, but I understand that he is aware of a number of conversations with members of the Labor Party caucus in relation to—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is ultimately up to the Hon. Mr Cameron. I am not going to place on the record discussions that he may or may not have had with members of the Labor caucus.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I believe that a member of parliament is entitled to ask a question in this Council and get a reply from the Auditor-General about the expenditure of taxpayers' funding. If the Hon. Mr Holloway does not believe in the primacy of the parliament to ask questions of the Auditor-General—

An honourable member interjecting:

The PRESIDENT: Order! The Hon. Mr Holloway will have his turn shortly.

The Hon. R.I. LUCAS: It is a sad situation for our institution of the parliament if a shadow minister for finance is not prepared to defend the primacy of the parliament in relation to the expenditure of taxpayers' funding.

With that, I indicate my support for the motion and again repeat that I do not believe it is an appropriate protocol for the future. I would hope that, perhaps with some discussion with the office of the Auditor-General between now and next February, we might be able to arrive at some sort of arrangement where a motion is not required to be moved by an individual member to get answers to questions about public accountability.

The Hon. P. HOLLOWAY: I believe that this motion is part of an attempt by the Hon. Terry Cameron, with some assistance from members of the Kerin government, including the Treasurer, to discredit the Attorney-General. It mirrors the attack on the Office of the Auditor-General that took place under the Kennett government in Victoria. I will outline in a moment—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: If I get the opportunity I will outline in a moment the history of attack that Terry Cameron has made on the public record on the Auditor-General. This motion is portrayed as an attempt to request information of the Auditor-General which is in the public interest. In actual fact, this motion has been used as nothing more than a vehicle for raising innuendo against the Office of the Auditor-General without any supporting evidence or justification. Nevertheless—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

The Hon. P. HOLLOWAY: Nevertheless, the opposition will not oppose this motion. This innuendo having been raised in parliament under privilege, it is our view that the Auditor-General should now have the opportunity if he so wishes to respond to this matter. While we abhor the motives of the Hon. Terry Cameron and the Treasurer in using this motion to raise innuendo in relation to his office, if we successfully defeat this motion we will not remove the smears. Some mud always sticks. We will therefore be supporting the motion.

I will analyse the question raised by the Hon. Terry Cameron and the role played by the Treasurer later. It will show that the Hon. Terry Cameron's motives for moving this motion are malicious and that the Treasurer has been up to his neck, as usual, in political game playing. What a tragedy for South Australia that our Treasurer for more than four years now—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

The Hon. P. HOLLOWAY: —has resorted to grubby politics at the expense of his responsibilities to this state. Rather, the opposition believes that it is better that we explore the dubious motives behind this motion and leave it up to the Auditor-General to respond if and how he sees fit. That can only occur if the motion is passed by this chamber. Now let me place on record the history of antagonism—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

The Hon. P. HOLLOWAY: —towards the Auditor-General which has been demonstrated by Terry Cameron, so that the reasons for this motion are obvious to all. We can go right back to 26 March 1998, where it all began in relation to the Auditor-General's report on the Port Adelaide Flower Farm. Back on Thursday 26 March 1998 the Hon. Terry Cameron said:

> . . . I was flabbergasted that a report of that length was prepared.

The background to that report is that it came about because the Treasurer of the day—not this Treasurer but his predecessor—changed the Public Finance and Audit Act to get this report and he then passed a resolution in relation to that matter. So, that flower farm report was the result of a directive under section 32 of the Public Finance and Audit Act. It was signed by Steven Baker on 6 July 1996. The directive stated:

> Accordingly I, Steven John Baker, require that the Treasurer for the state of South Australia request pursuant to section 32 of the Public Finance and Audit Act that the Auditor-General examine the accounts relating to the Port Adelaide Flower Farm and the efficiency and cost effectiveness of that project and in particular, without limiting the generality of the foregoing (1) inquire into and report on the nature and extent of any financial losses that arose from the operations of the flower farm and the principal causes of those losses; (2) inquire into and report on the extent of the financial reporting to the council on the financial performance and financial position of the Port Adelaide flower farm and whether that report was adequate; (3) inquire into and report on the relationships between the council and its officers and other persons or bodies as they affected the Port Adelaide Flower Farm and the efficiency and cost effectiveness of that project.

The Auditor-General was directed, as is possible under section 32 of the Public Finance and Audit Act, to undertake that operation. If he had done less than that and done a half-baked job, I am sure the Treasurer of the day and members of this government would quite rightly have criticised him for doing so.

Nevertheless, let us see what Terry Cameron said on Thursday 29 July, when he was referring to an amendment moved by the Hon. Ian Gilfillan to the Local Government Bill

calling for the Auditor-General to be informed in writing if a council auditor is removed. He said:

> SA First will be opposing the amendment moved by the Hon. Ian Gilfillan. I think it is overly bureaucratic, and I am still smarting from the last reference to the Auditor-General when he spent $350 000 preparing the Port Adelaide Flower Farm report.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, you contradicted yourself later; I will come to that. He continued:

> I am not sure I want to send anything back to the Auditor-General.

On Wednesday 25 October 1999, he said:

> The Auditor-General spent $446 000 preparing a report about the Port Adelaide flower farm. I guess that, if anyone else had spent that amount of money on that report, they would have been charged with a gross misuse of taxpayers' funds.

That was at page 127. The Hon. Terry Cameron also—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will cease interjecting.

The Hon. P. HOLLOWAY: They do not like it, do they? In his speech when he moved this motion just last week, the Hon. Terry Cameron made the following comment. He said:

> After all, the Auditor-General spent nearly half a million dollars on a reference from the parliament on the Port Adelaide Flower Farm even the Hon. Legh Davis and Keith Beamish did not read his flower farm tome. So how does a member of parliament—
>
> *The Hon. P. Holloway interjecting:*
>
> **The Hon. T.G. CAMERON:** There was a resolution carried.
>
> *The Hon. P. Holloway interjecting:*
>
> **The Hon. T.G. CAMERON:** I think you will find that we carried a resolution in this chamber because I spoke to it and got done.

There was a resolution about noting the report, but the actual reference to refer this was, as I have just indicated, a reference under section 32 of the Public Finance and Audit Act by Steven Baker. What is relevant is that, even last week, Terry Cameron still had his basic facts wrong. That is all part of the picture that I will be building up, but there is plenty to go, so just wait; you will enjoy this. It happened on Wednesday 10 November 1999 during debate on motion to request the Auditor-General to investigate dealings related to the Hindmarsh Soccer Stadium redevelopment project. I quote Terry Cameron again at page 345:

> My worry is sending it to the Auditor-General: I do not want him wasting any more taxpayers' money on reports.

He also said:

> A royal commission would be cheaper than sending it to the Auditor-General.

At page 349 he also said:

> It raises the question of whether that is the appropriate or proper place for this inquiry to go to; and I will also need to address the question of what confidence I would have in the Auditor-General conducting this inquiry, particularly in relation to cost.

On page 349 there is another quote:

> It may well be that, in future, this chamber should be a little more circumspect about when it makes references to the Auditor-General. I assure members that I will not be supporting any references to the Auditor-General in future, unless a caveat is placed on it as to how much money he will spend . . .

Also on page 349:

> We have the Auditor-General not even keeping tabs on how much time he, his senior officers or staff are spending on the preparation of a report.

Another quote on page 350 on that date is as follows:

> How dare he criticise Labor or Liberal governments for wasting public moneys when he has done exactly the same thing himself and may have provided misleading information to this parliament.

So, there it was: he was accused of providing misleading information to this parliament, something of which there has been no evidence.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: No, this was long before these questions; this was this back on 10 November 1999. You were accusing him then of misleading parliament. On Wednesday 10 November 1999, on page 350 of *Hansard* there was a further debate on the Hindmarsh Soccer Stadium. By way of interjection—

The PRESIDENT: Order! The Hon. Mr Holloway, this is not relevant at all to the motion in front of us.

The Hon. P. HOLLOWAY: Mr President, it is completely relevant.

The PRESIDENT: It is not relevant to the matter before us in the motion. I will be listening very carefully to make sure you are relevant.

The Hon. P. HOLLOWAY: On Wednesday 10 November 1999 the Hon. Terry Cameron made an interjection which explains his reasons, and the thesis that I am putting is that this is an attempt to have a go at the Auditor-General. I will put it on the record, as follows:

> **The Hon. J.F. STEFANI:** . . . I do feel that the Council has complete confidence in the one officer of this parliament, and that is the Auditor-General.
>
> **The Hon. T.G. Cameron:** Not complete confidence.

On Thursday 18 November 1999, during question time, the Hon. Terry Cameron asked by way of interjection (*Hansard*, page 535):

> Is the Auditor-General happy? It appears to be so from the press this morning, but is he happy? He seems to be happy now; are you happy that he is happy that the process will go ahead?

An honourable member interjecting:

The Hon. P. HOLLOWAY: Happy talk, yes. On Thursday 6 July 2000, during the debate on the Electricity (Pricing Order and Cross Ownership) Amendment Bill where I was referring to the appearance of the Auditor-General before the Economic and Finance Committee, Terry Cameron made the following interjection (*Hansard*, page 1526):

> Megalomania's always hard to deal with. . .

In a further interjection Terry Cameron said:

> Recognise my interjection: I want to get that on the record!

On Wednesday 11 October 2000 (*Hansard*, page 99), during questions on the Auditor-General's Report, the honourable member said:

> . . . the Auditor-General also referred to inadequacies in the tendering process or the lack of it for consultancies. I would like to know who is responsible for auditing the Auditor-General. . . his budget keeps going up.

Further, he said (*Hansard*, pages 107-8):

> Why is it that the Auditor-General now has an additional $515 000 in cash in hand in the bank. . . why is the Auditor-General sitting on so much cash, where does he invest this cash, and what return is he getting from it for the taxpayer?

On Wednesday 28 March 2001, during debate on Sandra Kanck's motion that the Premier should relieve the Treasurer of responsibility for the South Australian electricity industry, he stated (*Hansard*, page 1146):

> We all know that the Auditor-General delights in attacking this government.

Also on that page, he said:

. . . I would have thought that the Auditor-General would gleefully accept any opportunity to criticise the government and the Treasurer.

On Thursday 26 July 2001, during question time (*Hansard*, page 2018), Terry Cameron said:

. . . will the government support the appearance of the Auditor-General before the Council during the debate on his report so that members can have a more comprehensive understanding of the issues involved?

As I said earlier, it was interesting that the government did not support that when it was moved earlier. Neither did the opposition, because we know the Auditor-General already appears—

Members interjecting:

The Hon. P. HOLLOWAY: I will get to that in a moment. I will be as long as you are, Legh. On Thursday 4 October 2001 during question time (*Hansard*, page 2369) the honourable member said:

I will quote from page 15 of the Auditor-General's Report. I find that the terminology and the language he uses at times is quite inflammatory and inclined to exaggeration.

During a speech made on Wednesday 14 November 2001—

The Hon. R.I. Lucas: You got rolled in caucus.

The Hon. P. HOLLOWAY: You're wrong there. You don't know what goes on, do you? You are just absolutely wrong on everything you say. I return to the speech—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —that was made by the Hon. Terry Cameron in moving this motion. I have shown that clearly the Hon. Terry Cameron has been dissatisfied, to say the least, with the Auditor-General for at least three years. In doing so, he has raised criticisms—personal and otherwise—on a number of occasions, and that helps us understand the motivation for this motion. The Hon. Terry Cameron began by saying:

I understand that in the past the Auditor-General has responded to individual requests from the Leader of the Opposition and other members of the Labor Party. I cannot understand why he takes legal advice in order to avoid answering legitimate questions about the role and the operation of his own office.

I am not aware of any example where the Auditor-General has written to members of parliament. I challenge—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I can say that, in the 10 years I have been a member of parliament, I would have had contact with the Auditor-General no more than four or five times. I can recall one occasion when I—

An honourable member: Have you ever rung him?

The Hon. P. HOLLOWAY: Yes, I have, and I will tell you about it. The Hon. Carmel Zollo just told me—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Just listen to this. She said, 'At our induction, the Auditor-General said he was happy to take calls from us'. That is when there was an induction. The Hon. Carmel Zollo told me earlier that that is what the Auditor-General said—he was happy to take calls from us. Some years ago, I rang him in relation to an amendment I was considering in relation to a bill for the outsourcing of Modbury Hospital. At the time, we wished to insert a clause which would have involved the Auditor-General having some role in relation to assessing contracts. I thought it was fair that I should discuss that matter with the Auditor-General. After those discussions, he persuaded me that it would have been inappropriate to involve the Auditor-General in discussing matters before a contract that he had to audit. Nothing was written and, of course—

The Hon. T.G. Cameron: But did you get an answer?

The Hon. P. HOLLOWAY: I got an opinion which—

Members interjecting:

The Hon. P. HOLLOWAY: It is the deceit that is going on.

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. P. HOLLOWAY: No, I wanted to get it on the record so that I can address it. What has happened is that there are a number of occasions—

Members interjecting:

The Hon. P. HOLLOWAY: I talked to him, as he talked to Joan Hall. We know that from the Hindmarsh stadium report. We know about Joan Hall and what she did. The Auditor-General has conversations—

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I am not aware of any occasion where any of my colleagues or myself have received a response from the Auditor-General in writing to any specific matters. I am not aware of any occasion—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Because it is exactly what is requested here.

An honourable member interjecting:

The Hon. P. HOLLOWAY: That's the whole point. The Hon. Terry Cameron wants answers to questions in writing in relation to specific matters.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Perhaps he should. Did he ring him up?

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Holloway will get on with his argument.

The Hon. P. HOLLOWAY: Mr President, how dare you say that when you will not give me adequate protection in this Council!

The PRESIDENT: Order! I am asking you to go on with your debate.

The Hon. P. HOLLOWAY: I would love to, Mr President. Perhaps if you gave me some protection, I could do that.

The PRESIDENT: If you defy the chair, I will sit you down.

The Hon. P. HOLLOWAY: In putting his argument, the Hon. Terry Cameron alleged that the Auditor-General was not being even handed in that he was responding to members of the Labor Party but not to him. We have now heard and it is now on the record, as a result of this debate, that the Hon. Terry Cameron has never sought to discuss the matter with the Auditor-General. I am not aware of any occasion—and I challenge any member to produce any such occasion—where the Auditor-General has responded in writing to these sorts of matters. Let us end that nonsense now.

I would like to read into *Hansard* the letter the Treasurer wrote to the Hon. Terry Cameron. It was tabled in parliament when this matter was debated on 14 November. It has been tabled, but it should be read into *Hansard*. It states:

Dear Terry,

Thank you for your letter of 19 September concerning Questions Without Notice to which you are awaiting response.

I understand that my office staff have contacted your office concerning the Questions Without Notice asked on 31 May 2000 and 7 November 2000, and that responses have been given to these (the first by the Minister for Transport in a letter dated 13 August and tabled on 4 October 2000, the second by me on the day the Question Without Notice was asked).

The Question Without Notice of 6 June 2001 is currently with the Minister for Youth.

As for the Questions Without Notice of 11 October 2000 (four), these all relate to the Auditor-General's Department. I am advised that, when these were forwarded to the Auditor-General's Department for the response by the Premier's Parliamentary Officer, the Auditor-General advised that:

'he has legal advice that he is not responsible to individual members of Parliament. Under the Public Finance and Audit Act 1987 he is not obliged to provide answers to questions raised by individual members of Parliament in the absence of a request for a report that would be provided to the Treasurer or a Minister requesting a report as well as to Parliament but not directly to the individual member in question.'

Whilst noting the Auditor-General's response it does seem to be inconsistent with his willingness to respond to past individual requests from the Leader of the Opposition and other members of the Labor Party and also the Hon Nick Xenophon.

That is the matter that we are now discussing. I think those who make that claim have an obligation to provide some evidence. The letter continues:

In the interest of public accountability of expenditure, if you wish to pursue this further I would be pleased to discuss it further with you.

I think it is important to understand that the Treasurer of this state has written to Terry Cameron saying:

In the interest of public accountability of expenditure, if you wish to pursue this further I would be pleased to discuss it further with you.

Finally, in relation to your reference to a question of 21 October, I understand that this in fact concerns a question asked on 11 October, to which a reply was provided by letter dated 26 December 2000 from the Minister for Government Enterprises. I forwarded to you a copy on 24 February 2001.

The Hon. Terry Cameron's speech moving this motion on 14 November states—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: He states:

The Auditor-General obtained a legal opinion which states that he is not required to answer individual members of parliament even though I have used the parliamentary process of questions on notice and questions without notice.

It is my understanding that precedents for this have been set by previous auditors-general. To suggest that this is something which the current Auditor-General has pulled out of the air in this case is I think erroneous. Again, I challenge those who make that allegation to produce evidence that this is unusual or unprecedented. The Hon. Terry Cameron made a number of allegations in his speech. He said that the South Australian public's confidence in the role of the Auditor-General would be significantly enhanced if they knew there was full disclosure and transparency regarding the running and operation of his office. Again, that is the innuendo that I am talking about. There is a suggestion that for some reason there is not full disclosure and transparency regarding the running and operation of his office. It states further:

Knowing the Auditor-General, he would have every confidence that his department would pass with flying colours—or would it? That is the point: we just do not know.

Again, the innuendo. It goes on:

I am not suggesting for one moment that there has been impropriety, corruption or anything of that nature in the Auditor-General's office. What I am saying is that we do not know exactly what is going on.

That is what this is all about: it is about putting the innuendo on the record. The letter goes on to say:

It is my understanding that the Auditor-General has answered questions that have been put to him by the Leader of the Opposition and members of the opposition.

I guess that is the Hon. Terry Cameron taking it straight out of the Treasurer's assertion, because that is where it came from originally. He goes on:

I would be interested to know what process was used here because I cannot find where these questions were lodged through the parliamentary processes. I am not sure whether a letter was sent to the Auditor-General or whether members of the opposition have—

this is the allegation of Terry Cameron; what he is doing here is alleging bias—

a cosy enough relationship with the Auditor-General just to pick up the phone, ring him and put questions to him.

As I indicated earlier, it is my understanding that, at the induction ceremony, the Auditor-General invited members to pick up the phone and speak to him about matters.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Exactly that. Now, Mr President, they were—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Yes, it is because I have set out the motive, and that is the guts of it. It continues:

They will see that they do not have a crack at the Auditor-General.

This is what he claims about his questions—and I will address that in a moment. It states:

One could read a statement that has been made by the Auditor-General as an interpretation that his own auditors said that they found matters of concern in the Auditor-General's Department but it is just that they are not significant.

The Treasurer has endorsed this. He says that these three questions which the Hon. Terry Cameron has asked are all fair and above board. What exactly did it say in the Auditor-General's report? It says—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I am reading from the Auditor-General's report, which says—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: This is on page 595.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: No, I didn't—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: On page 595—

Members interjecting:

The Hon. P. HOLLOWAY: I haven't—

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: On page 595, it states:

Pannell Kerr Forster reported the results of their audit in a management letter dated 18 August 2000. In that letter they indicated 'no significant matters of concern were encountered in the course of the audit.'

If you were a shareholder in any private company and you read that there were no significant matters of concern encountered in the course of the audit, how would you interpret that? How would any reasonable person interpret that? That is why I made the comment last week—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: You can see the sort of allegation that is being made here, that somehow or other what is a normal statement that was put in the Auditor-General's report by the auditors, Pannell Kerr Forster has been distorted. I think that is an outrageous allegation. That is the comment that I made to the press last week in relation to this matter. It is a gross distortion to suggest that. In any case, if we were to ask that question of the Auditor-General, how is he to answer given that the words in the report were those of Pannell Kerr Forster, the Auditor-General's auditors? I would think that the question needs to go to them anyway, but that is a relatively minor matter.

Let us look at the second question asked by the Hon. Terry Cameron: why did the Schlumberger contract mentioned on page 23 not require a formal review such as the annual performance appraisal and the triennial review like all other SA Water contracts? That comes from the Auditor-General's report, his very large, bulky report where the information is supplied by those departments. As I understand it, what happens with these reports is that most of this information is provided by the department. The comment that the Schlumberger contract does not require these formal reviews to be performed is, as I understand it, a comment on the particular provisions of the contract.

Clearly, that question, if it is to be asked, should be asked by the minister responsible for SA Water. I ask the Treasurer why he did not refer that question to the minister for SA Water. Why did he refer it on to the Auditor-General? When we have questions related to the Auditor-General's report, as we do every year, it is the tradition in this place that those questions be asked by the ministers responsible. That is the way in which it has been conducted, certainly in my time in this place, and I suspect—

The Hon. R.R. Roberts interjecting:

The Hon. P. HOLLOWAY: I suppose in the old days the Auditor-General's report was discussed during the budget deliberations because they came out at the same time of the year. I suppose it has changed since 1996 or 1997, whenever the budget date was changed. Nevertheless, it was still the practice during the budget estimates committees that all these questions on matters raised in the Auditor-General's report were always responded to by the minister. I would have thought that in relation to that second question it was entirely appropriate that that question should have been addressed by the minister for SA Water, who presumably was responsible for drawing up the contracts, as he would be the only person who would be in a position to know the answer to the question. So much for the second part of the question.

Let me turn to the first part of the question, which relates to consultancies and the Auditor-General's Report of 1999-2000. I do not know what the answer to that question is, but I do know that during the year 1999-2000 the Auditor-General was required by this parliament—and surely the Hon. Mr Cameron, of all people, should know that that was the year in which the ETSA sale proceeded—under the terms of the ETSA Sale and Lease Act, to conduct an audit of the process. Is it any wonder, therefore, that the costs of the Auditor-General's office would increase during that year, when he was required by this parliament to undertake that audit in relation to the ETSA sale?

I was a member of a select committee that was established to hear arguments from the Auditor-General, if he saw fit, and we did have one or two meetings. The Treasurer was the other member from this place and I think the member for Hart and the member for Stuart from the other place were members of the committee as well. As a member of the committee I was well aware, as the Treasurer would be, of the nature of some of the legal consultancies that the Auditor-General undertook in relation to the ETSA sale process. The comment that I would make in relation to that would be that, whatever these costs were that the Auditor-General's office had, his lawyers were a damn sight cheaper than those that cost the $35 million or $40 million in relation to the sale of ETSA.

Can I also say that, as a member of that committee, I am well aware that the Auditor-General, through his intervention in that process, was able to bring the sale process back on track, following some of the problems that were encountered. So the Treasurer, being on that committee, would know the source of the legal advice, and he therefore should know the answer to the question regarding the 17 per cent. But since the matter was before a confidential committee in which we were required to not—

An honourable member interjecting:

The Hon. P. HOLLOWAY: I won't go into that. The point is that there was a committee of this parliament—in other words, there was a mechanism established by this parliament—to ensure accountability in relation to the Auditor-General's task to carry out the audit of the sale of the electricity assets process.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I am saying it existed. That was the committee, and the Auditor-General did it. I was a member of that committee so I accept that I have information, as does the Treasurer, that other members may not have available to them in relation to that matter. As I said, the Hon. Terry Cameron, of all people, should be aware that the reason why the Auditor-General had considerable costs in relation to these matters was that he was required by parliament to oversee the sale of ETSA.

I would like to make a couple of other points in relation to the doubts raised about the accountability of the Auditor-General. It should be put on record that the Auditor-General appears before parliamentary committees on request, and I have been on a number of committees, particularly those in relation to outsourcing assets, where the Auditor-General has been asked to appear, he has done so and he has addressed questions in relation to those matters. I can certainly recall one instance in relation to Modbury Hospital and again on a couple of other committees. He appears before the Economic and Finance Committee: I know because I was a member of that committee at one stage. He appears to answer questions about his report every year. The convention is that every year, or on request, the Auditor-General appears before the Economic and Finance Committee of this parliament to answer questions from members. The Auditor-General also makes himself available before the estimates committees of the House of Assembly each year. It is nonsense to suggest that the Auditor-General is not subject to some level of accountability.

What we are really talking about here are some particular matters that have been raised by the Hon. Terry Cameron. As I have indicated, it is not appropriate for the second of those questions to be addressed to the Auditor-General: it should be addressed to the minister in charge of water resources. The third question, in relation to the Auditor-General's auditor, is quite mischievous and distorts the position. But if the Auditor-General had the opportunity to respond, I am sure he would be able to address that matter.

The point of this thesis is that under this motion a whole lot of innuendo has been raised against the Auditor-General.

There is nothing in these questions that the Hon. Mr Cameron has raised that really expresses a matter of public concern about the role of the Auditor-General. The Hon. Mr Cameron has accepted that, as is indicated by the quotes from him that I have read out. He says he is not suggesting that any wrong has been done. However, as is suggested in the comments I read out earlier, he has made known his view of the Auditor-General.

In my view—and I think any reasonable person would have to agree—there has been no evidence whatsoever that there is anything genuine in the questions that the Auditor-General should be required to answer. I think that really comes to the whole point of this motion. If we are to require the Auditor-General to respond to every single issue that has been raised by a member of parliament, where would we get? I am sure if I rang the Auditor-General and asked detailed questions like this I would be politely told where to go.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am sure the Treasurer has on a number of occasions spoken to the Auditor-General himself. Is the Treasurer saying that he never speaks to the Auditor-General? Heavens above; where are we going here? Of course he would speak to the Auditor-General on all sorts of occasions. What the Treasurer seems to be suggesting here is a nonsense—an absolute nonsense.

Members interjecting:

The Hon. P. HOLLOWAY: Yes. But to get back to the point of this motion, if the Auditor-General was required to reply in this sort of detail to specific questions raised all the time by members of parliament, what would happen? Where would we get to? Would we do the same thing with other statutory officers, such as—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Are we going to do this to the Solicitor-General? If I were to ask questions in relation to this parliament directing the Solicitor-General, would we expect him to respond? Surely not. What about some of the other officers? What about the Electoral Commissioner and other people such as that who are appointed under the special—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, if we did ask questions they would be answered by the minister.

An honourable member: And in accordance with the act.

The Hon. P. HOLLOWAY: They would be directed to the minister, and that leads me to another point. If the Treasurer wishes any information in relation to the office of the Auditor-General, if he believes that there is a matter of public interest, he has powers under the Public Finance and Audit Act to direct the Auditor-General—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Indeed: why should you? Exactly. But the issue here before us—

An honourable member interjecting:

The Hon. P. HOLLOWAY: But your predecessor did direct him in relation to the flower farm.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, he was directed. I will draw this matter to a close, because I think it is important that we move on. As I said, what has happened under this motion is that a significant amount of innuendo has been raised. If we were to leave this motion hanging, if we were to defeat this motion—and I believe it is—

Members interjecting:

The PRESIDENT: Order! I will not call 'Order' again.

The Hon. P. HOLLOWAY: It is the view of the opposition that no genuine case has been put forward as to why the questions that have been posed by the Hon. Terry Cameron should be answered. There is no case to suggest any impropriety—

An honourable member interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

The Hon. P. HOLLOWAY: —or any problem. The Treasurer has already conceded that he has shifted ground since last week: he has already said that he does not think there should be a precedent that every time we want an answer from the Auditor-General we should have to move motions. But, quite clearly, if the Auditor-General of this state is to do his job—a very important job for the people of South Australia—he needs to be able to get on with the business required of him without any diversionary tactics such as we see in relation to this matter.

So, it is important that the Auditor-General should be allowed to get on with his job. In this case, since this innuendo, since all this muck that I outlined earlier, has been put on the record, I believe that the Auditor-General should have the opportunity, if he so wishes, to respond to the matter, as indeed does any member if they wish to discuss it. But to have a situation where the Auditor-General's time is diverted into answering individual specific questions in parliament on every matter—

Members interjecting:

The Hon. P. HOLLOWAY: Well, he's never answered any question that I have asked in writing.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: If that were the case, quite clearly this situation would be ridiculous. The Treasurer himself must realise that. Anyone who read his initial comments of last week and those of this week would see the change that has happened. I think the penny has finally dropped for the Treasurer that, if this resolution were to be carried and to set a precedent whereby every time the Hon. Terry Cameron, or somebody else, wanted an answer or wanted to have a go at the Auditor-General they could move a resolution in this place, that would clearly be an absurd and untenable situation.

This matter does need to be resolved. Since the Hon. Terry Cameron has raised it, we will not oppose the motion and it will be up to the Auditor-General to respond as he sees fit. But, if there were any more attempts to try to embarrass the office of the Auditor-General in the way that has been done here, certainly the opposition would not be supporting them.

The Hon. J.F. STEFANI: I oppose the motion moved by the Hon. Terry Cameron seeking the support of the Legislative Council to request the Auditor-General to provide certain information and answers to questions raised by the honourable member. I say at the outset that the reason I am opposing this motion is simply based on the premise that the Legislative Council has no legal or constitutional authority to direct the Auditor-General to answer questions raised by any member of this parliament by passing a resolution which may or may not be supported by a majority of members in this chamber.

This motion seeks to direct the Auditor-General to comply with particular requests made by a member of this chamber. I am sure that the Auditor-General would have no problem in providing any information to the parliament through the

appropriate, established mechanisms which exist and which can be utilised under the normal protocols and procedures prescribed under the Public Finance and Audit Act 1987 and other statutes. For example, I am confident that the Auditor-General would have no difficulty at all in appearing before the Economic and Finance Committee, as he has done on numerous occasions in the past, and providing information and answering questions put to him, without fear or favour, and with complete openness. I am equally confident that the Auditor-General, who is a highly respected and forthright person, would be more than willing to provide the information and give answers to the questions raised by the Hon. Mr Cameron, provided the due process of parliament was followed.

It was surprising for me to discover that both the government and, perhaps reluctantly, the opposition have indicated their support for the motion moved by the Hon. Mr Cameron.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: Had some research been done about this matter and process, one would have realised, as I did, that this resolution is meaningless because the Auditor-General is not obliged to respond to requests from an individual member of this parliament.

I now refer to important precedents which have already been established, in March 1985 and again in March 1986, and which are detailed in parliamentary papers, pages 512 and 131 respectively. At that time, the then Auditor-General, Mr Tom Sheridan, replied to the then President of the Legislative Council and said that he would not respond to the request made to him following the passing of a resolution by the Legislative Council. In fact, the then Auditor-General, on 15 March 1985, wrote to the then President of the Legislative Council in the following terms:

> 15 March 1985.
>
> The President, Legislative Council.
>
> Dear Mr President,
>
> Thank you for your letter dated 14 March 1985. I note the resolution passed by the Legislative Council on the previous day. The resolution touches on an important principle with respect to the role of an Auditor-General. The Westminster system of government requires that not only must he be independent, he must be seen to be independent in the discharge of his statutory responsibility to the parliament. Within that charter an Auditor-General is responsible, ultimately, to the parliament. However, to respond to individual requests from individual members of parliament, either government or non-government, or to one section only of the parliament, would seem to place that independence at risk. I note that the House of Assembly did not pass a similar resolution when it was presented to that house of the parliament on 13 March 1985.

It is for these fundamental reasons that I will not support the motion moved by the Hon. Mr Cameron. It is my view that the motion is worse than useless and has no legal or constitutional standing in the due process and procedures of this parliament. The motion, if passed by the Legislative Council, is bound to fail to achieve a response from the Auditor-General.

The Hon. T. CROTHERS: I had not intended to speak in respect of this matter but, after listening to some of the inane interjections from down Port Pirie way and after listening to some of the gobbledegook in the contribution of the Hon. Paul Holloway—a good friend of mine, and a gentleman—I feel constrained, as a friend of the Auditor-General, to put certain matters to rest in respect of the proposition we have before us.

My friend, the Hon. Mr Holloway, made several contradictions in his hour-long contribution. I intend to touch on only one because it will be in honourable members' memories as it was made within the last several minutes of his contribution. He said that there are committees of this parliament that the Auditor-General appears before where he is prepared to answer questions directed to him by members of the parliament. On the other hand, we know that the Auditor-General has said that he has a legal opinion that he does not have to answer any questions put to him by a member of parliament. In other words, he is saying—and this is where I take issue—that, when any member on a committee of parliament asks a question that is a bit too hot to handle, under the legal advice that he has received, he does not have to answer the individual member's question.

The collective will of this parliament is the power throughout the length and breadth of this state. That is what it is. Certain officers are independent (the Auditor-General, I think the Solicitor-General, and a couple of others such as the Ombudsman), but they are not removed from the collective mind of this parliament acting as a whole. This parliament—

The Hon. R.R. Roberts: Yes, they are

The Hon. T. CROTHERS: No, they are not.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: No, they are not. I beg to differ. Hear me out. Stop rambling on with your inane, utterly ridiculous interjections. Hear me out. We can remove Supreme Court judges in this state if that is decided by both houses meeting as a collective and a majority of members collectively come to that decision.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: That's correct. See, fools rush in, Ron, where angels fear to tread and, instead of interjecting, if you had waited until I had finished what I was saying you would have agreed with me. In this age of the Freedom of Information Act, how can the Auditor-General say that he is above the Freedom of Information Act? How can he say that? It seems to me—

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Have you finished? I have got plenty of time. I can stand here all night.

An honourable member: I don't think you could.

The Hon. T. CROTHERS: Yes, I could. Where you are concerned, I could stand here for two nights. It just seems to me that nobody really has addressed the nub of this proposition. The nub of this proposition is contained, for my purposes, in 1(a) and 1(b)(i), (ii) and (iii). We have to look at the rights of the Auditor-General that are conferred on him under the act. Commonsense dictates that this parliament would be less than wise if it tried to direct the Auditor-General how to do his day-to-day tasks. I think it would be very unwise of this parliament to endeavour to do that. But it is not unwise of this parliament—because the parliament, after all, is responsible for the budget processes of this state—to ask the questions in paragraph 1 of the motion, as follows:

> (a) Was 17 per cent ($1.6 million) of the budget of the Auditor-General's Department spent on various consultancies?
>
> (b) . . . and the respective amounts paid—
>
> (i) contract audit fees of $687 000;
>
> (ii) various consultancies of $192 000; and
>
> (iii) special investigations of $775 000?

I assert that this parliament, as a supreme authority in respect of this state's budget, has every right to demand answers of the Auditor-General about the way he has expended the

people's money that has been allocated to him via the budget. In respect of the other matters, I would defend his right to the death to operate under his charter of Auditor-General as he sees fit. But, I will not accept from him, or from any other officer, that they have the right to deny us asking questions in respect of the public money that they spend. After all, it comes from the budget and this parliament—not so much in this chamber but, certainly, in the lower house, where this parliament deals with the budget of this state.

I do not want to go any further now because I think the Auditor is an okay guy—even though the word 'MacPherson' in Gaelic means 'son of the priest'. Obviously, one cannot blame one's ancestors. I think he is an okay guy and I have nothing but good time for Auditor-General MacPherson, but I will defend this parliament's rights to the death with respect to questions over money, just as I will defend his rights to the death as to how he will proceed relative to matters that are to do with auditing the state's financial records.

The Hon. NICK XENOPHON: I support the motion. I have full confidence in the Auditor-General and in his integrity and in the way he conducts his office. I also say that, as the independent financial watchdog in this state, the Auditor-General has a degree of discretion, which the Treasurer has referred to, in order to perform his functions under the Public Finance and Audit Act, and he has an important role to ensure that public money is expended appropriately and is subject to a full audit process.

My remarks will be brief in relation to the substance of this motion because I see the issues as relatively straightforward. I see this as an issue of process and protocols. Individual members in the other place have the right to ask questions of the Auditor-General in the context of the estimates committee. That is something that members of the Legislative Council do not have the right to do—and I note the proposition of the Hon. Mike Elliott to reform that process. The sooner members of this place have the opportunity to ask questions of all government departments and all officers, including the Auditor-General, the better, and I see that as a key reform.

The point has been made that the Auditor-General can be called before the Economic and Finance Committee to answer questions but, again, that is not a committee of this chamber, so no member of this Council can be part of that. Members of this House who are not members of the major parties which have representation in the lower house are at a disadvantage because we are not part of the estimates committee process and do not have the right to ask questions of the Auditor-General. In terms of the question of process, we are at a disadvantage and it is important that there is a process in place for members of this chamber to ask questions of the Auditor-General.

So, I support this motion because I support the principle that questions ought to be asked on an issue of substance such as this and I think that it is appropriate that questions be asked in terms of the general principle. It does not mean that I necessarily endorse the questions or the nature of the questions—that is not the issue. The issue is whether the questions be asked. It is important that this exercise is not one that politicises the role of the Auditor-General or that it becomes part of a political debate. That is why I think it is important that we focus on the specific issues so that it is straightforward.

I wish to respond to comments in respect of the content of the Treasurer's letter and the reference he made to the Auditor-General responding to me. It is fair to say that, when I wrote to the Auditor-General on the issue of public expenditure with respect to civil defamation actions, the Auditor-General responded through this parliament by way of a report. That ought to be put in perspective.

The Hon. R.I. Lucas: He came along to watch the final decision, as well.

The Hon. NICK XENOPHON: The Treasurer makes the point that he came along to watch the final decision. I think I nodded in his general direction because I was preoccupied with the decision that was being handed down.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Treasurer makes a very good point that he did television interviews afterwards. My understanding is that his comment was 'No comment.' If I am wrong, I will stand corrected, but I do not know whether the Treasurer acknowledges that.

The Hon. R.I. Lucas: I do not know what he said. I saw his face on the television.

The Hon. NICK XENOPHON: When I asked a journalist what the Auditor-General said, the journalist said that the Auditor-General said, 'No comment.' That was the extent of the interview. Perhaps that rectifies any misconception on the part of the Treasurer in relation to that.

I support this motion. I think that we need to look at the issue that members of the Legislative Council are at a disadvantage with respect to asking questions of the Auditor-General because we are not part of the estimates committee process, particularly those members of the Council who are not members of the two major parties. I make it absolutely clear again that I have full confidence in the Auditor-General, that we are very lucky to have someone of his integrity in that office, and I think it is important that this matter be dealt with and that the questions be asked and answered in due course.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Like my colleague the Treasurer, I come to this motion from two positions: the integrity of the position of the Auditor-General; and the ultimate fact, in my view, that parliament is paramount. It is also important to bring some perspective to this motion and it is simply a request—no demand—that, on matters that are noted in the Auditor-General's Report, the Auditor provides further information. It seems to me that that is eminently reasonable. They are not matters outside the report: they are matters that arise from the Auditor-General's Report. Already the Auditor-General has accounted to this place for those matters, otherwise the questions would not be raised, and it is simply a request for further information arising from matters that the Auditor-General—

The Hon. T.G. Cameron: He audits his own travel.

The Hon. DIANA LAIDLAW: He audits everything and we would wish it this way. These matters have been raised by the Auditor-General on the public record in a report to this place and they are matters raised as a consequence of his report. I think it is only reasonable in those circumstances that anybody—minister or Auditor-General—should be accountable for the matters that they raise. I highlight that this is simply a request. I would be very surprised if the Auditor-General did not see fit to respond to this request.

I come from a perspective that some may suggest is old school. It is one that my grandfather (who was a member of this place and the other place), my father (a member of this place), and Murray Hill (whom I worked with as ministerial adviser for some three years) believed and drilled into me,

that is, the absolute supremacy of this place. We are honour bound to be representatives of the people. We should wear it as a badge of honour that we are proud to be part of a democratic system in which we are representative of a very important institution and form of government—democracy.

I am asked questions from time to time and I may not wish to answer them. I am asked on the spot, I am asked through the media, I am asked by members of parliament opposite. I may not like the questions, they may not even arise from matters that I have brought forward in a report in which I am seeking to account for my portfolio responsibilities and expenditure of taxpayer funds. However, from the old school upbringing that I have had, there is no way that I would not seek to answer to my best ability that member's request, because that member is here because they are part of a representative democratic system. Once you are not prepared to account to members of parliament in a representative democratic system, once you challenge that notion, you then put yourself above accountability, and to whom do you think you do account?

Members interjecting:

The Hon. DIANA LAIDLAW: I am talking from my perspective. I think that that is a principle that is particularly important to take into account. I note that, in other reports, whether they be on electricity and the like, the Auditor-General has said (and the Treasurer may want to correct me here) that the Treasurer is not actually required to answer some of the questions from the Auditor-General but that he has a moral exemplar responsibility; he has a moral authority in terms of the position he holds to answer those questions. He has to be seen to be above reproach, and he has to answer those questions. Do I have that right?

The Hon. R.I. Lucas interjecting:

The Hon. DIANA LAIDLAW: It is not just the strict letter of the law; a minister, as a representative of the government, should provide a moral example of accountability, not just the strict letter of the law. That is the standard that the Auditor-General would apply to us, and I am very comfortable with that standard; I just think that the standard should also be applied to the Auditor-General, who is appointed under the authority of parliament and is also—

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: Wait a moment. This is a request to the Auditor-General to address those answers; it is not telling him how to answer those questions. As I understand it, the Auditor-General said he is not even required to provide a yes or no. That is what I find very difficult: that no reply is required. I would have thought that, given the standards that he would ask of us, standards which I am happy to accept and which I would expect as an appointment of this parliament, he would also abide by those same high standards of accountability.

I would raise one other issue briefly tonight. As is evident from other members' contributions, from time to time I have rung the Auditor-General and asked questions or put a set of circumstances and sought advice. The advice I have got has been free and frank, and I have heeded it and respected it. What I have found highly disturbing about the contributions tonight is that the Auditor-General is prepared to say things to me verbally but then not account for them in writing. I have never asked for that advice in writing; I have just accepted his word, because of his position and who he is, as if I could account for it and as if it were in writing. It troubles me that that same advice could not be put in writing. How am I meant to account for it and rely on it if I am challenged on it later? I am worried about that.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: No; I have sought it in relation to a number of circumstances, and I have said how I was prepared to deal with it. I have received advice and heeded it. Is the Auditor-General saying to me tonight that I should not ring and seek advice; he will not offer it and I should not heed it? That is essentially what I think is being said tonight. Should we leave the Auditor-General, as we cannot phone him because we cannot rely on his advice and be accountable for it, or he would not be accountable for it? If you are not prepared to account in writing for what you say verbally, I think that is a very disturbing matter in terms of the accountability and responsibility that I would bring to my role as a minister. Others may have different standards, but I am speaking as an individual member of parliament, regarding the standards I endeavour to bring to my performance and to that of my officers.

Finally, what troubles me about the debate that I have heard to date is that our democratic system—a very precious system of representative democracy—works by checks and balances, and never would I want to see that anybody believes that they are beyond the checks and balances that are so precious in this system. Those checks and balances come from accountability. I am prepared to be accountable. You may not like the answers that I give and you may want to challenge them in other ways—and you do—but it is the checks and balances that are critical to the integrity and respect that we should be bringing to the job with which we are entrusted. It is also important for people looking in on the way we perform and their respect for our institution of parliament that the checks and balances are there. While I respect the integrity of the position of Auditor-General, I do not believe that the Auditor-General is above that process of checks and balances.

From what we are hearing in the arguments tonight that the Auditor-General's advice is that he is not required to do something, I fear that he may be bordering on believing he is above the checks and balances which are absolutely critical for the maintenance of our system of democracy. As he would tell us, it is not only the letter of the law but also our role as moral exemplars to the wider community and how we conduct ourselves to each other in a check and balance arrangement. I place on record that I am quite troubled by what I have heard about the role that the Auditor-General may be considering taking in terms of accountability for papers that he has already tabled in this parliament and questions arising from them. Secondly, I would be very surprised and exceedingly disappointed, and I would not wish to think through the consequences at this stage, if a simple request arising from his report could not be responded to.

The Hon. M.J. ELLIOTT: I rise on behalf of the Democrats to support the motion, but in doing so I express our full confidence in the Auditor-General. Some 18 months or two years ago I attempted to establish a process in this place whereby the Auditor-General would appear before a committee of the whole of this parliament. I could not get an awful lot of support in this place for that motion at that time.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: Quite clearly.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Yes, I got some support from the cross benches, but not from the Liberals or Labor. So,

with that view I clearly believe that we should have a process whereby members of parliament can address questions to the Auditor-General. In fact, the charade we go through in this place, where the Auditor-General's Report comes in and then we ask questions, usually of the head of the government, about what the Auditor-General had to say but never have the opportunity to clarify on the record what the Auditor-General meant as distinct from how the government interprets what the Auditor-General is saying, is an absolute farce.

I will continue to pursue the possibility of the Legislative Council in one form or another—a committee of the whole is possible in a house of this size, but if not that then a committee of this Council—being able to address issues directly to the Auditor-General. If such a process existed, the very questions that are being raised by the Hon. Terry Cameron could be asked of the Auditor-General at that time.

Having said that, I think there is a bit of mischief in the air, but I will not say anything more than that. People will know what mischief there is and who is involved, and I do not think it helps further to speculate about that. Having said that, I reiterate my confidence in the Auditor-General. I see value in a more formal process than having to get a motion up, where members of the Legislative Council can directly address matters of importance in terms of the role carried out by the Auditor-General. So, I support the motion.

The Hon. L.H. DAVIS: We have had a variety of contributions to this motion tonight. If one were judging some of them on content and logic, it would be interesting to—

Members interjecting:

The Hon. L.H. DAVIS: The Hon. Mike Elliott is a little wound up, and I can understand that. I just wanted to refer to the Hon. Paul Holloway's contribution, because he said that he would support the motion and then proceeded to speak against it for 30 minutes. It was a remarkable performance. If someone happened to miss the first paragraph and then read the balance of his contribution, they would be left in no doubt that he was very strongly opposed to the motion. One could only suspect that he had written the speech before caucus met and not had the opportunity to update it. He did not put one argument in favour of supporting the motion. I find it curious that, having damned the Hon. Terry Cameron as mover of the motion and having proceeded to quote the Hon. Terry Cameron at length and say that there were mysterious and deep-seated reasons why the Hon. Terry Cameron had antagonism towards the Auditor-General, which had manifested itself in this motion that we are debating tonight, he then turned around and embraced the Hon. Terry Cameron. I found that quite remarkable and somewhat puzzling, but that is for the Hon. Paul Holloway to wrestle with.

I thought the Hon. Nick Xenophon summed it up very well when he said that the Legislative Council does not have the opportunity, as does the other House, of meeting at least on an annual basis with the Auditor-General and asking questions of him in the open, and debating issues that have arisen which are pertinent to the Auditor-General's role as a servant of the parliament. The Auditor-General is unique in the sense that he is a statutory authority. He is responsible, accountable and answerable to the parliament only. In that sense he is arguably different from pretty well any other position in the public sector. We all have respect for the role. We understand the importance of the role and the need for integrity in the role. We also understand that in many ways the Auditor-General plays the role of umpire. That is not to say that questions cannot be asked of him, or issues raised with him.

The Hon. Paul Holloway admitted himself that he had rung the Auditor-General on several occasions. In the period when the Liberal Party was in opposition, I wrote to him and received answers from him in relation to matters that were of concern. I can specifically remember one matter about SGIC. I remember having informal discussions with him. One might say that they were between him and me. Of course, we must remember that the Auditor-General has held his position for more than 10 years, and he has had a lot of experience in dealing with issues. He has had the experience of having to inquire into the State Bank calamity, as well as experience on a range of issues. He knows his way around government, and he knows where the bodies are buried.

However, that is not to say that the Hon. Terry Cameron's motion does not have merit. It did not have attached to it the tricked up conspiracy theory that the Hon. Paul Holloway tried to peddle to the Council tonight. I thought that was a very shabby contribution, indeed. The Hon. Terry Cameron has simply requested answers to three questions. I put it to the Hon. Paul Holloway that, if he were in the same position as the Hon. Terry Cameron, he would possibly be moving the motion himself.

An honourable member interjecting:

The Hon. L.H. DAVIS: Yes, he would have.

An honourable member interjecting:

The Hon. L.H. DAVIS: You wouldn't have? You'd have said, 'Okay; I'll walk away'? The proposition the Hon. Terry Cameron has put is a quite reasonable argument. It is uncomplicated and to the point. As the Hon. Diana Laidlaw said, it is not a direction to the Auditor-General, because we understand and know that this parliament cannot direct the Auditor-General. However, that is not to say that we cannot make a request of the Auditor-General. After all, we ultimately belong to a system which is the most democratic in the world in the sense that in this parliament, both in the lower house—where electoral boundaries are adjusted after each election—and the upper house—where we have a very fair and equitable proportional representation system in operation—no-one can deny the openness and the democracy of this place. The media can report at will and investigate issues as they see fit. The Auditor-General can do likewise. However, that is not to deny that a member of parliament cannot raise an issue with an auditor-general.

That is where I differ so markedly with the proposition that was pedalled by the Hon. Paul Holloway. He was putting the unthinkable, illogical proposition that, on the one hand the Hon. Paul Holloway—or Mr Kevin Foley in another place, as he undoubtedly has—can go and talk to the Auditor-General, face to face, and get an answer from him. He can ring him up on an important issue and seek advice or get an opinion from him and use that to his political advantage, if he so chooses. That is not transparent; it is not open. I would not deny the honourable member's right to do that because, as he has said quite rightly, it is something that the Auditor-General has done all the time he has been in that role. In the 22 years I have been here, that has certainly been the role and the relationship that has existed between the Auditor-General and the parliament.

However, for the Hon. Paul Holloway to then step from that proposition and say, 'I don't accept that someone can ask questions of the Auditor-General and then be refused answers,' of course beggars belief. The honourable member was trying to suggest that proposition, yet he has ended up

backing the motion. He has accepted the logic and the merit of the Hon. Terry Cameron's argument. Can the honourable member not see that it is very unfair for him to be able to get information which he does not necessarily share with others and use to political advantage? Yet the Hon. Terry Cameron, in pursuit of his public office as a member of parliament, asks questions and could be denied answers that are accountable and transparent. No-one would pretend that the honourable member cannot ask questions like that and expect answers. There is no standing for the proposition that the honourable member tried to peddle tonight, and he knows in his heart that to be true.

I must say that the point that the Hon. Nick Xenophon made has merit. I do not know whether there is a simple answer to that. I know that in the past we have had our own estimates committees informally. I can remember when Dr Cornwall was the minister for health, and we had an estimates committee of our own when the budget came through this chamber. It may well be that there are other ways in which the parliament and the Auditor-General can exchange information in a constructive fashion, that questions can be asked of the Auditor-General in relation to his role, his performance and the expenditure of his money. That happens in the estimates committee already. So, if it can happen in the estimates committee, as it does, in an accountable and transparent fashion, there is no hurdle to jump in accepting the logic and merit of the motion before us tonight.

The Hon. A.J. REDFORD: I support the motion. In doing so, I acknowledge the role of the Auditor-General, particularly the difficult role that this parliament through legislative instrument has given to that office. I also acknowledge that the role of the Auditor-General pursuant to the legislation extends well beyond the role of an auditor in a commercial context. *The Constitution of South Australia* by the new Solicitor General, Brad Selway, QC, (published in 1997) refers to the nature of the office of the Auditor-General (page 155 and following). In particular, it refers to the nature of that officer's relationship with the executive and department. It states:

> It is suggested that at least the following persons may be public officers who are not employees—the Auditor-General, the Ombudsman, the Electoral Commissioner, the Director of Public Prosecutions, the Solicitor General, the Sheriff, the State Courts Administrator, justices of the peace, members of statutory authorities and parliamentarians. There may be others.
>
> It should be noted that these independent officers perform critical and vital roles within the state constitution. In general terms, they act so as to ensure that important government activities are carried out in accordance with the law, even if it would be inappropriate to make those activities directly subject to parliamentary (ie political) or judicial control or supervision. The accountability and integrity of the constitutional framework rests to a significant degree upon the honesty and abilities of these officers.

Having said that, I make the comment that each of the officers referred to in that passage by the new Solicitor General, Mr Brad Selway, are, in different ways, accountable either legislatively or through constitutional practice to this parliament, whether it be through a minister of the Crown or otherwise. I cite one example. The Director of Public Prosecutions is an independent office.

The Director of Public Prosecutions is generally not subject to any direction on the part of any member of the government or minister. However, there is provision in the act which establishes that office for the Attorney-General to give the Director of Public Prosecutions a written direction provided that that direction—and I emphasise this—is tabled in parliament. The paramountcy of parliament and the primacy of parliament in our constitutional system of government is well recognised as it is through the common law and in other ways.

I note that the Hon. Julian Stefani mentioned in his contribution an event that occurred in 1985. In the course of his contribution, he quoted from a letter from the then Auditor-General, Mr Tom Sheridan. I hope I do it justice, but my understanding of Mr Sheridan's position back in 1985 is that he did not believe that he was obliged or indeed should answer questions from the parliament for two reasons: first, that the direction that was given to him came from the Legislative Council as opposed to from the parliament as a whole; and, secondly, that there was good reason for that in that there was a risk if he did respond he would be accused of being biased.

In relation to the question of whether or not he may be accused of being biased, it is my view that an auditor-general, as many other officers in our system, must fearlessly undertake their role. There are occasions when they undertake that fearless role that they may well be accused of bias. Many of the terms of reference given to the Auditor-General in my time as both a member of parliament and previously have had a political basis. Whether one looks at the situation to which the Hon. Paul Holloway referred in terms of the Port Adelaide Flower Farm or the Hindmarsh Soccer Stadium or anything else, many of those issues commenced at least in a political environment and, in that sense, it is almost impossible for an officer who is charged with these responsibilities not to be accused in some shape or form on some occasions of being biased. In that context, the Auditor-General has never taken it upon himself to say to the parliament, 'You have given me a term of reference which has gestated in the political environment and if I should undertake this particular role then I may well be at some stage in the future accused of bias.'

In other words, what I am saying is that, if you accept Mr Sheridan's argument, the Auditor-General should, if he has the ability to do so, refuse to accept all manner of references that are referred to him by either the Legislative Council or the House of Assembly. Secondly, he took up the point that it was merely a motion from the Legislative Council to which he was being asked to respond and that, in his view, it should be a motion from the whole of the parliament. This issue was tested in the New South Wales Court of Criminal Appeal and subsequently in the High Court in the case of Egan v. Willis.

In that case, the Chief Justice of the New South Wales Court of Appeal, who, incidentally, is now the Chief Justice of the High Court of Australia, reaffirmed the paramountcy of parliament and the paramountcy of the individual houses of parliament. In other words, the Legislative Council in New South Wales was found by the New South Wales Supreme Court—and endorsed by the High Court of Australia—to be a house of equal status and power to the House of Assembly and that it could act independently and separately. So, in that sense, if the Auditor-General is seeking to rely upon the view of Mr Sheridan as evinced in 1985, I would invite him to consider the judgment in the case of Egan v. Willis and acknowledge that this Council has the same rights, privileges and duties as the lower house except where there are some differences set out in the Constitution Act.

The next point to which I refer was raised by the Hon. Paul Holloway. In his contribution, he indicated that if this was allowed to become a precedent it would open a floodgate for questions to be asked of the Auditor-General. I believe he

has overstated his opinion. I think it is perfectly acceptable that, if a member of parliament is harassing an auditor-general through the questioning process to the point where it is undermining his ability to perform his functions, he should report back to the individual member via the parliament for all of us to be able to judge. In that sense I think that, if he believes the questions that are asked impose an unreasonable administrative burden upon him, he should say so.

In relation to that, I point to many examples of ministers who refuse to answer questions, whether they be questions on notice or questions without notice in this Council, on the basis that it would be an unreasonable administrative burden to do so. I know that there are many examples, particularly in the case of the Hon. Mr Cameron as it turns out, where ministers have, in response to some questions that he has put, said the information cannot be provided because to do so would provide an unreasonable administrative burden, and then the minister seeks to justify that. That process is conducted in an open fashion and people are able to judge for themselves whether or not there is any basis for the refusal.

In closing can I say this: there has to be some degree of accountability of all officers to the people of South Australia in some way, shape or form. We know that the judiciary is independent and separate and certainly the Auditor-General does not have the status of the judiciary, nor is he separate nor is he some fourth arm of government that Dicey or others may have overlooked in their theories of constitutional or democratic government so many years ago. He is accountable, as are the other officers I mentioned, to the people whether it be directly to the parliament or through a minister. In the case of some of those officers, they are accountable to the parliament through a minister. In other cases they may well be, as in the case of the Ombudsman, directly accountable to the parliament without the intermediary of having a minister.

It has not been part of the debate in this place tonight and I do not seek to go through whether the Auditor-General sees himself as being accountable directly to parliament or accountable to parliament through the Treasurer, although I suspect that the former is the case. However, he is accountable to somebody and, if members of parliament are not able to challenge him or ask him questions, the very requirements set out in Mr Selway's book about these officers may well be called into question. In particular, the Solicitor-General talks about 'the accountability and integrity of the constitutional framework resting to a significant degree upon the honesty and abilities of these officers'. If these officers do not subject themselves to some degree of public scrutiny, the slippery slide down the path of undermining the public confidence in those officers may well be more rapid, and ultimately the constitutional integrity of our system of government might well be undermined. So it is for those reasons that I support the motion.

An honourable member interjecting:

The Hon. A.J. REDFORD: But you could equally argue that ministers could just table the report in parliament and that be it. We in Australia and the United Kingdom have a Westminster system of government where our expectation is that the accountability of the executive and various other officers to the people happens through the parliament. Under the American and other systems that is perhaps not the case. But that is the system that we live within and that is the system that is generally endorsed by people in this country.

The Hon. SANDRA KANCK: When the Hon. Mr Holloway spoke he responded to an interjection from the Hon. Carmel Zollo about the briefing that the Auditor-General gave to members of parliament after they were inducted. I think I had mine four years earlier than the Hon. Carmel Zollo, but that invitation from the Auditor-General was extended at my briefing, and it was that he welcomed any contact from members of parliament. It is an opportunity that I have taken up on a number of occasions. I have done so in writing, by phone and in person. During the period of time in 1998 when I was investigating whether or not the Democrats would support the sale of ETSA, I met with the Auditor-General on at least two occasions and found him to be extraordinarily helpful in going through ETSA documentation in regard to the finances, earnings and so on. He has replied to me in writing when I have written to him. He has always been extraordinarily helpful, so I find this motion to be a peculiar one and I do wonder about some of the motivation that is involved. But, nevertheless, I can only make a decision based on what a motion says.

I belong to a party that has repeatedly called for accountability, openness and transparency. This is a motion that is about accountability, openness and transparency and I am therefore supporting it. As the Treasurer has observed, I am sure that the Auditor-General, because he believes in those same things, will be quite willing to provide the information.

The Hon. T.G. CAMERON: I would like to thank all members for their contribution, particularly the 20 members of this Council who agree with the motion that I have put forward. I thought there were some excellent contributions made by members, despite the tone of the debate and despite what was said. The very compelling fact that the Auditor-General will have to consider when he considers this request—it is not a direction, it is not an order, as was so eloquently pointed out during the heart-felt contribution of the Hon. Di Laidlaw—is that 20 of the 21 members in this chamber are supporting the principle of transparency, accountability, openness—

The Hon. Sandra Kanck: I think Julian is still supporting those principles.

The Hon. T.G. CAMERON: I did not suggest that he was not supporting those principles. In a few moments I will come to the one person in this Council who is not supporting the resolution. But I hope that the one thing that the Auditor-General, as the highest paid public servant in this state and appointed by this parliament, takes on board is that 20 of the 21 voting members in this Council, for various reasons, as they pointed out, including members of the Australian Labor Party, are all supporting this motion, and I thank them for their support. It is my intention to briefly run through some of that.

There will be some aspersions cast over my motives in relation to this. But, if any student of politics takes the time to read this debate, I suspect there will be only one contribution that they are confused about—the contribution made tonight by the Hon. Paul Holloway. One could not quarrel with the Hon. Julian Stefani's contribution. At least one could feel that there was some honesty and integrity in the position that he had maintained. As wrong as I think he is on this, at least he did not argue one thing and vote another way: so we have the Hon. Julian Stefani being consistent. He is voting the same way as he was speaking.

I could imagine a student reading this debate being utterly confused by the contribution of the Hon. Paul Holloway as

he, in a rather half-hearted and fairly lame way, attempted to draw a picture that I or anybody up on their feet in this Council asking questions of the Auditor-General is attempting to smear him, is using innuendo, is being mischievous and is trying to create strife—and then for good measure he threw in 'malicious'. I ducked out of the chamber to look up the word, as I was not precisely sure what it meant. I will not read it into the transcript: I only ask the Hon. Paul Holloway to check the dictionary for the definition of 'malicious' to see whether he really does believe that I am acting in a malicious way.

The Hon. T. Crothers: Never! Not you.

The Hon. T.G. CAMERON: The Hon. Paul Holloway has known me for 15 years and he has never had occasion to call me malicious before.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Not in any way whatsoever. But I would like him to take the time and trouble, when one considers the blues and battles that we have shared in the past and, perhaps out of the heat of this chamber and the heat of this debate, to come and have a chat with me sometime and let me know whether he thinks I really am being malicious. I would have thought he knew me better. It is just not a streak that is part of my character.

There was some reference made to the flower farm. Even the Hon. Legh Davis was astounded, when we finally got the figure back, that $450 000 had been spent writing this tome called the Flower Farm Report. Mind you, the Auditor-General came down fairly clearly on the Hon. Legh Davis's side. Be that as it may, you have your battles in politics. I accept that the Hon. Legh Davis did me like a dinner on that one, but I do not think it has affected our relationship: we have both got on with life since that event. However, $450 000 I suggest is perhaps money that could be well spent. I raised that matter in the context that I would think very seriously again about ever supporting a resolution such as that—going to the Auditor-General—unless there were some constraints and there were constitutional problems and problems with the act in relation to that.

I cannot see what innuendo there is in the straightforward questions that I put forward, which are coming directly from the Auditor-General's report. And if the public is to have absolute confidence in the role of the Auditor-General in this state, it would have that absolute confidence in the knowledge that, if members of this parliament did put questions to the Auditor-General through this chamber, they could expect a reply.

That is what I expected. I did not expect that I would have to write to the Treasurer 10 months later asking why my questions had been ignored. One can only conclude that if I had not written to him, and if he had not got onto the Auditor-General, the questions might never have been answered. Once again, I ask members to ask themselves: if the Auditor-General was requesting information from you, either as a member of parliament or a minister, or in whatever capacity he had a constitutional legal right to do so, does any one member in this Council believe that the Auditor-General would wait 10 months for a reply, when one looks at the nature of the questions being asked? I am not here imputing any wrongdoing by the Auditor-General. When I was accused of this by the Hon. Paul Holloway on radio, I decided (as is my nature) to turn the other cheek.

An honourable member: Forgive and forget.

The Hon. T.G. CAMERON: Forgive and forget. And, to clarify the position, I went on radio and said that I am puzzled as to why the Auditor-General is not answering these questions, because I have no reason to conclude that he has lied or there is any wrongdoing, or what have you. But, if we are going to have full transparency, openness, accountability and, more importantly, public confidence in his role, then the questions, as simple and as straightforward as they are, should be answered.

I want to comment on a couple of the other contributions. I cannot pass up the opportunity to congratulate the Hon. Legh Davis, in the twilight of his parliamentary career, for standing up and congratulating Nick Xenophon on his contribution. It was a timely intervention by the Hon. Legh Davis and I have no doubts, now that the olive branch has been extended, that the luncheon that we have been talking about for three years between Nick, Legh Davis and me might finally have some chance of going ahead. And I can tell you that I will enjoy it and I will look forward to it because, even though I do not agree with them at times on policy matters, I enjoy their company.

I wish to place on record, too—it is not something I do a great deal—my appreciation for the contribution made by the Hon. Di Laidlaw. It was a contribution made, in my opinion, straight from the heart. It was a heart-felt contribution from a person, not dissimilar to myself, who grew up—

Members interjecting:

The Hon. T.G. CAMERON: Well, dissimilar in many ways, but we grew up with a political spoon in our mouths, almost from the time we were born. I have no doubt that the Hon. Di Laidlaw—

An honourable member: She had a bit more silver on hers.

The Hon. T.G. CAMERON: Yes, there was a little bit more silver on the Hon. Di Laidlaw's spoon than on mine, but she will want to watch out because I am catching her fast. But that is all my own effort, let me assure you. The last month has been very kind to me.

The Hon. Di Laidlaw's contribution was a contribution from the heart, and one which she believed in. It was a contribution from someone with a longer history in politics than any person in this Council, with the possible exception of me—but, then again, I am not exactly sure how old she is, so I will give her the credit for having the longest working history of any member of this parliament.

The Hon. Paul Holloway made great play of the question I asked in relation to Pannell Kerr Forster. I do not have the advantages that the Hon. Paul Holloway has had. I do not have an economics degree or an accountancy degree—I think he has two or three of them hanging up in his office. But I was particularly surprised by the vicious attack he made on me in relation to that statement because I have always been one who has had a quiet appreciation of the Hon. Paul Holloway's financial skills, and that opinion of him and of his skills has increased immeasurably over the last two or three years as I have seen him cope with two jobs at the same time and do both of them reasonably well. But I take exception to the Hon. Paul Holloway's comment that it is an insult that I queried Pannell Kerr Forster's statement—I am just seeking a clarification, that is all. Their quote—and I do not have it front of me but I can remember it—is 'no significant matters of concern'. I did not spend as much time at school as some people in this place, and one would prefer that the Hon. Robert Lawson is here because I could—

An honourable member interjecting:

The Hon. T.G. CAMERON: Well, kicked out more likely, not kept in. But I submit that there is a difference

between an auditor auditing the Auditor-General when he says there are 'no significant matters'—and again, if you have a query, Paul, look up the word 'significant' and get its literal definition. There are 'no significant matters of concern'. If I had read that report and it had said there were no matters of concern, I do not think it would have registered, but it says 'no significant matters of concern'. This is not an auditor auditing some government department, or what have you. This is the auditor who is auditing the Auditor-General—a $10 million operation—which, arguably, sets the accounting and reporting standards, and so on, that all public servants, politicians, ministers, etc., have to abide by. I do not resile from my question, Mr Holloway. I do submit that there is a difference between 'no significant matters of concern' and 'no matters of concern', and all I am asking is: what are these significant matters of concern? You have turned that into offensive—

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: Well, he would just have to write back and say, 'None', wouldn't he? But you have characterised that as insulting, offensive, malicious, attacking the Auditor-General, attempting to smear him, using innuendo, being mischievous, creating strife, etc., and I do not think that you really believe that I am acting maliciously. I think you know me better than that. You have known me for a long time. This is an honest and genuine attempt by a hard-working member of this Council to try to get a few answers to a few questions, that is all.

I am disappointed that this was not a unanimous decision of this Council, although 20 out of 21 is not a bad effort. I am disappointed that the Hon. Julian Stefani did not see fit to support this resolution. I have never understood the relationship that he has with the Auditor-General, but I respect his right to oppose my resolution. That is the prerogative of every member of this Council.

I will not be asking for a show of hands. It is quite clear to everybody how the vote is going: it is 20-1. I would only reiterate the eloquent comments made by the Hon. Di Laidlaw. This is a request, and I think every member of this Council will be as relieved as I am if we just get a reply to it and we can all get on with our jobs. This matter will not be put to rest, however, if the Auditor-General, for whatever reason, decides to exercise his discretion and refuse to answer the questions. The matter, I suspect, will only go on and perhaps could get into areas that none of us wants to get into. Again, I thank all of the 20 members who have indicated their support for this resolution.

Motion carried.

POWER STATION EXEMPTION

Order of the Day, Private Business, No. 12: Hon. A.J. Redford to move:

That the regulations made under the Environment Protection Act 1993 concerning power station exemption, made on 17 May 2001 and laid on this table on 29 May 2001, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: INQUIRY INTO BIOTECHNOLOGY, PART I, HEALTH

Adjourned debate on motion of Hon. Caroline Schaefer:

That the report of the committee on an Inquiry into Biotechnology, Part I, Health, be noted.

(Continued from 3 October. Page 2321.)

The Hon. SANDRA KANCK: In terms of recommendations, this is a fairly steady as she goes report. I did not expect when we released it that it would create much media interest or excitement, and that certainly has been the case. Each of us on the committee was a raw recruit into this branch of knowledge and we had to be tutored about the science behind this technology. Accordingly, the report is a valuable document for other beginners as it explains terms and processes, but it would probably be very generalist in nature for those who work in the field.

Breakthroughs in biotechnology were being announced every week that we had the inquiry under way and we had to draw the line at a certain point to allow completion of our report. Our report canvasses both the benefits and the drawbacks of this technology. The committee has advocated a hasten slowly approach. We recognise that many positives can arise from the use of the technology, as well as lots of money to be made, but we also recognise the ethical dilemmas that are presented. The first recommendation we have made is about informed public debate. Until that occurs, governments will be responding either to an intellectual elite or fear campaigns or uncritical admiration from the media. The government, in deciding its priorities in funding, needs to be responding to an informed electorate.

From my point of view, biotechnology is another example, like reproductive technology, of the genie having escaped the bottle, and our problem as legislators is deciding whether there are ways to contain it. Some constraints can be placed by judicious use of government funding. For instance, those researchers who might be working on finding ways for people to eat as much carbohydrate as they like without fear of the consequences of age onset diabetes, which is a lifestyle choice, if one wants to eat in that manner, should not be funded at the expense of researchers who are working on intervention to stop the passing on of the gene for inherited breast cancer.

If government is to get behind this industry then first and foremost it needs to maintain and strengthen research in our public hospital system. The evidence we took shows that our universities are providing adequate education, but the necessary experience comes from the opportunity to undertake research in our hospitals. These are the people whom the biotech companies are recruiting and, given the present marginality of the industry, they cannot afford to provide that training themselves. Accordingly, we have recommended that state and federal governments give greater priority to promoting excellence in biotechnological research and teaching within the public health system. I would like to quote from the report, with some evidence that was given in this regard. Professor Grant Sutherland from the Adelaide Women's and Children's Hospital said:

I see a significant role for government in this state to make sure that there are opportunities for research to be carried out within the public sector, not only in the health sector. . . but also in agriculture, fisheries and any areas of the public service where there is scientific activity. Just to conduct routine diagnostic and service activities means that the service actually degrades over time, because you do not have people there with a focused academic interest who wish to improve the service. We are constantly looking for new opportunities for development.

He went on to say:

. . . teaching and research are not luxuries, they are integral components of a first-rate health service. The research component can also lead to the development of a biotech industry. The intellectual property is so basic that you cannot expect industry to support it. It is often people just following their nose doing what is interesting and then, after that, comes intellectual property that is suddenly seen to have commercial value and can be exploited.

Mr Fraser Ainsworth, the Chairman of Bionomics Ltd, told us:

With respect to what I describe as basic research—the very high risk, very initial exploratory sort of stuff—only the public sector can do it. But, as Professor Sutherland said, without that basic research, the Bionomics of this world will never get off the ground, because it is as a result of that basic research that we have been able to show what is called proof of principle to our providers of finance; to say, 'Here is an idea, it has a good chance of succeeding. Will you back it?' and the answer is 'Yes.' But to get financial backing from the private sector for basic research that is not focused is, obviously, very difficult.

Quite clearly the evidence the committee heard showed the importance of the public sector in allowing biotechnology companies to be able to take up the challenge in South Australia. However, that is the positive side of it.

As I heard and read the evidence, I became concerned about an implied message that says it is wrong to have an imperfect body. I also noted the unexpressed fears about death that are contained in efforts to keep people alive longer. I wonder what sort of society we create when people no longer die of heart conditions or cancers. It is an important ethical question. There is already a perception at the present time and a concern that we have an ageing population, and that the younger generation will not be able to afford the taxes necessary to sustain that ageing population. Such concerns can only be heightened when we keep people alive for longer and longer.

In the past, the death of the older members of society has made way for the next generation to pursue and develop fresh ideas but, when the old cling onto life, their ideas stagnate. Perhaps keeping people alive through biotechnological advances will be the death knell of the species. It is also fairly obvious that the advances made through biotechnology will be for the benefit of those in the developed world and maybe even for those who are the more affluent in our developed world. I have doubts that people in sub-Saharan Africa will gain from this technology. Their need is for water, food and shelter, and that is where I would really prefer that so much of this risky money is spent.

I fear that this may be a technology that will increase the differences between the haves and the have-nots. Nevertheless, as I have observed, the genie is out of the bottle and we do need to find ways to keep it in control. If governments are not actively involved in associated debate and supporting the worthy parts of the industry, it may be that the benefits will accrue only to a very small group in our society. I regret that I was unable to convince the other members of the committee that we should have a recommendation about compulsory genetic testing, but I am supportive of recommendations that the committee did make. I would like to finish by quoting evidence given to us by Dr John Fleming of the Southern Cross Bioethics Institute. He talked about the risks associated with biotechnology—

The Hon. T. Crothers: Is he a medical doctor?

The Hon. SANDRA KANCK: No, he is not a medical doctor.

An honourable member interjecting:

The Hon. SANDRA KANCK: That is right; he is a Roman Catholic priest. He says:

What is a minimal risk? And I find the answers often quite unrefined. For example, if I say that, in doing an action, I have a one in 10 chance of catching a cold, but I might by doing another action have a one in 10 chance of catching the AIDS virus, the outcome, the seriousness of the outcome, impinges directly on the risk. I might not think that a one in 10 chance of getting a cold is particularly to be worried [about] But I might think that a one in 10 chance of getting a fatal virus is very significant. In other words, the mere use of figures to say one in 10, one in 1 000, one in whatever it is, is by itself not sufficient.

He then goes on to say:

. . . it assumes we are able to identify in advance all of the variables, and, thirdly, then control them. But the history of science is that we have not been necessarily very good at identifying in advance all of the variables, let alone controlling them. So what I am suggesting is a degree of humility and caution in the biotechnological venture, not to in any way suggest that it should not be happening, but to be more cautious in our approach and to try to develop an ethical paradigm within which it can occur in such a way that the benefits for society, for the environment, are there, but also in such a way that we really do minimise the harm to the environment and to human beings.

I hope the government will approach biotechnology with that necessary degree of humility and caution. I support the motion to note this report.

The Hon. CAROLINE SCHAEFER: I thank the Hon. Sandra Kanck for her contribution.

Motion carried.

ROAD TRAFFIC (TICKET-VENDING MACHINES) AMENDMENT BILL

Order of the Day, Private Business, No. 24

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

That this Order of the Day be discharged.

Motion carried.

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

That the bill be withdrawn.

Motion carried.

LOCAL GOVERNMENT (CONSULTATION ON RATING POLICIES) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 2822.)

Clause 2.

The Hon. T.G. CAMERON: I indicate support for the government's amendments. I thank the Hon. Di Laidlaw for getting onto the Minister for Local Government and pushing these lengthy answers under my door. I have taken the opportunity to read them, as well as documentation regarding the Hon. Nick Xenophon's motion. I now understand exactly what we are dealing with.

The Hon. NICK XENOPHON: I support the amendments, which clarify the intent as to the scope of the bill. They are sensible amendments that make clear that any rating changes are the subject of public consultation. Accordingly, I support the amendments.

Amendments carried.

The Hon. DIANA LAIDLAW: I move:

Page 3—
Line 11—Leave out all words in this line and insert:
the council must—
(d) prepare a report on the proposed change; and
(e) follow the relevant steps set out in its public consultation policy.
After line 11—Insert:

(5a) A report prepared for the purposes of subsection (5)(d) must address the following:
(a) the reasons for the proposed change;
(b) the relationship of the proposed change to the council's overall rates structure and policies;
(c) in so far as may be reasonably practicable, the likely impact of the proposed change on ratepayers (using such assumptions, rate modelling and levels of detail as the council thinks fit);
(d) issues concerning equity within the community,
and may address other issues considered relevant by the council.

Line 12—After '(5)' insert:
(e)

Line 15—After 'proposed change' insert:
, informing the public of the preparation of the report required under subsection (5)(d),

After line 23—Insert:
(7) The council must ensure that copies of the report required under subsection (5)(d) are available at the meeting held under subsection (6)(a)(i), and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least seven days before the date of that meeting.
(8) A rate cannot be challenged on a ground based on the contents of a report prepared by a council for the purposes of subsection (5)(d).

The amendments relate to the public consultation provisions, the need for public reporting and the content of that report.

Amendments carried; clause as amended passed.

Clause 3.

The Hon. DIANA LAIDLAW: I move:

Page 3—Line 30—Leave out all words in this line and insert:
must—
(a) prepare a report on the proposed change; and
(b) follow the relevant steps set out in its public consultation policy.

Page 3—After line 30—Insert:
(14ab) A report prepared for the purposes of subsection (14a)(a) must address the following:
(a) the reasons for the proposed change;
(b) the relationship of the proposed change to the council's overall rates structure and policies;
(c) in so far as may be reasonably practicable, the likely impact of the proposed change on rate payers (using such assumptions, rate modelling and levels of detail as the council thinks fit);
(d) issues concerning equity within the community,
and may address other issues considered relevant by the council.
(14ac) A report prepared for the purposes of subsection (14a)(a) may form a part of a report prepared for the purposes of section 151(5)(d).

Page 4—Line 4—After 'proposed change' insert:
, informing the public of the preparation of the report required under subsection (14a)(a),

Page 4—After line 12—Insert:
(14c) The council must ensure that copies of the report required under subsection (14a)(a) are available at t he meeting held under subsection (14b)(a)(i), and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least seven days before the date of that meeting.
(14d) A rate cannot be challenged on a ground based on the contents of a report prepared by a council for the purposes of subsection (14a)(a).

The Hon. NICK XENOPHON: I support the amendments.

The Hon. T.G. CAMERON: I support the amendments.

Amendments carried.

The Hon. NICK XENOPHON: I would like to raise two very quick points. A point was raised in the correspondence from the Local Government Association as to whether the consultation is required in respect of a rate notice for each year or only when there is a differential rate. There was some query by the Local Government Association as to whether that was the case. My understanding is that that is not the case. However, I would be grateful if the minister could clarify that one would not need a report or public consultation every time a rates notice is issued. It is only if there is a change in the rating system. That is my understanding. However, I understand that the Local Government Association expressed some concern in relation to that.

I would also like to place on the record that the LGA has published a number of papers in terms of model consultation policies. I commend it for that. In fact, Mr Brian Clancey from the LGA has been very helpful in this whole process in terms of providing information about rating policies and the like. So, I make it clear that the LGA's model draft of consultation policies that it has circulated to councils, in some respects, is in keeping with the intent of this act, but because they are model policies they are not binding on councils. I acknowledge that the LGA has done some very good work on the whole issue of consultation generally but that this bill makes the position very clear in relation to consultation with respect to rating policy.

The Hon. DIANA LAIDLAW: It is correct that the Local Government Association sought clarification of the requirements in terms of public consultation. Specifically, it sought reassurance that consultation would not be required on an annual basis. My advice from the minister is that it is clear from the proposed wording of the amendments that have been moved that public consultation is only required when a change is being opposed and not in subsequent years.

Clause as amended passed.

Title passed.

Bill read a third time and passed.

COOPERATIVES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Cooperatives Act 1997. 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.

The purpose of the Bill is to make amendments to the *Co-operatives Act 1997* (the Act).

The Act provides for the incorporation and regulation of co-operatives and aims to promote co-operative principles of member ownership, control, and economic participation. It also incorporates provisions that are consistent with the co-operatives legislation of other jurisdictions, to facilitate interstate trading and fundraising by co-operatives.

Following the commencement, in 1997, of consistent co-operatives legislation in the eastern seaboard states and South Australia, Queensland initiated proposals for amendments that had been found necessary during the course of administering the legislation.

These amendments to the Queensland Co-operatives Act commenced in March 2000 and have been used as a model for the proposed amendments to the South Australian Act.

In addition, a small number of additional amendments are included that have been, or are proposed to be, made by other jurisdictions.

Key features of the Bill are as follows:

The Bill includes provisions to allow greater flexibility for co-operatives by removing the consent of the Corporate Affairs Commission to permit a trading co-operative to make the information for prospective members available at the registered office of the co-operative, and also at other offices, under section 72 of the Act.

The Act allows a co-operative to have rules to require members to pay regular subscriptions. An amendment effected by the Bill will permit the calculation of a member's subscription to be based on the member's patronage. For example, a co-operative can introduce a rule that would require those members who use the co-operative more than others to pay a larger subscription.

A provision is to be included which will place expelled members on the same footing as inactive members regarding repayment of share capital. This will allow the amount paid up on the member's shares to be applied as a deposit, debenture, or a donation to the co-operative if the member consents.

Section 144 of the Act includes a requirement that a disclosure statement must be provided to a member prior to the issue of shares to the member. The Bill corrects some deficiencies with this requirement so that its operation will only apply to the first issue of shares to members, clarifying that a disclosure statement will require approval by the Corporate Affairs Commission consistent with other disclosure requirements of the Act, and permitting, as an alternative, the use of a formation meeting disclosure statement providing its contents are still current. Any significant changes occurring after the release of a disclosure statement would require the lodgement of a new document that reflects the current situation.

The Bill also includes the application of certain Corporations Act provisions designed to provide protection for the members of co-operatives in relation to the first issue of shares and the issue of debentures. They concern restrictions on advertising and publicity, expert's consents, holding moneys on trust, and return of moneys where minimum subscriptions are not received. They are similar to provisions that applied under the 1983 Co-operatives Act, and, for example, are aimed at protecting intending shareholders where substantial minimum subscriptions set out in a disclosure statement are not achieved.

A provision has been included to provide further protection for members, for example, in the event of consideration of any takeover of a co-operative. The amendment (new section 180A) precludes a member from voting who has agreed to sell, transfer, or dispose of the beneficial interest in, the member's shares.

New provisions will allow the concession afforded to companies so that a co-operative that has less than 50 members may pass a specified resolution without a general meeting being held, if all the members sign a document that they are in favour of the resolution.

There is also a requirement for minutes to be entered in appropriate records within 28 days of the meeting to which they relate. Currently, there is no time specified for the recording of the minutes. This amendment will assist members of co-operatives to ensure that all records of meetings are available in a timely manner.

Amendments also are proposed in order to allow for more flexibility in the composition of the board of a co-operative. A provision is included which will remove the present requirement for a 3:1 ratio of member directors to independent directors. This ratio is included in the current Act in furtherance of a co-operative principle of democratic member control. However, it can be impractical for co-operatives that require 2 or more independent directors, giving rise to boards that are larger than desirable. The ratio is substituted in the Bill with a requirement that member directors are to constitute a majority on the board, with provision for a co-operative's rules to specify that there be a greater number of member directors than a majority. This is supplemented by a requirement so that the number of member directors for a quorum at a board meeting must exceed the number of independent directors by at least 1, or a greater number if provided for in the rules.

In addition, as a practical and accountability measure and consistent with the requirements placed on a public company, the Bill requires a co-operative, for example, one that may have a board that does not include any independent directors and is therefore not subject to the aforementioned restriction, to have at least 3 directors, and for all co-operatives to have at least 2 directors who ordinarily reside in Australia.

A new provision will make it transparent that the provisions of the Corporations Act dealing with employee entitlements apply to co-operatives. Currently, it is not obvious that the provisions have applied to co-operatives since 30 June 2000, because they form part of a group of provisions of the Corporations Act so applied. The object of the provision is to protect the entitlements of a co-operative's employees from agreements and transactions that are entered into with the intention of defeating the recovery of those entitlements.

During the year, both New South Wales and Victoria amended their equivalent accounts and audit provisions for co-operatives, pursuant to their respective Corporations (Consequential Amendments) Act, to reflect the changed terminology of the Corporations Act in relation to financial reports and audit. When South Australia prepared its Statutes Amendment (Corporations) Bill 2001, equivalent amendments were not made to the Act, because at the time there was no opportunity to expose the legislation for industry comments. This Bill includes such provisions consistent with New South Wales, which includes the application of the Corporations Act provisions relating to a director's right of access to company books, an auditor's entitlement to notice of general meetings and to be heard at general meetings, and members right to ask questions of the auditor at an annual general meeting.

The Bill also provides greater clarity about the ways that a co-operative can distribute surplus or reserves to members, by providing for share holding to be taken into account on the issue of bonus shares or dividends.

Provisions are also included to give greater flexibility so that it is not mandatory that a liquidator must provide security when winding up a co-operative on a certificate of the Corporate Affairs Commission. In respect of ASIC's broader role of registration of auditors and liquidators, as an alternative to a security deposit to be lodged on registration, ASIC will accept an undertaking from all registered liquidators who hold practicing certificates to maintain professional indemnity insurance. The Bill follows this principle by allowing the appointment of a liquidator on a certificate of the Commission to include a policy condition that the person must maintain professional indemnity insurance in respect of the performance of duties as liquidator.

The Act currently applies a superseded provision of the Corporations Act relating to incurring certain debts. The Bill replaces this with the current insolvent trading provision applying to companies, and this will have an effect of placing a more positive obligation on the directors of a co-operative to prevent insolvent trading.

Any proposal for a South Australian co-operative and an interstate co-operative to merge or transfer engagements must first be approved by special postal ballot of members, unless the Corporate Affairs Commission and the interstate Registrar consent to it occurring by board resolution. The Bill provides for a further alternative so that consent may be given to such a proposal proceeding by special resolution.

Other amendments are included that are of a minor nature or to clarify the intent of the legislation.

In summary, the amendments are necessary to retain consistency with co-operatives legislation of the other jurisdictions.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 4—Definitions

This clause amends or inserts certain definitions in connection with other amendments to be made to the Act. The definitions of "financial records" and "financial statements" are consistent with interstate legislation and the *Corporations Act 2001*. The Act is now to make specific provision for the office of "secretary" of a co-operative.

Clause 4: Amendment of s. 11—Modifications to applied provisions

A reference to ASIC in any of the applied provisions of the *Corporations Act 2001* is always going to be a reference to the Corporate Affairs Commission.

Clause 5: Amendment of s. 14—Trading co-operatives

A trading co-operative is a co-operative that gives returns or distributions on surplus or share capital. However, it is not clear whether a trading co-operative must *actually* give such returns or distributions in order to remain as such. This is to be clarified (so that a trading co-operative will be a co-operative whose rules allows for such returns or distributions). A trading co-operative must also have at least 5 members. An amendment will allow a lesser number to be prescribed in an appropriate case.

Clause 6: Amendment of s. 15—Non-trading co-operatives

Clause 7: Amendment of s. 16—Formation meeting

These are consequential amendments.

Clause 8: Amendment of s. 17—Approval of disclosure statement

The Commission must approve a disclosure statement before a meeting to form a new co-operative. Section 17 of the Act is to be amended so that the Commission will be able to amend, or require amendments, to a statement, or require additional documents, and will be able to grant an approval with or without conditions.

Clause 9: Amendment of s. 19—Application for registration of proposed co-operative
This is a consequential amendment.

Clause 10: Amendment of s. 67—Circumstances in which membership ceases—all co-operatives
This amendment adopts more accurate terminology.

Clause 11: Amendment of s. 69—Carrying on business with too few members
This is a consequential amendment.

Clause 12: Amendment of s. 72—Co-operative to provide information to person intending to become a member
Section 72 of the Act provides that the board of a co-operative must provide each person intending to become a member with certain information about the co-operative. A co-operative may comply with this requirement by making the information available at the registered office of the co-operative, although, in the case of a trading co-operative, this requires the consent of the Commission. The requirement for this consent is to be removed, and it will now be possible to make the information available at *any* office of the co-operative.

Clause 13: Amendment of s. 73—Entry fees and regular subscriptions
This amendment will allow a member's regular subscription to be based on the amount of business the member does with the co-operative.

Clause 14: Amendment of s. 77—Repayment of shares on expulsion
This will allow greater flexibility for the repayment of an amount paid-up on shares if a member is expelled from a co-operative.

Clause 15: Amendment of s. 134—Interest on deposits and debentures

Clause 16: Amendment of s. 135—Repayment of deposits and debentures
These are consequential amendments.

Clause 17: Amendment of s. 136—Register of cancelled memberships
Section 136 of the Act requires a co-operative to keep a register of prescribed particulars relating to persons whose membership has been cancelled. The register must be in a form approved by the Commission. This approval is unnecessary given that the regulations can regulate the content of the register.

Clause 18: Substitution of s. 144
These amendments make various provisions relating to disclosure statements when members acquire shares in co-operatives.

Clause 19: Insertion of s. 145A
Certain provisions of the *Corporations Act 2001* will be applied in relation to the first issue of shares to a member of a co-operative.

Clause 20: Amendment of s. 150—Bonus share issues
Section 150 of the Act allows a co-operative to raise additional capital from members by compulsory share acquisition. This amendment will make it clear that the section does not apply to bonus share issues.

Clause 21: Amendment of s. 171—Purchase and repayment of shares
A co-operative is not be allowed to purchase shares, or repay amounts paid up on shares, if this is likely to cause insolvency, or if the co-operative is indeed insolvent.

Clause 22: Substitution of heading
This is consequential.

Clause 23: Substitution of s. 174
This amendment will clarify the application of the voting provisions of the Act to all votes on all resolutions.

Clause 24: Insertion of s. 180A
A member of a co-operative will not be entitled to exercise a vote if the member has sold, or disposed of the beneficial interest in, the member's shares, or agreed to do so.

Clause 25: Insertion of new Division
A new set of provisions will allow the members of a co-operative with less than 50 members to vote on certain resolutions by circulated document.

Clause 26: Amendment of s. 199—Annual general meetings
The first annual general meeting of a co-operative is to be held within *18* months of incorporation.

Clause 27: Amendment of s. 205—Minutes
The Act currently requires minutes of meetings to be entered in appropriate records, and then confirmed at the next relevant meeting. It is now to be prescribed that the minutes will need to be so entered within 28 days after the meeting.

Clause 28: Amendment of s. 208—Qualification of directors
The Act currently requires that there be at least three member directors for each independent director. This has been impractical in some cases. An amendment will require a *majority* of directors to be member directors. The rules will be able to require that a greater number of directors than a majority must be member directors.

Clause 29: Amendment of s. 209—Disqualified persons
Section 209 of the Act provides that certain persons must not act as directors of a co-operative. A relevant circumstance includes a case where the person has been convicted of certain offences against the *Corporations Act 2001*. A reference to section 592 of that Act (Incurring of certain debts; fraudulent conduct) is to be included.

Clause 30: Amendment of s. 210—Meeting of the board of directors
An earlier amendment concerning the number of independent directors of a co-operative is to be supplemented by a requirement that, for a board meeting, the member directors must outnumber the independent directors by at least one, or such greater number as may be stated in the rules of the co-operative.

Clause 31: Amendment of s. 211—Transaction of business outside meetings
This is a consequential amendment.

Clause 32: Insertion of new Division
The Act is now to make specific provision for the office of "secretary" of a co-operative.

Clause 33: Amendment of s. 223—Application of Corporations Act concerning officers of co-operatives
This amendment applies a relevant provision of the *Corporations Act 2001*.

Clause 34: Insertion of new Division
This amendment will make it clear that the provisions of the *Corporations Act 2001* dealing with employee entitlements apply to co-operatives.

Clause 35: Substitution of heading

Clause 36: Amendment of s. 233—Requirements for financial records, statements and reports

Clause 37: Amendment of s. 237—Protection of auditors, etc.
These amendments reflect changed terminology under the *Corporations Act 2001* in relation to financial statements, reports and audit.

Clause 38: Amendment of s. 244—Annual report
This amendment effects certain technical amendments with respect to the annual report of a co-operative. A co-operative will be required to "lodge" an annual report with the Commission (rather than "sending" it to the Commission), and the annual report will need to include a notification concerning who is the secretary of the co-operative. The terminology is also revised so as to refer to a "financial report".

Clause 39: Insertion of s. 250A
The Act currently restricts the use of "Co-operative" or "Co-op" by a body corporate registered under another Act. The Act will now also provide that a person other than a co-operative must not trade, or carry on business, under a name or title containing the word "co-operative" or the abbreviation "Co-op", or words importing a similar meaning. However, the provision will not apply to certain entities already specified in section 247 of the Act.

Clause 40: Amendment of s. 254—Limits on deposit taking
Section 254*(a)* authorises deposit taking by a co-operative that was authorised by its rules immediately before the commencement of the Act to do so. An amendment will clarify the intention that the co-operative must continue to have rules authorising it to accept money on deposit.

Clause 41: Amendment of s. 258—Application of Corporations Act to issues of debentures
The Commission may grant exemptions from the application of certain provisions of the *Corporations Act 2001* applied by section 258 of the Act. Consistent with other provisions of the Act, the Commission is to be given power to grant an exemption on conditions.

Clause 42: Insertion of s. 258A
It is appropriate to apply two additional sections of the *Corporations Act 2001* in relation to the issue of debentures—section 722 (Application money to be held in trust) and section 734 (Restrictions on advertising and publicity). (This approach is consistent with proposed new section 145A.)

Clause 43: Amendment of s. 261—Application of Corporations Act—debentures (additional issues)
These amendments address additional issues relating to the issue of debentures. An amendment will make it clear that debentures may be re-issued to employees, as well as members. The specific power to issue debentures provided by the *Corporations Act 2001* will also

be applied, so as to ensure complete certainty in relation to this matter.

Clause 44: Amendment of s. 268—Distribution of surplus or reserves to members

It is to be clarified that bonus shares may be issued on the basis of business done with a particular member, or on the basis of shares held by a member, and that the issue to members of a limited dividend is for shares held by the members.

Clause 45: Amendment of s. 275—Maximum permissible level of share interest

Section 275(2) allows the Commission to increase the maximum 20 per cent shareholding in a co-operative in respect of not only a particular co-operative, class of co-operatives or co-operatives generally, but also in respect of a particular person. However, subsections (4) and (5) also provide a process for an increase in respect of a particular person. Subsection (2) may therefore be amended to delete the reference to "a particular person".

Clause 46: Amendment of s. 302—Requirements before application can be made

Clause 47: Amendment of s. 305—Transfer not to impose greater liability, etc.

These amendments provide greater consistency with language used in the *Corporations Act 2001*.

Clause 48: Insertion of s. 306A

A co-operative may apply to transfer its incorporation to a company or an association. A certificate of incorporation for the new body is conclusive evidence that the requirements of the Division relating to the incorporation have been complied with. It is necessary to ensure that a copy of this certificate is given to the Commission.

Clause 49: Amendment of s. 310—Winding up on Commission's certificate

A co-operative may be wound up on the certificate of the Commission in certain cases. In such a case, the Commission may appoint a person as the liquidator of the co-operative. An amendment will allow the appointment to be made on conditions determined by the Commission. Another amendment will allow greater flexibility with respect to the security (if any) to be provided by a liquidator appointed by the Commission in these circumstances.

Clause 50: Insertion of s. 310A

It is helpful to specify that a co-operative may be deregistered in the same way and in the same circumstances as a company under the *Corporations Act 2001* may be deregistered.

Clause 51: Amendment of s. 311—Application of Corporations Act to winding up

This is a consequential amendment.

Clause 52: Amendment of s. 333—Application of Corporations Act with respect to insolvent co-operatives

This amendment will now provide for the application of section 588G of the *Corporations Act 2001* (Director's duty to prevent insolvent trading by company), in a manner consistent with proposals interstate.

Clause 53: Amendment of s. 347—Provisions for facilitating reconstructions and mergers

This is a consequential amendment.

Clause 54: Amendment of s. 370—Commission to be notified of certain changes

This amendment will require a registered (non-participating) foreign co-operative to provide the Commission with information about any alteration to its registered address or name. Presently, such requirements only apply to a registered (participating) foreign co-operative (being a co-operative registered in a participating State).

Clause 55: Amendment of s. 376—Requirements before application can be made

Any proposal for a South Australian co-operative and an interstate co-operative to merge or transfer engagements must first be approved by special postal ballot of members, unless the Corporate Affairs Commission and the interstate Registrar consent to it occurring by board resolution. The amendment provides for a further alternative so that consent may be given to such a proposal proceeding by special resolution.

Clause 56: Amendment of s. 384—"Co-operative" includes subsidiaries, foreign co-operatives and co-operative ventures

Clause 57: Amendment of s. 426—Disposal of records by Commission

Clause 58: Amendment of s. 432—Certificate of registration

These are consequential amendments.

Clause 59: Amendment of s. 443—Secrecy

This updates a reference to ASIC.

Clause 60: Amendment of s. 449—Co-operatives ceasing to exist

This is a consequential amendment.

Clause 61: Amendment of s. 450—Service of documents on co-operatives

Section 450 of the Act relates to the service of documents on co-operatives. In the case of service of a document by post on a foreign co-operative, one option is to address the document to a place in the State where the co-operative carries on business. This cannot always be easily ascertained. Another option will therefore be to address the document to the co-operatives' registered address in its home jurisdiction.

Clause 62: Amendment of Schedule 4

Clause 63: Amendment of Schedule 5

These are consequential amendments.

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

CRIMINAL LAW CONSOLIDATION (TERRITORIAL APPLICATION OF THE CRIMINAL LAW) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935. 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.

The *Criminal Law Consolidation (Territorial Application of the Criminal Law) Amendment Bill 2001* seeks to clarify the application of the criminal jurisdiction of South Australian courts.

This area of the law is complex, and recent statutory attempts to clarify it have been only partially successful.

The common law was that a State could only take jurisdiction over criminal offences committed within its territory. This approach did not adequately address modern criminal behaviour, which is often trans-territorial. In fact some serious crimes are more likely than not to be trans-territorial—for example internet crime, drug trafficking, and some kinds of fraud and conspiracy.

Under the common law, it was difficult to determine which State should prosecute offences where part of the conduct occurred in another State or Territory. Because of this difficulty, there have been occasions when people who had clearly committed offences were acquitted for want of jurisdiction, because it was not clear which elements of the offence occurred in which State, and which were significant for the purposes of determining jurisdiction.

An additional problem with the common law manifested itself in the case of *Thompson* in 1989. In this case, the High Court dismissed an appeal against conviction by a man who had murdered two people. One of the grounds of appeal was that the ACT Supreme Court had no jurisdiction to hear the matter. The accused had killed two sisters, placed their bodies in a car and simulated a car crash. He and the victims lived in the ACT. The car, with the bodies in it, was found crashed into a tree in NSW beside an ACT/NSW highway near the ACT/NSW border. There was no evidence of where the actual killings had taken place. The claim of "no jurisdiction" was based on the assertion that it could not be established to the required standard that the murder had taken place in the ACT, and not in NSW. While the case turned on the required standard of proof of jurisdiction, it revealed potential loopholes in the common law.

Recognising this, the Standing Committee of Attorneys-General referred the matter to a Special Committee of Solicitors-General. In 1992, these bodies recommended that all States enact a statutory criminal jurisdiction provision in addition to the common law. The South Australian provision is section 5C of the *Criminal Law Consolidation Act 1935*, enacted in 1992. NSW, Tasmania, and the ACT enacted similar provisions. All of these provisions operate alongside the common law.

Section 5C of the *Criminal Law Consolidation Act 1935* provides that an offence against the law of South Australia is committed if all of the elements necessary to constitute the offence exist and a territorial nexus exists between South Australia and at least one element of the offence. That territorial nexus exists if an element of the offence is, or includes, an event occurring in South Australia, or the element is, or includes, an event that occurs outside South

Australia, but while the person alleged to have committed the offence is in South Australia.

While able to deal with the *Thompson* scenario, section 5C and its equivalent in other States and Territories have been shown not to work in the way contemplated by the Special Committee of Solicitors-General, particularly in conspiracy cases.

In some conspiracy cases, the courts have preferred to follow common law principles on jurisdiction, and have ignored this more general provision. In the case of *Isaac*, in 1996, the defendants conspired in NSW to commit a robbery in the ACT and were prosecuted in NSW. The facts fell squarely within the formulation proposed in section 3C (the NSW equivalent of section 5C). The agreement which constitutes the entire conspiracy took place wholly within NSW (the prosecuting State). There was a territorial nexus between not just one but *all* of the elements of the offence and the prosecuting forum in that the parties made all arrangements for the robbery while in NSW. Under section 3C, the fact that the object of the conspiracy (the robbery) was to occur in another State should have been irrelevant. However, the court refused to allow a NSW prosecution, following instead a line of British cases on conspiracy, under which, simply stated, State A has jurisdiction over a charge of conspiracy to commit a crime outside State A only if State A would have jurisdiction over the crime to be committed. It was said, in *Isaac*, that the crime was an ACT crime over which NSW had no jurisdiction. The result of this is that the only possible place which could try the offence might have been the ACT in which no relevant act was committed at all.

A further technical difficulty with this sort of case was revealed in the case of *Catanzariti*. In 1996, the defendants conspired in South Australia to commit a cannabis offence in the Northern Territory and were prosecuted in South Australia. Again, and for the same reasons as in *Isaac*, the facts fell squarely within section 5C. However, the court found that South Australia had no jurisdiction because the indictment charged conspiracy to commit a specified Northern Territory offence, and not a South Australian offence, and there was no such offence of conspiracy under South Australian law. The problem is that the defendants could not be said to have conspired to have broken South Australian law, because they did not plan to break South Australian law, and it is not a criminal offence against the law of South Australia to conspire to commit an offence against the law of another place.

In another conspiracy case, section 5C was shown to be entirely deficient. In *Lipohar*, in 2000, the High Court found that section 5C did not extend jurisdiction to South Australia, but, by a variety of means, found that South Australia had jurisdiction at common law. *Lipohar* involved a conspiracy outside South Australia, by persons who did not enter South Australia, to defraud the State Bank of millions of dollars in relation to property in Victoria (the SGIC building in Collins Street). The only physical connection with South Australia (as it happened) was the sending of a facsimile consisting of a false bank guarantee from Victoria to the victim's solicitors in South Australia. While the only State with any interest in prosecuting was South Australia, section 5C would not allow this, because there was no element of the offence with which a territorial nexus with South Australia could be demonstrated. (The sending of the fax was not an element of the offence, just a minor part of it. The territorial location of the victim (in this case, in South Australia) is not an 'element' of the common law offence of conspiracy to defraud.).

The decision in *Lipohar* prompted the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General (MCCOC) to review judicial decisions on section 5C and its counterparts in other States and Territories. In its report in January 2001, MCCOC endorsed a new model criminal jurisdiction provision, and recommended its adoption by all States and Territories. MCCOC pointed out that section 5C may also be ineffective in some non-conspiracy cases, citing the following example. Suppose NSW allows pyramid selling and South Australia does not. Hypothetically, and for the purpose of this example, this is because NSW considers pyramid selling a valid expression of free market forces with which the State should not interfere while South Australia considers such schemes to be frauds on the public and punishable by the State. If a person in NSW sets up an internet pyramid selling scheme aimed at South Australians, section 5C would not allow prosecution by South Australian authorities if none of the elements of the offence could be shown to have occurred in South Australia.

This Bill, and the model provision recommended by MCCOC in Part 2.7 of the Model Criminal Code on which the Bill is based, corrects this and other defects in section 5C in a number of ways.

First, the Bill makes it clear that the provision *extends* the territorial reach of State offences in a substantive sense.

Secondly, the commission of an offence is defined without reference to where it occurs, but rather by reference to the act, omission or state of affairs constituting the offence or giving rise to the offence (the 'relevant act').

Thirdly, the Bill redefines the geographical nexus that must exist before South Australia may claim jurisdiction.

The effect is that South Australia has jurisdiction in the following kinds of offences:

- It may try offences where the relevant act giving rise to the alleged offence occurred wholly or partly in South Australia.
- It may try an offence where it cannot be ascertained whether the relevant act giving rise to the alleged offence took place within or outside South Australia, so long as it can be demonstrated that the alleged offence caused harm or a threat of harm in South Australia.
- It may try an offence where no relevant act occurred in South Australia, in certain circumstances. These circumstances include where the relevant act is also unlawful in the State where it occurred and the alleged offence causes harm or a threat of harm in South Australia; and where the relevant act took place in another State and gave rise to an offence in that State, and the defendant was in South Australia when the act took place. If the relevant act took place wholly within another State, and was lawful in that State, jurisdiction may only be asserted by South Australia if the alleged offence caused harm or a threat of harm sufficiently serious to justify the imposition of a criminal penalty under South Australian law.

The Bill also allows South Australia to try offences of conspiracy if the offence which is the object of the conspiracy has the appropriate geographical nexus with South Australia.

The common law of conspiracy will not allow South Australia to prosecute an offence of conspiracy to commit something which is not an offence against South Australian law but is an offence against the law of another State. The Bill will allow such a prosecution where there is, under South Australian law, an offence which corresponds with the interstate offence the object of the alleged conspiracy. It make no sense that a person who has committed an offence which crosses a border can escape by the means of a technical jurisdictional argument when he or she would be guilty of an offence in relation to that conduct in any place with which the crime is substantially connected.

Finally, the Bill requires the jury to find a person not guilty on the grounds of mental impairment if they were the only grounds on which it would have found the person not guilty of the offence. This is a technical procedural requirement to ensure that these cases are appropriately recognised because they do not involve an acquittal (as do cases where jurisdiction is not made out).

In any case, the territorial nexus is presumed, and an accused who disputes it must satisfy the jury, on the balance of probabilities, that it does not exist. In other respects, the procedures set out in section 5C have not been changed.

To date, the only Australian jurisdiction to have enacted a provision based on Part 2.7 of the Model Criminal Code is New South Wales (the new Part 1A of the *Crimes Act 1900 (NSW)*).

The objective of the Bill is to clarify the law about the jurisdiction of South Australian criminal courts and to extend that jurisdiction to enable the effective application of South Australian criminal law within nationally agreed parameters.

I commend the bill to the house.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Repeal of s. 5C

Current section 5C of the principal Act sets the limits of the criminal jurisdiction of South Australian courts. It was enacted in 1992 and applies in addition to the common law principles (which held that a State could only take jurisdiction over criminal offences committed within its territory). It is, however, now considered to be inadequate to address the prosecution of crimes which may extend beyond State territorial limits (for example, crimes such as drug trafficking, fraud, internet crime, conspiracy and hijacking). This section is to be repealed and a new Part 1A (comprising new sections 5E to 5I) is to be inserted after section 5D of the principal Act to provide more extensively for the territorial application of South Australian criminal law.

Clause 4: Insertion of Part 1A
PART 1A: TERRITORIAL APPLICATION OF THE CRIMINAL LAW
5E. Interpretation
New section 5E sets out definitions for the purposes of new Part 1A, including the definition of a relevant act in relation to an offence. The question whether the necessary territorial nexus (*see new section 5G(2)*) exists in relation to an alleged offence is a question of fact to be determined, where a court sits with a jury, by the jury.
5F. Application
New section 5F(1) provides that the law of this State operates extra-territorially to the extent contemplated by new Part 1A.
New section 5F(2) provides that—
- new Part 1A does not operate to extend the operation of a law that is expressly or by necessary implication limited in its application to this State or a particular part of this State; and
- new Part 1A operates subject to any other specific provision as to the territorial application of the law of the State; and
- new Part 1A is in addition to, and does not derogate from, any other law providing for the extra-territorial operation of the criminal law (for example, the *Crimes at Sea Act 1998*).

This new subsection is similar in its effect to current section 5C(8)*(a)* and *(b)*.
5G. Territorial requirements for commission of offence against a law of this State
New section 5G(1) provides that an offence against a law of this State is committed if all elements necessary to constitute the offence (disregarding territorial considerations) exist and the necessary territorial nexus exists.
New section 5G(2) sets out the new nexus tests. It provides that the necessary territorial nexus exists if—
- a relevant act occurred wholly or partly in this State; or
- it is not possible to establish whether any of the relevant acts giving rise to the alleged offence occurred within or outside this State but the alleged offence caused harm or a threat of harm in this State; or
- although no relevant act occurred in this State—
  (1) the alleged offence caused harm or a threat of harm in this State and the relevant acts that gave rise to the alleged offence also gave rise to an offence against the law of a jurisdiction in which the relevant acts (or at least one of them) occurred; or
  (2) the alleged offence caused harm or a threat of harm in this State and the harm, or the threat, is sufficiently serious to justify the imposition of a criminal penalty under the law of this State; or
  (3) the relevant acts that gave rise to the alleged offence also gave rise to an offence against the law of a jurisdiction in which the relevant acts (or at least one of them) occurred and the alleged offender was in this State when the relevant acts (or at least one of them) occurred; or
- the alleged offence is a conspiracy to commit, an attempt to commit, or in some other way preparatory to the commission of another offence for which the necessary territorial nexus would exist under one or more of the above if it (the other offence) were committed as contemplated.

5H. Procedural provisions
The procedural provisions set out in new section 5H are similar in effect to those provision set out in current 5C(3) to (7) (inclusive), with the addition of dealing with the technical issue of a finding of not guilty on the grounds of mental impairment (*see new section 5H(3)(a)*).
5I. Double criminality
New section 5I creates a specific offence (an auxiliary offence) under the law of this State where—
- an offence against the law of another State (the external offence) is committed wholly or partly in this State; and
- a corresponding offence (the local offence) exists.
  The maximum penalty for an auxiliary offence is the maximum penalty for the external offence or the maximum penalty for the local offence (whichever is the lesser).
  If a person is charged with an offence (but not specifically an auxiliary offence) and the court finds that the defendant has not committed the offence as charged but has committed the relevant auxiliary offence, the court may make or return a finding that the defendant is guilty of the auxiliary offence.

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

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

ADJOURNMENT

At 12.05 a.m. the Council adjourned until Thursday 29 November at 11 a.m.