LEGISLATIVE COUNCIL

Thursday 27 July 1995

The PRESIDENT (Hon. Peter Dunn) took the Chair at 11 a.m. and read prayers.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

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

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

Motion carried.

DEVELOPMENT (REVIEW) AMENDMENT BILL

In Committee.

Clauses 1 to 8 passed.

Clause 9—'Governor to give decision on development.'

The Hon. DIANA LAIDLAW: I move:

Page 4—

Line 9—After 'taking into account' insert 'a report from the Environment Protection Authority and'.

After line 17—Insert new subsection as follows:

(7B) A report under subsection (7A) must be accompanied by the report prepared by the Environment Protection Authority under subsection (7)(c)(ii).

After line 20—Insert—

(c) by inserting after paragraph (d) of subsection (8) the following:

and

(e) if a report has been prepared by the Environment Protection Authority for the purposes of this section—that report; and

(f) any other matter considered relevant by the Governor.

This amendment will ensure that, in addition to receiving a report from the proponent, the Governor must also receive a report from the Environment Protection Authority before deciding whether there are significant adverse social or environmental impacts of a major development being dealt with under section 48 of the Act. This amendment also provides that the Environment Protection Authority's report be tabled in Parliament together with the Minister's report on the matter. Paragraph (c) of the amendment adds the authority's report and other relevant material to the list of items that the Government must have regard to in making a decision on whether a project should be approved. Members will recall that the Government's motivation in moving this amendment is to address a situation that has become apparent where the Government requires a process whereby quick approval can be given to major development proposals that clearly do not have a significant environmental or social impact.

It is not intended that this process would be used frequently or that major projects with significant environmental impacts would no longer require an EIS, but it does ensure that we would be able to speed up the exercise in a number of cases where that is relevant, but that by this amendment we would be able to add these additional safeguards in terms of the Governor's role in receiving advice on this matter.

The Hon. M.J. ELLIOTT: I indicate opposition to both the clause and the amendment. This is an area that I have indicated preparedness to consider, and I spoke about it at some length during the second reading debate. There is no doubt that the questions around environmental assessment need review, and in fact it is some 10 years now since a report was tabled to the previous Government calling for some significant change, and that report has gathered dust. In more recent times I have put together a proposal, albeit not in detailed form, and have already been through preliminary discussions with local government, conservation groups and developers. I believe that a consensus model is possible.

This proposal is not a consensus model. Two of the three groups I referred to, in particular local government and conservation groups, expressed severe reservations, and even some developers realise that this level of discretion which the Government is seeking in the long run is very dangerous, because discretion is very much a two-edged sword. It can be used to help but also to hinder. It does not provide certainty. One thing it does guarantee in many cases is that if people feel there is a fiddle, whether or not there is, there can be significant community backlash. The Government has argued that it would like to do this for developments such as the Westpac development, but clearly it can have much broader application.

This is a decision made by the Governor—in other words, not challengeable in the courts—and it is a political decision as to whether or not there is any adverse social or environmental impact. Even with the amendment, this clause effectively provides that the Act determines that this is the way development is handled in South Australia; here are the rules. However, this clause now provides that if the Governor feels they do not want any of the rules, there will be no rules.

This is a no rules clause and it makes the rest of the Act an absolute farce. The Minister should know that it is not good enough to talk about what the Minister's intentions are: what is more important is what the law actually says and how the law may be used in the future. The fact is that this provision can be used far more broadly than just in relation to Westpac type developments. I have acknowledged in meetings I have had that we should be able to get Westpac type developments and move them through quickly. Yes, this will allow that, but it will also let a number of other things slip through even if the Minister does not intend to use it more broadly.

It is not good for Parliament to pass legislation which is broader than that which is intended and which has a legal impact that is broader than intended because what ends up happening is that it gets used for other purposes. Under the old Planning Act and under the current Development Act I have seen a number of instances where clauses which had a clear purpose and intent have been used sometimes for the exact opposite purpose, for instance, interim effect of development plans. The Hon. Mr Roberts is aware of that, having been a member of the ERD Committee and having seen it abused on a regular basis. It has been used for the exact opposite reason from its original intention because the legislation, when drafted, was broader than it should have been.

In the model I suggested I indicated that there was perhaps a possibility that, if we had an independent scientific body which said there are no environmental impacts, on that basis perhaps we could say that we could fast track a development. But that is not even what the amendment says. It says that the Minister will take the report into account. They can say, 'We think there are problems.' The Minister can still say, 'I do not think they will be that severe and I am going to go ahead with it anyway.' When that comment was run past people like the LGA, they said they saw some merit in the concept but felt that there needed to be clear guidelines given to the EPA or

whoever carried out such a process, and the amendments do not carry that either.

Several other clauses in the Bill appear to be due to fail. As the Hon. Terry Roberts suggested in earlier debate, the Government should be prepared to go away and talk about this in the same way as the Hon. Mr Ingerson has been prepared to go away and talk about issues like review and WorkCover. He found that when he got interested parties together it was possible to thrash out a view that all could share. This does not have to be an issue of winners and losers. It can be something that can be supported by all, but that is not the case with this clause or amendment and I will not be supporting either.

The Hon. T.G. ROBERTS: The Opposition is opposed to both the amendment and the clause. It is clear that the fears of people out in the community have not been overcome by the negotiating process that has taken place thus far and, although broad based discussion has taken place since the drafting of the Bill, those fears of people out in the community have not been overcome. I have not had too much comment about the amendment in relation to those groups and organisations that contact my office.

The amendment tries to bring some discipline into the process or at least have some referee or referral point, which is heading in the right direction. Unfortunately, the way in which the clause and the amendment are drafted is that there is not a lot of confidence out there that the disciplinary process through the EPA will be adequate and that the language of the drafting is not strong enough for those people to have confidence that there will be a strong link between consultation processes and outcome. The fears of people in the community do not appear to be accommodated by the amendment.

The position being put to me is that large developments of economic importance tend to be those projects which impact generally on the community. As the Hon. Mr Elliott said, it could be a Westpac or a metropolitan-CBD style development that does not have a lot of impact on the environment. But you could have another major project of economic importance which would have a major impact both for environmental and social reasons and which would be able to be fast tracked through without a lot of scrutiny. As we found on the ERD committee, once the processes have been breached and once the challenges have been made in the courts there appears to be little access or opposition that can be provided. As the previous Government found, as soon as finances are able to be mustered for challenges to large sections of the Act, there always appear to be breaches that people find to allow their developments to proceed. It is with those sentiments that the Opposition opposes the clause. The clause weakens the existing provisions and perhaps opens up an area where we would prefer to see the safeguards in the provisions of the current Act remain.

The Hon. DIANA LAIDLAW: I thank members for their comments although I express disappointment that we do not have the numbers and that both the Australian Democrats and the Opposition intend to oppose both the clause and the amendment. However, I detected from both contributions that there was some support for the proposition that in certain circumstances developments could be fast tracked. Certainly, that is the Government's view. The proposition has not been condemned outright by any honourable member who spoke—it would have been quite an extraordinary exhibition if that had been the case. The Government is very keen to pursue this matter, and perhaps over the break or at some later stage we should look at how this issue of fast tracking development into certain circumstances where there are appropriate safeguards that satisfy members and the community can be realised.

The Hon. M.J. ELLIOTT: An appropriate way to go from here might be for the Minister to try to establish an informal grouping, somewhat like that which has been looking at WorkCover, which has the major interested parties sitting around the table. Those interested parties in this case are the development community, local government and conservation groups. I do not think you would want more than one representative of each and then perhaps a couple of political people because ultimately it becomes political again. I suggest that bureaucrats not be involved. It was quite interesting how the WorkCover discussions went when we left out the lawyers, WorkCover and a number of other groups did not have an immediate first interest—they had a secondary interest in the matters. You try to get the key players to sort out their problems which are not always the same as the problems of the bureaucrats or of various other players in the game.

I suggest strongly that the Minister considers that, because I believe that good will is there among the three groups to resolve these problems. I make that by way of suggestion and I know that it is up to the Minister in another place to make a decision. I am aware that, when we debated this legislation last time in 1993, the Minister indicated concern about the EIS process, among other things, as it is now in the existing Act. Of course, this does not solve the sorts of problems that the Minister acknowledged, either.

I should like to ask a couple of questions about the EIS process and why people do not have a great deal of confidence in it from time to time. As regards the development at Glenelg, I have been critical about the fact that no EIS has been carried out in relation to sludge disposal and putting a new mouth in the Sturt Creek out to sea, among other things. I note that at 5 o'clock yesterday the Minister issued a press release saying that an EIS will now look at a new mouth for the Sturt Creek.

One reason why people do not trust the process is that they feel that much is going on behind the scenes to which they are not party, that information is being withheld and that the processes in which we are being involved are not transparent. This is a classic case. In my view, the mouth of the Sturt Creek was decided a long time ago. What is more worrying is that it has been decided for reasons which have not yet been made public. Looking at the logic of it, if we succeed in cleaning up the Sturt Creek, there will be no contamination coming down and it should be able to flow out to sea via the Patawalonga without any problems. If we do not succeed in cleaning it up, how do we justify sending it out to sea directly? I cannot see that approval would be granted. I must assume that if the new mouth is to go out then we are running clean water out, but we now have not only the mouth of the Patawalonga to look after but also the mouth of a second opening, so why would we want the extra problem?

I understand that there is talk of putting a few houses along the side of this outlet. I also understand that for some years within the department there have been plans for a marina or canal-type estate in the West Beach Trust land areas. If so, the reason for wanting an extra mouth makes all the sense in the world.

The question of openness is important. I do not know whether the Minister is aware of these proposals, but I know that the plans exist and who drew them. Can the Minister

advise me as to the Government's, as distinct from the bureaucrats', knowledge about this matter? I want to know whether this is a Sir Humphrey situation, because I know that some key bureaucrats are involved now as they have been for many years. What knowledge does the Government have about further marina developments, particularly marina and/or canal estate development, in the West Beach Trust area?

The Hon. DIANA LAIDLAW: I do not have specific advice to hand to answer the honourable member's question in detail, but I will refer it to the Minister and he will advise the honourable member about his knowledge of this matter. Would the honourable member mind if that information were supplied after we have concluded this debate, or does he want it as part of the debate?

The Hon. M.J. Elliott: I should like it to be answered in a reasonable timeframe.

The Hon. DIANA LAIDLAW: A week, a day, or what?

The Hon. M.J. Elliott: Perhaps before the Parliament rises tomorrow.

The Hon. DIANA LAIDLAW: I will ensure that that is done.

The Hon. M.J. Elliott: Could such plans also be made available to the public?

The Hon. DIANA LAIDLAW: I will inquire whether such plans can be made available to the public. With regard to the reference to Sir Humphrey, I suspect that the honourable member would have been pretty cross publicly, and with good reason, if the Government decided that everybody who held a certain position under the former Government were to be changed.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Nevertheless, it means that agendas which have been around for some time are continued whether or not they are the policy of the Government or whether or not the Minister is informed.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: That is true. I have come across it in some areas in which I work. People have needed to be reminded that the Government has changed, that there is a different way of doing things and that pet projects which have been around for a long time and made no headway may not be pursued further as the time can be better spent.

The Hon. M.J. ELLIOTT: I pursue this because it really is an example of the sorts of problems we have. Sometimes these same bureaucrats are the people who give the Minister advice as to whether or not you really need an EIS. The Minister gets advice as to when to use the discretion and when not to, although it is a political decision. At the moment, an awful lot of material is simply not open to the public view. So, the very people who are pushing it for their own personal agendas, which may not be political agendas, are also the ones who are giving the advice to the person who must make the political decision. Frankly, even under the previous Government, Ministers in this area got into trouble from time to time because of the advice they were given. We really do need a process; perhaps it would even give the incumbent Ministers a little more confidence. I do not think the current process really protects the Ministers, either.

The Hon. T.G. ROBERTS: I am encouraged by the Minister's replies to the questions and the statement that he would like to see a broader based approach during the break and perhaps a fresh look at it to make sure it is not ruled out and that there is an approach which may be agreeable to everyone and which allows for a fast tracking method to be discussed, debated and accepted so that development can proceed without undue delays and holdups.

The problem in the past has been that bureaucrats and Ministers consequently tended to get a bit paranoid about some of the views and opinions held in the community at the point when the developments are about to proceed or are even in the planning stages. That comes about because there is no open discussion, and it would not matter what Governments or developers did: those who had a vested interest would not want the proposal to proceed, and they would use any excuse at all to make sure that it was stopped. If the information is broader, more accurate and dispensed in a way in which more people are involved, I think we will find that a more reasonable view will be adopted by people and the paranoia of the conspiracy approach which has dogged and plagued many projects in South Australia would disappear; then we would not have community groups and organisations involving themselves in information collecting from all sorts of strange sources and holding them up as examples of truth.

What tends to happen in all cases is that the rumour becomes the reality, and it is then very difficult for the development, whatever its intention, to proceed in any way that is constructive. If the clear intentions of the development are spelt out, if the scientific evidence to support the case and/or the economic and social cases are spelt out, and the environmental protection is put in place that provides for the interaction of the social, economic and environmental case to proceed, a large majority of the community would allow those projects to proceed on their merits, given that information base. As I say, the fast tracking process needs to have that broad-based involvement to take away any of the paranoia that exists in those communities.

If the community's fears and emotional feelings are spelt out in the early stages of the consultation process, hopefully we can overcome some of the negative forces that appear. Most of the arguments can be logically explained, and again we will have majority support in the process and the way to proceed. Unfortunately, there are other examples associated with the Patawalonga project that do come into play.

There are vested interests that, either through the tendering process or through not being able to be part of a major project in terms of their role and responsibility, might be running agenda. There are all sorts of reasons. The appeal from both the Democrats and the Labor Party is that, if the process is opened out and there is more rather than less information available at the point where the process is starting to be drafted, then you are likely to come away with a more favourable than a less favourable response. We would like to see that discussion process, which has been alluded to today, include some guidelines and rules, which could be drawn up during the break so that any future projects, or even any future legislation, that comes before us can be looked at in a more favourable light.

The Hon. M.J. ELLIOTT: In anticipation of the sort of response the Minister may give to my questions later, I am aware that the proposals for Glenelg/West Beach when they drew up a map, drew a slightly oblong shape, half on land and half on water, and talked vaguely about the potential for a marina, but there was no further explanation at that stage. Certainly, there has been no suggestion publicly that the real reason for putting the mouth of the Sturt Creek through is to open up that area for development. These secondary agenda are terribly dishonest and encourage lack of trust.

I am not saying that the maps do not indicate a slight oblong shape suggesting that, somewhere on sea or land in

the general area, there might have been a development, but here we have $11 million of Better Cities money with only $2 million being spent on the catchment and $9 million being spent at the Patawalonga end. Some cynics might suggest that Better Cities money, which was meant to be for the benefit and improvement of Adelaide as a whole, will be largely used for a significant private benefit and, if we are not careful, that gets very close to corruption. It is one thing to say, 'We want to clean up the Patawalonga for the sake of tourism and for local residents', and that it is badly polluted, but it is another to start spending millions of Better Cities' moneys, and putting mouths of the Sturt Creek through. If the reality is that you want to build a project then you should be up front with these things.

Amendment negatived; clause negatived.

Clause 10—'Crown Development.'

The Hon. DIANA LAIDLAW: I move:

Page 4, lines 27 to 29—Leave out paragraph (b) and insert new paragraph as follows:

(b) a State agency proposes to undertake development for the purposes of the provision of infrastructure for the public benefit (whether or not in partnership or joint venture with a person or body that is not a State agency),.

The Government agrees that clause 10 of the Bill as originally worded could create a loophole for inappropriate joint ventures to be treated as Crown development. The proposed amendment will limit the use of Crown development assessment procedures to those joint ventures specifically intended for the provision of public infrastructure. These kinds of development have traditionally been treated as Crown development in the past. I have also circulated a further amendment, which I will not move at the moment, which offers a more restricted concept of public benefit about which I understand some members have expressed some concern. We have used the word 'infrastructure'.

The first amendment, as I indicated, talks about a State agency proposing to undertake development for the purposes of the provision of infrastructure for the public benefit. A further amendment—which I have circulated but not yet moved, and to which I would be interested to receive members' response—removes the expression 'public benefit', and would read, 'a State agency proposes to undertake development for the purposes of the provision of public infrastructure', thereby deleting the words 'of infrastructure for the public benefit'.

The Hon. M.J. ELLIOTT: In relation to clause 10 as a whole, I will be opposing subclause (a) and supporting subclause (b). When we reach the voting stage, I hope we will be dealing with that in two parts. In relation to Crown development, the Government should be aware that in 1993, when we first debated the Development Act, I expressed grave concern about the special exemptions being granted to Crown development. We had been through a recent experience of that in relation to the development at the Waite Institute, where development was to occur that was clearly contrary to the development plan but, because a State agency was doing it, it could walk all over the provisions contained within the development plan. For a long time the Government saw no need to consult with either the local government or the local residents in any meaningful way. That, in itself, caused me major concern.

At the Federal level we have had another example of agencies supplying infrastructure that could be termed public infrastructure, and that relates to Optus and Telecom, etc., who have a right to build a tower anywhere they like. Under a Federal Act they can go anywhere and erect a tower and there is nothing that any planning provision can do about it. I believe that is not dissimilar to the situation here, where private bodies, whilst they may be producing something that is going to be used by the public, could be quite insensitive as, unfortunately, Optus and Telecom have been when they have set about locating some of their towers.

It is an unfortunate truism that, when you do not need to be accountable, you do not try to be accountable. It should come as no surprise to the Government that, having expressed grave reservations and opposition to the Crown in its own right being able to ignore planning provisions, I would be even more concerned where the Government is seeking to extend that to a private body. Certainly, I note that the Government, in its first amendment and now its later amendment, has sought to constrain it, such that the private body would be providing the sort of infrastructure that is now normally supplied by a State agency, but I am not convinced that it has actually achieved that.

Certainly, with each draft it has got closer to it but, even if at the end of the day it has maintained the *status quo*, as I opposed the *status quo* previously and I have had no reason to change my mind since 1993, I will not be supporting the clause as a whole. However, I note that the Government has certainly improved it dramatically on the first draft, which was wide open and provided enormous loopholes.

The Hon. T.G. ROBERTS: The Labor Opposition opposes clause 10(a)(2)(a) and (b) as well, for reasons similar to those which the honourable member has put forward. Whether or not the Bill goes to conference, we see another problem. Joint venturers or State agencies could very well find themselves part of a State agency to pursue the plan or the development and it could be privatised after the completion of the project. There are a lot of criticisms in the community about rules for one section and different rules for another. The Government has to set examples in relation to best practice and I do not think there needs to be the differentiation that this clause brings.

In relation to Telecom or Federal planning matters impacting on State planning, communications is becoming more and more of a problem, although it is not part of this Bill or these amendments. Some communities are now trying to get changes to the Commonwealth Act to prevent unwarranted programs being put forward by the Commonwealth in relation to communications. In some cases the time frames—

The CHAIRMAN: Order! There is some confusion as to what the Hon. Mr Elliott and the Hon. Terry Roberts are talking about. I think the Hon. Mr Roberts is speaking about 10(a)(2)(a) and 10(a)(2)(b). As I understand it, the Hon. Mr Elliott was talking about clause 10(b) on page 5. There is no problem; we can split it when we vote on the clause.

The Hon. T.G. ROBERTS: My contribution in relation to the Commonwealth developments is not relevant to the Bill, but it is an illustration of what is happening in the community. Through local government, communities are now trying to stop the Commonwealth putting structures into the community that they do not want, yet they are part of a national plan that the Federal Government would like to see built. It is up to the Commonwealth to convince local people that those structures are in everybody's best interests, and it has to go about its design work in such a way that makes those features acceptable to local communities. I urge State Governments to do the same, rather than trying to get preferential positions through legislation. There need to be some discussions with both local government and communi-

ties about how to proceed to make sure that local communities do not feel as if there are separate development laws for Government agencies and for the private sector.

Paragraph (a) negatived; paragraph (b) passed; clause as amended passed.

Clause 11—'Land management agreements.'

The Hon. DIANA LAIDLAW: I move:

Page 5, lines 13 to 15—Leave out all words in these lines after 'section' in line 13 and substitute 'to which the Minister is a party may'.

This clause relates to the concept of land management agreements. As background, I can indicate that only the Minister or a council can enter into a land management agreement with a landowner. Subsection (3A)(b) of section 57 was intended to limit a council's ability to use LMAs for indemnity purposes in circumstances prescribed in the development regulations, for example, specific areas of land. This was to ensure that councils did not misuse indemnity provisions. The Government's proposed amendment now limits the scope of the indemnity provisions to land management agreements to which the Minister is a signatory.

Subsection (3B) allows an agreement between the Minister and a landowner to indemnify named third parties not signatories to the agreement. These third parties may include a council or body such as the Coastal Protection Board or a shack owner. These third parties may include a council or body such as a coastal protection board. The freeholding of shack areas is an example where the indemnity provisions can be applied. Another example would be LMAs relating to the retention of native bushland. The Government sees this whole area as an extremely important provision in the Bill. I stress that we see it as critical to the implementation of a shack policy. I understand that there have been discussions to that effect with various members. My amendment addresses this whole general issue and aims to ensure that the indemnity provisions contained in the Bill can be used only in land management agreements to which the Minister is a signatory and this would ensure that councils do not abuse these provisions.

The Hon. M.J. ELLIOTT: There is no doubt that this clause is about shacks and not really about anything else at this stage. The previous Government went too far but it tried to identify shack sites that reasonably, on environmental and good planning grounds, etc., could be freeholded and those that could not. It is a difficult process because there is a powerful political lobby there, but it tackled that job fairly honestly. This means that the Government will be able to freehold a property and pass all the risk to the person who becomes the owner. The reason for that is that the property is where it should not be. It is as simple as that. We are talking about properties at significant risk of flooding or significant risk of causing some form of environmental damage. All the responsibility is going to be passed on to the owner and the Government is going to attempt to wash its hands of it. I know what will happen next: having been freeholded, the shacks become far more valuable. They will be changed from shacks to holiday homes and many will become permanent homes as is already tending to happen in shack areas. They will rise in value considerably and the economic muscle of this group within a decade will be far greater than it is now. We will have made a mistake and we will have entrenched that mistake for ever.

Future generations will condemn this Parliament if it goes down this path. I have little doubt that virtually every shack that is still remaining will end up getting freeholded because the Government has an easy way out and can say, 'We are not taking any of the risks.' This will be one of the most tragic things we have done in this session. I repeat: we will be condemned absolutely if we follow that path. There are other ways of solving the problems about shacks and I referred to them in the second reading. I have a lot of understanding for people who have had shacks for many decades, perhaps having had them in the family for a long time. We can do something to assist these people but I do not believe freeholding the shacks in places where freeholding did not occur is the proper thing to do. It is a corrupt decision to be made. It is not corrupt in terms of money changing hands but it is morally corrupt to go down that path.

The Hon. T.G. ROBERTS: I refer to the position that the Labor Opposition is taking. I will be interested in the Minister's response to the question raised by the Leader of the Democrats. If the clause is read as it is written there is no intention in the clause to achieve the outcome that has been indicated by the honourable member. The honourable member is well informed on the Bill and his fears are the same fears that I have and I would like an answer from the Minister before the amendment is put.

The Hon. Diana Laidlaw: Will you clarify what information you want?

The Hon. T.G. ROBERTS: The honourable member's point is that the clause is not spelling out the Government's intentions about the freeholding of shacks in environmentally sensitive areas. I understand that the Government's position in relation to shack sites now is for assessment to be made by the Government of each individual shack site and where environmental imperatives need to be considered those imperatives are major considerations in freeholding shacks. Some people have had decisions that have been line ball going one way or the other and have contacted my office and those of other members.

I have tended not to interfere in that process or to make value judgments on their behalf, because there is an assessment process that in my mind has been working diligently through that process to satisfy the environmental requirements of siting. Some councils have made some decisions in some areas that have been against the principles of environmental protection, and some have been challenged. If it is the Government's intention to weaken the environmental protection process within the shack transfer agreements I will join with the Hon. Mr Elliott. If the Government can give me guarantees that the integrity of the process which has been picked up and run with by this Government will continue, I will be more likely to support the clause in its entirety.

The Hon. DIANA LAIDLAW: I do not have a copy of the Government's shack policy with me but, as I recall, the policy is as outlined by the Hon. Terry Roberts, and a great deal of effort is being made in assessing various features of the environment before determining that a shack site can be freeholded. That was made clear in the initial policy and has been the practice since that time. The Government has been working slowly through that exercise.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Yes, that's right. That is a separate and established policy which will continue as has been the practice to date. While it is not my direct area of responsibility, as a member of the Government I know the sensitivities in this area from both the environmental perspective and the lobby one gets.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Both of them are strong lobbies. There is also considerable concern by a number of councils in the area from both the environmental and land management angles. This amendment does not impinge on the way in which the Government will pursue and administer the shacks policy. At the request of the Attorney this amendment provides some protections to the Government if, after all those other matters have been taken into account, the Government makes such an offer which is accepted by the shack owner that their property be freeholded. The Government would then indicate that we wish to enter into these land management arrangements. They provide some safeguards to the Government and to taxpayers in the circumstances outlined by the Hon. Mr Elliott. It does not mean that we are negating the shack sites policy because it was developed and is being applied and will continue to be applied with care.

The Hon. M.J. ELLIOTT: The real world situation is this: people are walking in now and saying, 'Look, we want to freehold our shacks.' They are being told, 'Look, the area you are in is prone to flooding. If your septic tank overflows the overflow goes straight into the river.' There is a range of good reasons why they are not being freeholded, and the person will be very upset and perhaps go away writing letters to other members of Parliament, etc. But at the end of the day that is a fact. They will then say, 'Look, I am prepared to take the risk.' We will end up with a class of a couple thousand houses—because they will be 'houses' in the sense of the word—which will have a different treatment in law from all others. If I applied to a council tomorrow to build a house in a similar area to where these shacks are I would be told where I could go very quickly. They would say, 'We cannot allow this sort of thing to happen.'

As I said in my second reading contribution, the whole history of shacks is an interesting one. There have never been any major rights in relation to shacks. They are actually rights people have grabbed by degrees. They started off as camping rights with tents in the sandhills, and by degree people have gradually demanded more and more to the point where we now say, 'Okay, you can have a permanent freehold in this area.' In many cases it was initially a right grabbed by squatting.

The Hon. Diana Laidlaw: Sounds like farming.

The Hon. M.J. ELLIOTT: No, it is not true. I do not think a large amount of settlement in South Australia happened that way. In many cases that is happening within the current generation but we are actually going a step further. As I said, we will allow houses to go where you would not encourage them to go if there were not any there already. People being people someone will appear on the other side of the counter saying, 'Look, I want to freehold this.' Although there are good reasons why it should not be freeholded the land management agreement then becomes a way out. The fact is that the vast majority of shacks which in other circumstances would not have been freeholded now will be—that is the real world.

The Hon. T.G. ROBERTS: In relation to this clause I can only take the Minister's reply. Her *bona fide* answer to the original question stated that the process of assessment will continue in its current form. As I said, there have been some winners and some losers and there have been some people who have taken their medicine and accepted it. There are others who felt aggrieved but who respect the process and some who have had pleasant surprises—although they may have been marginally unacceptable they have been able to maintain their shack sites. If the position as outlined by the Minister is that the assessment process will continue in its current form and that this clause will not be used as an out to weaken the current negotiations continuing, the Opposition is prepared to support the amendment but will certainly keep a close eye on its application.

The Hon. DIANA LAIDLAW: I appreciate the confidence the honourable member indicated in the guarantees I provided. I reinforce that those guarantees came from the Minister, and I understand from the leadership group of the Government. The policy was developed after a lot of consideration of the various factors we outlined today. There are considerable sensitivities. There are also strong lobby groups for and against. The policy is a balanced one as it has been applied with care and will continue to be applied with care in the future. I can provide those undertakings.

The Hon. M.J. ELLIOTT: I indicate that I am aware of a report, again sitting somewhere in the bureaucracy, which is quite damning about a major set of shacks. I do not know whether the Minister has been made aware of it but I suggest that the Minister ask for all reports—some of which may not be exactly positive in relation to this matter. Again, I do not know whether or not information is being withheld from the Minister or whether or not he is actually in collusion with the withholding of information from the public.

Amendment carried; clause as amended passed.

Remaining clauses (12 to 14) and title passed.

Bill recommitted.

Clauses 1 and 2 passed.

Clause 3—'Council or Minister may amend a Development Plan.'

The Hon. M.J. ELLIOTT: I shall be opposing this clause. During the second reading debate I alluded to the fact that several loopholes were being created, and this one is enormous. The concept of the planning strategy is important, because it is useful for the Government to lay down how it sees the development of the State proceeding. The planning strategy and its position in the Development Act is rather anomalous. Although it is a political document, and I understand that the intention was always meant to be indicative, there was a requirement that development plans would comply with the planning strategy. That is one thing, but what is happening here has gone a step further. The Minister at any time can ask for an amendment to the development plan so that it complies with the planning strategy.

The planning strategy is not defined in the Act: it just says that there will be one. It is quite possible for a Minister not to have a general directions planning strategy, which is largely what it is at the moment, for instance, saying that the Government supports urban consolidation or something like that, but to be very detailed and say that it wants a particular thing. The planning strategy might say that the Government wants a particular project at a particular location. If that is the case, the Minister, who wants to foist something without going through due process, can make what was formerly a non-complying development a complying development by changing the plan and the zoning. The Minister can say, 'I want this here; we will change the planning strategy.' The planning strategy is not subject to any due process, so the Minister under this new paragraph (h) can go to the council and say, 'Amend your development plan so that it is consistent with the planning strategy.' At that stage the Minister will have walked around all due process once again. As I said, there are several places in this Bill where due process

is walked around, and this is a beauty. Whoever thought this up was doing quite well. I am strongly opposed to it.

The Hon. T.G. ROBERTS: I guess that the statement inferred an inherent weakness in the clause. My position is similar to that which I took on clause 9. It is not the written clause that causes the situation in which I find myself regarding supporting or opposing it, but the intention that is involved. Does the Government intend to subvert the whole of the Development Act with this clause, which enables the Minister to get around the proposed development plan by subterfuge? The clause provides:

> . . . where the Minister considers that an amendment to a development plan is necessary to ensure or achieve consistency with the planning strategy. . .

I would have read that as a positive aspect to include in the Bill so that the Minister can intervene where a Development Act undermines best planning principles and endangers the general strategy of a principal Act that defines aims, goals, objectives and roles. If this provision is used by the Government in any other way than my understanding and that of the people who are interpreting it, it will not have my support. I had approaches about the whole of the Bill. On this clause alone most people have found that, if it is as read, there is nothing to fear from it, other than bringing about some uniformity in planning processes. If it is the Government's intention to apply it in that way, then it has my support. If, as the Hon. Mr Elliott interprets it, it is to subvert the whole of the Bill and transfer power to the Minister to enable him to intervene in the planning process to allow projects which do not line up with any particular planning objectives and/or statements or understandings, I shall be opposing it.

I know that the Minister will interpret the clause as it is written, but if the Hon. Mr Elliott's interpretation is applied at any stage while we are in this place, I am sure that, while the numbers stack up in the Legislative Council as they do, the Labor Opposition will have no faith at all in any future broad-based clauses which are introduced in here to amend legislation. If I am left supporting this clause on behalf of those people who have indicated to me that they have no problems with it and I subsequently find that the application has let those people down, I am sure that the Opposition's attitude in this place to any future changes will alter.

The Hon. DIANA LAIDLAW: The planning strategy is critical to the philosophy of the Act. As honourable members will know from debate on the Act a couple of years ago when the previous Government was sponsoring this legislation, there are two ways of amending the plan: by preparation of plans through a council or a Minister.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I have had a different experience now.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Well, I am not good all the time these days. I am in my own portfolio, but not always in others. There are various things that the Minister can do. It has been argued that there should be one further layer of action that the Minister can take in terms of the ministerial plan, and that is to ensure that there is consistency between the council plan and the ministerial plan under the umbrella of the planning strategy. I hope that provides the Hon. Mr Roberts with the reassurances or explanations he was seeking. Have I done both, either or neither?

The Hon. M.J. ELLIOTT: The point that has to be made is that it is not a question of intent but a question of what the legal consequences of it are. The intent may or may not be extremely noble. The legal consequences of it are that it produces an enormous loophole in the legislation. Let us take a few examples. What if the Minister, for instance, said within the planning strategy that the Minister wanted to increase housing densities and reduce the amount of open space in the Blackwood area? Take the Blackwood forest reserve area as an example. The council currently has to make a decision about whether or not that is to be rezoned. The Government would be keen to rezone it because it wants to cover it with houses.

The Minister can amend the strategy, and the development assessment commission will have no choice but to agree with the Minister's insistence that the zoning changes occur to allow that to happen. I rather suspect that Collex Waste, which has run up against some zoning difficulties (and has for some years—and I know that the Minister has been trying to find a way around that one), by just changing the planning strategy, the Minister will be able to go back to the Enfield council and say 'You have to change your development plan now because it is not consistent with my planning strategy.' This is an enormous great hammer with which people can be hit over the head. It creates an absolute farce. We have all sorts of processes to determine what development plans look like.

Now, in relation to an individual project or proposal, the Minister just has to amend the strategy and the plan has to follow—no choice. That is a consequence of it. Where the Act itself is weak is that it does not really define what a planning strategy is or is not. It is my view that a planning strategy should always have been general directions and not specifics, so it could not be used in the sort of way I am describing. I do not believe it was ever intended to contain specifics, but the fact is the Act does not preclude that from happening. Every time this clause gets abused, people who agreed to this will be reminded that they were forewarned about what would happen with this clause.

The Hon. DIANA LAIDLAW: The honourable member's misgivings about the planning strategy are better addressed in terms of the whole context of the Bill rather than on this clause.

The Hon. M.J. Elliott: That is what weakens this clause.

The Hon. DIANA LAIDLAW: The planning strategy process has to be looked at, if that is the basis of the honourable member's argument. Whether the planning strategy is there in the form that the honourable member likes it or not, if there is an abuse of the process from the planning strategy stage to the Ministerial plan or the council plan, then that abuse of process is subject to parliamentary disallowance. That has always been provided for in the Act.

The Hon. M.J. Elliott: It is not.

The Hon. DIANA LAIDLAW: The Ministerial plan is subject to parliamentary disallowance.

The Hon. M.J. Elliott: Under what section?

The Hon. DIANA LAIDLAW: There is no confusion. It is perhaps a different use of terms. We have the planning strategy and the development plan, and the councils and Minister are able to make amendments to the development plan. That is what I am talking about in terms of the Minister's plan, not the planning strategy itself. So, the amendment to the development plan can be disallowed if there is this abuse of process which the honourable member is now concerned about.

The Hon. M.J. ELLIOTT: The political reality is that we are talking about a Minister's or governmental plan. They do not come directly to the Parliament, although I tried to amend

the Act last time it was before us to do that. They go to the ERD Committee, and that committee, as with all committees, is Government controlled. If the Government makes a decision, in fact Parliament has no role at all; that is reality. So, there is no check and balance at all in terms of the way that this is applied.

The Hon. DIANA LAIDLAW: There is still the opportunity available for disallowance in this Parliament, and the Government and Minister consider this is the appropriate check and balance in this instance where there is abuse of processes being suggested may happen from time to time.

The Hon. T.G. ROBERTS: The importance of this clause is growing more and more in terms of the discussions today. I wonder whether the Minister would report progress so I can seek some information, or could we come back to this clause?

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: At this stage I will vote against it and then we could come back to it.

The Hon. DIANA LAIDLAW: I move:

That the Committee postpone further consideration of clause 3 until after consideration of clauses 4 to 7.

Motion carried.

Clause 4—'Amendments by a council.'

The Hon. M.J. ELLIOTT: Section 25 of the Act currently provides some very clear obligations. Under subsection (2) the Minister must, for the purposes of subsection (1), consult with the advisory committee if the Minister considers the proposed amendment would be seriously at variance with the planning strategy. If the Minister is forming a view that there is variance to the planning strategy, he must consult the advisory committee, but the Government is now proposing that the Minister 'may'. In other words, we have set up a theoretically independent advisory group, but the Minister will now decide whether or not the Minister will speak with that group, and I do not believe that that obligation should be removed.

The Hon. T.G. ROBERTS: I oppose this clause largely on the basis that Oppositions always go for a position of 'must' rather than 'may'. On that basis, I will be opposing the clause.

The Hon. DIANA LAIDLAW: I outline the basis for the clause as submitted in this Bill. As members have noted, the clause removes the mandatory requirement for the Minister to seek the advice of the Development Policy Advisory Committee where the statement of intent is seriously at variance with the planning strategy; where there has been substantial public opposition to the whole or part of the proposed amendment to the development plan at the public consultation stage; or where the council has recommended that substantial alterations be made to the amendment. The mandatory referral to DPAC in respect of listings of local heritage places is retained. The main purpose of this clause is to ensure that council prepared amendments to the development plan are processed without unnecessary delay. It will also allow DPAC to concentrate its deliberations on the most important amendments and planning matters.

The Hon. M.J. ELLIOTT: I find it intriguing that the Government is trying to change the mandatory requirement of the Minister's consulting the advisory committee to the Minister 'may', if he or she feels like it. Why a Minister, having recognised there is substantial public opposition, would then seek not to meet with the advisory committee, which is widely representative of a cross section of interests in planning matters, is strange, to say the least.

Clause negatived.

Clause 5—'Review of plans by council.'

The Hon. M.J. ELLIOTT: At this stage I indicate that I will support clause 5, but I will be interested to hear what the Hon. Terry Roberts has to say. It is true that many councils have expressed concern about this clause, particularly rural councils where things do not change all that rapidly. I know that they are concerned that they would have to amend their development plan every three years, or at least their view is that they would have to amend it. The reality of the interpretation of this clause is that they are required to review and, as I understand it—and the Minister may wish to confirm this—a council could say, 'We have no need to amend our plan', and that really is its review.

One would hope that it would spend a bit more time than that, but it does not mean it would have to produce a comprehensive document and carry out a radical change. Three years is not a short period of time for metropolitan councils or even, perhaps, for some of the more active rural councils that are bringing up amendments to their development plan all the time. As a member of the ERD committee, I am sure that the Hon. Mr Roberts can attest to that as well. Frequent changes are occurring and very few councils, except the very small rural councils, would not be making some sort of amendment every three years. To some extent, this might formalise the process a little more. I do not see any great danger, but I would be interested to hear the response of the Hon. Terry Roberts on the issue.

The Hon. DIANA LAIDLAW: I know that the Hon. Mr Elliott earlier expressed some reservations about moving from five to three years within which these plans are to be amended. We have found that, since the five year period went through this Parliament quite a few years ago, it has been the practice for some of these councils to show considerable reluctance to amend their plans and the review has been a very uneven process. Moving from five to three years, as proposed in the amendment, will ensure that all councils in high growth or urban renewal areas have updated planning policies and that rural councils have policies in accordance with the relevant strategies.

I suspect that, in many instances, it may affect the rural councils where there has been little effort to improve some of their plans. I understand that very few of them have trained planning officers in any respect. There is a heightened interest from Government circles, and generally in the community, that such planning issues are so important that they must be relevant, and this movement from five to three years increases the pressure on councils generally to ensure that their plans are relevant in the public interest.

The Hon. T.G. ROBERTS: The position I took originally was to support the amendment but, after further consultation, I felt that the movement from five to three years would be an imposition on some councils that would be continually reviewing their amendment plans, and that the three year period was not long enough for the process to bed in. It is not only restricted to rural councils; many councils are slow in preparing their development plans, and there is a lot of frustration in the community about that. Also, the consultation process in the regional areas is far more complicated and many more people become involved.

The Hon. M.J. Elliott: You mean they must consult.

The Hon. T.G. ROBERTS: They are forced to consult, because as soon as the plans are drawn up the leaking starts.

In front of banks and post offices in country towns on Friday afternoons the information is passed on, and one of the problems is being able to work out fact from fiction. A considerable amount of mistrust, if you like, is placed in those people involved in developing the plans until the plans are actually displayed. It is not only for those reasons that I believe the five year period should be maintained, but other councils have said that they will be continually in the process of drawing up, maintaining and preparing plans. There has not been a great deal of lobbying during the last week in the lead-up to the Bill's coming onto the floor, but I did make a commitment to those people who had contacted me that I would uphold the current provision.

The Hon. DIANA LAIDLAW: As part of the general strategy to bring greater consistency and integrity to the whole planning process, it is very important that these plans are up to date so that when people refer to them they can see that they are consistent with the planning strategy. Only in that way can we say with confidence to both the general and the development community that, when plans are submitted for various development purposes, people can rely on the development plan in that relevant council area with some confidence. We are not saying that the plan itself must be updated each three years; we are asking that a review of the plan be undertaken every three years to ensure that it is up to date, relevant and consistent with the planning strategy. If it is not consistent, relevant and so on, they would have to amend their development plan. So, we are not insisting that they all be amended each three years, but prefer to insist that, in the best interests of planning overall, this review occur every three years so that people can work from development plans with some confidence.

The Hon. M.J. ELLIOTT: I make the observation to the Hon. Mr Roberts that I do not think this provision is anywhere near as onerous as clause 3 which we were considering earlier and which we will revisit. That clause provides that, under section 24(h), the Minister could require an amendment any time he wanted, and be quite specific about it. The Minister could actually use this to hold a review on an annual basis if he felt like it. That is far more onerous than this provision, which is merely that at least every three years councils should check to see that their development plan is in general agreement with the planning review. I have some concern that even this instrument can be abused, because the planning strategy document itself is not properly defined in legislation. Having said that, I do not think this is anywhere near as onerous as clause 3, which the honourable member is seriously considering supporting.

Clause passed.

Clause 6—'Matters against which a development must be assessed.'

The Hon. M.J. ELLIOTT: I indicate support.

Clause passed.

Clause 7—' Determination of relevant authority.'

The Hon. M.J. ELLIOTT: I oppose this clause.

The Hon. T.G. ROBERTS: I oppose this clause.

Clause negatived.

Clause 8—'Public notice and consultation.'

The Hon. M.J. ELLIOTT: I indicate opposition to this clause. The effect of this clause is that the rights of people to appear in relation to consent developments are being reduced. Some people are not competent writers; it could be due to educational or ethnic background, and so on. They may make a written submission, but it may not necessarily adequately cover all they want to say. In relation to consent developments, which are not an automatic right, this provision denies people the right to put their point of view properly. In a democracy, most people would find that unacceptable.

The Hon. T.G. ROBERTS: I oppose this clause.

The Hon. DIANA LAIDLAW: I should explain what this is about so that anyone reading *Hansard* will at least know what you are all opposing. This clause aims to alter the provision relating to the right to appear personally or by representative before a relevant authority in relation to a category 3 development, all affected land owners notified in writing plus a press advertisement, so that the provision will now apply only to a non-complying development under the relevant development plan. The Bill does not alter the rights of representation to a category 3 development, which relates to limited notification. A council or the Development Assessment Commission will retain the option of hearing all representations on development applications.

However, councils or the DAC will be able to choose not to hear representations for consent in relation to issues of merit (category 3 developments) if they consider that the public hearing would not provide any additional information to that provided in the written representations. Representatives to category 3 developments retain their third party appeal rights regardless of whether or not they are heard.

Clause negatived.

Progress reported; Committee to sit again.

SUMMARY OFFENCES (INDECENT OR OFFENSIVE MATERIAL) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Summary Offences Act 1953. Read a first time.

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

That this Bill be now read a second time.

South Australian law dealing with offences of child pornography is largely contained in section 33 of the Summary Offences Act 1953. In particular, section 33 distinguishes between indecent or offensive material generally on the one hand and child pornography on the other, in the penalty structure applicable to the offences and in the creation of an offence of possession of child pornography. Section 58A of the Criminal Law Consolidation Act contains an offence of, in general terms, dealing with children with a view to gratifying prurient interest.

In *Phillips v SA Police*, the appellant was convicted by a magistrate of two counts of being in possession of child pornography contrary to section 33(3) of the Summary Offences Act. A member of the public informed police that the appellant had been seen inside a toilet block at Brighton taking video tapes of boys urinating. Police took possession of the appellant's video recorder and the tape inside it and seized six more tapes from his house. The tapes were all taken in public toilets or changing sheds and showed many hours of men and boys dressing, undressing and urinating. He appealed against the convictions.

The Court of Criminal Appeal (Justices Mohr, Debelle and Nyland JJ) unanimously allowed the appeal and quashed the convictions. The court gave a great deal of consideration to the meanings of the words used in the statute but, in the end, the question was reduced to whether the videotapes in question were indecent. The court held that the word 'indecent' meant offending recognised standards of propriety or good taste according to the contemporary standards of ordinary, decent-minded, but not unduly sensitive, members

of the Australian community. The court held that the videotapes did not breach that standard.

The court reached its decision by holding that there was nothing inherently 'indecent' about the tapes. The court abhorred the invasion of privacy involved and the prurient interest in which the tapes were made, but pointed out that:

> A young boy urinating is the subject of a well-known manikin displayed in public streets in at least two Western European cities, pieces of statuary which cause amusement, not offence, to reasonable decent-minded citizens.

What was offensive was the conduct of the accused and not his videotapes. The statement of law contained in section 33(4) was a major factor in the steps to this conclusion. That subsection states:

> In proceedings for an offence against this section, the circumstances of the production, sale, exhibition, delivery or possession of material to which the charge relates will be regarded as irrelevant to the question of whether or not the material is indecent or offensive material.

The court decided that this required them to determine whether the material was inherently indecent and that they could not take into account the fact that it was made for prurient interests and that it was made by surreptitiously filming unwitting members of the public in public places.

Section 33(4) was inserted by the Statutes Amendment (Criminal Law Consolidation and Police Offences) Act, No. 114 of 1983. That Act replaced the previous provisions of the then Police Offences Act with a whole new legislative scheme dealing with indecent and offensive material. There was no equivalent to section 33(4) in the old scheme and no record exists as to its precise purpose in the legislative scheme.

The decision that effectively acquitted the accused in this case has offended many in the community. The question is whether an offence of possession of child pornography should be limited to cases in which the material possessed is inherently indecent or offensive; that is, indecent or offensive without regard to context or any other matter. The Government is of the opinion that it should not be so limited and that the law should be changed.

The amendments to the definitions of 'indecent material' and 'offensive material' have been made with a view to removing words which may be held to carry the inference of inherent indecency or offensiveness. The proposed amendment to section 33(4) gives the court a general discretion to take surrounding circumstances into account.

The current definition of 'child pornography' refers to 'likely to cause offence to reasonable adult members of the community'. The current definition of 'offensive material' refers to 'cause serious and general offence amongst reasonable adult members of the community'. The amendments make these tests consistent. Some thought was given to incorporating the test used by Justice Debelle, which refers to 'cause serious offence to ordinary decent-minded (but not unduly sensitive) adult members of the community' but, on balance, it was thought that the existing formula was preferable.

I should emphasise that the Bill does not create a new criminal offence, nor does it deem anything to be offensive or indecent. As anyone who has studied the history of the criminal law of what might, in general terms, be called obscenity over the years will realise, hard and fast rules are not possible and much depends on the views of the court in relation to the material in question and how it relates, if at all, to prevailing social views and acceptability. What this amendment is designed to do, in brief, is to empower the court to look at the whole picture in making that individualised judgment, rather than being artificially restricted in the matters to which it can have regard. I commend the Bill to the Council and I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Substitution of heading

This clause replaces the current heading to section 33 and related sections of the principal Act. The new heading reflects the fact that the provisions deal with offensive material (material depicting or concerned with violence, cruelty, drugs, crime, etc.) rather than just indecent material.

Clause 3: Amendment of s. 33—Indecent or offensive material

This clause makes several related amendments to section 33 of the principal Act.

The clause makes the wording of the definition of 'child pornography' in section 33(1) match up more closely with the wording in paragraph *(b)* of the definition of 'offensive material'.

Section 33(1) includes a definition of 'indecent material' which defines such material by reference to the indecent, immoral or obscene nature of its subject matter. By referring to the subject matter of the material the definition tends to suggest that the section is concerned only with material that is inherently indecent. That is, the current wording suggests that surrounding circumstances are not relevant to whether material is indecent material. The clause amends the definition so that it refers only to material that is in whole or in part of an indecent, immoral or obscene nature.

The definition of 'offensive material' in section 33(1) similarly emphasises the inherent nature of material by including as an element of the definition that material be such as would, if generally disseminated, cause serious and general offence amongst reasonable adult members of the community. The clause removes this reference to the general dissemination of the material.

Section 33(4) currently provides as follows:

> (4) In proceedings for an offence against this section, the circumstances of the production, sale, exhibition, delivery or possession of material to which the charge relates will be regarded as irrelevant to the question of whether or not the material is indecent or offensive material.

The clause replaces this subsection with a provision intended to make it clear that the circumstances of the production, sale, exhibition, delivery or possession of material or its use or intended use may be taken into account in deciding whether the material was indecent or offensive material, but that if the material was inherently indecent or offensive material, such circumstances or its use or intended use cannot be taken to have deprived it of that character.

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

[Sitting suspended from 12.57 to 2.15 p.m.]

QUESTIONS ON NOTICE

The PRESIDENT: I advise that the answer to question No. 149 asked by the Hon. R.R. Roberts was tabled in this Council on 30 May. However, this reply was inadvertently included amongst replies supplied for the House of Assembly. We will now incorporate the reply to that question in the Council's *Hansard* for today. I also direct members' attention to *Hansard* (30 May) when a reply to question No. 148A asked by the Hon. Carolyn Pickles was incorporated. This reply was never received by the Council office nor tabled by me that day, and I now table it.

MEAT CONTAMINATION

149. **The Hon. R.R. ROBERTS:** What was the total cost to the South Australian Government of:

1. The diagnosis and treatment of all persons affected by E-Coli food poisoning, including Haemolytic Uraemic Syndrome, as a result of the recent E-Coli food poisoning outbreak in South Australia?

2. Trace-back procedures to locate the source of E-Coli contamination?

The Hon. R.I. LUCAS:

1. The Women's and Children's Hospital has advised that the last of 23 paediatric patients who suffered from Haemolytic Uraemic Syndrome as a result of the Garibaldi related epidemic was discharged on 29 March 1995. The total in-patient cost was calculated as $616 037. In addition it is expected to cost $10 000 this financial year to continue a special outpatient clinic for the management of these patients. Institute of Medical and Veterinary Science has estimated that the increased cost to the institute this financial year associated with the HUS outbreak is $55 000.

2. Public and Environmental Health Service of the SAHC has estimated that its costs associated with the investigation of the HUS epidemic amount to approximately $170 000 this financial year.

This does not include the cost to other Government agencies associated with the HUS epidemic. These would include the Department for Primary Industries, which was involved with the investigation, and the Coroner's Officer, Crown Law Office and the police, arising from the coronial inquiry.

PAPERS TABLED

The following papers were laid on the table:

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

Food Act, 1985—Annual report to 30 June 1994.

South Australian Council on Reproductive Technology—Annual Report 1994.

QUESTION TIME

CHILDREN'S SERVICES

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

Leave granted.

The Hon. CAROLYN PICKLES: In July 1993 a report on the early childhood service needs of Aboriginal communities in the northern country areas of South Australia was published by Anne Glover under the sponsorship of the Children's Services Office and with funding from the South Australian Aboriginal Education and Training Advisory Committee. The study covered the CSO northern region, embracing the Anangu Pitjantjatjara lands, the Maralinga Tjurutja lands, Yalata, communities in the far north, the Flinders Rangers, Whyalla and in the Pirie and Eyre regions. My questions to the Minister are:

1. Is the Minister aware of the critical issues raised in the report dealing with Aboriginal environments, staff, early entry into services, transport and collocation of services, and can he say how these issues are being addressed?

2. What work is being done on 'collaborative service delivery' between health, welfare and education and care agencies?

3. What is the CSO doing to evaluate services and programs in view of the report's finding that programs tend to be judged on attendance rather than researching the nature and effects on children?

The Hon. R.I. LUCAS: As the honourable member indicated, the report was done some two or three years ago for the last Government. I will take those questions on notice and indicate that when I have some information I will correspond with her during the parliamentary recess.

HINDMARSH ISLAND BRIDGE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the Hindmarsh Island Royal Commission.

Leave granted.

The Hon. R.R. ROBERTS: This morning Mr Doug Milera withdraw his allegations regarding the Ngarrindjeri women who provided information to the Federal Minister for Aboriginal Affairs concerning beliefs that have been described as secret women's business. He was not permitted to make this statement to the Royal Commissioner as he wished to, so it is appropriate that his statement be tabled in this place—

Members interjecting:

The PRESIDENT: Order! I have to listen to this.

The Hon. R.R. ROBERTS: —and thereby be placed on the public record. I seek leave to table a copy of Mr Milera's statement.

Leave granted.

The Hon. R.R. ROBERTS: It is clear that Mr Milera now accepts the validity of the women's business and their beliefs and that the initial statements were extracted from him in highly dubious circumstances—

The PRESIDENT: Order! I remind the honourable member that he must not present a real or substantial danger to prejudice anyone in the royal commission. I hope that the honourable member does not do that.

The Hon. K.T. Griffin: He is certainly making a judgment.

The PRESIDENT: I think there is judgment in that.

The Hon. R.R. ROBERTS: Mr President, I understand that the statement about which I am talking was not able to be presented to the royal commission. Therefore, I would assert that it will not prejudice discussions because it is not part of the commission's scrutiny at the present moment. We assert that those statements formed the basis of the Government's decision to hold a royal commission into these matters, as explained by the Premier in an announcement he made on 7 June. Now that Mr Milera's allegations have been withdrawn, does the Attorney-General believe that there is now ground to end the royal commission? Will the Attorney-General advise the Government to call off the royal commission?

The Hon. K.T. GRIFFIN: The answer to both questions is 'No.' The fact is that the Government did not make a decision about whether or not to have a royal commission on the basis of what Mr Milera may or may not have said.

The Hon. R.R. Roberts: The Premier said on the seventh—

The Hon. K.T. GRIFFIN: Oh, come on. There are some dirty tricks being played. Let me tell members what happened in the royal commission this morning.

Members interjecting:

The Hon. K.T. GRIFFIN: No, let me tell you what happened in the royal commission this morning. Two statements were prepared—

Members interjecting:

The Hon. K.T. GRIFFIN: Yes, I can. I am not commenting on the statements: the Hon. Mr Roberts was commenting on the statements. Let me tell members what happened in the royal commission this morning.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: I am telling you the facts: I am not putting in an opinion. I will give you the opinion in a

minute. As I understand it, two statements were ready to be delivered in the commission. One statement made some assertions against Mr Chris Kenny. That was about to be read by counsel for Mr Milera but the Royal Commissioner said that it was not possible to have that incorporated or to allow counsel to read it. So, they went ahead and published, outside the royal commission, a statement which did not refer to Mr Kenny. From my quick reading of this statement, which the honourable member has tabled, it appears that it is quite clearly in breach of the decision taken by the Royal Commissioner and is the statement which counsel for Mr Milera attempted to put into the royal commission under privilege.

He could not get in, so what happened? The Hon. Ron Roberts brings it into this Council and tables it to seek to give it parliamentary privilege. The fact is that that will not wash. The fact is that it is not protected by parliamentary privilege. If the honourable member or Stanley and Partners are putting this out outside this Council, let them be warned that the Wrongs Act does not give them parliamentary privilege only on the basis that this has been tabled in this Council.

So, there you are: if you put it out you will be sued by someone, because the statement that counsel sought to present to the royal commission was clearly defamatory. It is an improper use of the privilege of this place to seek to bring before it information which the Royal Commissioner would not allow to be read by counsel. I think that is disgraceful.

Members interjecting:

The PRESIDENT: Order!

PCB DISPOSAL

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

Leave granted.

The Hon. T.G. ROBERTS: Although this is marked 'Urgent and confidential', it has no other heading on it. I have a fax from a constituent who describes the problems associated with PCB disposal that is currently operating. I will read from the fax so that members are clear about the issue. It reads:

> Dear Terry, On Saturday 22 July the *Advertiser* contained a notice of a public auction to take place at the Osborne Power Station on Tuesday 25 and Wednesday 26 July with a public inspection of equipment offered for sale on Monday 24 July.
>
> I attended this public inspection in the company of my brother. . . Access to the transformer switching yard and rear of the power station (Port River side) was restricted and we were led through these areas by a representative of [the auctioneers.] When questioned whether any of these transformers had or still contained insulating oil containing PCBs (polychlorinated biphenyls) the representative replied that he had no idea and that I would have to ask the site foreman.

For the clarification of members, PCBs are probably one of the most dangerous chemicals that exist and they rate along with dioxins as cancer-causing agents for people. The fax continues:

> On being led to the rear of the main building, a number of transformers being offered for public sale were noticed clearly labelled, 'This equipment contains PCBs.'
>
> I subsequently phoned the Department for Environment and Natural Resources and spoke to a [representative who] then took action which resulted in the auctioneer making a public announcement at the start of the auction on Tuesday 25 that 'a friend had been on to the EPA and notified them of the existence of the PCBs in the transformers and these lots have been withdrawn from sale.' He further informed the public that these items would be reoffered for sale once ETSA had conducted adequate tests and flushed the transformers of all PCBs.
>
> I subsequently phoned. . . on the afternoon of Wednesday 26 to ascertain what action had been taken as I had been told that he was personally to attend the site on Wednesday morning to investigate the matter.

I have left out the name of the contact because it is not relevant. The fax goes on:

> During our conversation he informed me that he had seen the ETSA test results from all transformers and was satisfied that the level of contamination was below the recommendations of the final draft of the ANZECC national strategy for the management of scheduled waste. From his comments I was also led to believe that these transformers had been sold.
>
> Further, he had withdrawn one transformer from this sale as he was not satisfied that it reached the standard. He also informed me that he had asked the auctioneer to keep and supply him with a record of the purchasers of this equipment so that he could trace what was going to happen to it. He also informed me that a full environmental study was going to be conducted on this site.

The action that took place after the notification was made was exemplary. The officers of the EPA did what we would expect of them under the legislative framework within which they operate. However, the problem that my constituent has and the questions that I have relate to the problems that could have emerged had not a member of the general public drawn the attention of the EPA to the fact that PCBs were still in the transformers when they were being sold. My questions are:

1. Is the South Australian Government a signatory to the national strategy for the management of scheduled waste?

2. If so, has an audit of scheduled waste storage in this State been carried out?

3. Is the equipment at the Osborne Power Station on this schedule?

4. Why was it necessary for a member of the public to inform the EPA of the impending sale of equipment from this site containing a schedule X substance (PCBs)?

5. If this equipment is considered safe and free of contamination by a schedule X substance, why is it necessary for the EPA to keep a record and trace on the future use of this equipment?

6. Will the results of the environmental assessment of the Osborne site be made available to the public after it is completed?

7. What controls exist to protect the public from unknowing or unscrupulous auctioneers who sell hazardous material to unsuspecting buyers?

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply.

WOMEN'S INFORMATION SWITCHBOARD

The Hon. DIANA LAIDLAW (Minister for the Status of Women): I seek leave to make a ministerial statement on the subject of the Women's Information Switchboard.

Leave granted.

The Hon. DIANA LAIDLAW: For decades the Women's Information Switchboard has been at the forefront of women's services in both this State and nationally. It is essential that WIS remains at the cutting edge of women's services. I seek leave to table a report recommending a strategic new direction for the Women's Information Switchboard.

Leave granted.

The Hon. DIANA LAIDLAW: The report has not been endorsed by the Government at this time. The Women's Information Switchboard was established in 1978 to meet the information needs of women from all sectors of the South Australian community. Since then the quality of service has been reviewed on two occasions—in 1988 and 1994. Then earlier this year, following the establishment of the Office for the Status of Women, and the release of the Government's Information Technology Strategy, it was considered that the switchboard's role and function should be examined in the light of the explosion of local community information and support services over the past 16 years.

Ms Miranda Roe was engaged to undertake this examination and a resource group of key stakeholders was established to oversee the process. Switchboard staff and volunteers have been consulted, and I am advised that the recommendations were formulated by a consensual process, with Ms Roe facilitating the process.

The report proposes a new mission statement; outlines a new role, vision and various service strategies for the service; outlines key areas for change; and details specific recommendations for action. The proposed new mission statement reads:

> The South Australian Women's Information Service has a key role in improving the status of women by ensuring the provision of culturally appropriate and accessible information which is relevant to women's needs.

To signal the change in focus, a name change is recommended. The word 'Switchboard' reflects an era before the advent of information technology. It is therefore proposed that the new name will be the Women's Information Service. This means that the acronym WIS can still be used, while reflecting a modern approach to the provision of information services for women.

Generally the report recommends the introduction of information technology to cope with the volume and changing nature of information. This initiative would enable WIS to change direction and give support to the many local services which women can now access. Many of these local services operate with a limited resource base.

Since 1978 over 1 000 women have gained employment through the skills they have gained while working at the switchboard as volunteers. With information technology becoming an increasingly important source for employment opportunities in the next decade, the report proposes that opportunities which enable volunteers to access the new technologies will enhance their employment prospects.

WIS has always paid particular attention to the needs of rural women. By incorporating information technology, the range of options for rural women will increase: utilising access to E-mail, facsimiles, information sheets, and the like, will mean that country women can have up-to-date relevant information relayed to them almost instantaneously.

The report also proposes targeted visits to country centres to identify specific information needs of rural women. This will be done in collaboration with the Women's Advisory Council and the various rural women's networks. The report highlights that meeting information needs of women from a wide range of cultural and language groups in South Australia must remain a high priority. However, employing staff from each of these language and cultural groups is a challenge, even if only the needs of the newly arrived migrants were considered the priority. Currently, WIS employs four bicultural information officers representing the Greek, Spanish, Vietnamese and Aboriginal communities. It is therefore recommended that all staff should be educated in cross-cultural awareness and trained in the use of the Telephone Interpreter Service.

Because of the specific needs of indigenous women of South Australia, it is proposed that the position of Aboriginal worker be maintained and that an Aboriginal reference group be established to ensure community involvement. The report recommends that the opening hours should be reduced, noting that in recent years the decreasing number of after-hours calls does not warrant the cost of opening seven days a week. Hours consistent with other services would also bring WIS in line with women's information services in other States and Territories, and ensure that staff is available to work in partnership with other service providers.

It is also noted that other services now provide emergency contact services after hours. Since the report highlights that a substantial number of country callers use WIS on Saturdays, it is proposed that WIS operates from Monday to Saturday from 9 a.m. to 5 p.m. This move will enable WIS to reallocate resources to effectively meet the new demands. It is proposed that a grant of $45 000 from the Centenary of Women's Suffrage Committee will be used to purchase the technology required to meet the new directions, with other costs met from savings made by the changes recommended. Therefore, the recommended change will be cost neutral.

The report that I have tabled today is to be released to women's groups and other interested parties for public comment by the end of August. The Government is keen to encourage such comment, because we recognise and value the wealth of community support offered to WIS over the years, support which has been a critical component of Switchboard's success to date. If Switchboard is to be just as relevant in the future in meeting the information needs of women, it is important that the service is relevant to the times.

MODBURY HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister representing the Minister for Health a question about Modbury Hospital.

Leave granted.

The Hon. SANDRA KANCK: Medical staff at Modbury Hospital this week received a memo dated 24 July advising that, because of a shortage of medical beds, patients reporting to Accident and Emergency would not be admitted to the hospital. The ambulance service has been advised, but the memo went on to say that if, inadvertently, an ambulance were to report to Modbury Hospital, medical staff are instructed to stabilise the patient before moving him on to the next hospital. Further investigations that I have made to find out what is happening here indicate that 32 acute medical beds have been closed at Modbury Hospital. My questions to the Minister are:

1. Why is this occurring? Is it a response to the reduced profits of Healthscope and its falling share prices?

2. If a patient reports to the Accident and Emergency Services at Modbury Hospital with, for example, severe asthma, after the hospital has stabilised that person will it meet the cost of either an ambulance or taxi to move the person on to the next hospital?

3. Is this an example of the better service that north-east residents would be getting as a result of the transfer of Modbury Hospital's management to a private health company?

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

MEDICAL SURVEY

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister representing the Minister for Health a question about a medical survey.

Leave granted.

The Hon. M.S. FELEPPA: According to an article in the *Sunday Mail* of 23 July 1995, the Australian Bureau of Statistics is to undertake, in its normal course of inquiry to supply Australia with the necessary statistics, a two-stage national survey of the medical profession, to be known as a medical business survey. The survey is to cover hours worked, overheads, training, consultations per day and income. Representatives of the medical profession have expressed the profession's alarm at the proposed survey, fearing that the result could be misrepresented and that the income of doctors may be the main target of the survey.

The medical profession as a whole should draw benefits from the statistical information and should welcome it. Participation is compulsory, and the Australian Medical Association is concerned about possible breaches of privacy and the possible political ramifications. To protect the profession from probing questions, the AMA is lobbying to have input into the formulation of the questions. Why the doctors fear this survey while other service industries have not had such fears of a similar survey is a mystery that the doctors have not yet revealed. My questions are as follows:

1. Does the Minister welcome the proposed survey of the medical profession to be undertaken by the Australian Bureau of Statistics?

2. Does the Minister consider that the medical profession should be excused from being surveyed while other service industries are compelled to participate?

3. Should the medical profession be allowed to influence the questions that can be asked?

4. Could this survey be of benefit to the South Australian Health Commission, or the proposed department replacing the commission, in assessing the employment of doctors in the public area of the health industry?

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

DOG FENCE

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, questions about South Australia's dog fence.

Leave granted.

The Hon. T. CROTHERS: It has recently been brought to my attention that a dingo was shot near Port Augusta. The dingo in question was shot by Saltia farmer, Mr Geoff Finlay, on his property some 19 kilometres east of Port Augusta. The dingo in question had killed some 100 of Mr Finlay's sheep before he was able to shoot the animal. I am told that the nearest section of the dog fence in question lies some 300 kilometres to the north of Port Augusta, and in fact a Waite Institute researcher, Mr Peter Bird, an expert in dingoes in this State, has said that, over the years, very few dingoes have been shot in the Port Augusta area.

The dog fence in question stretches some 2 250 kilometres across South Australia and is some 1.8 metres high, and local residents have reported that, because of the recent drought, it has been badly damaged by kangaroos, emus, livestock and flooding. I fully realise that property owners and the State Government funded Dog Fence Board expends almost $500 000 per year on maintaining the fence, parts of which are 100 years old. It appears that years of drought in our Far North have so depleted the dingoes' normal food supplies that the dingoes, by starvation, are venturing ever further south in their quest for food. Reports to hand claim that packs of marauding dingoes are killing thousands of sheep on our Far North stations. In light of the foregoing, my questions to the Minister are:

1. Is the Minister prepared to spend additional moneys on effecting the necessary repairs to the dog-proof fence, the damage to which, I must stress, appears to be worse than normal?

2. Does the Minister agree with me that the farming community is an integral part of South Australia's exports abroad and that, if the dog fence fails (which it seems to have done at the moment), the predatory work of these particular dingoes must, if left unchecked, lead to matters detrimental, which will ultimately adversely affect all South Australians?

3. Finally, but by no means exhaustively, will the Minister ensure that any other methods of protecting the flocks of our farmers that are necessary because of these exceptional circumstances will be entered into with a view to restoring normality to those parts of the State that have been opened up to predatory dingoes by the current failure of this State's dog-proof fence?

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

MARINE PARK EXCLUSION ZONE

In reply to the **Hon. R.R. ROBERTS** (5 July).

The Hon. K.T. GRIFFIN: The Minister for Mines and Energy and Minister for Primary Industries has provided the following response:

The Great Australian Bight Marine Park was proclaimed on 22 June 1995.

While it is correct that the area proclaimed was smaller than that originally proposed in 1988, the Government has made it quite clear that over the next 12 months it will prepare a detailed management plan for the marine park. That process will include an economic impact assessment and will also give consideration to the need for a broader park incorporating zones other than that proclaimed and including Commonwealth waters. Whilst there has been an earlier draft management plan for a larger marine park it did not deal with all of the relevant issues and it has not been accepted by the Government.

Until the draft plan is prepared the Government has prohibited all mining and commercial fishing activities in the sanctuary zone although line fishing from the beaches will be permitted.

The preparation of the management plan will be coordinated by the Department for Premier and Cabinet and is expected to be completed within 12 months.

In answer to the honourable member's question, the Government will ensure that the breeding and calving grounds of the Southern Right Whale are adequately protected.

In relation to mining I advise the honourable member that the term mining is being used collectively to describe that group of activities which includes non-intrusive exploratory techniques such as airborne geophysical techniques, as well as seismic and exploratory drilling which are intrusive but which have minimal environmental impact and, for example, can occur when no whales are present. Mining also includes the many and varied techniques for the extraction of resources such as underground, open cut, in situ leaching, dredging, vertical, horizontal and deviated drilling of oil and gas wells to name a few. I say this to point out that there is a wide variety of 'mining' activities, each of which has a different

impact on the environment. In creating an exclusion zone one must be careful not to exclude activities which will not impact negatively on the objectives of the zone but will impact positively on the well-being of South Australians.

The draft management plan that was prepared for the Minister contained a large amount of scientific information concerning the marine ecology of the Great Australian Bight. However, little information on the potential impacts of 'mining' in such an area was put forward. There is a large amount of published information available regarding the impacts of mining on the marine environment. There is also a corresponding range of techniques that may be used to explore for and extract resources. None of this information is contained in the draft management plan. If a decision is to be made regarding the exclusion of the range of mining activities then that decision should be made based on all the available information. Such a decision may well be that all mining activities are incompatible with the objectives of the exclusion zone. However, it is also possible that certain activities at certain times of the year are not incompatible with the objectives of the zone.

MYER REMM SITE

The Hon. T.G. CAMERON: My questions, regarding the Myer REMM site, are directed to the Minister representing the Treasurer, as follows:

1. What is the current valuation of the Myer REMM site, what date was the valuation received, and who carried out the valuation?

2. What is the rental income received from the site for 1994-95 and the forecast rent for the next three years, that is, 1995-96 through to 1997-98?

3. What is the potential estimated rental for the property if it were let at current market rates?

The Hon. R.I. LUCAS: I will refer those questions to my colleague in another place and bring back a reply.

HINDMARSH ISLAND BRIDGE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General a question about the Ngarrindjeri Royal Commission.

Leave granted.

The Hon. ANNE LEVY: The Government announced 10 days ago, or so, that it would be providing legal representation for a number of the witnesses to the royal commission, but I am not aware of any further details on this matter having been made available. Can the Attorney advise the Council—and I realise that he may not have this information at his fingertips and that it may have to be provided during the parliamentary recess:

1. How many legal representatives are currently at the royal commission?

2. Who are the legal representatives and whom are they representing?

3. How many of the legal representatives are being funded by the taxpayer?

4. Who are those legal representatives funded by the taxpayer, and what is each of them being paid—be it on a daily, weekly or other basis?

5. In the light of these taxpayer-funded legal representations, what is the current estimate of the total cost of the royal commission?

The Hon. K.T. GRIFFIN: Some negotiations are still occurring between the Crown Solicitor's office, counsel assisting the royal commission and those who indicate that they are representing various individuals and groups at the royal commission about the extent to which taxpayer funding will be used to meet those legal costs. It is fair to say that, from the outset, the Government has been concerned that this should not become a royal commission only for the benefit of lawyers. In any decisions about representation we have made it clear that we will not be funding more than one counsel for any person who is being funded at taxpayers' expense. That is an attempt to reduce the extent to which lawyers appear before the commission and run up legal costs.

Quite obviously, from the outset the Premier and I were concerned that the representation should be kept to a minimum, because there were competent legal counsel appointed to assist the royal commission. On the other hand, some representations have been made to me by counsel assisting the royal commission, on behalf of the Royal Commissioner, suggesting that certain parties ought to have their costs paid. I have indicated to those who have made application that, if the Royal Commissioner makes a representation to me, that will be seriously considered.

The major basis upon which representation is being considered is whether a witness is likely to be the subject of adverse comment and questioning, and whether his or her representation will be at issue and under scrutiny. There are, of course, a number of groups that could be represented by the one lawyer. We are not interested in paying every witness's legal costs where the interests are common across a group of people and where there is unlikely to be any conflict of interest. I am anxious to ensure that we keep those legal costs to a minimum whilst, nevertheless, not prejudicing the rights of individuals whose character or reputation will be under close scrutiny and perhaps under threat.

Those negotiations to which I have earlier referred are continuing. There has been no final resolution of either the persons who will be able to be represented at taxpayers' cost or the amount. When the decisions have been finally taken I have no difficulty about making it public, and I will certainly do that. The information about those who are currently represented before the royal commission is, I think, on the public record through the royal commission, but I will endeavour to obtain that and provide it to the honourable member. Taxpayers do have a vital interest in the issue in a number of perspectives—not only from the perspective of the extent to which taxpayers' funds will be used to meet legal costs and, for that reason, I have no difficulty in making the information available.

As the Hon. Anne Levy suspected, I do not have all the information at my fingertips. Quite obviously from the statement the Hon. Ron Roberts tabled today, Mr Tim Bourne, of Stanley and Partners, has been instructed to withdraw from the commission, so that is one less counsel who has to be considered for funding. In terms of others, quite obviously there are those interests who assert that there is women's business and that it was not fabricated; there are those interests who assert that it was fabricated; and there are individuals, several anthropologists and others who have a special interest in the sense that they were involved in making assessments about whether or not there was women's business upon which other decisions were subsequently made. We are trying to be fair but nevertheless firm about it. I would expect that the taxpayers of South Australia will recognise that that is a responsible way to approach it. There may be people in respect of whom funds are not made available even though the royal commission might make a recommendation to me that that is the position.

I certainly take advice from the Crown Solicitor, but as Attorney-General I am entitled to make the decision based broadly upon the criteria to which I have referred. Those decisions will be taken on that basis—of endeavouring to be

fair but firm and to watch the interests of the taxpayers of this State. With respect to the earlier question asked by the Hon. Mr Ron Roberts, I think I made quite clear that we do not intend to call a stop to the royal commission, but I want to reaffirm that that is the position.

No decision was taken by the Government on the basis only of what Mr Milera said or did not say or was reported as having said or not said. A whole range of other issues was involved and a number of other people will be giving evidence to the royal commission who will have another point of view one way or the other. I want to make that clear, in case anyone was labouring under any misapprehension that in some way or another what may or may not have occurred in the royal commission today will affect the Government's decision and its determination to ensure that the royal commission is heard. It is inappropriate to comment at length on evidence that is given by the royal commission. It is in some respects a matter that is—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: It is certainly within the *sub judice* rule, and I think we ought to let the commission go on. The Hon. Anne Levy interjected that she has certainly not raised that issue; I am not suggesting that she did.

The Hon. Anne Levy: I thought you were answering my question.

The Hon. K.T. GRIFFIN: I am answering your question, but I am making doubly sure that everyone sees it in the proper context and that no-one can later misrepresent the answers which I have already given and which I am giving in relation to this question.

WOMEN'S INFORMATION SWITCHBOARD

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Women's Information Switchboard.

Leave granted.

The Hon. CAROLYN PICKLES: Today in Parliament the Minister has tabled the long awaited review of the Women's Information Switchboard, which I obviously have not had an opportunity to read at any great length, but I have flicked through the recommendations. In her ministerial statement the Minister stated:

> The report I have tabled today is to be released to women's groups and other interested parties for public comment by the end of August. The Government is keen to encourage such comment, because we recognise and value the wealth of community support offered to WIS over the years, support which has been a critical component of the Switchboard's success to date.

Following the comments that the Minister will no doubt receive, particularly, I would have thought, about the hours of opening and the advocacy role, will the Minister reconsider the recommendations and the indication that she has made in her ministerial statement that the hours are not flexible? Would she reconsider, if a lot of public comment indicated that people wished the switchboard to remain open longer?

The Hon. DIANA LAIDLAW: I have made quite clear in the third sentence of the statement that the Government has not endorsed this report at this time. I have indicated quite clearly that the report is open for public comment, and I will welcome and encourage such comment and any action upon that comment. The recommendations would have to take account of the fact that Ms Roe has suggested that the new approach in terms of information technology does require funds in addition to those which have been provided by the Women's Suffrage Centenary Committee of which the honourable member was a member and in which she participated in making that recommendation. That grant is $45 000 from the Women's Suffrage Centenary Committee. Additional funds would need to be saved to undertake the recommendations outlined in this report, but that is something that will have to be weighed up in terms of the recommendations, the feedback and the new vision that is outlined. It is not possible to implement the new vision without some cost savings, and it is certainly suggested that there are positive benefits for women from this new direction. I am very relaxed about the situation. I have received a report, I have tabled it and I am keen to receive public comment from anybody who wishes to make such comment.

FAMILY DAY CARE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question in relation to family day care.

Leave granted.

The Hon. M.J. ELLIOTT: I understand that earlier this year the Commonwealth announced funding for an additional 4 000 family day care places nationally, but I do not know how many extra places that translated to for South Australia. Despite this, I understand that the Education Department has made some cut-backs in some parts of family day care. The evidence I have is that South Australia already has a low ratio of field workers to care providers compared with other States: South Australia has one field worker to 50 care providers; by comparison Queensland has one field worker to every 20-25 care providers. Apparently in South Australia home visits occur about every three months, whereas in Queensland they occur on a fortnightly basis. Finally, in 1992 the number of manager positions in family day care was cut from 14 to six, and I understand that it has now been cut back to three positions. On the face of the evidence given to me it appears that there have been cut-backs in the area of supervision of family day care and that we are worse off than other States. My questions are:

1. Is this indeed the case?

2. How many extra places did we get overall in consequence of the extra funding from the Commonwealth?

3. If that is the case, how does the Minister defend the cut-back in management positions and also the fact that we have a much lower ratio of field workers to care providers than do other States?

The Hon. R.I. LUCAS: There has been a significant expansion in family day care in the past 18 months under the Liberal Government, and that is predicted to continue. I was trying to find the exact figures, but it will not surprise the honourable member that I will have to take that aspect of the question on notice and provide him with a detailed response in relation to the projected increase for 1995-96 in terms of family day care places. During this year I have approved further expansion of family day care offerings in a number of country and regional communities and also in some metropolitan communities. In relation to a comparison of the numbers of supervisors in South Australia with those in Queensland or other States, I am not aware of the level of supervision in Queensland. I would have to take that on notice and undertake to provide some sort of response to the honourable member during the parliamentary recess. From a quick look at my notes, it seems that in 1995-96 a number

of the new initiatives for family day care will be targeted specifically for Aboriginal families, which I am sure will please the honourable member. Certainly, during 1994-95—the first year of the Liberal Government—additional family day care places were provided at Noarlunga, Tatiara, Wakefield Plain, Salisbury, Woodville and the near western suburbs, Port Elliot, Goolwa, Tea Tree Gully, Riverland, Gawler, Happy Valley, Barossa Valley and Ingle Farm.

An honourable member interjecting:

The Hon. R.I. LUCAS: It's an excellent record, isn't it? More recently—

The Hon. Anne Levy: Is it Commonwealth funding?

The Hon. R.I. LUCAS: It is a Commonwealth-State agreement.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: I am not sure what the ratio is, but it is a Commonwealth State agreement; the Commonwealth puts in money and so do we, as we do for many programs which are jointly funded.

The Hon. Anne Levy: But what is the ratio?

The Hon. R.I. LUCAS: I will be very happy to establish the ratio, but it is no different from that which existed under your Government.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The Hon. Anne Levy appreciates that and I am pleased to hear it. More recently, I understand family day care places have also been allocated to support communities at Minlaton, Munno Para, Angaston and Beachport. A number of other additional high need areas have been identified in 1995-96 as well which I am also in the process of considering. I will get the total figures and the number of places for the honourable member, but I am sure he will concede that it is indeed an impressive record that the State Government has in further expanding much needed family day care places. Certainly in the most recent part of this 1992-96 agreement there has been a decision jointly taken by the Commonwealth and the State to further expand family day care as a flexible option, one which suits many families in South Australia as opposed to some other forms of child care as part of that Commonwealth-State agreement. I will get the exact figures for the honourable member and also try to find out about how many supervisors Queensland has compared with South Australia.

The Hon. M.J. ELLIOTT: Mr President, I desire to ask a supplementary question. In those answers, will the Minister give us a figure about how many extra places have been funded by the Commonwealth itself and, not only will he give us the figures about field workers, supervisory and managerial positions and the difference between the States, but a justification for those differences?

The Hon. R.I. LUCAS: I can only undertake to try to gather information from other States. I am not sure what information we have or what information other States might be prepared to provide in regard to justification. I suggest to the honourable member that I will do what I can to get him information and during the break he might like to do research as well and contact the other States. Whatever information we have, we shall be only too happy to share with him in regard to the other States. We can certainly indicate what we do here in South Australia, which is my responsibility. I am not sure what the justification might be in the other States for their varying levels of supervision.

UNLAWFUL SEXUAL INTERCOURSE

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about unlawful sexual intercourse acquittal.

Leave granted.

The Hon. BARBARA WIESE: On 11 July a man was acquitted in the Supreme Court of numerous counts of unlawful sexual intercourse in respect of his 14 year old stepdaughter. After the girl failed to turn up to give evidence, even through reasons for that were unclear, Justice Mohr of the Supreme Court refused to let the prosecution withdraw the case, thereby effectively forcing an acquittal of the man. Even if the girl turned up tomorrow and said that she had found the courage to go to court and give her evidence, the man concerned can never be found guilty of those charges because of his recent acquittal. Many women in the community and members of the legal profession are concerned that perhaps insufficient allowance has been made in this case in respect of the emotional difficulties and natural fears faced by girls in these terrible circumstances. My questions for the Attorney are as follows:

1. What further investigations have taken place to ascertain the reasons for the girl's non-attendance at the trial?

2. What follow up support and counselling have been offered to the girl?

3. What action has been taken by the Director of Public Prosecutions in respect of Justice Mohr's refusal to allow the prosecutor to withdraw the case so that further charges might subsequently have been laid?

The Hon. K.T. GRIFFIN: The defendant was arraigned in the District Court on 28 November 1994 and was initially listed for trial on 20 March 1995. On 19 March 1995 the trial was taken from the list on a defence application as the defendant wished to change counsel. The young woman (the victim) and her mother had both been ready and prepared to give evidence on that date. It was relisted for trial on 11 July 1995. On 10 July 1995 the matter was called on to enable preliminary argument to occur before the jury was empanelled. On this date the prosecutor informed the court that the police were having difficulties in locating the alleged victim and her mother.

On 11 July the matter was called on at the designated time and the prosecutor informed the court that the alleged victim still had not been located and on that basis she made an application for an adjournment. Justice Mohr refused the adjournment and the prosecutor then attempted to enter a *nolle prosequi*. The judge refused to accept the *nolle prosequi* and the judge then invited defence counsel to make an application for trial by judge alone. Such application was made and granted. The defendant was rearraigned and pleaded not guilty to all of the counts on information. The prosecutor was invited to tender no evidence, which she did, and the accused was found not guilty of all the offences. Nothing can be done about the acquittal, but I was informed a week ago by the Director of Public Prosecutions that papers are being prepared for an application by the DPP to the Court of Criminal Appeal on a matter of law arising from this trial in the hope that there will be some clarification of the power of a judge acting in similar circumstances in future in relation to the refusal of a *nolle prosequi* and also the subsequent steps of the process.

I am not aware of what steps have been taken in tracking down the victim and her mother. I will make some inquiries. I might find it difficult to get that information because the

police at the moment have instituted work bans and they are not cooperating in a number of areas. As soon as I am able to get information about that and the question of counselling I will let the honourable member have an answer by letter.

QUESTIONS ON NOTICE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, as Leader of the Government in this Council, a question about Questions on Notice.

Leave granted.

The Hon. ANNE LEVY: Today's Notice Paper indicates that there are 70 Questions on Notice that have not yet been answered. Some date from 8 February through to the most recent of 19 July. Clearly, 8 February is more than five months ago. I certainly have one on notice from 31 May, which is nearly two months ago, and I thought the information was straightforward and factual information which could have been supplied well before two months was up. I am raising the matter not just on my behalf but on behalf of my colleagues also who have nearly 70 questions on the Notice Paper still unanswered. There is also the matter of questions which have been asked without notice and to which Ministers have undertaken to get replies—usually from Ministers in another place, although not always—which have not yet been responded to. I have three questions: one of Minister Olsen, through Minister Lucas—

The Hon. R.I. Lucas: Of what date?

The Hon. ANNE LEVY: Of 21 March—one through the Attorney-General for the Minister for Primary Industries asked on 6 July—

The Hon. K.T. Griffin: That was three weeks ago.

The Hon. ANNE LEVY: Yes, three weeks ago, and one to Minister Lucas of just a few days ago on 20 July. I make no complaints about that but, with the parliamentary session about to end, my query relates to what will happen to those questions.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: Does the Minister really suggest that the Ministers of this Government will burn them, in other words, treat them with contempt, which I would take as a contempt of Parliament? Can the Minister assure us that questions without notice which have been referred for answer will be replied to by letter during the parliamentary recess? Can he indicate what will happen to the 70 questions on the Notice Paper, some of which have been there for 5½ months? Will they also be answered by letter? What does he propose will happen to them as today is the last day of the parliamentary session?

The Hon. R.I. LUCAS: I should have thought that that question was almost unnecessary given the outstanding record of this Government and its Ministers in responding to questions when compared to the performance of the previous Government and its Ministers. When we languished in Opposition for about a decade we sometimes waited more than a year for a response, and some questions, indeed, were never answered. As has always been the case whenever we go into a parliamentary break, my practice and that of my two colleagues in this Chamber (Hon. Diana Laidlaw and Hon. Trevor Griffin), in relation to questions in our portfolio areas, is to correspond with members and endeavour to get replies back. When we come back for the next session we seek leave to have answers incorporated in *Hansard*. That has been the standard practice of this Government—

The Hon. Anne Levy: That is questions without notice.

The Hon. R.I. LUCAS: With both in my case—which we have followed without exception. In relation to other questions from other Ministers, I will undertake to raise the issue with those Ministers and see whether or not we can obtain their assistance to follow a similar procedure. I understand that most of the other Ministers follow a similar procedure as well, and in the new session I am generally given their answers for incorporation in *Hansard*. I will undertake to do that. The question that the honourable member asked in March in relation to the Hon. John Olsen surprises me because his office has generally been quite outstanding in terms of responses. So, that may well have been just an oversight. I will certainly take up that issue with the Minister's office for the honourable member.

JUDICIARY

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

Leave granted.

The Hon. R.D. LAWSON: In today's edition of the *Australian* there appears a report of a lecture given last evening at Deakin University School of Law in Melbourne by the Chief Justice of the High Court of Australia, Sir Gerard Brennan. Sir Gerard was reported as warning that public confidence in the legal system was in danger of being undermined by political interference in the operations of the court. The report went on to say that in one of His Honour's first public speeches since assuming office as Chief Justice he warned that the judiciary would remain defiant of outside pressures from politicians or public opinion. He issued a strong caution that the impartiality of the rule of law could be jeopardised if the external influence persisted. The report went on to state:

> Politicians had also been seeking to assert authority over the courts by wielding their financial power over the judiciary, especially in relation to judges' salaries.

I ask the Attorney-General to assume that the Chief Justice's remarks have been accurately summarised. Is the Attorney-General of a view that politicians (by which I assume the report refers to Governments and, in particular, the Government in South Australia) have sought to wield financial power over the judiciary in relation to judges' salaries?

The Hon. K.T. GRIFFIN: I am somewhat bemused by the reported statements of the Chief Justice of the High Court. After all, the judiciary has to be accountable. That has been one of the big issues that is still unresolved and may never be resolved. But judicial accountability is a big issue, not just in respect of spending money but in the way in which they spend their time and apply their resources that are made available by the taxpayers. I have never resiled from the view that there has to be discussion in the Parliaments, in the community and in the legal profession between the judiciary and the Executive arm of Government in relation to ways in which that accountability can occur.

Members will recall that the Courts Administration Authority Act was enacted specifically by the previous Government and my predecessor in the light of some considerable pressure and a number of representations by the former Chief Justice about judicial independence. I know that the previous Chief Justice always acknowledged that there was no perceived or actual threat to judicial independence, but he just wanted to play it on the safe side. I am not quite

sure what that really meant, but in fact that Courts Administration Authority means that judges themselves are more likely to be brought into the public spotlight in relation to decisions about the way in which the courts are run, the way in which services are provided and other issues of an administrative nature.

The issue of political interference is one of concern. The Parliament has a right through the budget to make a decision about what funds will be made available to the courts. There are in place protocols that were negotiated by the previous Attorney-General with the previous Chief Justice in relation to budgeting information. Those protocols in the light of the experience last year and this year will be revisited, because it is important for a Government to have active information about the way in which money is spent by the Courts Administration Authority.

I would not have thought that that could be claimed to be anything like politicians wielding financial power. It is a fact of life that if moneys are made available from the taxpayers of this State then the way in which they are spent (whoever spends them) has to be transparent and there has to be proper judicial accountability for that in terms of the way in which the courts expend those funds. I do not think there is any evidence, certainly not in this State, of any financial power or political interference in the operations of the courts. In this State there has been a good relationship between Attorneys-General and Chief Justices which I think, although at times tense, has nevertheless not crossed the boundaries of propriety or raised the issue of political interference.

In terms of salaries, in this State they are fixed by the Remuneration Tribunal, which is independent of Government. It is appointed by Government under the statute but is independent. The Government made a strong submission to the Remuneration Tribunal in relation to the recent increase in judicial salaries.

There are remuneration tribunals in other jurisdictions around Australia. They are independent at both the Commonwealth and States' levels, and no-one can suggest that there is political interference in those areas. Government's have a responsibility to make submissions and, if judicial salary increases are in excess of what might be expected to be reasonable within the community, no-one can take issue with the Government's saying that and indicating why it would not be prepared to support before that tribunal judicial salary increases—although the Government always wears it when there are increases and the taxpayers ultimately pay those salaries. So, I do not agree with what the Chief Justice of the High Court of Australia has said, if it is an accurate representation of what he said. I will certainly be looking more carefully at the full context of the address that he gave yesterday.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the establishment and enforcement of schemes for the classification of publications, films and computer games; to repeal the Classification of Films for Public Exhibition Act 1971 and the Classification of Publications Act 1974; to amend the Classification of Theatrical Performances Act 1978; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

It provides for the adoption by South Australia of a uniform national scheme for classification of publications, films, videos and computer games. It is intended that the Bill be circulated for public consultation purposes and that comments be received by my office for consideration.

Currently, the distribution of films, videos and publications in all Australian jurisdictions is regulated by many Federal, State and Territory laws. The Commonwealth Film Censorship Board (the board) operates under more than eight pieces of legislation, and the resulting lack of uniformity has led to administrative difficulties for the board and the film and print industries.

THE AUSTRALIAN LAW REFORM COMMISSION REPORT 'CENSORSHIP PROCEDURE'

The Australian Law Reform Commission (ALRC) was requested by the Federal Attorney-General to report as to how the Commonwealth, State and Territory laws relating to the censorship and classification of imported and locally produced film and printed matter for public exhibition, sale or hire could be simplified and made more uniform and efficient, while still giving effect to policy agreed between the Commonwealth, the States and the Northern Territory.

The report of the ALRC was tabled in the Federal Parliament in September 1991. In summary, the major recommendations of the report 'Censorship Procedure' were as follows:

- the rationalisation of existing Commonwealth, State and Territory legislation into a national scheme;
- the upgrading of the Commonwealth's existing 'voluntary' scheme for the classification of literature to a 'partially compulsory' scheme which focuses primarily on adult material;
- implementation of a compulsory classification scheme for computer games;
- the revision of the censorship fee sharing arrangements;
- widening the right to appeal against classification decisions to include members of the public, but not 'mere meddlers'. (This recommendation does not have majority support).

THE COMMONWEALTH CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ACT 1995 ('the Commonwealth Act')

The Standing Committee of Attorneys-General agreed on a draft Commonwealth Bill and on 24 January 1994 Federal Cabinet approved the adoption in principle of a uniform national scheme of classification as recommended by the ALRC and approved the release of draft legislation (the Classification (Publications, Films and Computer Games) Act, 1995 ('the Commonwealth Act')) for the purposes of public consultation.

The Senate Select Committee on the Community Standards Relevant to the Supply of Services Utilising Electronic Technologies held a hearing on the Commonwealth Act and tabled its report on 29 November 1994. The Committee's first recommendation indicates that it supports the Commonwealth Act.

Reflecting the cooperative nature of Australia's censorship laws, the Commonwealth Act is for a Federal Act for the Australian Capital Territory under section 122 of the

Constitution. The ACT self-government legislation reserved to the Commonwealth the power to classify material for censorship purposes. This was to ensure that a national censorship scheme was preserved.

The Commonwealth Act passed through Federal Parliament on 7 March 1995 and was given the Royal Assent on 16 March 1995. The Commonwealth Act will not be able to be brought into force until complementary State and Territory legislation is enacted. Ministers responsible for censorship are currently aiming for 1 January 1996 as the implementation date for operation of complementary State and Territory legislation.

Under the new scheme, it is proposed the State and Territory legislation will adopt, in enforcement laws, the classification decisions made under the Commonwealth Act. It is the State and Territory legislation that will, in effect, govern the submission of films, publications and computer games to the Classification Board (the board) for classification. It will also deal with the consequences, in the respective jurisdictions, of the different classifications given by the board to films, publications and computer games.

1. The Classification Code and the Guidelines

The Commonwealth Act establishes the Classification Board and the Classification Review Board and provides that classification decisions for publications, films and computer games are to be made in accordance with the National Classification Code and the guidelines. Both the code and the guidelines have been agreed between the Commonwealth, States and Territories, and any amendments to either must be similarly agreed. It is intended that tabling of any amendments to the code and guidelines will occur in each of the Commonwealth, State and Territory Parliaments. I will at an appropriate time seek leave to table both the code and the guidelines for the information of honourable members.

2. Films and Videos

Pursuant to the Commonwealth Act, the current compulsory classification of all films and videos will continue except for films for business, accounting, professional, scientific or educational purposes. This exemption will not apply if the film contains a visual image that would be likely to cause it to be classified MA, R, X or RC.

3. Publications

The current voluntary scheme in relation to publications is to be replaced by a partially compulsory scheme. Publications that straddle the category 1 restricted classification, which is the lowest classification for restricted publications, and the upper end of the unrestricted category will be required to be submitted for classification, as will also, of course, those publications that would attract a higher classification. The Commonwealth Act enables the Director (the Chief Censor) to 'call-in' such publications, called 'submittable publications,' for classification.

4. Computer Games

The new scheme will also provide for compulsory classification of computer games except for business, accounting, professional, scientific or educational computer software. This exemption will not apply if the software contains images that would be classified MA(15+) or RC.

5. Bulletin Boards and other On-Line Services

An amendment to delete the exclusion of computer bulletin boards from the definition of 'film' and 'computer game' was made in the House of Representatives. Although there has been no decision to date on the regulation of bulletin boards, the removal of this exclusion will allow the Classification Board to classify material on bulletin boards should there be a future requirement. At present, a consultation paper on the regulation of on-line services has been posted on the Internet and circulated in hard copy form for comment. The paper discusses a proposed system of self-regulation for the computer industry and includes an outline of possible offences relating to the use of an on-line information service, for consideration and comment. This issue may be addressed when the Bill is discussed in the next Session.

6. Classification Fees

At present, fees for classification are levied under State and Territory legislation, collected by the Commonwealth and shared equally between the Commonwealth, States and Northern Territory.

The Commonwealth Act provides for the Commonwealth to levy classification fees in the future. In return for the States and Territories forgoing their fee powers and in recognition of their enforcement costs, it is proposed that they each receive the average of their share over the last five years, a total of $600 000 in 1994-95. This amount will be adjusted in future years by the change in the Consumer Price Index.

The Commonwealth Act will also enable the Commonwealth to increase, over several years, charges for classification services so that there is substantial cost recovery. This will be done by introducing charges for new initiatives and increasing costs to reflect the cost of the service provided. If there is an excess in fees levied, it is agreed that that excess will be paid to all participating parties in equal parts.

THE CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) BILL 1995 ('the State Bill')

A model State/Territory Classification Enforcement Bill was prepared for consideration by the States and Territories. Ministers responsible agreed that uniformity of offences and penalties was desirable in this area but not compulsory. A table of indicative penalties was prepared for Ministers' consideration.

At present, there are three separate pieces of State legislation dealing with censorship. These are the Classification of Films for Public Exhibition Act 1971, the Classification of Publications Act 1974 and the Classification of Theatrical Performances Act 1978.

The Classification (Publications, Films and Computer Games) Bill 1995 ('the State Bill') has been prepared, based on the national uniform model enforcement Bill, but tailored to take into account the existing classification system in South Australia.

The State Bill contains the following provisions:

- Existing legislation dealing with classification matters (as outlined above) has been repealed and these matters (plus computer games) are now all contained in the State Bill. (Classification of theatrical performances will continue to be dealt with in a separate piece of legislation, the Classification of Theatrical Performances Act 1978, as it does not form part of the cooperative scheme).

  Having these classification matters dealt with in the one piece of legislation, that is, publications, films, videos and computer games will ensure that the processes are easily accessed and understood by the industry and members of the community.

- Establishment of a State body (renamed the South Australian Classification Council to avoid confusion with the Classification Board established under the

Commonwealth Act) which may examine, for classification purposes, a publication, film or computer game.

The Minister may request the council to examine a publication, film or computer game for classification purposes or may require the council to provide advice to assist the Minister to decide on a classification. If the Minister classifies, the council may not proceed to classify a publication, film or computer game.

The classification decisions made by the board will be adopted by South Australia but may be reviewed under the State Bill.

The council or the Minister may classify a publication, film or computer game despite the fact that it is classified under the Commonwealth Act. A classification decided by the council or the Minister has effect to the exclusion of any classification under the Commonwealth Act.

- The classification criteria in the State Bill are identical to the criteria applied by the Commonwealth Board to ensure that classification decisions are made on the same basis at both a State and Commonwealth level. Despite this, there may be a difference between the two bodies as to the standards generally accepted by reasonable adults, which leads to a different classification decision.
- Reclassification of a publication, film or computer game after two years in line with the same powers in the Commonwealth Act. The State Bill also makes provision for approval and 'calling-in' of advertisements. A decision to approve or refuse an advertisement by the council has effect to the exclusion of any decision to approve or refuse to approve the same advertisement under the Commonwealth Act.
- The offence provisions are in line with the model Enforcement Bill as agreed by Ministers responsible for censorship. Existing penalties were examined alongside the indicative penalty levels and the higher penalty adopted in the State Bill.
- The State Bill contains exemption provisions in Part 8 to exempt a film, publication, computer game or advertisement from the classification process. This will be used only in certain instances such as film festivals. The State Bill also allows for the imposition of conditions as to the admission of persons to the screening of films.

As noted earlier, this Bill is introduced at this time to allow for extensive public consultation prior to debate of the Bill in the Spring Session. The Bill will be circulated to interested parties for comment. I commend this Bill to members and seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

Under this clause the measure is to be brought into operation by proclamation.

Clause 3: Objects

The objects of this measure are—

(a) to establish a scheme complementary to the scheme for the classification of publications, films and computer games set out in the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth; and

(b) to make provision for South Australian classification authorities that may, when satisfied that it is appropriate to do so in particular cases, make classification decisions with respect to publications, films or computer games (that will prevail in South Australia over any inconsistent decisions made under the Commonwealth Act); and

(c) to make provision for the enforcement of classification decisions applying in South Australia; and

(d) to prohibit the publication of certain publications, films and computer games; and

(e) to provide protection against prosecution under laws relating to obscenity, indecency, offensive materials or blasphemy when classified publications, films or computer games are published in accordance with this measure.

Clause 4: Interpretation

This clause sets out the definitions of terms used in the measure. A number of terms are defined by reference to their meanings under the Commonwealth Act. As a result—

'computer game' will mean a computer program and associated data capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium that allows the playing of an interactive game, but will not include—

(a) an advertisement;

(b) business, accounting, professional, scientific or educational computer software unless the software contains a computer game that would be likely to be classified MA (15+) or RC;

'film' will include a cinematograph film, a slide, video tape and video disc and any other form of recording from which a visual image, including a computer generated image, can be produced, but will not include—

(a) a computer game; or

(b) an advertisement for a publication, a film or a computer game; or

(c) a recording for business, accounting, professional, scientific or educational purposes unless it contains a visual image that would be likely to cause the recording to be classified MA, R, X or RC;

'interactive game' will mean a game in which the way the game proceeds and the result achieved at various stages of the game is determined in response to the decisions, inputs and direct involvement of the player;

'publication' will mean any written or pictorial matter, but not include—

(a) a film; or

(b) a computer game; or

(c) an advertisement for a publication, a film or a computer game;

'publish' will include sell, offer for sale, let on hire, exhibit, display, distribute and demonstrate;

'submittable publication' will mean an unclassified publication that, having regard to the Code and the classification guidelines to the extent that they relate to publications, contains depictions or descriptions of sexual matters, drugs, nudity or violence that are likely to cause offence to a reasonable adult to the extent that the publication should not be sold as an unrestricted publication;

'work' will mean a cinematic composition that—

(a) appears to be self-contained; and

(b) is produced for viewings as a discrete entity,

but not include an advertisement.

Clause 5: Exhibition of film

The measure contains various offences and provisions relating to the exhibition of a film. This clause provides that a person exhibits a film if the person—

(a) arranges or conducts the exhibition of the film in the public place; or

(b) has the superintendence or management of the public place in which the film is exhibited.

Clause 6: Application

This clause makes it clear that the measure does not apply to broadcasting services to which Commonwealth broadcasting legislation applies.

PART 2

SOUTH AUSTRALIAN CLASSIFICATION COUNCIL

Clause 7: South Australian Classification Council

This clause establishes the South Australian Classification Council.

Clause 8: Membership

This clause provides that the Council will have a membership of six appointed by the Governor and deals with their appointment and removal from office.

Clause 9: Remuneration

This clause allows for payment to Council members of allowances and expenses determined by the Governor.

Clause 10: Vacancies or defects in appointment of members

Under this clause an act or proceeding of the Council will not be invalid because of a vacancy in its membership or a defect in the appointment of a member.

Clause 11: Immunity from personal liability

A member of the Council is protected from personal liability for an honest act or omission of the Council or the member in the performance or exercise, or purported performance or exercise, of functions or powers under this Act. Any such liability will instead lie against the Crown.

Clause 12: Proceedings

This clause regulates proceedings of the Council.

Clause 13: Registrar of Council

This clause provides for a Registrar of the Council who is to be an employee in the public service.

Clause 14: Powers

This clause sets out necessary powers that the Council will require in order to inform itself in relation to classification matters such as power to summon witnesses, require the production of publications, films, computer games and other material and so on.

PART 3
CLASSIFICATION BY SOUTH AUSTRALIAN AUTHORITIES
DIVISION 1—TYPES OF CLASSIFICATIONS

Clause 15: Types of classifications

This clause sets out the various types of classification as currently provided under the Commonwealth Act. They are as follows:

For publications in ascending order—
Unrestricted
Category 1 restricted
Category 2 restricted
RC (Refused Classification).
For films in ascending order—
G (General)
PG (Parental Guidance)
M (Mature)
MA (Mature Accompanied)
R (Restricted)
X (Restricted)
RC (Refused Classification).
For computer games in ascending order—
G (General)
G (8+) (Mature)
M (15+) (Mature)
MA (15+) (Mature Restricted)
RC (Refused Classification).

DIVISION 2—CLASSIFICATION PROCESS

Clause 16: Classification by Council or Minister

This clause provides that the Council may, of its own initiative, and must, if so required by the Minister, examine a publication, film or computer game for classification purposes and authorises the Council to classify a publication, film or computer game.

However, under the clause, the Minister may require the Council to provide advice as to the classification of a publication, film or computer game. In that case, the Council is to provide such advice and may not, unless the Minister otherwise determines, proceed itself to classify the publication, film or game. Instead the Minister may himself or herself classify the publication, film or game after considering the Council's advice.

Notice of a classification determined by the Council or the Minister must be published in the *South Australian Government Gazette* and the classification will take effect on a date specified in the notice or, if no date is so specified, the date of publication of the notice.

Clause 17: Relationship with classification under Commonwealth Act

This clause makes it clear that the Council or the Minister may classify a publication, film or computer game despite the fact that it is classified under the Commonwealth Act.

A classification decided by the Council or the Minister is to have effect to the exclusion of any classification of the same publication, film or computer game under the Commonwealth Act.

Clause 18: Classification of publications, films and games in accordance with national code and guidelines

This clause provides that publications, films and computer games are to be classified by the Council or the Minister according to the same criteria as apply under the Commonwealth Act, that is, in accordance with the National Classification Code and the national classification guidelines.

Clause 19: Matters to be considered in classification

This clause sets out the matters to be taken into account by the Council or the Minister in making a decision on the classification of a publication, film or computer game. Again these matters are the same as under the Commonwealth Act. As under the Commonwealth Act they include—

(a) the standards of morality, decency and propriety generally accepted by reasonable adults; and

(b) the literary, artistic or educational merit (if any) of the publication, film or game; and

(c) the general character of the publication, film or game, including whether it is of a medical, legal or scientific character; and

(d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.

Clause 20: Considered form of film or computer game to be final

Also, as under the Commonwealth Act, the Council or the Minister must assume, in classifying a film or computer game, that the film or game will be published only in the form in which it is considered for classification.

A classification decided by the Council or the Minister for a film is taken to be the classification for each work comprised in the film.

Clause 21: Consumer advice for films and computer games

Under this clause, the Council or the Minister may, when classifying a film or computer game, determine consumer advice giving information about the content of the film or game.

A determination of consumer advice under this clause will have effect to the exclusion of any determination of consumer advice for the same film or computer game under the Commonwealth Act.

Notice of such a determination must be published in the *South Australian Government Gazette*.

Clause 22: Classification of films or computer games containing advertisements

This clause prevents the classification of a film or computer game if it contains an advertisement for an unclassified film or computer game or a film or computer game that has a higher classification.

Clause 23: Declassification of classified films or computer games

This clause makes it clear that if a classified film or computer game is modified, it becomes unclassified. This does not prevent inclusion of an advertisement.

Clause 24: Reclassification

As under the Commonwealth Act, a publication, film or computer game that is classified under this Part may not be reclassified unless two years have elapsed since the date on which its current classification took effect.

DIVISION 3—APPROVAL OF ADVERTISEMENTS

Clause 25: Application of Division

This Division applies only to a publication, film or computer game classified by the Council or the Minister.

Clause 26: Approval of advertisements

The Council may approve or refuse to approve an advertisement for a publication, film or computer game either on an application for approval or on its own initiative.

An approval of an advertisement may be subject to conditions.

The matters to be taken into account in deciding whether to approve an advertisement for a publication, film or computer game are the same as those to be taken into account when deciding the classification of publications, films or computer games respectively.

As under the Commonwealth Act, the Council must refuse to approve an advertisement if, in the opinion of the Council, the advertisement—

(a) describes, depicts or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it should not be approved; or

(b) depicts or describes a minor (whether engaged in sexual activity or not) who is, or who appears to be, under 16 in a way that is likely to cause offence to a reasonable adult; or

(c) promotes crime or violence, or incites or instructs in matters of crime or violence; or

(d) is used, or is likely to be used, in a way that is offensive to a reasonable adult.

The Council must refuse to approve an advertisement for a publication, film or computer game classified RC.

A decision of the Council to approve or refuse to approve an advertisement for a publication, film or computer game will have effect to the exclusion of any corresponding decision relating to the same advertisement under the Commonwealth Act.

Clause 27: Calling in advertisements

Under this clause, the Council may require a publisher to submit to the Council a copy of every advertisement used or intended to be used in connection with the publishing of the publication, film or game.

An advertisement called in by the Council will, if not submitted to or approved by the Council, be taken to have been refused approval.

PART 4

FILMS—EXHIBITION, SALE, ETC.

DIVISION 1—EXHIBITION OF FILMS

Clause 28: Exhibition of film in public place

This clause makes it an offence for a person to exhibit a film in a public place unless the film—

(a) is classified; and

(b) is exhibited with the same title as that under which it is classified; and

(c) is exhibited in the form, without alteration or addition, in which it is classified.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 29: Display of notice about classifications

This clause makes it an offence for a person to exhibit a film in a public place unless the person keeps a notice in the approved form about classifications for films on display in a prominent place in that public place so that the notice is clearly visible to the public.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

Clause 30: Exhibition of RC and X films

This clause makes it an offence for a person to exhibit in a public place or so that it can be seen from a public place—

(a) an unclassified film that would, if classified, be classified RC or X; or

(b) a film classified RC or X.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

Clause 31: Exhibition of R and MA films

This clause makes it an offence for a person to exhibit so that it can be seen from a public place—

(a) an unclassified film that would, if classified, be classified R; or

(b) a film classified R.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

The clause makes it an offence for a person to exhibit so that it can be seen from a public place—

(a) an unclassified film that would, if classified, be classified MA; or

(b) a film classified MA.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

Clause 32: Attendance of minor at certain films—offence by parents, etc.

This clause makes it an offence for a person who—

(a) is a parent or guardian of a minor; and

(b) knows that a film classified RC, X or R or an unclassified film that would, if classified, be classified RC, X or R is to be exhibited in a public place,

to permit the minor to attend the exhibition of the film.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 33: Attendance of minor at certain films—offence by minor

This clause makes it an offence for a person who is 15 or older to attend the exhibition in a public place of a film classified RC, X or R, knowing that the film is so classified.

The clause fixes a maximum penalty of a division 9 fine ($500) for this offence.

Clause 34: Private exhibition of certain films in presence of a minor

Under this clause it will be an offence for a person to exhibit in a place, other than a public place, in the presence of a minor—

(a) an unclassified film that would, if classified, be classified RC or X; or

(b) a film classified RC or X.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

The clause also makes it an offence for a person to exhibit in a place, other than a public place, in the presence of a minor, a film classified R unless the person is a parent or guardian of the minor.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for either of these offences to prove that the defendant believed on reasonable grounds that the minor was an adult.

It will be a defence to a prosecution for the second of these offences to prove that the defendant believed on reasonable grounds that the parent or guardian of the minor had consented to the exhibition of the film.

Clause 35: Attendance of minor at R film—offence by exhibitor

This clause makes it an offence for a person to exhibit in a public place a film classified R if a minor is present during any part of the exhibition.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that—

(a) the minor produced to the defendant or the defendant's employee or agent acceptable proof of age before the minor was admitted to the public place; or

(b) the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was an adult.

Clause 36: Attendance of minor at MA film—offence by exhibitor

Under this clause it will be an offence for a person to exhibit in a public place a film classified MA if—

(a) a minor under 15 is present during any part of the exhibition; and

(b) the minor is not accompanied by his or her parent or guardian.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that—

(a) the defendant or the defendant's employee or agent took all reasonable steps to ensure that a minor was not present during the exhibition of the film; or

(b) the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was 15 or older; or

(c) the defendant or the defendant's employee or agent believed on reasonable grounds that the person accompanying the minor was the minor's parent or guardian.

DIVISION 2—SALE OF FILMS

Clause 37: Sale of films

Under this clause it will be an offence for a person to sell a film unless the film—

(a) is classified; and

(b) is sold under the same title as that under which it is classified; and

(c) is sold in the form, without alteration or addition, in which it is classified.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 38: Sale of RC and X films

This clause makes it an offence for a person to sell an unclassified film that would, if classified, be classified RC or X or a film classified RC or X.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

Clause 39: Display of notice about classifications

Under this clause it will be an offence for a person to sell films on any premises unless the person keeps a notice in the approved form about classifications for films on display in a prominent place on the premises so that the notice is clearly visible to the public.

The clause fixes a maximum penalty of a division 8 fine ($1 000) for this offence.

Clause 40: Films to bear determined markings and consumer advice

This clause makes it an offence for a person to sell a film unless the determined markings relevant to the classification of the film and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the film.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Similarly, a person must not sell an unclassified film with markings indicating or suggesting that the film has been classified or sell a classified film with markings that indicates or suggests that the film is unclassified or has a different classification.

Clause 41: Keeping unclassified or RC films with other films

Under this clause it will be an offence for a person to keep or possess an unclassified film or a film classified RC or X on any premises where classified films are sold.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 42: Sale or delivery of certain films to minors

This clause makes it an offence for a person to sell or deliver to a minor an unclassified film that would, if classified, be classified RC or X or a film classified RC or X.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

The clause also makes it an offence for a person to sell or deliver to a minor a film classified R unless the person is a parent or guardian of the minor.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for this second offence to prove that—

(a) the minor produced to the defendant or the defendant's employee or agent acceptable proof of age before the defendant sold or delivered the film to the minor and the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was an adult; or

(b) the minor was employed by the defendant or the defendant's employer and the delivery took place in the course of that employment.

The clause creates further offences where a minor who is 15 or older buys a film classified RC, X or R, knowing that it is so classified or a person sells or delivers to a minor under 15 a film classified MA unless the person is a parent or guardian of the minor.

It will be a defence to a prosecution for an offence of selling or delivering an MA film to a minor under 15 to prove that the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was 15 or older or that the parent or guardian of the minor had consented to the sale or delivery.

DIVISION 3—MISCELLANEOUS

Clause 43: Power to demand particulars and expel minors

This clause authorises persons exhibiting, selling or delivering films and members of the police force to demand the names, ages and addresses of persons attending the exhibition of films or seeking to purchase or take delivery of films.

Further, the exhibitor or an employee or agent of the exhibitor or a member of the police force may expel a person if there are reasonable grounds to suspect that the person's presence during the exhibition of a film is, or would be, in contravention of this Part.

Clause 44: Leaving films in certain places

This clause makes it an offence for a person to leave in a public place or, without the occupier's permission, on private premises an unclassified film that would, if classified, be classified RC or X or a film classified RC or X.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for an R or MA film or an unclassified film that would, if classified, be classified R or MA with a maximum penalty of a division 8 fine ($1 000).

Clause 45: Possession or copying of film for purpose of sale or exhibition

Under this clause it will be an offence for a person to possess or copy an unclassified film that would, if classified, be classified RC or X or a film classified RC or X with the intention of exhibiting or selling the film or copy.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

PART 5

PUBLICATIONS—SALE, DELIVERY, ETC.

Clause 46: Sale of unclassified or RC publications

This clause makes it an offence for a person to sell or deliver (other than for the purpose of classification or law enforcement) a publication classified RC, knowing that it is such a publication.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for a submittable publication with a maximum penalty of a division 6 fine ($4 000). It will be a defence to a prosecution for such an offence to prove that since the offence was alleged to have been committed the publication has been classified Unrestricted.

Clause 47: Category 1 restricted publications

Under this clause it will be an offence for a person to sell or deliver a publication classified Category 1 restricted unless—

(a) it is contained in a sealed package made of opaque material; and

(b) both the publication and the package bear the determined markings.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 48: Category 2 restricted publications

Under this clause a publication that is classified Category 2 restricted must not be—

(a) sold, displayed or delivered except in a restricted publications area; or

(b) delivered to a person who has not made a direct request for the publication; or

(c) delivered to a person unless it is contained in a package made of opaque material; or

(d) published unless it bears the determined markings.

Breach of this provision will be an offence with a maximum penalty of a division 5 fine ($8 000).

Clause 49: Publications classified unrestricted

This clause makes it an offence for a person to sell, deliver or publish a publication classified Unrestricted unless it bears the determined markings.

The maximum penalty for this offence is a division 9 fine ($500).

Clause 50: Misleading or deceptive markings

Under this clause a person must not publish an unclassified publication with a marking, or in packaging with a marking, that indicates or suggests that the publication has been classified.

The maximum penalty for this offence is a division 7 fine ($2 000).

Further, a person must not publish a classified publication with a marking, or in packaging with a marking, that indicates or suggests that the publication is unclassified or has a different classification.

The maximum penalty for this offence is a division 7 fine ($2 000).

Clause 51: Sale of certain publications to minors

This clause makes it an offence for a person to sell or deliver to a minor a publication classified RC or Category 2 restricted.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

The clause also makes it an offence for a person to sell or deliver to a minor a publication classified Category 1 restricted unless the person is a parent or guardian of the minor.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for either of these offences to prove that the minor produced to the defendant acceptable proof of age before the defendant sold or delivered the publication to the minor and the defendant believed on reasonable grounds that the minor was an adult.

Clause 52: Leaving or displaying publications in certain places

Under this clause it will be an offence for a person to leave in a public place or, without the occupier's permission, on private premises, or display in such a manner as to be visible to persons in a public place, a publication classified RC or Category 2 restricted, knowing that it is such a publication.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

It is a defence to a prosecution for such an offence to prove, in a case where a publication classified Category 2 restricted was left or displayed in a public place, that the defendant believed on reasonable grounds that the public place was a restricted publications area.

The clause creates a similar offence for a submittable publication or a Category 1 restricted publication with a maximum penalty of a division 6 fine ($4 000).

It will be a defence to a prosecution for such an offence to prove—

(a) that since the offence was alleged to have been committed the publication has been classified Unrestricted;

(b) in a case where a publication classified Category 1 restricted was left or displayed in a public place, that the public place was a shop or stall and the requirements under this Part for packaging and markings were complied with in relation to the publication.

Clause 53: Possession or copying of publication for the purpose of publishing

Under this clause it will be an offence for a person to possess or copy a publication classified RC, with the intention of selling the publication or the copy.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for a submittable publication or a Category 1 restricted publication with a maximum penalty of a division 6 fine ($4 000).

It will be a defence to a prosecution for the second of these offences to prove that since the offence was alleged to have been committed the publication has been classified Unrestricted, Category 1 restricted or Category 2 restricted.

PART 6

COMPUTER GAMES—SALE, DEMONSTRATION, ETC.

Clause 54: Sale or demonstration of computer game in public place

This clause makes it an offence for a person to sell a computer game, or demonstrate a computer game in a public place, unless the game—

(a) is classified; and

(b) is sold or distributed with the same title as that under which it is classified; and

(c) is sold or distributed in the form, without alteration or addition, in which it is classified.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 55: Display of notice about classification

This clause requires a person who sells or demonstrates a computer game in a public place to keep a notice in the approved form about classifications for computer games on display in a prominent place in that public place so that the notice is clearly visible to the public.

Clause 56: Unclassified and RC computer games

Under this clause it will be an offence for a person to sell or demonstrate in a public place a computer game classified RC or an unclassified computer game that would, if classified, be classified RC.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause also makes it an offence for a minor who is 15 or older to buy a computer game classified RC, knowing that it is so classified.

Clause 57: MA (15+) computer games

This clause makes it an offence for a person to demonstrate a computer game classified MA(15+) in a public place unless—

(a) the determined markings are exhibited before the game can be played; and

(b) entry to the place is restricted to adults or minors who are in the care of a parent or guardian while in the public place.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 58: Demonstration of unclassified, RC and MA (15+) computer games

Under this clause it will be an offence for a person to demonstrate so that it can be seen from a public place an unclassified computer game that would, if classified, be classified RC or a computer game classified RC.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for an MA (15+) computer game with a maximum penalty of a division 7 fine ($2 000).

Clause 59: Private demonstration of RC computer games in presence of a minor

This clause makes it an offence for a person to demonstrate in a place, other than a public place, in the presence of a minor an unclassified computer game that would, if classified, be classified RC or a computer game classified RC.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that the defendant believed on reasonable grounds that the minor was an adult.

Clause 60: Computer games to bear determined markings and consumer advice

This clause makes it an offence for a person to sell a computer game unless the determined markings relevant to the classification of the computer game and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the computer game.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Similarly, a person must not sell an unclassified computer game with markings indicating or suggesting that the game has been classified or sell a classified game with markings that indicates or suggests that the game is unclassified or has a different classification.

Clause 61: Keeping unclassified or RC computer games with other computer games

Under this clause it will be an offence for a person to keep or possess an unclassified computer game or a computer game classified RC on any premises where classified computer games are sold or demonstrated.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 62: Sale or delivery of certain computer games to minors

This clause makes it an offence for a person to sell or deliver to a minor an unclassified computer game that would, if classified, be classified RC or a computer game classified RC.

The clause fixes a maximum penalty of a division 4 fine ($15 000) for this offence.

Further, a person must not sell or deliver to a minor who is under 15 a computer game classified MA (15+) unless the person is a parent or guardian of the minor. The penalty for such an offence is a maximum of a division 7 fine ($2 000).

It will be a defence to a prosecution for the second of these offences to prove that the defendant or the defendant's employee or agent believed on reasonable grounds that the minor was 15 or older or that the parent or guardian of the minor had consented to the sale or delivery.

Clause 63: Power to demand particulars and expel unaccompanied minors under 15

This clause authorises persons demonstrating, selling or delivering computer games and members of the police force to demand the names, ages and addresses of persons present during the demonstration of games or seeking to purchase or take delivery of games.

Further, the demonstrator or an employee or agent of the demonstrator or a member of the police force may expel a person if there are reasonable grounds to suspect that the person's presence during the demonstration of a game is, or would be, in contravention of this Part.

Clause 64: Leaving computer games in certain places

Under this clause it will be an offence for a person to leave in a public place or, without the occupier's permission, on private premises an unclassified computer game that would, if classified, be classified RC or a computer game classified RC, knowing that the game would be, or is, so classified.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

The clause creates a similar offence for an MA (15+) computer game with a maximum penalty of a division 7 fine ($2 000).

Clause 65: Possession or copying of computer game for the purpose of sale or demonstration

Under this clause it will be an offence for a person to possess or copy an unclassified computer game that would, if classified, be classified RC or computer game classified RC, with the intention of demonstrating the game or copy in contravention of this Part or selling the game or copy.

The clause fixes a maximum penalty of a division 5 fine ($8 000) for this offence.

PART 7

CONTROL OF ADVERTISING

Clause 66: Certain advertisements not to be published

This clause prohibits the publication of an advertisement for a film, publication or computer game—

(a) if the advertisement has not been submitted for approval under this measure or the Commonwealth Act and, if submitted, would be refused approval; or

(b) if the advertisement has been refused approval under this measure or the Commonwealth Act; or

(c) if the advertisement is approved under this measure or the Commonwealth Act, in an altered form to the form in which it is approved; or

(d) if the advertisement is approved under this measure or the Commonwealth Act subject to conditions, except in accordance with those conditions.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 67: Certain films, publications and computer games not to be advertised

This clause prohibits the publication of an advertisement for—

(a) an unclassified film, other than a film in relation to which a certificate of exemption has been granted under Part 3 of the Commonwealth Act; or

(b) a film classified RC; or

(c) a submittable publication; or

(d) a publication classified RC; or

(e) an unclassified computer game; or

(f) a computer game classified RC.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

For the purposes of this provision, if a person publishes an advertisement for an unclassified film or an unclassified computer game at the request of another person, that other person alone must be taken to have published it.

Clause 68: Screening of advertisements with feature films

This clause makes it an offence for a person to screen in a public place an advertisement for a film during a program for the exhibition of another film unless the advertised film's classification is the same as or less than the other film's classification.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 69: Liability of occupier for certain advertisements

Under this clause it will be an offence for an occupier of a public place to screen in the public place an advertisement for a film classified R or MA.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that—

(a) if the advertised film is classified MA, the advertisement was screened during a program for the exhibition of a film classified R or MA; or

(b) if the advertised film is classified R, the advertisement was screened during a program for the exhibition of a film classified R; or

(c) the place in which the advertisement was screened was a restricted publications area.

Clause 70: Sale of feature films with advertisements

This clause makes it an offence for a person to sell a film ('the feature film') that is accompanied by an advertisement for another film unless the feature film has a classification that is the same as or higher than the classification of the advertised film.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 71: Advertisements with computer games

This clause creates an offence relating to computer games that corresponds the offence relating to films under the preceding clause and fixes the same penalty for such an offence.

Clause 72: Advertisement to contain determined markings and consumer advice

Under this clause it will be an offence for a person to publish an advertisement for a classified film, classified publication or classified computer game unless—

(a) the advertisement contains the determined markings relevant to the classification of the film, publication or game and relevant consumer advice, if any; and

(b) the determined markings and consumer advice are displayed—

(i) in the manner determined by the Director under section 8 of the Commonwealth Act; and

(ii) so as to be clearly visible, having regard to the size and nature of the advertisement.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Clause 73: Misleading or deceptive advertisements

This clause makes it an offence for a person to publish an advertisement for an unclassified film, unclassified publication or unclassified computer game with a marking that indicates or suggests that the film, publication or game is classified.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

Similarly, a person must not publish an advertisement for a classified film, publication or computer game with markings indicating or suggesting that the film, publication or game is unclassified or has a different classification.

Clause 74: Advertisements for Category 2 restricted publications

This clause makes it an offence for a person to publish an advertisement for a publication classified Category 2 restricted otherwise than—

(a) in a publication classified Category 2 restricted; or

(b) in a restricted publications area; or

(c) by way of printed by written material delivered to a person at the written request of the person.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

If an advertisement for a publication classified Category 2 restricted is published in a place other than a restricted publications area, the occupier of the place will be guilty of an offence.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 75: Advertisements and X films

This clause makes it an offence for a person to publish an advertisement for a film classified X otherwise than in a publication classified Category 1 restricted or Category 2 restricted.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

Clause 76: Classification symbols, etc., to be published with advertisements

This clause requires that a publication containing an advertisement for—

(a) a film; or

(b) a publication classified Category 1 restricted or Category 2 restricted; or

(c) a computer game,

must contain a list of the classification symbols and determined markings for films or publications or computer games respectively.

The clause fixes a maximum penalty of a division 7 fine ($2 000) for this offence.

PART 8

EXEMPTIONS

Clause 77: Exemption of film, publication, computer game or advertisement

This clause authorises the Minister or the National Director to direct that this measure does not apply, to the extent and subject to any condition specified in the direction, to or in relation to a film, publication, computer game or advertisement.

Clause 78: Exemption of approved organisation

Similarly, the Minister or the National Director may direct that this measure does not apply, or any of the provisions of this measure do not apply, to an organisation approved under this Part in relation to the exhibition of a specified film at a specified event.

Clause 79: Ministerial directions or guidelines

This clause authorises the Minister to issue binding directions and guidelines as to the exercise of exemption powers under the two preceding clauses.

Clause 80: Organisation may be approved

Under this clause the Minister or the National Director may approve an organisation for the purposes of this Part having regard to—

(a) the purpose for which the organisation was formed; and

(b) the extent to which the organisation carries on activities of a medical, scientific, educational, cultural or artistic nature; and

(c) the reputation of the organisation in relation to the screening of films; and

(d) the conditions as to admission of persons to the screening of films by the organisation.

An approval may be revoked by the person who gave the approval if, because of a change in any matter referred to above, he or she considers that it is no longer appropriate that the organisation be approved.

PART 9

MISCELLANEOUS

Clause 81: Powers of entry, seizure and forfeiture

This clause empowers a member of the police force, or a person authorised in writing by the Minister, to enter, without charge, a

public place at which the member or person believes on reasonable grounds that a film is being, or is about to be, exhibited.

A member of the police force is also authorised to enter a place that the member believes on reasonable grounds is being used for or in connection with the sale or publication of publications, films or computer games and may seize any publication, film, computer game or other thing that the member believes on reasonable grounds affords evidence of, or has been, is being or is about to be, used in the commission of an offence against this measure or an offence relating to obscenity, indecency or offensive material.

A court convicting a person of such an offence may order that anything so seized is forfeited to the Crown.

The clause makes it clear that these powers are in addition to police powers under the *Summary Offences Act 1953.*

Clause 82: Restricted publications area—construction and management

This clause requires that—

(a) a restricted publications area must be so constructed that no part of its interior is visible to persons outside;

(b) each entrance is fitted with a gate or door capable of excluding persons from the area and must be closed by means of that gate or door when the area is not open to the public;

(c) the area must be managed by an adult who is present at all times when the area is open to the public;

(d) a warning sign is displayed in a prominent place on or near each entrance so that it is clearly visible from outside the area.

Clause 83: Restricted publications area—offences

This clause requires that the manager of a restricted publications area must not permit a minor to enter that area.

The clause fixes a maximum penalty of a division 6 fine ($4 000) for this offence.

It will be a defence to a prosecution for such an offence to prove that the defendant believed on reasonable grounds that the minor was an adult.

Clause 84: Evidence

This clause provides for the issuing of certificates relating to classification matters for evidentiary purposes.

Clause 85: Protection for classified publications, etc., against prosecutions under indecency, etc., laws

This clause protects a person from being guilty of an offence relating to obscenity, indecency, offensive materials or blasphemy by reason of having produced or taken part in the production of, published, distributed, sold, exhibited, displayed, delivered or otherwise dealt with or been associated with a publication, film or computer game that is classified (whether at the time of the alleged offence or subsequently).

This protection does not apply to—

(a) a film classified RC or X at the time of the alleged offence or subsequently;

(b) a publication classified RC at the time of the alleged offence or subsequently;

(c) a computer game classified RC at the time of the alleged offence.

Clause 86: Commencement of prosecution for offence

Under this clause a prosecution for an offence against this measure in relation to an unclassified film, publication or computer game must not be commenced until the film, publication or game has been classified and may be commenced not later than 12 months after the date on which the film, publication or computer game was classified.

Apart from the above situation, a prosecution for an offence against this measure may be commenced within two years after the date on which the offence is alleged to have been committed.

Clause 87: Proceeding against body corporate

Under this clause the state of mind of a body corporate in relation to particular conduct may be established by proof that the conduct was engaged in by a director, employee or agent of the body corporate acting within the scope of his or her actual or apparent authority and that the director, employee or agent had that state of mind.

A body corporate will be criminally liable for the conduct of a director, employee or agent of the body acting within the scope of his or her actual or apparent authority unless the body establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

Finally, the clause raises the maximum penalty for bodies corporate to a level twice the maximum amount otherwise fixed for each offence under the measure.

Clause 88: Employees and agents

This clause provides that state of mind of a person other than a body corporate in relation to particular conduct may be established by proof that the conduct was engaged in by an employee or agent of the person acting within the scope of his or her actual or apparent authority and that the employee or agent had that state of mind.

A natural person will be criminally liable for the conduct of an employee or agent of the person acting within the scope of his or her actual or apparent authority unless the person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

Clause 89: Publication to prescribed person or body

This clause allows any of the following:

(a) a film or computer game classified RC, X, R or MA; or

(b) a publication classified Category 1 restricted, Category 2 restricted or RC;

(c) a submittable publication,

to be published to a person or body prescribed by regulation, or to a person or body of a class or description prescribed by regulation.

Clause 90: Service

This clause provides for service of notices or documents.

Clause 91: Annual report

This clause requires that the Council submit an annual report to the Minister on its operations and that the report be tabled in Parliament.

Clause 92: Regulations

This clause allows for the making of regulations.

SCHEDULE 1

This schedule empowers the National Director to call in submittable publications, computer games and advertisements for classification or approval.

SCHEDULE 2

This schedule provides for the repeal of—

(a) the *Classification of Films for Public Exhibition Act 1971*;

(b) the *Classification of Publications Act 1974*.

The schedule contains transitional and saving provisions to continue current classifications and approvals in effect.

The schedule makes an amendment to the *Classification of Theatrical Performances Act 1978* consequential on the replacement of the Classification of Publications Board with the new South Australian Classification Council established under this measure. The members of the new Council (rather than the former Board) will constitute the Classification of Theatrical Performances Board for the purposes of the classification of theatrical performances.

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

CRIMINAL LAW (SENTENCING) (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

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

That this Bill be now read a second time.

This Bill makes miscellaneous amendments to the Criminal Law (Sentencing) Act 1988. Some practical difficulties are being encountered in the operation of the Act, and while those are being attended to the opportunity has been taken to make other amendments which will improve the operation of the Act.

Section 18A was put in the Act in 1992. It allows a court to impose a single sentence for more than one count in an information. The section is amended to allow a single sentence to be imposed for more than one count in the information, but not necessarily for all of the counts in the information for which a defendant is convicted. Sometimes there will be good reason for a cumulative sentence to be imposed on one count whereas there should be concurrent sentences on the other counts.

Section 19 of the Act sets out the limits on the sentencing power of magistrates courts. The section has been re-cast and substantially changed. Section 19(1) currently provides that a court of summary jurisdiction cannot impose a sentence of

imprisonment for a term exceeding seven days unless the court is constituted of a magistrate. The ALRC in its Report on Aboriginal Customary Law recommended that Justices of the Peace should no longer have the power to imprison. In practice Justices of the Peace do not impose sentences of imprisonment in South Australia. The Chief Magistrate ensures that Justices of the Peace only hear matters where there is no penalty of imprisonment. The new section 19(1) reflects this reality and provides that a magistrates court does not have the power to imprison unless it is constituted of a magistrate.

Section 19(3) now provides that a court of summary jurisdiction, in sentencing a defendant convicted of a minor indictable offence, does not have the power to impose a sentence of imprisonment or a fine that exceeds division 5, that is, imprisonment for two years or a fine of $8 000. This creates anomalies. The limitation on sentencing only applies to minor indictable offences and a magistrates court when imposing a sentence for a summary offence has unlimited sentencing power. For example, a magistrates court when imposing a sentence for a forgery which is a summary offence could impose a sentence of life imprisonment.

Further, under section 5 of the Summary Procedure Act 1921 offences for which the maximum fine does not exceed twice a division 1 fine, that is, $120 000, are classified as summary offences. Thus it is anomalous that a magistrates court cannot impose a fine of more than $8 000 when the offence is a minor indictable offence. New section 19(3) accordingly provides that the Magistrates Court does not have the power to impose a sentence of imprisonment that exceeds division 5 or a fine that exceeds twice the amount of a division 1 fine. These limits apply regardless of whether the offence is a summary offence or a minor indictable offence and reflect the level of sentence that Parliament considered appropriate for magistrates courts when the classification of offences was rationalised in the Summary Procedure Act in 1991.

As under the old section 19, if the court considers that a sentence should be imposed which exceeds the limits prescribed, it may remand the defendant to appear for sentence before the District Court. Equally, if the court constituted by Justices of the Peace is of the opinion that a sentence of imprisonment should be imposed, the court can remand the defendant to appear before a magistrate for sentencing. Prior to the enactment of the Criminal Law (Sentencing) Act 1988 courts could release an offender under a common law bond. The power to impose a bond at common law did not authorise the imposition of a condition to come up for sentence at some future time.

Common law bonds were done away with by the Criminal Law (Sentencing) Act and section 39(1) of the Act provides that it is a condition of every bond that the defendant appear before the court for sentence, or conviction and sentence, if the defendant fails during the term of the bond to comply with a condition of the bond.

The Supreme Court judges, in their 1993 annual report, recommended that section 39(1) be amended to make the condition to appear for sentence, or conviction and sentence, optional. A person who entered into a bond which did not contain this condition would be liable to forfeit the whole or part of the sum specified in the bond in the event of non-compliance with a condition of the bond.

Such an amendment would, in effect, authorise the imposition of 'a suspended fine' and thereby increase the sentencing options available. Amendments to section 42 make it clear that a court can only impose a bond without any condition that the defendant appear for sentence, or conviction if the court does not impose any other conditions under section 42 of the Act and a consequential amendment is made to section 58. The Supreme Court judges, in their 1993 annual report, also recommended that section 42(3) be repealed. Section 42(3) provides that a court must not include a condition in a bond requiring performance of community service except where the bond is entered into as a pre-condition of the suspension of a sentence of imprisonment.

The judges consider that in some circumstances it is appropriate to impose a community service order when releasing an offender on a bond. In the event of the offender breaching a condition of the bond the court, in sentencing the offender, could take into account the community service order and the extent of compliance with the order. Section 42(3) was included in the Act for resource reasons. It was not clear how much demand there would be for community service and this was one way of limiting the demand. Any increase in community service hours that will eventuate if section 42(3) is repealed can be handled by the Department for Correctional Services now.

Section 45 of the Act provides that a court must not sentence a defendant to community service, or include community service as a condition of a bond, unless the court is satisfied, on a report of an employee in the Department of Correctional Services, that there is, or will be within a reasonable time, a placement for the defendant at a community service centre reasonably accessible to the defendant. In two recent judgments the Supreme Court has held that a magistrate was in error in imposing an order for community service without first obtaining a report on the availability of a placement at a community service centre.

For many years magistrates have been informed by the Department for Correctional Services that placements are available for any persons sentenced in the metropolitan area and there is no need to obtain a report in each case. If a report is to be obtained the matter needs to be adjourned and the defendant, the court and the department are put to significant expense even though the result of the report is known before it is asked for. The practice remains in remote country regions of magistrates obtaining information from the department as to the availability of service projects which are accessible to the defendant.

Given the way community service operates in practice section 45 can be repealed. The practice of magistrates obtaining information from the department as to the availability of community service projects in the country will continue and the Chief Magistrate has agreed that a reminder to magistrates to check on the availability of community service work in country areas should be included in the Magistrates Bench Book. Currently some 300 'special needs' category community service workers are placed in suitable work catering for a wide range of disabilities; however the occasion does arise where a person cannot be accommodated.

Accordingly, new section 45 provides that if the Chief Executive Officer of the Department for Correctional Services notifies the court that suitable community service work cannot be found for a defendant because of his or her physical or mental infirmity, the matter can be brought back before the court for further sentencing. The operation of section 57(4) has caused problems. Section 57(4) originally provided that, where a person on a bond entered into pursuant to an order of a superior court is convicted of an offence in an inferior court, the inferior court must remand the offender

to the superior court for sentence for the offence where any breach of the bond could be dealt with in conjunction with imposing a penalty for the offence found proven in the inferior court.

The effect of this provision was that even though a magistrate had had, for example, a three day trial he or she could not sentence the offender for the offence. There was also the problem that a magistrate may not have been aware of the bond and sentenced an offender who should have been remanded to the superior court. The section was amended in 1992 and section 57(4) now deals only with superior courts dealing with breaches of bonds entered into pursuant to an order of an inferior court. Where a person on a bond entered into pursuant to an order of a superior court is found guilty of an offence by an inferior court separate proceedings for the estreatment of bonds must now be instituted in the superior court.

The efficiency of an offender being remanded to the superior court to be dealt with for the breach of the bond has been lost. New section 57(4) provides a solution which preserves the advantages and overcomes the difficulties of the original section 57(4). It provides that the inferior court can either sentence for the offence before it and remand the offender to the superior court to be dealt with for breach of a condition of the bond or it can remand the offender to the superior court for sentencing and to be dealt with for the breach of the bond. The amendments also recognise that the Environment, Resources and Development Court has a criminal jurisdiction. The matter of the criminal jurisdiction of that court is under review, but this amendment is necessary for so long as it does have such a jurisdiction.

The Schedule to the Bill contains statute law revision amendments. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the Act by proclamation.

Clause 3: Amendment of s. 18A—Sentencing for multiple offences

This clause allows for the imposition of one sentence for all, or some, of the offences for which a defendant is convicted on the one complaint or information.

Clause 4: Substitution of s. 19

This clause re-casts section 19 of the Act which sets limitations on the sentences that can be imposed by the Magistrates Court. Only a Magistrate will be able to impose a sentence of imprisonment. The Court (however constituted) will not be able to impose a sentence of imprisonment that is greater than Division 5 (2 years) or a fine of more than $120 000 (twice a division 1 fine). If greater sentences are warranted (and available) for any particular summary offence or minor indictable offence the matter will be referred to the District Court.

Clause 5: Amendment of s. 39—Discharge without sentence upon defendant entering into a bond

This clause provides that a defendant who enters into a bond in lieu of being sentenced will only have to appear before the court for sentencing for the original offence (in the event of breaching the bond) if the terms of the bond imposed by the court so stipulate.

Clause 6: Amendment of s. 42—Conditions of bond

This clause provides that further conditions (other than the condition to be of good behaviour) cannot be included in a bond where the defendant is not required to appear before the Court for sentencing for the original offence in the event of breaching the bond. The current restriction in subsection (3) that a community service condition cannot be included in a bond, except a bond imposed in connection with the suspension of a sentence of imprisonment, is removed.

Clause 7: Substitution of s. 45

This clause substitutes section 45. The old section required a court to find out whether a community service placement was available for a defendant before he or she could be required to perform community service. The new section simply obliges the CEO of the Department of Correctional Services to notify the sentencing court if a placement is not available because of the defendant's infirmity, in which case the court may require the defendant to appear before it for further sentencing.

Clause 8: Amendment of s. 57—Non-compliance with bond

This clause provides that where a probationer is found guilty of an offence by a court that is of an inferior jurisdiction to that of the probative court, the court of inferior jurisdiction has two options. Either it must sentence the defendant for the offence and remand him or her to the probative court to be dealt with for breach of bond, or it must remand the defendant to the probative to be both sentenced and dealt with for breach of bond. 'Court of an inferior jurisdiction' is defined. Both definitions in this section now recognise that the Environment, Resources and Development Court has a criminal jurisdiction.

Clause 9: Amendment of s. 58—Orders that court may make on breach of bond

This clause is a consequential amendment (see clause 5).

Clause 10: Statute law revision amendments

This clause refers to the further amendments contained in the schedule.

SCHEDULE

The schedule contains sundry amendments of a statute revision nature that bring the language of the Act into line with modern drafting standards and remove or replace obsolete references. None of them effects substantive changes.

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

DEVELOPMENT (REVIEW) AMENDMENT BILL

Adjourned debate in committee (resumed on motion).

(Continued from page 2516.)

Clause 3—'Council or Minister may amend a Development Plan.'

The Hon. M.J. ELLIOTT: We have had a brief break to consider clause 3 of the Bill. I have spent some more time looking at section 24 of the principal Act and also looking back at the planning strategy provided in section 22. The concerns I expressed before lunch I hold even more strongly now. The case for changing this clause has not been put. The Minister has very significant powers to have an amendment changed. Not only do we have an amendment to which we agreed a short while ago and which provides that every three years councils have to ensure that their development plan complies with the strategy, but under section 24(1)(a)(iii) the Minister can request the council to prepare a statement of intent within a specified time. If the council fails to do so or the Minister cannot reach an agreement on the statement of intent within three months after a date specified by the Minister, the Minister can then ensure that there is a change to the plan. Within three months of requesting it, if the Minister does not get a statement of intent with which he or she is satisfied, the Minister already has power to prepare a change to the development plan. Of course, that change has to go through due process. Under existing section 24(1)(g), the Minister also has the capacity to require an amendment to a development plan if he or she feels it is appropriate because it is a matter of significant social, economic or environmental importance.

There is an important tension in planning between the priorities of the State and those of a local community, and I am very well aware of accusations of people who display 'nimby' attitudes, but it is a matter of judgment as to whether people in local communities are being reasonable. Clearly,

under subsection 1(g), if the change the Minister wants is because it is a matter of significant social, economic or environmental importance, the Minister will prevail; presumably, the State good as a whole would prevail. If it is not a matter of State importance, be it social, economic or environmental, then surely the community has some rights. If we accept the amendment that is proposed here, the community will have all its rights taken away. This will centrally change the way in which the whole Development Act works, because the Minister can forget about having to worry about going through any sorts of process if he wants a change. All the Minister has to do under section 22 is to take some document, plan, policy statement, proposal or other material and incorporate that into the planning strategy. Under paragraph (h), the development plan will have to be changed to comply with the planning strategy; it will have to change.

So, it does not matter about going to the Development Assessment Commission, the Planning Appeals Tribunal, the courts or anything else, because all those bodies will declare that paragraph (h) requires that the development plan is consistent with the strategy; the Minister has changed the strategy in this way; that is it; end of story. If the Opposition decides to support this amendment, I know of at least six places around Adelaide where this power could be used and, I would say, abused; and the Opposition will end up with this very clearly on its conscience. It will have allowed community groups—the community; people in a democracy—to have their rights totally taken away. It has to think about that very carefully. It is not a matter of coming into Parliament and being a nice person and saying that the Minister will not do this. You have to ask yourself, 'What is the legal interpretation of this clause; in what way can this clause be used?'

Experience tells us that, no matter what was the intention when the clause was first created, if it can be used legally in other ways it is not a question of whether it will be used in other ways: it is a question of when. When the Government decides that it wants to do something, it will always do it the easy way if it can, and this will be so easy that it will not be funny. Of course, we will pay a price later on, because there will be a huge backlash each time it is used. I would rather that that does not happen in the first place, because I thought the past 10 years were bad enough in the development area, but if this is abused we are in for an absolute disaster. I am not overstating the case; that is what we are asking for. The Government has not made a case for this change. Clearly, the Minister has significant powers in terms of making sure that development plans comply with the planning strategy. A maximum delay of about three months is the worst it confronts at the moment, in terms of requiring that that occur, but at least during those three months there is a chance that due process will be observed. This guarantees no due process; it takes it away.

The Hon. T.G. ROBERTS: During the break I have had time to talk with people on my side of the Chamber. The position that I outlined prior to the break was that, if the Government is looking for a consensus approach within the community to enable its development plans to be successful, it would be wise not to use the honourable member's interpretation of the clause's application to future developments. I understand that the Hon. Mr Elliott is saying that, regardless of the Minister's advice or position or the Opposition's position in relation to the interpretation of this clause, it will be the courts that finally determine how it is to be interpreted in the broader community. The Minister can then say that the law is protecting the interests of those people who may be trying to bypass the intentions of the whole of the Act in relation to development. The Opposition's position is that, if the Government is to go down that track, obviously it will have on its hands a very hot debate in the community about its process and its application or interpretation of this clause if it attempts to steamroll major development programs through either local government or the community consultation processes.

It would be well advised not to use that interpretation as outlined by the honourable member. On this occasion, to give the Government the ability to test its *bona fides* in relation to some of the statements made, we are prepared to support the clause. I am sure the Hon. Mr Elliott is right. If the clause is interpreted as broadly and as sweepingly as he is suggesting, I am sure we will be in hot water for supporting the Government's position. I give a guarantee to him that we will join with people in the community to highlight the application of this clause to the development plan if it is abused. I am taking the assurances of the Government at this stage that it will not be and that its amending provision will unify the provisions under the development plan that allow for a better interpretation by the Minister regarding some of the looser applications that local government make from time to time which weaken the Act. Both the Hon. Mr Elliott and I have been critical of some of the applications that some councils make in terms of some of the plans that they put forward that they see within the rules of the development plan that are impinging either on the environment or the outcomes are impinging on other councils and their plans.

If it is going to be interpreted that the Minister will have more uniformity and will be able to intervene to bring about a better application of the development plan so that those benefits are clearer and clearly understood in the community, then we are supporting it on that basis. Again, if the Government is going to bring before us any further legislation on fast tracking or streamlining the development process at any later date, and if this clause is abused, I suspect the Government will know what the Opposition's position and that of the Democrats will be and it would be well advised not to abuse this clause.

The Hon. DIANA LAIDLAW: I thank the honourable member for his contribution and for accepting the intentions of the Minister and the others to whom he has spoken about the Government's intentions. I suspect from what the Hon. Mr Roberts was saying that if the Government did seek to abuse the powers provided in the amendment we ourselves would certainly be accused of abusing a trust that the Opposition has been prepared to accept. I recognise what the honourable member has said and I will certainly highlight that to the Minister in another place. I, too, believe that this provision will probably have limited application and not the broad application which the Hon. Mr Elliott outlined in a doomy, gloomy and pessimistic perspective on this provision. In politics it is easy to always look at the bleak side of issues. On this occasion the Hon. Mr Elliott certainly is entitled to that point of view. This provision would be used on limited occasions. I suspect there may be a case now and again where it would be seen as necessary. There are safeguards: there is no greater safeguard in a democracy than the public uproar. Having just championed small-wheeled vehicles and other things, I am well aware of what public opinion can be at times and how the Opposition can join that and fuel it. It is a good barometer and I suspect it would be used on such an

occasion if the Government was seen to overstep what was seen as tolerable in the community.

Clause passed.

Bill read a third time and passed.

ROAD TRAFFIC (SMALL-WHEELED VEHICLES) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1: Clause 7, page 3, line 25—'Leave out 'liability in negligence because of any failure' and insert 'civil liability because of an act or omission'.

No. 2: Clause 7, page 3, lines 26 and 27—Leave out 'or proper account'.

No. 3: Clause 7, page 4, after line 3—Insert—
'management' of a road includes placement, design, construction or maintenance of traffic control devices, barriers, trees or other objects or structures on the road;

No. 4: Clause 7, page 4, line 8—Leave out 'other authority,'.

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendments be agreed to.

In another place the Government moved a number of minor amendments to the Bill. One related to the liability in clause 7, page 3, line 25. The Local Government Association President, Mr Dyer, wrote to me indicating that he would like a minor amendment to the limited liability amendment that I had moved successfully in this place last week.

The advice given to the Local Government Association was that my amendment, as passed, inferred that there may be some discrepancy in interpretation. The LGA was a little uneasy about that, and it sought the removal of the words 'liability and negligence because of any failure' and the insertion of the words 'civil liability because of an act or omission'. The advice I received was that these words had little practical point, but my assessment of the situation was that if local government, which had championed this limited liability provision, sought these changes the Government should accommodate it, and that was the case in the other place. The first two amendments relate to that limited liability issue. In terms of the third amendment in relation to clause 7, a definition is inserted in relation to management which reads:

'Management' of a road includes placement, design, construction or maintenance of traffic control devices, barriers, trees or other objects or structures on the road.

This amendment was prompted by the questions of the Hon. Angus Redford in relation to third party appeals and so on as a result of this reference to 'management' in the liability provisions. The fourth amendment is a technical provision. I have spoken to the representative of the Australian Democrats, the Hon. Sandra Kanck, who is dealing with this legislation on behalf of the Democrats, and she has indicated support for the schedule of amendments. I understand that Ms Kanck currently is at a health services conference and cannot attend here, but she was pleased for me to convey her support for these amendments.

The Hon. T. CROTHERS: This debate was canvassed fairly well in this place on a previous occasion and was canvassed even more vigorously in another place when it dealt with the matter. I understand that members of the third estate in this place have indicated to the Government that they will be supporting the amendments which have come up from the other place and which are in front of us, so I will not take up too much time of the Committee, with the heavy program that the Council has in front of it, which we will try to handle today and/or tomorrow, and perhaps even over the weekend.

The Opposition is still opposed to the Bill in its present form, although we welcome the fact that, in part at least, it endeavours to make some form of provision for a practice which is already being carried out illegally in most parts of the State, if not all—that is, the utilisation of skateboards on our public roads and thoroughfares. We were opposed to the Bill in its present form simply because we thought that it was too broad in respect to liabilities. It would be churlish of me not to indicate to the Minister that the amendment moved on her behalf in another place does go some part of the way to ameliorating that situation.

However, the Opposition still believes that problems will arise in relation to litigation and injury because of the broad sweep of the nature of the Bill and the way in which it permits other uses of our roads and public thoroughfares. Currently this practice is occurring illegally and the Government has endeavoured to bring some legal form—though in my view it is much too broad—to the activity in question. I hope that my view does not come to pass, namely, that because of the breadth and nature of the matter in front of us some councils will endeavour to ensure that no area for which they are responsible will be opened up for use by skateboard riders and people who use other similar types of vehicles or sporting equipment. Members of the Opposition hope that that is wrong, but we think not. Time alone will be the element in the debate which will prove one way or another whether we are right or wrong.

I do not wish to say much more than that. We are opposing the amendments which I understand are being considered *en bloc*. However, I understand that the Democrats are supporting the legislation. I conclude the remarks of the Opposition on this note: we are not opposed to some of the contents of the proposition before us but, rather, we are opposed to the broad and sweeping nature of the contents of that Bill and the impact it will have on our roads and public thoroughfares, particularly in respect of some of the elder citizens of this State.

The Hon. DIANA LAIDLAW: I thank the honourable member for his contribution both on this occasion and earlier. I respect his concerns that the legislation may be too broad. I have certainly given an indication on various occasions that this legislation, when proclaimed and implemented, will be monitored. I am not one who wishes to see trouble in our streets in any form but, with the confidence in and the benefit of the experience encountered by other States where the legislation has been tried and tested, I believe that it will work as successfully in South Australia as it has elsewhere in dealing with a problem on our footpaths and streets which is occurring currently—a problem that cannot be addressed by the police and the courts because the law is not clear in terms of small-wheeled vehicles.

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: I am sure that that is absolutely right, and that would be my experience of the people that I know in this field—that they are responsible and not reckless individuals—and on many occasions, I have indicated in the media and elsewhere that there are irresponsible people who cycle, who ride motorbikes and who drive cars and no-one suggests that they should be banned or simply confined to their driveways never to be seen out on the streets. So there is a form of hysteria around, but I do not think that it will be realised. Nevertheless, I recognise that I have more work to do with councils and others, and we

certainly will be working with the Local Government Association in terms of developing the guidelines for areas that will be designated as prohibited areas for skateboarding and the like. Also, we will be working with the Local Government Association and other councils as they wish to develop the guidelines for the signs that are to be used when areas are prohibited, recognising of course that areas prohibited can be so designated by regulation and not by sign, thereby avoiding the costs associated with signs.

Finally, I know that the President of the LGA, Mr Dyer, and others have threatened that all councils will ensure that their areas are not opened up to cycling under by-laws. I think that, with a little more discussion, cooler heads and recognition of the powers to create by-laws under the Local Government Act, this may be a statement made with more emotion than common sense.

Motion carried.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 25 July. Page 2427.)

The Hon. R.R. ROBERTS: I refer to issues that affect country areas and areas within my shadow ministerial portfolio. In view of the heavy workload of the Council I will have to curtail some of the remarks I wish to make. First, I raise a serious budgetary issue relating to the reorganisation of ETSA's operations in the city of Port Pirie. In 1991 ETSA decided that there needed to be some restructuring of its operations in country areas. A team was established to identify future requirements and locations in regional areas.

In mid 1991 a final draft of the micro design plan for customer services and supply divisions of ETSA was put in place. It identified that Port Pirie, servicing the lower Flinders area including places such as Nectar Brook and Merriton, would be established as an area service centre, and that Kadina would also become a service area. A service area manager to be located at Port Pirie was appointed.

During the deliberations of the team the operations of a service area centre at Feely Street in Port Pirie were considered. At the same time an ergonomic and adequacy test was placed on the facilities in Clare. In 1993 it was determined that the facilities at Feely Street were inappropriate both ergonomically and *in situ* for access to the public. While that was taking place, separation packages were being offered to people in the Gladstone and Port Pirie areas. In 1992 two Gladstone people and a linesman from Port Pirie received voluntary separation packages.

During 1992 and 1993 a continual review of ETSA's operation took place, together with the offering of separation packages, and ETSA took over the operations of the Peterborough electricity supply. There were some offsets in job losses because two or three people were picked up from the Peterborough Electrical Supply Company and taken into the ETSA structure.

In May 1993 the Flinders Arcade Customer Centre opened. I am advised of a significant capital outlay with considerable building alterations and security arrangements being put into place. A total figure of about $246 000 was paid for that, and I understand that a lease arrangement of $38 000 over at least two years was entered into. During 1994 voluntary separation packages continued to be offered, and in June 1994 significant personnel alterations were made throughout the Clare and Kadina areas. In August 1994 the service areas were to be abandoned and a new zone structure was to be implemented, and that was further expanded through 1994. Business support for all these areas was provided from Port Pirie.

A number of other alterations, which took place over the period until late June this year, were made to personnel positions. Announcements were made that there would be another relocation of ETSA services, and the Flinders Arcade was to be, so to speak, abandoned in favour of a proposition which I understand entails moving customer services back to Feely Street. I emphasise that as part of that review process a couple of years ago it was determined both from an ergonomic and economic point of view, and for customer access, that Flinders Arcade was the best option for Port Pirie.

It is therefore bemusing that a decision was taken to return to what was already being determined as an ergonomically and administratively unsuitable position. It will obviously entail considerable cost and dislocation, because people who do not have access to public transport or who must travel by public transport will not be able to access the Feely Street site. Clearly, this was one of the detractions from that site. There have been considerable alterations to the waterfront area in Port Pirie, and the access that used to be provided from what was known as Beach Road has now been cut off. Customers who want to access Feely Street must leave Port Pirie and come back in from its outskirts.

In the ergonomic study to which I referred earlier, the Clare facility was examined. I am told that this is a heritage building and that as part of that review process it was determined that it was ergonomically unsuitable. The other problem was that it could not be altered easily under the Heritage Act to provide office space. In the shake-up of personnel for network supervision, the only person who was located in that building in Clare was successful in winning the network service manager's position.

The sensible decision, one would have thought, would have been for the successful applicant to take up the position in Port Pirie—where the position originated—in this ergonomically and administratively sound building in the Flinders Arcade. However, it was a surprise to me and to many people, especially those people employed in ETSA, that a decision was apparently made to relocate the four network service coordinators, etc., from Port Pirie to Clare and that they will be housed in this building which only two years ago was determined to be unsuitable. There will be relocation costs associated with moving from Feely Street. I am bemused by the fact that, after the amount of money allegedly spent on the Flinders Arcade, they can now spend another $120 000 (as has been asserted to me) to try to upgrade the ergonomically unsound premises at Feely Street. I am also advised that when they move back to Feely Street it will be necessary to bring on site a number of transportable buildings to house the workers, whilst the administrative and clerical staff, as I understand it, will be housed in the old Feely Street administrative building.

Quite clearly, if the assertions are true, there will have to be another building program at Clare. This will remove four families from Port Pirie to provide positions and building infrastructure in Clare. It seems a very strange decision when we are all placed under economic constraints—and we are talking about the budget, which has to be considered. I put on the record some questions to the Minister in response to questions by constituents in Port Pirie—questions which I believe are worthy of answers. However, I am certainly not

asking for the answers to be provided before this Bill is passed, because that would be simply impossible.

The questions are: what was the cost of opening the new centre at Flinders Arcade, including the building alterations that were required; communication and data equipment; security and air-conditioning systems; and the cost of furniture and fittings for that facility? What will be the cost of relocating the communications and data equipment at Feely Street? What will be the cost of renovations and new buildings at the Feely Street site? What would be the estimated replacement value of the equipment and building fixtures and improvements left at the Flinders Arcade site? What has been the cost of voluntary separation packages for the 18 people shed from the Port Pirie and Gladstone area since 1991; and how many VSPs and/or redundancy packages are planned for the Gladstone/Port Pirie region?

Given that the review team established that both Feely Street and the Clare ETSA building were ergonomically unsuitable and administratively inappropriate, that Clare was a heritage building and unsuitable for offices and that the only person working at Clare besides part-time clerical staff is the person who won the network services manager's position, why are we shifting four families from Port Pirie to Clare; that is, people who are presently housed in an ergonomically, specifically designed, cheap rental facility compared with the premises at Clare which have been determined to be inappropriate? What will be the costs of the relocation expenses for those families; will it be necessary to build a new building at the Clare site; and what would be the estimated costs of the building of such a facility and the establishment of appropriate infrastructure to service the people employed within that facility?

Yesterday, I raised some concerns and questions, which I would be expecting the Minister for Infrastructure to answer, in respect of allegations that it is the intention of ETSA, as part of its restructuring and employee reduction proposals, to do away with line inspectors. An assertion has been made that the inspectors will be in place for this bushfire season. However, it has been alleged that the Government is undertaking this action because next year it will have 12 months to change existing legislation and/or regulations so that these inspections will not be required to take place. This raises a very real concern for people living in country areas, who in some areas of rural South Australia have had devastating experiences with bushfires in the past which have through investigation been determined to have been caused by vegetation coming into contact with transmission lines.

I also raise the issue of the restructure of South Australia's fishing industry following the report of the Scale Fishing Net Review Committee and a review, as I understand, that was undertaken by Mr David Hall, the Director of Fisheries in South Australia. I was led to believe during the Estimates Committee proceedings that that report would be given to the Hon. Dale Baker. Alterations to the fishing structure of South Australia and the collection of fees were embraced in a statement made on the day prior to this year's Estimates Committee's examination of primary industries and fisheries. The statement was to conveyed to the Hon. Dale Baker the following day. The Minister commissioned Mr David Hall to undertake a review, which was originally intended to be presented to the Minister in December of last year. As of the Estimates Committee, obviously it had not reached the Minister's desk.

I have expressed some concern in the past about the way that investigation was to take place. There are no published terms of reference and I have not seen any specific consultation process laid down. In fact, I have been told that a report has been presented on at least three occasions—probably four occasions—by the Director of Fisheries to the Minister which has been returned with a request that it be redone. It is a worrying situation when we are supposed to be having a proper review with, as I said, no terms of reference and when the report can be sent back to be rewritten on three occasions. It hardly gives the interested observer confidence in the contents of the report. It has been asserted to me, and it is a reasonable assertion, that the Minister himself should have written the report and we would not have had the expense of the wages of the Director of Fisheries.

As a consequence of the review and the alterations to fisheries activities, substantial increases in fishing licences have occurred. I was thankful to receive a briefing from the Minister's financial adviser and one of his officers in respect of the net fishing review recommendations. During those discussions I raised the question of fees. Recommendations of the net review committee included substantial reductions in the numbers of professional fishers and alterations to zoning of fishing areas. In fact, the numbers of professional net fishermen were to be cut by half and there were to be substantial reductions in the numbers of professional line fishermen.

I also asked whether licence increases were to be implemented when it was obvious that we were to cut the numbers by half. My concern was that it would be inappropriate to take away the livelihoods of half the fishermen and put up the cost of their licences. It was a bit like paying for one's own suicide. My reasonable suggestion was that there should have been no increases beyond the CPI for this fishing season and that notice should have been given to fishermen that a review would take place in six months, when the trends could be ascertained and the true value of licences as a result of the changed numbers of professional fishers accessing the South Australian fishing estate.

I received no joy, because a decision was taken in tandem with this decision that there would be a change in the structure of the Fisheries Department in South Australia. A decision was taken to outsource the management of fisheries to SAFIC. It is also pertinent to remember that there was grave concern in SAFIC that the Minister had said that he was not in favour of collecting industry fees in the form of levies on licences because it was his and the Government's view that that constituted compulsory unionism. It is wrong to assert that it is compulsory unionism when clearly it is an industry fee. Also, it is not sensible to conduct business with the principal players in the fishing industry by inhibiting their ability to finance their operations effectively and economically.

Part of the arrangement with SAFIC was that two extra funds were to be created: the contingency fund and the restructuring fund. Moneys were to be distributed from the restructuring fund to consider problems which might occur from time to time in individual fisheries—for example, the oil spill in Spencer Gulf and problems in the Gulf St Vincent fishery resulting from a number of things which were putting pressure on that fishery.

I agree that there has to be a change of direction in fisheries in South Australia. Indeed, I commend the Minister on his sensible approach of fully funding SAFIC and outsourcing the management of fisheries to it. However, I have two questions about these alterations. Whilst I welcome the change in direction, I am concerned about the details. The

history of SAFIC has not always been good. Many people will say that SAFIC has not operated efficiently. Many members of the South Australian fishing community say that it has never been truly representative and that they have no faith in SAFIC. In my view, the new manager of SAFIC, Mr Ken Lyons, is moving in the right direction. He has a difficult job, because he is starting from a very low base of confidence, and I believe that through the forums of SAFIC he is trying to redress some of the concerns.

I strongly believe that if we are to restructure fisheries in South Australia we need to restructure SAFIC. It is clear that the old structure of SAFIC was unable to provide the services required by fishermen in South Australia. If it is to broaden their scope of activities, it seems appropriate to restructure SAFIC to allow it better to fit its new responsibilities.

Nominations have been called for all positions in SAFIC, and they were sent out promptly by the new CEO, Mr Ken Lyons. However, my criticism is that that does not change the structure: it is just calling for nominations for the existing structure. I have had the opportunity to talk to some of the management committees, and they are extremely unhappy. Whilst copious amounts of money are going to SAFIC, the Minister has refused to collect industry payments for individual IMCs. Indeed, each IMC is to be allocated $40 000. Some of the IMCs have in the past acted very well and managed their fisheries in an excellent and successful way, and in many cases they have been held out as models for managing fisheries. However, it does not matter whether an IMC has been highly efficient or incompetent; the fees will be the same.

The fishing industry is reasonably flexible, and I suppose that it can still levy its members for the funds that it requires to do the necessary work. However, members are extremely unhappy because of the way in which the new levies were put upon them, and they are also concerned about how it will be run. I have had discussions with professional line fishermen who, for many years, have been concerned about the level of representation that they are afforded in the structure of SAFIC, so they, too, are calling for restructuring.

With respect to fees and the two funds, members of IMCs and particular sections of the fishing industry are calling for representation on the boards or committees which will administer the restructuring fund and the contingency fund. I questioned the Minister and his advisers about how this would occur under the new structure, and I was quite shocked to be told that that had not been worked out. I have made clear that I am hopeful that we are moving in the right direction—and I have commended the Minister and SAFIC—but I am concerned about the pace and style of the change and the consultation processes which are or are not being undertaken in that program. As I have said in a number of places, I believe that SAFIC has to restructure itself: it has to be truly representative and accountable. I believe that all participants should be represented on the bodies that will prioritise what moneys out of the restructuring and contingency funds will be spent in which areas and on what fisheries.

I will draw an analogy with one of my most consistent problems since I have been shadow Minister for Primary Industries, and that is Gulf St Vincent. The Gulf St Vincent fishery has had an extremely worrying history. A few years ago a select committee of the Lower House again investigated the Gulf St Vincent fishery and determined that, because of its parlous state, it ought to have been closed for two years. Arrangements were made with respect to buy-backs.

A whole range of people gave evidence about the fishery over a long time, including Professor Copes, who is a world renowned authority on fisheries. He is engaged by Governments across Australia, even as we speak. He has been engaged in Canada and Saudi Arabia, and he has been engaged by the Federal Government to look at a whole range of fisheries. Professor Copes is probably the most well-versed fishing biologist/fishery manager of the Gulf St Vincent prawn fishery.

After that two-year closure, the Labor Government's new Minister (Hon. Terry Groom) determined that, on the scientific evidence available and on the best advice from fisheries experts, the fishery had not recovered enough in that two-year period to enable it to be reopened. It must be remembered that, in 1991, the fishery was closed because of its parlous state and its imminent collapse. The department's own survey figures showed that the catch rates in November 1993 compared with the catch rates in November 1991 were about half. Therefore, I would assert that the decision by the Hon. Terry Groom to leave the fishery closed was the right decision and that fishing should not have taken place. As members will recall, this State had an election that same month and I am advised by people who were involved in the Gulf St Vincent fishery that assurances were given that, in the event of a Liberal Government being elected, fishing would be allowed again.

I am not critical of the fishermen of the Gulf St Vincent fishery because it must be remembered that they had not fished for two years and they were keen to get money in their pockets. Their boats had been tied up for two years with no income. A Liberal Government was elected and, within three days of the declaration of the poll, the Minister allowed what he called an at-sea survey, which is really another way of saying 'Go out and catch as many prawns as you can in a couple of nights prior to Christmas because that is when prawns are at a premium price.' In the Government's haste, that decision was not gazetted, which is illegal, so it was gazetted retrospectively to give some credibility to the decision that was taken.

That decision was made against the recommendations of the select committee, which laid down specific criteria that needed to be met before the Gulf St Vincent prawn fishery could be reopened. They provided for a total catch allocation and individual quotas for particular fishermen, scientific monitoring, and the establishment of a formula for the pay-back arrangements for licences that were handed in. None of those recommendations was adhered to. In that fishing exercise prior to Christmas 1993, 1 300 tonnes of prawns were caught, and I am advised that 80 per cent of the females in that catch were full of spawn. People who are well versed in the nature of prawn fisheries have told me, and my limited experience suggests that it is true, that between November and the end of March/April, prawns start to spawn. Large prawns spawn in December. Therefore, at least 13 tonnes of the best restocking prawns were caught in that period.

Over that time, no arrangement was made for the pay-back and, when Opposition members raised concerns, we were roundly condemned by the Minister, who made derisive remarks about the management of the fishery by the previous Labor Government and said that the fishery was in a good state. However, the fishermen took an unprecedented, unilateral decision to stop fishing. My experience with fishermen is that the only reason they stop is because they run out of product to catch. It is a bit like making a speech in the Legislative Council.

The then management committee of the fishery was chaired by Mr Ted Chapman, a former Liberal member of the Lower House. Despite the recommendations of that committee that the fishery was in a good condition and that they ought to fish more, the fishermen who were out there catching the stock actually stopped fishing. It was only at that point, despite the calls from the Labor Opposition that vandalism of the fishery was taking place, that Mr Gary Morgan was called in to review the fishery. Mr Morgan was given a most difficult task. He lobbed in Adelaide and had five days to review a fishery that had been the subject of concern since at least 1976.

I have read Mr Morgan's report and, given that he was briefed by the same people who briefed all the Ministers, he came up with what he believed to be a reasonable proposition. I would refute many of his findings, but he acted with honour and, given the detail that was available to him, he came up with a reasonable report. The Minister then announced that the fishery was in a wonderful state, that it had recovered and that fishing would resume. Again, when the fishery was opened this year, no total catch quotas were put in place. Even Gary Morgan said that a strategy and a total allocation of product to be caught needed to be established. However, that was cast aside and the fishermen went to sea again. Having caught half the amount of fish that they caught last year, fishing again ceased because there was no stock. Sometimes, having fished all night, the total catch was 40 kilograms of prawns. In many cases, the target size of the prawn, which is supposed to be 22 to the kilogram, was exceeded. What happened was that the future stocks of prawns in the gulf were being raked out.

It is arguable that the fishery is in such a parlous state that it will not recover. For the past 10 to 15 years, a long-term participant in the fishery, Mr Maurice Corigliano, has consistently and accurately predicted the demise of the fishery over time. Mr Corigliano has suffered the slings and arrows of critics, Ministers and Fisheries Department people over many years, but I challenge them to look at the record. Mr Corigliano has kept very good records and, unfortunately, he would be the first to admit that he has been dead right and that the fishery is on its knees. There is no question about that. Although there have been calls for an inquiry into the fishery for a couple of years, the Minister has been forced finally to set up such an inquiry. Given that Professor Copes is one of the most experienced and highly qualified people on fisheries, one would have thought that he would have been invited back. He knows what has happened over the past 10 years, and he should have been invited to come up with a new biological plan and a new fishing management plan for the fishery.

What has happened is that Gary Morgan will be engaged, I am told, and Professor Copes will not be here. One of the reasons expressed to me by people in the Fisheries Department was that they thought that Professor Copes was too old. That is an absolute scandal. It is not only discriminatory on the basis of age: it is a stupid proposition. Professor Copes has been here twice and submitted reports on both occasions, but they have been almost universally ignored. In fact, he is the best qualified person.

I have put a proposition to the Minister that, if he wants a new blood biologist, he ought to engage Mr Gary Morgan for part of the assignment and bring in an experienced fisheries manager in Professor Copes to assist in re-establishing this fishery. I am concerned for the future of the Gulf St Vincent prawn fishery, that it may never recover. That is not crying wolf. Unfortunately, I am not confident that sensible cognisance will be paid to the experience we have had in this fishery, because the advice of those people working in the fisheries for years and years has been ignored, and I am worried that most of the evidence to be presented to a new biologist will be by principally the same people who have advised in every other case and have been so comprehensively wrong in their predictions as to what would happen with this fishery.

Coming back to the restructure fund, what has been suggested is that moneys from the restructure fund may be used to finance the buy-back for the Gulf St Vincent prawn fishery. When this has been put to members of other IMCs, they are absolutely outraged. They ask—and, I would assert, quite fairly—why they should pay for the mismanagement by PISA and the Fisheries Department. Why should those fisheries that have acted prudently and effectively have to keep pouring money down the black hole? There are a couple of issues there. If provoked, I could go on for some further time in respect of these matters, but the hour is getting late.

I could talk about the concerns instilled in me when I asked questions of the honourable Minister for Transport last week in respect of road trains. Whilst I was initially encouraged by her response, I was concerned with the final part of her answer when she stated that she was to build four (and only four) passing lanes in the area not designated for road trains now as part of the experiment. The concern I had was that we have already identified 10 other spots in the road where the experiment is to take place, and there is no commitment given in her answer that they would be built—

The Hon. Diana Laidlaw: The 10 is for the whole length: six in one part and four in another.

The Hon. R.R. ROBERTS: What the Minister explained to the Council in her answer was that she would apply for the first four and they would be built, as I remember her answer, between Lochiel and Port Wakefield. Road trains are not permitted between Lochiel and Port Wakefield. It seemed to me that what we should have been doing is building the first four, for which we have received funding, in the area where the experiment is taking place and where we have identified that there is a danger. However, that is a whole new subject, and in the interests of trying to finish the business of this Chamber, I will take up that matter on another occasion. I support the Appropriation Bill.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contribution to the debate. I intend to respond only to a number of matters that the Leader of the Opposition raised in her contribution. The Leader of the Opposition referred to the state of the State economy. Clearly, the Government does not accept the Leader of the Opposition's rather negative outlook on the future prospects of South Australia, but I do not intend to delay the proceedings too much in relation to that. I want to respond to three or four specific claims made by the honourable member.

The honourable member referred to a Morgan and Banks survey and said that, in all essentials, the Premier is completely and utterly wrong in his interpretation of the positive outlook that the Morgan and Banks survey predicts for South Australia's economic future. She went on to say that Morgan and Banks would refute the Premier's claim, and purports to outline what was revealed by the Morgan and Banks survey. The honourable member was trying to indicate that South Australia was missing out on the national jobs explosion

under the State Liberal Government, that we were running the State down, and that the survey was generally bad news for South Australia. I want to quote briefly from the press release issued by Morgan and Banks' Sydney office in relation to this survey. It states:

> The quarterly Morgan and Banks job index released today indicates that South Australia will show the biggest job growth in the nation, with more than a third of South Australian firms set to put on staff.

That is an unequivocal statement from Morgan and Banks. One cannot summarise its views more succinctly than that. That is quite simply that South Australia will show the biggest job growth in the nation with more than a third of SA firms to put on staff. That is not a statement made by the Premier or by a Liberal politician, Minister or member of Parliament; it is a statement made by Morgan and Banks.

The second issue was in relation to employment and unemployment figures. I want to place on the record that the State Government indicated prior to the election that it had a target of 12 000 new jobs by the end of our first year of office. The advice provided to me is that the Government has in fact created 19 000 new jobs from December 1993 to June 1995, based on the trend estimates produced by the Australian Bureau of Statistics. So, we see a job growth figure of 19 000 new jobs since December 1993.

The third issue to which I will respond was the honourable member's claims in relation to gross State product and the Australian Bureau of Statistics figures. The first point to make is that the implicit price deflator that is used for South Australian production is, I am told, actually three times larger than for other States of Australia. The Australian Bureau of Statistics acknowledges in the fine print of its document, 'State accounts' (page 10) that this deflator, being three times greater than that in other States, may be associated with real gross State product (GSP) growth being understated in South Australia. I am not sure what the reasons are—I have not had a chance to look at the detail of that publication—for South Australia as opposed to other States having an implicit price deflator used for this calculation, a factor which is three times greater than for other States.

The facts in relation to growth are that the ABS has stated that, over the same period of ABS's estimate of negative real growth, spending in South Australia actually grew by more than in any other State—in fact, by 8.5 per cent in real terms. In other words, the State accounts are showing that there was a spending boom in South Australia over the past 12 months, but the alleged response, according to the ABS, was that South Australian firms actually cut production, sending the South Australian economy into a tail spin.

One does not need to have a Nobel prize in economics to see that this combination of circumstances is extremely implausible. It is saying that sales are said to have grown massively in South Australia, more than in any other State in real terms, but that the entire increase in sales, together with some loss, was supplied by producers outside South Australia. That is a totally illogical set of circumstances. Certainly, the experience in the business community is that a reasonable proportion of the increase in spending has been on imports, but no-one could argue that that increase in expenditure has been spent solely on imported goods in South Australia.

I note also that the honourable member made the claim that one of the reasons for the extraordinarily large growth in retail sales in South Australia was the introduction of poker machines in this State. I do not have figures with me at the moment but, during the past week, I attended a meeting of business leaders where the President of the Retail Traders Association of South Australia commented on the retail figures for South Australia. He indicated that the revenue from poker machines was not a significant factor in the increase in the retail trade figures in South Australia.

I would have thought that the President of the Retail Traders Association in South Australia would be as well placed as anyone to know the breakdown of the retail figures for this State. I am told that at the meeting of the Australian Statistics Advisory Council on 12 July 1995, at the request of the South Australian Government, there was a discussion of the State accounts figures. The March 1995 GSP figures for South Australia were a particular focus of the discussion. A number of speakers expressed doubts about the believability of the figures for South Australia. There was widespread agreement in the meeting with a view put by the Chairman of the Australian Statistics Advisory Council (Mr Norm Oakes) that the constant price estimates of State GSP were so unreliable and potentially misleading that it was doubtful that the Australian Bureau of Statistics ought to publish them.

That damning criticism was not made by the State Treasurer or by a Liberal Premier, but by the Chair of the Australian Statistics Advisory Council saying that these estimates were so unreliable and potentially misleading that the ABS might as well not publish those figures. Finally, in the *Business Review Weekly* of 3 July 1995, Mr Ed Shann, of Access Economics—who is certainly no-one's pet economist, I can assure the Council—wrote in his regular Business Outlook column:

> South Australia shows a hard to believe fall in output over the past year . . . employment in South Australia is rising suggesting the Commonwealth statistician's estimate of falling output there is dubious. South Australia should have reasonable growth in 1995 on the back of strong business investment.

Again, they are the words of neither a Liberal Premier nor a Liberal Treasurer, but of an independent economist, Mr Ed Shann of Access Economics—someone, as I said, who is no-one's pet economist. I could place on the record, but I do not intend to at this late hour of the session, a number of other similar examples to dispute strongly—and with independent evidence, again not from members of Parliament or members of the Government but members from the business and economic communities—the particularly bleak and negative outlook that the honourable member sought to place upon the future economic prospects of South Australia.

I do not intend to respond to any other aspects of members' contributions. However, I seek leave to have 16 of the 18 questions put to me by the Leader of the Opposition—

The Hon. Carolyn Pickles: Very good effort.

The Hon. R.I. LUCAS: Excellent, I thought—only last Wednesday or Thursday, inserted in *Hansard* without my reading them. I pay tribute to officers of the department and of my office for that extraordinarily quick turn around. As I indicated to the honourable member, this year the Appropriation Bill debate is much harder in terms of providing information quickly, because we are a collapsed parliamentary session, and it is therefore very difficult.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I am glad the honourable member raised that, because that was an issue I was going to mention. The honourable member sought to make a point in her contribution that in some way I, as Minister, had prevented Opposition members from asking questions, or that, because I had filibustered during the debate, I had in effect prevented

them from asking questions. My officers have counted laboriously the number of questions for me this year and for the last Minister for Education, Hon. Susan Lenehan. I do not have the figures with me at the moment, but the numbers were almost exactly the same.

About 80 to 85 questions were asked of the previous Minister by Opposition members in 1993, and virtually the same number of questions, 80 to 85, were asked by Opposition members of me during 1995. That, of course, does not include a good number of questions which went directly to the Executive Director of SSABSA, Dr Jan Keightley.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: That was a decision taken by Opposition members. They explored issues in relation to SSABSA for almost two hours, whereas in previous years it has been only about a half an hour or three quarters of an hour. That was not a judgment that I took as Minister: it was a judgment members took in terms of asking questions. The evidence indicates that I as Minister did not filibuster in the Estimate Committees: I answered as many questions as had the previous Minister in 1993. As long as the honourable member does not remind me of anything else, I seek leave to incorporate in *Hansard* without my reading them answers to 16 of the 18 questions. I undertake to correspond, as soon as possible with the honourable member during the parliamentary recess, answers to the remaining two questions.

Leave granted.

REPLIES TO QUESTIONS

In reply to **Hon. CAROLYN PICKLES** (18 July).

The Hon. R.I. LUCAS:

1. The Hon. Carolyn Pickles is aware (from the time the Labor Party was in Government in South Australia) that the Capital Works Program is divided into two major components, annual provisions and major works.

The annual provisions covers programs such as; purchase of furniture and equipment, land and property, programmed maintenance/minor works, capital works assistance scheme and restoration of fire damaged buildings. It is not possible to list the many hundreds of projects that have all ready been identified in this component of the Program and those that have not been identified (eg requests from schools and children's services centres, restoration of fire damaged buildings).

The major works component provides expenditure towards those major projects that are currently under construction and those that are planned to commence during the 1995-96 financial year. I presume the honourable member is referring to the major works component and I refer the honourable member to the State Budget Papers, Financial Information Paper No 3, Capital Works Program, 1995-96, pages 15-19.

The following summary provides the major projects currently identified in the budget. A number of other projects are currently at various stages of discussion and it is not appropriate to list these at this stage.

1995-96 DECS Capital Works Program—Works In Progress:
- Adelaide High School
- Angle Vale Primary School
- Balaklava High School
- Goolwa Primary School
- Hallett Cove R-12 School
- Hahndorf Primary School
- Kadina High School
- LeFevre High School
- Mallala Primary School
- Northfield Primary School
- Norwood/Morialta High School
- O'Sullivan Beach Primary School
- Para Hills East Primary/Junior Primary
- Paralowie R-12 School
- Salisbury High School
- Thebarton Senior College
- Willunga High School
- Woodcroft Heights Preschool
- Yankalilla Area School

1995-96 DECS Capital Works Program—New Works:
- Aldinga Beach Preschool
- Allendale East Area School
- Belair Junior Primary and Primary Schools
- Brighton Secondary School
- Bordertown High School
- Christies Beach High School
- Conyngham Street Child Care Centre
- Coromandel Valley Primary School
- Fremont-Elizabeth City High School
- Glossop High School
- Hewett Preschool
- Hewett Primary School
- Hillcrest Primary School
- John Pirie High School
- Magill Primary School
- Marryatville High School
- Mt Gambier High School
- Nairne Primary School
- Norwood/Morialta High School
- Parafield Gardens High School
- Peterborough High School
- Reidy Park Primary School
- Seacliff Primary School
- Seaford 6-12 School
- Seaford District Child Care Centre
- Seaton High School
- Seaton Park Primary School
- Secondary Language Centre
- Smithfield East #2 Primary School
- Smithfield Plains High School
- Special Education Unit (South Western)
- Tanunda Primary School
- Underdale High School
- University of South Australia Child Care Centre
- Urrbrae High School
- Westbourne Park Primary School
- Wiltja Program

2. The figure of $56.6m included in the 1995-96 Estimates of Receipts and Payments is an estimate. The actual formula calculation will be performed in the week commencing 31 July, 1995 when the relevant end of financial year data necessary to the formula, is available.

The figure of $56.6m is based on an estimated average enrolment increase of 3 per cent. No increase in funding has been provided for cost increases due to inflation.

An amount of $546 000 (equivalent to $2 per week) has been included in the 1995-96 allocation as a contribution to increases in teacher salaries in the non government sector. The $2 per week is equivalent to 25 er cent of the $8 per week which has been awarded to teachers.

3. The South Australian Schools Investment Fund (SASIF) is still operating. SASIF was established by the previous Labor Government in December 1992.

SASIF evolved from the idea of a group of schools who were combining their funds to maximise their interest return. A review of the groups actions indicated that by pooling school funds, administrative efficiencies and a higher rate of return could be achieved than by schools acting independently. The Department could offer the same service but at no risk to the schools.

SASIF was and still is a completely voluntary scheme and schools can, if they wish, withdraw all moneys within 24 hours. Schools elect to participate to receive rates better than available from the market with minimal administrative effort and thereby increase the resources available for education. All moneys are invested with the SA Government Financing Authority and are therefore risk free.

SASIF, which now includes Children Services clients (preschools), currently has 870 accounts. It is estimated that there are 500 schools participating after allowing for schools with more than one account and preschools.

The total investments held as at 20 July 1995 was $59.3m.

SASIF is operated so that all benefits (after deducting operating costs) are passed onto participating schools. The Account is balanced monthly and is managed so as to have a small surplus at any given time. This surplus is maintained to minimise the effects of fluctuating interest rates. The current surplus has been decreasing as market

interest rates have fallen and is currently less than $10 000. Rates paid to schools are to be adjusted as from August which will see this surplus increase slightly.

SASIF has been established to pool funds for investment purposes and is not intended to make a profit but to break even. Schools can judge the effectiveness of SASIF against rates paid by financial institutions. In this context the additional expense of producing an annual report is not considered necessary. The accounts and control mechanisms have been audited annually by the Auditor-General's Department since the inception of the scheme. The results of SASIF are also included in the Auditor-General's report.

4. Changes have been made to the tender call process, such as occurred in October 1994 when Registrations of Interest to undertake school cleaning for 90 sites were sought via open advertisement in the 'Advertiser'. Only those registrants were able to tender for the 90 sites, with the last of these contracts commencing in April 1995.

Since then, tenders have been called through open advertisement in the *Advertiser* Government Tender section and any relevant local country newspaper, rather than through a registration of interest process. The first tender call advertisement for 13 sites was advertised in the *Advertiser* on 10 July 1995.

The specification for cleaning services has been regularly updated to ensure all aspects of school cleaning are addressed. The tenderers response has also been improved so that an appropriate selection can be made and has been expanded to address a wide range of issues including mandatory requirements, occupational health and safety issues, previous experience, referees, quality assurance, labour, equipment and consumables.

Changes have been made to the selection criteria to ensure the contractor can realistically undertake the works for the prices quoted, including:

- Compliance with the mandatory requirements of the conditions of contract.
- The productivity rate offered, (ie the amount of square metres to be cleaned by each cleaner per hour).
- The price calculated as net present value for the initial one-off clean, each periodic (vacation) clean, and the ongoing (daily) cleaning calculated over the first two year fixed period of the contract.
- Supervision of the contract as offered by the tenderer.
- Any certification proposed by the contractor to the applicable Australian Standards and the target date by; which the contractor is expected to achieve certification. (Not a mandatory requirement at this time.)
- Equipment, both quantity and quality, as offered by tenderer.
- Consumables intended to be utilised by the tenderer.
- Assurance of quality strategies as detailed in the Tenderers response.
- Referee assessments as provided by the tenderer.

Contract cleaning costs in 1993-94 financial year were $24 704 652 compared to $24 280 025 in the 1994-95 financial year. This demonstrates a saving of $424 627.

Procedures are in place to ensure that all schools are cleaned to an acceptable standard which complies with health and safety requirements.

All schools undertake an occupational health, safety and welfare audit once per year which highlights any health and safety risks, including inadequate/improper cleaning. Any issues are usually managed at the local level by the principal and when necessary the Cleaning Strategy Team will respond to any concerns.

The 'Specification of Cleaning Services' which forms part of the documentation for all new 'outcome' cleaning contracts provides a definition of clean which is required to be met at the conclusion of cleaning each night at the school. Schools utilising this type of contract have the control of being able to withhold the monthly payment should any cleaning deficiencies not be remedied. Of course, this is a last resort after all other avenues have been unsuccessful.

Other industrial and independent contracts have a list of duties defined to ensure that the school presents in a clean condition at the conclusion of each day. While the schools with these type of contracts do not have the same level of local control, the Cleaning Strategy Team provides an ongoing consultancy service for any school cleaning issues including arbitration when necessary. This unit responds to any cleaning issues raised either at the school level, through the occupational health and safety advisers who undertake random inspections of all school sites or by any other person associated with the school.

A quality assurance officer has recently commenced with the Cleaning Strategy Team to assist the team in ensuring appropriate cleaning standards are achieved at DECS worksites.

6. EDSAS hardware and networks were installed in schools between November 1994 and April 1995.

The major components of the total EDSAS software package, the School Module, Staff Module and Student Module, were provided with the hardware. Many schools have completed the implementation of these modules and the deadline for their implementation, by all schools, is the end of Term 3 (29 September), 1995.

The Finance software is to be distributed in Term 3 ready for use in the next school financial year commencing in November. The Timetable software will be trialled in schools in Term 3 and be provided to all schools in Term 3 or possibly Term 4, depending on the results of the trial. The EDSAS Profiles Module will be trialled in schools in Term 3 and Term 4 in preparation for distribution to all schools in 1996.

Access to the system can be gained by the school's system administrator and those staff allowed access rights by the principal of the school. EDSAS support staff may be provided access by the school in order to carry out support services.

Network security software prevents unauthorised persons from accessing the system.

Security built into the EDSAS package provides a level of protection over and above the network security. EDSAS security extends to preventing ongoing display of information on unattended computers. Physical security of the system will also be provided by schools.

7. The Government's offer of $35 per week for teachers has to be funded from the budget allocation included in the 1995-96 estimates and therefore will be funded through the enterprise bargaining process and other saving strategies.

8. Yes.

9. Advice has been sought from the Principals Associations, PEAK Parent Associations and all divisional directors on the impact of the proposed salary cuts.

Although no decision has been taken on the areas which will be affected by the proposed cuts a decision has been taken to:

1. Maintain the level of Tier 2 Salaries to support students with disabilities at 406 despite the fact that if the formula developed by the previous Government was applied a total of 383 salaries would have been generated. This formula generated 1 teacher salary for every 500 students enrolled in State Schools R-12.

2. Maintain the level of salaries allocated to resource the appointment of Primary School Counsellors.

10. Correspondence has been received from members of Parliament, schools, school councils, employee organisations and community members.

DECS provided advice on a number of options regarding reductions to the workforce in order to achieve the necessary savings. Final decisions were taken by Ministers.

In consultation with the principal's associations, information will be provided to schools in Term 3, 1995 to outline strategies to help schools achieve reductions which will be necessary in 1996. The $16m investment in EDSAS will also help to reduce the administrative workload in schools.

12. No.

13. At this stage, it is not possible for me to predict action relating to the future of Gilles Street and Sturt Street Primary Schools.

I have been advised that the Review Management Group, which is comprised predominantly of representatives of the school communities, expects to deliver its report and recommendations to me during the current school term. I understand that the Group needs that time in order to ensure that its advice is thorough, well-researched and subjected to broad community consultation.

14. I have now tabled a copy of the paper entitled 'Local Decision Making and Management' which was prepared by the Joint Principals Association of South Australia. A copy of the paper was forwarded to the Member on 19 June 1995 in response to questions asked on 22 March 1995 and 6 April 1995.

15. The Country Action Plan no longer exists as a singular plan. Issues related to achievements, particularly the issues of rurality, isolation and educational disadvantage, are being incorporated into other DECS plans currently being developed through the Futures Forum.

The first of these developments is the draft Technology Plan which includes particular attention to support for country students.

The Technology Plan is still in draft format. Public consultation is expected to be sought in August 1995.

16. I have previously provided the Member with detailed responses on this matter on 12 April 1995.

The documents 'Quality Assurance in Schools' and 'Quality Assurance in Preschools' Information Pack, previously forwarded to the member in April 1995 have been tabled today.

17. Information on the statements of purpose was previously provided on 12 April 1995, in response to the Member's questions dated 22 February and 14 March 1995.

The responsibility for preparation of the statements will rest with the principal, director or the person responsible for the particular unit.

Normally, it is envisaged that several members of the management team of the organisation would be involved directly in preparing it.

It is expected that a range of people relevant to the organisation would be consulted as part of the preparation of the statement of purpose. For example in a school, parents, teachers and students would be likely to be involved to a degree.

The statement of purpose will, when completed, be signed in the case of schools by the principal, chairperson of the school council and the local District Superintendent of Education.

There should be no additional cost to the school as the tasks involved in preparing a statement of purpose are essentially the normal management requirements for an organisation. These are, how they are going to manage and monitor their core business for the next 12 months as well as identifying their major change issues or priorities for the same period. These are issues that would have to be dealt with in any case.

Initially, some additional time will be involved for the management team of the unit in some form, in working through the requirements of the Quality Assurance Framework.

The statements will provide a public set of intentions after which planning, appropriate to the purpose, can be undertaken. They will then be monitored and relevant information collected to show the plan has been implemented in terms of accountability and improvement. The Report that is part of the quality assurance framework will contain the outcomes of each of the items included in the Statement of Purpose and relevant information to justify the reported outcome.

As a public outcome, both accountability and improvement will be able to be demonstrated.

18. This question was also asked by the Member for Taylor on 20 June 1995 during Estimates Committee. My response was forwarded to the House on 11 July 1995 and I submit that response for the Member's information.

$360 000 was allocated to the Computer Assistance Scheme for 1994-95 and this level of commitment has been continued for 1995-96.

A detailed review of the scheme is being undertaken and therefore there were no grants issued to schools in 1994-95. The funds available were used to meet existing departmental loan commitments as a result of the scheme. The review is yet to be completed.

The Hon. R.I. LUCAS: The honourable member asked for copies of documents. My officers advise me that, contrary to the honourable member's assertions in her contribution, we have already provided these documents to the honourable member by way of correspondence in March, April and May of this year. I make the documents available to the honourable member rather than incorporate them in *Hansard*. With that, I thank all members for their contribution to the Appropriation Bill debate.

Bill read a second time.

In Committee.

The Hon. T. CROTHERS: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

Clause 1—'Short title.'

The Hon. DIANA LAIDLAW: I sought leave earlier to conclude my remarks on this debate and missed the opportunity, so I will do so now in Committee. The Hon. Anne Levy spoke about issues in the arts. I will address some of the issues that she raised. I seek leave to incorporate in *Hansard* a purely statistical table showing arts budgets between the years 1991-92 to 1995-96.

Leave granted.

ARTS BUDGETS

	Total	Arts Development
1995-96	68.8 m	25.9 m
1994-95	64.9 m	22.9 m
1993-94	65.6 m	22.6 m
1992-93	70.0 m	21.9 m
1991-92	72.9 m	29.1 m*

* This did include AFCT 6.7 m

The Hon. DIANA LAIDLAW: The table identifies both the total budget and the arts development budget. The total budget in 1991-92 was $72.9 million, fell to $70 million the next year, went down to $65.6 in 1993-94, down to $64.9 million in 1994-95 and this year (1995-96) increased by almost $4 million, which is cause for celebration, as people noted last night at the Arts Industry Council AGM.

In terms of arts development over the same period, in 1991-92 it was $29.1 million. It is important to note, in respect to that allocation, that this included a contribution to the Adelaide Festival Centre Trust of $6.7 million. It then fell to $21.9 million and remained at about that level until this financial year when the Liberal Government was able to increase arts development funds to $25.9 million, up $3 million from last year. That is an important victory for the arts in this State and the arts industry and one that the Government is keen to back not only through statements but also with dollars, and the budget confirms that that is so.

Some adjustments have had to be made in the budget this financial year because, while extra funds were obtained for specific purposes, some general adjustments had to be made to meet the Government's overall savings target. For that reason we had to address the budgets of the History Trust, Community Radio, the Festival Centre Trust, Tandanya and others. Notwithstanding pressure upon me as Minister to make adjustments, I have been very pleased, following the difficult decision with respect to Old Parliament House and the closure of the temporary exhibitions program there, that we have been able to secure Edmund Wright House for the arts and been able to secure for the first time in our history in this State the visiting exhibition programs from the National Museum. They will be starting next January, after work has been undertaken on the banking chamber, to ensure that it can also accommodate exhibitions more effectively. Much of that work will be in terms of lighting.

The rental and touring exhibition arrangement we will have between the History Trust and the National Museum exhibition program will guarantee that we can accommodate the Keyboard Society at Edmund Wright House. The Keyboard Society has been there for 23 years and it would be great to think that it can remain there for many more years to come. Some of its scheduling may have to accommodate the touring programs, but I know that the History Trust as the new lessee for Edmund Wright House is keen to work with the Keyboard Society to accommodate the society's needs as far as possible.

A number of members have inquired about the fate of the stunning Panorama photographic exhibit. I made a statement a few weeks ago that, in the short term at least, it will be housed in the marble hall in the railway station, leased on behalf of the Adelaide Casino. It will be much more accessible than it has been at old Parliament House.

I will seek to address a few other specific matters. In terms of the total budget allocation the Hon. Ms Levy refers to a

Treasury allocation rising from $49.954 million to $51.166 million—an increase of $1.212 million. It should be noted that the $49.954 million is last year's outcome and is in itself $512 000 higher than originally allocated. It is worth noting that the $51.166 million is not inflated, as the Hon. Anne Levy suggested, by EDA payments. These funds for the Film Corporation, including $1.8 million for *Shine* and $830 000 for redevelopment, is shown in the receipts line and not under the Consolidated Account appropriation line. It is also worth noting that the EDA has provided these funds in the past, and I recall that $830 000 was negotiated by Ms Levy when she was Minister. The Art Gallery increase this year will be $554 000 and will amount to $877 000 in a full year, and will be used to address all the staffing needs related to the expansion, extension and redevelopment of the Art Gallery.

This year's budget also includes $6.1 million in capital funds to finalise Art Gallery extensions. In terms of Tandanya, it is true that this organisation has incurred a cut, but it is not as it is seen to be. Until this year, $60 000 of Tandanya's funding had been returned to the department each year as debt repayment on a loan that it incurred some years ago. So, the fact is that what appears to be a $100 000 cut is in reality $40 000. I know that is a large sum and one that Tandanya might find difficult to accommodate, but we require that organisation to develop a strong business focus, and I am confident that it will be able to do so through both performing arts and visual arts activities. My wish would be that it extend those activities to include more training opportunities and develop more of a living arts focus at Tandanya. I am not aware of any cut made by Foundation South Australia, but it may be for the same reasons that the Government considered that Tandanya had to do quite a lot at board and management level to reinforce and realise its status as a national Aboriginal cultural institute.

In terms of support services within the department, there has been a reduction from $2.592 million to $2.39 million, which represents a very considerable cut of 8 per cent. The Hon. Ms Levy called that a very small cut. That comment is unfair, given the extensive effort that has been undertaken over the past year to restructure and rethink the services that the department undertakes. Corporate services and executive support staffing have also been reduced by 25 per cent over the past 12 months, which is a very considerable cut, realising savings of about $500 000 in support services overall.

I have outlined a number of areas in arts grants where adjustments have had to be made. All the adjustments or reductions amount to $447 000. They are offset by an Adelaide Fringe reallocation of $200 000 and an allocation to the Adelaide Symphony Orchestra of $200 000. The latter is conditional upon a restructuring program that will be negotiated with the ASO and the ABC once Mr Peter Alexander, a consultant, completes his current assessment of new models of working relationships between the Adelaide Symphony Orchestra and the State Opera. So, with the reductions and offsets, we have a net effect of $47 000, which has been met by various adjustments. The UTLC and Community Radio reductions amount to $60 000. There is a $100 000 budget transfer, but not a reduction of regional theatre maintenance funds from the arts grants line to the South Australian Country Arts Trust. Also, a $100 000 reduction has been made to the cultural facilities grants; a $174 000 reduction has been made in contingency funds and a $13 000 saving has been made with respect to the Italian Festival.

Some other issues were addressed by the Hon. Anne Levy in terms of the women's suffrage budget, and I recall that the President made some comments about *Hansard* earlier today. In my response to the Hon. Anne Levy on 3 May 1995, a list of amounts contributed by Government agencies to women's suffrage activities included an Attachment A, totalling $400 307, but an error was made in the printing of the *Hansard* proof of 30 May and some of the Attachment A was inadvertently omitted, which seems to account for the honourable member's claim that the Government's response to the suffrage celebrations amounted to only $204 717. The corrected copy has been inserted in *Hansard* today.

In conclusion, I will make a couple of remarks about a contribution made by the shadow Minister for the Arts in the other place, Mr Rann, when addressing the amendments to the History Trust Bill. Not only did he display considerable ignorance about what is going on within the department but he also seems intent on deliberately misleading or being ill-informed about developments. To suggest as he did that the closure of Old Parliament House meant that there was a sinister back door manoeuvre to get rid of 10 highly skilled curators whom I intend to move to the Armoury Building to do no more than put out a letter is wrong, mischievous and, I would suggest, deceitful. It has always been stated that the State History Centre would continue its current role, including its community history activities, which amount to much more than putting out a newsletter. Initially it was thought that the State History Centre would be relocated on a temporary basis to the Armoury Building, but about three weeks ago the statement was made that it would be relocated to Edmund Wright House. That has been a cause of celebration within the history movement and I am confident that the Historical Society of South Australia will also find a place within that building.

I have always indicated that I am very keen to participate in the Federal Government's new emphasis on civics education. Old Parliament House will be able to play an active role in that, as will Parliament House and the Edmund Wright building. The shadow Minister went on to suggest that it was a disgraceful waste of money to renovate Old Parliament House and that people would be forced to move there from the Riverside building into a nineteenth century building where there are no fittings for phones, faxes or computers in the type of accommodation meant for a busy, modern busy staff. It is for just these items—phones, faxes and computers—that some of the funding of about $600 000 is required, but also, like all heritage buildings, the building itself needs to be restored and renovated from time to time.

The money that will be provided for this purpose related to this new move to accommodate Old Parliament House and Parliament House will ensure that this building is maintained to a standard that we would wish a heritage building of such historical significance to be maintained. I indicated earlier that in terms of Edmund Wright House negotiations have been undertaken with the National Museum to participate in exhibitions. Tourism South Australia and the Adelaide City Council have also been engaged in discussions with us about participating in various programs from that site and the discussions look good at this stage. I hope they will realise a positive outcome in the near future.

Last but not least I have to express my deep disappointment that the Leader and shadow Minister for the Arts chose to issue such a personal and vindictive attack on Ms Winnie Pelz as CEO of the Department for the Arts and Cultural Development. I was sitting next to Ms Pelz, who was

advising me during the Estimates Committee. I would not suggest and I do not believe that Ms Pelz at any time would behave in the manner of which she was accused by the Leader.

The Hon. J.F. Stefani interjecting:

The Hon. DIANA LAIDLAW: She is a professional person, as the Hon. Julian Stefani remarks, who is regarded highly in Adelaide, in South Australia and nationally for her integrity and commitment to the arts. She does not deserve to be belittled in the manner she had to suffer the other night from the Leader. To hear the Leader say, 'I promise you as shadow Minister for the Arts I will make that personal persona very apparent throughout the arts community', is a threat ill befitting any MP, let alone the shadow Minister for the Arts and the Leader of the Opposition.

To think that he would have time, let alone the inclination, to go around belittling the CEO of the Department for the Arts and Cultural Development does him little justice. He suggests he would do so because he accuses Ms Pelz of being a close friend of mine. I have indicated in the past in terms of questions asked in this place that I would not regard Ms Pelz as a close personal friend any more than she would regard me as a close personal friend. We both share a strong commitment to the arts, a love of South Australia and a determination to see the arts expand and shine in this State. It is a commitment we share and it is that commitment that sees us today working so hard to find money for the arts in a difficult financial climate. I regret to think the commitment that Ms Pelz is making to the arts in general and weaving the arts into other areas of the bureaucracy in this State should go not only unrecognised but be belittled in the manner chosen by the Leader the other night. It is a low point in politics in this State. I would have thought that he had better things to do.

Clause passed.

Remaining clauses (2 to 8) schedule and title passed.

Bill read a third time and passed.

RACING (TAB BOARD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 July. Page 2426.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions to the Bill. While I thank members for their contributions, clearly the Government strongly opposes the position that the Labor Opposition and the Australian Democrats have indicated in their contributions to the Bill's second reading. I must admit that I am surprised that the Labor Party and the Australian Democrats in this Chamber are not supporting this legislation. Within the past three or four months, the Hon. Terry Roberts, on the South Australian Water Corporation Bill, and on the power corporation Bill, the Hon. Mr Elliott and the Hon. Ms Kanck supported the provisions in those Bills and also in the gaming supervisory authority legislation that the Government ought to have the power to remove a director—in this case a chairperson—of those boards if they no longer had confidence in those directors or chairpersons of boards. They supported unequivocally and without any reservation by the Hon. Mr Elliott, the Hon. Terry Roberts or any members of the Labor Party the proposition—

The Hon. T.G. Roberts: That was a non-specific principle.

The Hon. R.I. LUCAS: So it is all right if it applies to everybody but it is not all right if it applies in relation to the TAB. That is just a nonsense position to adopt. The Opposition and the Democrats believe there is some political mileage to be run out of this situation and all of a sudden have thrown their principles out the window. They choose to ignore—but I intend to remind them—that they stood in this Chamber and voted unequivocally for exactly the same proposition in three pieces of legislation over the past three to six months or so in this Parliament. Where are the political principles of members relating to that issue about the powers of the Government in relation to the removal of directors? The Labor Party and the Democrats say that it is all right for ETSA Corporation, SA Water and the Gaming Supervisory Authority but, because they might have some mates, contacts or whatever on the TAB board, it is not all right for that board. That is the proposition that members in this Chamber have put in relation to this legislation.

Labor and Democrat members supported the Liberal Government in those other pieces of legislation because they were cumbersome and restrictive and therefore decided that they were no longer appropriate in terms of the relationship between Government and statutory authorities for the 1990s. All members supported getting rid of those cumbersome and restrictive procedures which might have ended up in months and months of litigation at a cost of hundreds of thousands of dollars to the taxpayers of South Australia. That is why the Hon. Mr Elliott and the Hon. Mr Roberts supported it last time.

On this occasion they changed their minds and threw those sorts of principles out the window in relation to the legislation. The Minister, the elected person responsible for racing in South Australia, no longer has confidence in the Chairperson of the board. From the Premier down, the Government no longer has confidence in the Chairperson of the board. This person will come to the end of his term at the end of the year or at the start of next year. He clearly will not be reappointed by this Government; the Government has been trying to get rid of him for some time.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: That has been on the public record. The Minister sought the removal of all board members earlier but they refused to go—that was the situation. As a Government we no longer have confidence in the Chairperson of the board. He therefore ought to go—it is as simple as that. The proposition that members put is to use that existing restrictive and cumbersome legislation. By the time we ended up winding our way through the courts, spending hundreds of thousands of dollars, it would be the end of the Chairperson's term, anyway.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: That is exactly the point. The Chairperson has already indicated that he was actively considering legal action should he be removed. He was not worried in relation to his position in terms of taking legal action and was therefore able to seek to frustrate that position.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I am prepared to say outside anything that I say in here. The Government does not have confidence in the Chairperson. Through the SAJC, the racing industry has supported 100 per cent the Minister and has said to Mr Cousins, 'Out the door; you ought to go.' That is what the racing industry said through the SAJC, and members opposite ought to speak to representatives of the racing industry about what they think. The SAJC has said, 'Out the

door'. The SAJC supports the position of the Minister. The SAJC says that it is untenable to have a Chairperson of a TAB board who no longer has the confidence of the Premier and the Minister. It is untenable. It is an unacceptable proposition when the head of a TAB board can carry on in that way—

Members interjecting:

The Hon. R.I. LUCAS: No, he is not. He is subject to the direction of the Minister and the Government. He is not a law unto himself. He is not elected by the people of South Australia. The Minister for Recreation, Sport and Racing is elected by the people. The Chairperson of the board is an unelected person. He is not representative of the people of South Australia. If he no longer has the confidence of the Minister and the Premier, he should be out the door. He should take the honourable course and resign. The only reason we are confronted with the legislation is that he will not take that honourable course by resigning and going out the door. That is the only reason we have the situation with which we are confronted in this Chamber.

Opposition members and the Leader of the Australian Democrats support the proposition that a Chairperson of a board, subject to the direction of an elected person under our democratic system, can thumb his nose at the Government and at the Minister and in effect say, 'I will not be moved; I will refuse to resign; I will refuse to go.' That is simply unacceptable to any Government—Liberal or Labor—in relation to its operations.

Let us look at this position, because it is not only with this Government that the TAB board has proved to be uncooperative. In one speech—as I did to present members of the Labor Opposition who served in a Labor Government—they chuckle quietly at the fact that that board tended to be a little difficult, to put it kindly, on a number of occasions. Let me give some examples of the kinds of responses that came out of the TAB in relation to it.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No, I am not. There was a reluctance to provide full information unless directed under the provisions of the Racing Act. For example, I refer to the profit and loss statements for 5AA. There was also misleading information regarding future strategy and potential income of 5AA and TAB radio based on surveys which have proved to be flawed. Let me give a further example. There was a refusal to provide copies of media releases without a written request from the Minister's office. The TAB was requested to provide copies of media releases from a statutory authority that it had made in relation to the operations of the TAB.

The Hon. M.J. Elliott: What year was this?

The Hon. R.I. LUCAS: This has occurred in the past 12 to 18 months under Mr Cousins.

The Hon. M.J. Elliott: This is your Minister?

The Hon. R.I. LUCAS: Yes.

The Hon. M.J. Elliott: Why didn't he start directing the board earlier?

The Hon. R.I. LUCAS: I will talk about that in a minute.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: They are saying, 'The TAB will not release copies of media releases.' This is the nonsense that the Hon. Mr Elliott is supporting. He has never run a department, business or organisation and, indeed, he never will. He will never have to run an organisation, a department, or anything. There was a simple request for a copy of a media or press release, and the Minister got this response, 'I don't think you know the way the TAB operates. We are not part of Government; we operate as a business. You will have to supply a written request from the Minister to get a copy of a media release.' What an affront to a Minister who is asking not for commercially confidential information, not for anything that is in confidence, but for something which has been released publicly by way of a media release. That was the attitude adopted towards a Minister of the Crown, a representative of the people of South Australia—and that is the position that the Hon. Mr Elliott is suggesting we should adopt as an acceptable standard from a Chairperson of a board or its staff.

I turn to one other example. The Minister addressed the TAB Board on 26 April regarding the non-profitability of 5AA and TAB Radio. He requested that an external consultant with expert knowledge be employed to give independent advice on strategic directions for both stations. The Minister had indicated some concern for some time about the operations of 5AA and TAB Radio. He was advised by the Chairman—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I am still speaking. He was later advised by the Chairman of the appointment of Mr John Brennan of 2UE in Sydney to undertake the consultancy. What we have found out since then—

The Hon. R.R. Roberts: We've heard all this.

The Hon. R.I. LUCAS: The Hon. Mr Roberts says, 'We've heard all this.' What has come to light is that Mr Brennan is the father of Peter Brennan, the Program Manager of 5AA.

Members interjecting:

The Hon. R.I. LUCAS: That is the sort of standard that the Hon. Mr Roberts and the Hon. Mr Elliott are supporting. When questioned, the Chairman responded that this relationship was not seen by the board as material to the consultancy. This was about the appointment of an independent consultant. The Hon. Mr Roberts and the Hon. Mr Elliott support an independent consultant who is the father of one of the key employees of this organisation. What absolute nonsense! What a standard to be accepted by the people of South Australia, the Australian Democrats and the Labor Opposition. What they are saying—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: You promised to speak for 30 minutes and went for 45 minutes. I have spoken for 10 minutes.

The Hon. Anne Levy: Can't we do it at 7.45?

The Hon. R.I. LUCAS: You spoke for 74 minutes when you said that you would speak for 15 minutes. I kept a record of you. I am saying that it is unacceptable behaviour for any board or Chairperson of a corporation to thumb their nose by appointing a family relation—in this instance the father of a key employee of the organisation—to conduct what was supposed to be an independent inquiry.

I am very angry about this position. There is much more that I could say, but the last point I will make is about the feeble and naive interjection by the Hon. Mr Elliott, 'Why didn't you institute the directions much earlier?' The Minister should not have to be instituting the directions that he has had to institute, in effect taking control of and running the TAB. The board is there for that purpose. The power to direct is used rarely, frugally and infrequently, in relation to key decisions.

The power has now had to be directed over a whole range of areas. It is not the Minister's responsibility to run that

organisation; it should be the responsibility of a Chairperson who has the confidence of the Minister. It should not be a Minister having to run it *de facto* from the Minister's office with a whole range of directions on a whole range of issues over a whole range of areas. I very strongly reject the proposition that the Labor Party and the Australian Democrats have put forward on this issue.

The Council divided on the second reading:

AYES (7)

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

NOES (8)

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

PAIRS

Irwin, J. C.	Feleppa, M. S.
Redford, A. J.	Wiese, B. J.
Schaefer, C. V.	Pickles, C. A.

Majority of 1 for the Noes.

Second reading thus negatived.

[Sitting suspended from 6.13 to 7.45 p.m.]

MEAT HYGIENE (DEFINITION OF MEAT AND WHOLESOME) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 July. Page 2450.)

The Hon. R.R. ROBERTS: The Opposition will be supporting this Bill. Obviously, this is a continuation of the moves that are necessary to implement a revised meat hygiene regime in South Australia. This was determined last year, very late in the session, in somewhat similar circumstances to this one, when we introduced new meat hygiene arrangements. At that time the Opposition was concerned about some of the clauses in the Meat Hygiene Bill, especially those with respect to the uniform standards. In fact, during discussions around the Bill, it was my contention that there ought to have been uniform standards for meat hygiene across Australia. Despite a vigorous assertion in that area by me, we were assured that the conditions prevailing were adequate to protect the health of the South Australian community.

It was unfortunate that my original assertion has been proven to be correct following what is now known as the Garibaldi incident, and there have been moves by the Federal Government to ensure that there are uniform standards. In many respects, this amendment Bill seeks to allow those uniform standards to occur throughout the smallgoods industry in South Australia. The definitions of smallgoods are the same as those as outlined in the Federal proposition, and therefore we would be supporting them. Because they are a mirror image of the Federal recommendations, I understand they are being supported by the Federal Government. Therefore, it is not the intention of the Opposition to raise any further objections.

One issue that causes some concern is that makers of pastry products containing cooked meat, such as pies, are exempt under the definition because they are regulated under the separate national food standard C4. Makers of canned meat products are also exempt because they are regulated under standard C2. I understand that there is some scrutiny of those particular industries. We are now insisting on hygiene standards for all smallgoods manufacturers, and it was assumed prior to these amendments that some smallgoods manufacturers could have been exempt from this because they only had cooked product.

As a result of the HUS scare in South Australia, this Bill picks up those producers because, whilst they do sometimes produce cooked or cured meat, they also produce fresh meat sausage from time to time. It seems a little inconsistent: consumers in South Australia are to be assured that, in the smallgoods area, meat hygiene standards will be required for the ingredients of the smallgoods; however, because the meat pies will be cooked at a higher temperature, it is asserted that any organisms within those pies or other cooked pastry products will be neutralised by the cooking process. It does not leave me as a consumer feeling any more comfortable if the ingredient was not up to the meat hygiene standard.

I do not know whether this matter has been raised with the Attorney who, I understand, is handling this Bill. The matter was to be raised by my colleague in another place, Mr Ralph Clarke, but whether an answer has been provided to the Attorney-General, I am not sure. I indicate that, in the interests of the health and well-being of South Australian consumers, the Opposition will be supporting this Bill.

The Hon. K.T. GRIFFIN: I thank the honourable member for his indication of support for the Bill. I am not aware that the answer to the question which the honourable member raised was given in the House of Assembly. All that I can do in relation to that request is undertake to obtain the information and provide it to the honourable member by letter, subsequently. It is clear that, at the time when this Bill was prepared, there was a desire not to overlap the standards that are being set under this legislation with those standards under the Food Standards Code. That is not unreasonable because, if there is a satisfactory regulatory framework in place, there is no reason to overlap. I will undertake to find the information. Perhaps during Committee consideration of the Bill I will be able to provide that information to the honourable member.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. R.R. ROBERTS: Now that the Attorney has his officer with him, I raise a matter in respect of clause 1. I understand that the ingredients in cooked products, such as meat pies, will fall under the Health Act. I would like some explanation on the record as to why this interpretation is made, considering that the product going into the pie could be contaminated prior to the cooking of the new product. I understand that issue will be covered, but it is worthwhile having an explanation on the record.

The Hon. K.T. GRIFFIN: What I had to say in my reply was essentially correct. There is a desire not to overlap the regulatory framework so that products are subject to a series of regulations. The issue with pies and pasties is that they are cooked at temperatures in excess of 230° Celsius and are partly made from cooked meat. They are regulated under standard C4 of the National Food Standards and it was more than sufficient that they be so regarded. It is a question of where you draw the boundary. My understanding is that it was resolved that we should be trying to regulate those areas which are on the borderline of the heating process at a

temperature much lower than 230° Celsius, that borderline being a point at which bugs and germs are killed by the cooking process. Therefore, it is relatively simple. You have one regulatory framework already covering pies and pasties and there is no reason to impose this other regulatory framework upon them.

The Hon. R.R. ROBERTS: I thank the Attorney-General for his answers. I thank the Minister and the Minister's officers for the briefings and information supplied to the Opposition to explain the bulk of the Bill.

Clause passed.

Remaining clauses (2 to 6) and title passed.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 July. Page 2506.)

The Hon. R.R. ROBERTS: It was necessary to introduce this Bill because of some oversights, mistakes and misunderstandings in respect of alterations which I understand were concluded on 25 May this year when the Workers Compensation Amendment Bill was passed in this place. The contents have been discussed in another place. Amendments of concern to the Opposition were passed. Indeed, I believe that Mr Ralph Clarke had one of the few victories that he has had since becoming the spokesperson for the Opposition when an amendment was accepted by the Government to take into account the new enterprise bargaining system when calculating wages for people after 12 months of incapacity. That has been picked up. A further minor consequential drafting amendment will also be picked up, and I understand that the Attorney-General will highlight that in his contribution. We have had discussions with the Minister, and we are happy with the new wording.

A further amendment was moved by my colleague Mr Ralph Clarke in the other place in respect of women workers over the age of 60 years. As I explained in my contribution to the private member's Bill that I introduced on behalf of injured women over 60 years of age, again more by oversight this was not fixed up in the last WorkCover Bill. Mr Clarke moved that provision but it was defeated in the Lower House. The Minister for Industrial Affairs in the other place has assured us that the Government is looking closely at it. It is expected that when we return in September, the Minister having had time to do his costings, etc., agreement can be reached and this matter will be fixed up during the next session.

My other concern is with clause 2 'Commencement', which provides that the Act will come into operation on a day to be fixed by proclamation. As we are fixing up oversights from 25 May, I have again raised this matter with the Minister in another place and my colleague Ralph Clarke, and it has been tentatively agreed that the proclamation will prescribe 25 May so that injured workers will not be disadvantaged as a consequence of the need to carry this Bill through the break. With those few remarks, I indicate that the Opposition supports the Bill. It is an agreed position, and we support its passing post haste.

The Hon. M.J. ELLIOTT: I support the Bill. This is the first time that a workers' compensation Bill with which members of all Parties have agreed has come before this Parliament in the past 10 years. There have been some interesting developments over the past three months or so regarding workers' compensation. The Minister has discovered that it is possible to sit around a table and negotiate a position. As many members may be aware, since Parliament rose in May there have been almost weekly meetings between the UTLC, the Employers' Chamber and representatives of the three parliamentary Parties to look at questions of review, and I think that the Minister was surprised to see that it was possible for those people to move to a position of consensus.

We were very close to getting legislation into this place this session which would have tackled the whole question of review, but we did not quite get there. Taking that question of consensus further, I am pleased that four issues are covered within the Bill. One is a consequence of a court interpretation. It has been a constant problem with workers' compensation that we get an interpretation that we quickly have to patch up. One of the issues has arisen that way. Two have arisen out of some misunderstanding in the last debate on workers' compensation legislation in May, and the Minister is ensuring that the clear intent of Parliament is reflected in those amendments. There is also rectification on the issue of loss of earning capacity where it appears that some interpretations have been made that if a person is in receipt of LOEC payments they cannot seek redemption or to go back to weekly payments, and are trapped on LOEC payments for ever more. That was never intended, either, so that issue is being rectified. In summary, it is an unusual occurrence and I hope it is not the last time it happens in this area that, when employer and employee representatives get a chance to sit down and other interested parties, particularly the lawyers, WorkCover and various other secondary parties, keep their nose out, it is possible that the main interested parties—

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: There goes the consensus. In fact, this has been one of the points of discussion: how much consensus we can get when the lawyers are not in it; but I made the mistake of talking about it.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: I made the mistake of making that observation in front of a lawyer and there we go again: the consensus is shattered.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for this Bill. The matters covered by the Bill have been the subject of consultation between various parties and interest groups, and that means that we will have a relatively smooth ride with this, although I am sure there will be one or two questions when we get to Committee.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Well, I am here. The Hon. Ron Roberts referred to the weekly payments issue for women over the age of 60½ years, covered by section 35 of the principal Act. I had intended to speak on that issue if it came up during private members' time, but I will take the opportunity now to make a few observations about it in order to facilitate consideration of this Bill. The problem which has been highlighted by the Hon. Ron Roberts is the distinction between the pensionable ages for men and women. The honourable member's Bill seeks to change the age at which weekly payments under the WorkCover scheme cease to be payable from the aged pension age, which is gradually going

up from 60 to 65 for women—to 65 for all workers, as it is now for men.

The information which I have received from the Minister for Industrial Affairs and which reflects the Government's position is that those changes which were made in April were intended to simplify the application of section 35(5) by referring only to the commencement of an entitlement to the Federal social security aged pension. In other words, the April 1995 amendments do not specify a specific age as the eligibility criterion. Rather, the ceasing of eligibility is governed by the Federal Act, and any differential treatment between male and female WorkCover recipients has its genesis in legislation for which the Federal Government has responsibility. Of course, the focus has now been placed on the discriminatory implications of the Social Security provisions, which provide for that different eligibility age for men and women.

The policy behind the change in the WorkCover legislation in April was that weekly payments from the WorkCover scheme should continue only until another form of socially acceptable income replacement is available. For many years, as we all know, the aged pension has been made available to females at age 60 but not for males until age 65. As I have already indicated, and as everyone knows, the Federal Government policy is now to change that, I think over a period of 20 years, to bring the two retiring ages into line. As currently enacted, the WorkCover legislation will follow changes in the age pension eligibility and if, as a result of a change of the Commonwealth Government policy, the pension age for males were to be reduced below 65 or if the age for both males and females changed from 65 years, the WorkCover eligibility cover for weekly payments would also follow.

The impact of the different age pension eligibility age has been a feature of section 35(5) since the WorkCover scheme commenced in 1987. However, the previous provision required a decision as to the normal retiring age for workers engaged in the kind of employment from which the worker's disability arose. The lesser of the normal retiring age or 70 years was then compared with the Social Security age pension age, and benefits ceased at the later age. It was complex and was difficult to administer in practice. There were frequently arguments about what might be the normal retiring age for a given kind of employment.

It is against a background of complexity and that argument that the amendments were moved earlier this year to endeavour to simplify the provision. The Government does recognise the argument in relation to the discriminatory impact of the Federal legislation. The State Government is prepared to give further consideration to the issue. It is an issue in which, in the short time that we have had available, we have not been able to gain a complete picture of both the costs and the consequences of the change which is proposed by the Hon. Ron Roberts in his Bill. What we have done is to obtain the Crown Solicitor's opinion in relation to South Australian legislation, and the clear advice is that in law, if not in social policy, the provision of the South Australian Act is not discriminatory. But there are some other consequences which the Hon. Anne Levy and the Hon. Ron Roberts have referred to in the debate on the other Bill.

So the Government is proposing to note the concerns which have been raised in relation to that issue and to undertake to deal with the issue one way or the other when the next session commences at the end of September. We have some sympathy for the consequences of the April 1995 change. It is in that context and in that environment of sympathy for the concerns raised that the Government has indicated that it will further consider the matter.

The Hon. Anne Levy: Sympathetic consideration?

The Hon. K.T. GRIFFIN: Yes, I said that in an environment of a sympathetic approach to the issue the Government is prepared and is reviewing the position, but it was not possible in the short time available to do all of the necessary research and calculations and so on to determine what the Government's policy position should ultimately be.

The Hon. Anne Levy: And the costs?

The Hon. K.T. GRIFFIN: And the costs. We have not been able to do that. On behalf of the Minister for Industrial Affairs I am giving a commitment to ensure that when we start the next session in September a position is available to the Parliament so that everyone knows where they are going on that issue. I hope that that at least gives an indication of goodwill, although I cannot take it any further than that at this stage.

The Hon. Anne Levy: Does that mean we tell people to hang on somehow until September?

The Hon. K.T. GRIFFIN: That is the only thing you can do. I have given a commitment and the Minister in another place indicated what the approach would be and I am sure it is consistent with what I have indicated. All that people who have experienced difficulty with that provision ought to do, as the Hon. Anne Levy says, is hang on.

The Hon. Anne Levy: Don't sell your house before September.

The Hon. K.T. GRIFFIN: A lot of people will not want to sell their houses before September, but that is for other reasons.

The Hon. Anne Levy: I have a case where they have to sell their house.

The Hon. K.T. GRIFFIN: If there are particular issues that need to be addressed, they need to be taken up with WorkCover and more particularly with the Minister so that at least the issues relating to particular individuals are made known to him. If something can be done, I am sure the Minister will endeavour to see that that is done but I really cannot do anything more than that in dealing with this Bill. That was the major issue. Again, I express my appreciation for the intimation of members' support for the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Redemption of liabilities.'

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

Page 2, line 33—After 'medical expenses' insert 'of the kind referred to in section 32.'

One of my officers in the Crown Solicitor's office examined the Bill and indicated that in proposed subsection (1) (b) in line 33 reference is made to a liability to pay compensation for medical expenses. There is no definition of 'medical expenses' in the Act. It would be helpful if we could insert the words proposed in this amendment. Section 32 deals with compensation for medical expenses in the general sense. It still does not define 'medical expenses' but if we add the words contained in the amendment it will ensure that we do not come back again on this provision with someone claiming that the Bill needs further fine-tuning because we have not defined 'medical expenses'. So I think that will overcome the issue, and I understand that the Hon. Mr Roberts is probably comfortable with that.

The Hon. R.R. ROBERTS: Having had discussions with both the Minister and my colleague in another place, we will be supporting this amendment.

Amendment carried; clause as amended passed.

Remaining clauses (6 to 9) and title passed.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be read a third time.

The Hon. R.R. ROBERTS: The Hon. Anne Levy wanted some assurances with respect to the 65 year age limit and, as I have said, I was comforted by the Minister's intimation earlier tonight that this matter probably would be resolved. He has undertaken urgent investigation into the costings of this matter and is extremely confident that it will be resolved. Also he gave me an indication that he would look favourably on a commencement date of 25 May. I ask the Attorney-General to prevail on the Minister in another place to make his position known to people such as the Working Women's Centre and the people involved in litigation in respect of this matter. Some advice of the Minister's intentions in this matter may well save costly litigation fees for those people who are injured. If the Attorney-General would take that on board and pass it onto his colleague in another place, I am sure that it would be appreciated by those people who are caught up in this situation.

The Hon. K.T. GRIFFIN (Attorney-General): On closing the debate on the third reading, I intimate that I will draw to the attention of the Minister the matter raised by the honourable member, and I am sure that he will make that information known in appropriate places.

Bill read a third time and passed.

RACING (RE-ALLOCATION OF TOTALIZATOR BETTING DEDUCTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 July. Page 2505.)

The Hon. R.R. ROBERTS: The Opposition will be supporting this Bill. I take this opportunity to comment on some matters of concern within the racing industry which impinge on the Bill, and I will be asking the Minister, the Hon. John Oswald, a question to which I ask him to respond at a later date. This Bill seeks to change the percentage of betting turnover that used to go to the TAB's contingency fund, which was used by the TAB board to run its operations and maintain its infrastructure. This Bill seeks to halve that percentage and to put those moneys back into the racing codes. I understand that it was the TAB board's preferred position that an economic study be undertaken into this matter and that the board counselled that it ought to have been done. However, the Minister has insisted—

The Hon. M.J. Elliott interjecting:

The Hon. R.R. ROBERTS: As I said, it was the TAB's preferred position that it not be changed. However, some funny things are occurring with the TAB of which we have been made aware today. In all the circumstances, I am advised by my colleague in another place that this measure needs to be supported because it is supported by the three codes. However, in an earlier contribution tonight, and in contributions in the other House, assertions were made that the Minister has the full support of the racing codes. In so far as the SAJC is concerned, I understand that the President of the SAJC, who was appointed by John Oswald, is well known to the Minister and has been for some time; therefore, that is to be reasonably expected. In respect of some of the other areas of the racing industry and the trotting area, in particular, considerable discussion has occurred about the reorganisation.

Unquestionably, there has been an impact on the racing codes by the introduction of poker machines, and there has been a great deal of panic by administrators in all racing codes. I have been associated with the trotting and racing industry for many years. I have been involved in the running of a country club. I have been concerned from time to time with the operations of the TAB and how Sky Channel impinges on all these operations. As the economic constraints have come on the racing industry from time to time, adjustments have had to be made. My counsel to people in the racing and trotting industry (particularly the latter) is that, although things are very tough at the moment, there is a place for poker machines and the racing industry to operate side by side. If that were not true there would be no trots in Victoria or particularly in New South Wales, where they have had poker machines for quite some time.

We are going through a phase and there has to be a period of some adjustment and belt tightening. Panic will not solve the problems. Decisions have been made by the Trotting Control Board, in particular, in respect of the organisation of the trotting industry. Some very hard decisions have been made in respect of the number of opportunities for trotting meetings to take place and, consequently, opportunities for trainers and owners to have their horses compete. The board's view is that for every $1 million that we distribute in racing in South Australia about 60 odd meetings are catered for (in New South Wales it is about 27). Obviously, the stake money is higher interstate and, if you win a race there, it is a lot better. However, the decisions have been made.

In respect of the reorganisation of the industry, there have been a number of meetings between Minister Oswald and delegations representing all areas of trotting, greyhound and gallops. A matter of concern was raised at a public meeting (of which minutes were kept) at Globe Derby Park on Sunday 9 July 1995, when 500 concerned persons from the trotting industry were present.

In a number of contributions Minister Oswald has said that he relies on the boards and does not interfere with their decisions or those of the TAB. At this public meeting a person referred to *Hansard* (23 June 1995) and quoted Minister Oswald, as follows:

> I have had discussions with a particular gentleman who is considering his position at the moment, but he has told me informally that he will assist in conducting a similar investigation into harness racing. He is a man with extraordinarily wide knowledge of the harness racing industry, which means that he can open a lot of doors and seek information on the future direction of that industry. My faith in this individual is such that, if he comes back and makes recommendations about racing dates and what we should do about certain country tracks, I will place a lot of importance and credence on his recommendations.

This is the Minister who says that he has faith in his boards and does not like to interfere in their deliberations. However, as reported here in *Hansard*, he says that he will have their deliberations cross-checked by someone of whom he has personal knowledge.

Another meeting was held by the South Australian Breeders, Owners and Trainers Association (BOTRA), where great concern was expressed (as it was in the meeting to which I referred earlier) by those in the industry that the deliberations of representatives of the harness racing industry

such as BOTRA and the South Australian Harness Racing Club were considered to be overridden by Minister Oswald. They have rightly asked the question: whom is the Minister quoting? Is it someone from the trotting industry? They believe that they ought to know who that person is. They want to know to whom the Minister referred in the *Hansard* paragraph that had been read at the meeting on 9 July. This particular person—

The Hon. A.J. Redford interjecting:

The Hon. R.R. ROBERTS: It seems that the Hon. Angus Redford wants to leap into this. This particular person is claimed to be a member of the trotting industry with a broad knowledge. Therefore, the BOTRA people and those in the harness racing club want to refute or confirm his recommendations. They are saying that there are structures for providing information on behalf of the trotting industry in the interests of participants in trotting in South Australia. If they are to be overridden by an individual from within their ranks, they would like to know who that person is so that their case can be tested against the advice of that individual. Therefore, I ask the Attorney-General to ask Minister Oswald to provide that information to my constituents in the harness racing industry.

I am concerned that again we have a Government and a Minister who is prepared to override boards which, in accordance with the appropriate Acts, have been properly appointed to manage this industry. In an effort to repair some of the damage caused to the racing industry by his incompetence in handling his ministerial portfolio, he is now trying to buy them off. If the Government wants to assist the racing industry, which it claims is the third biggest industry in South Australia, throwing crumbs from the table and reducing the operating finances of the TAB will not solve the problem in the long term. If it is one of our major industries, we ought to consider giving it some form of assistance. The Government should touch the rompers and not grab the money out of the poor bowl.

As regards this short-term phenomenon of poker machines, money is being generated, but it is not going into trots; a lot of it is going into the Government's coffers. Therefore, if it is serious about supporting the racing industry—one of our most important industries—the Government should consider making an allocation out of the taxes that are collected from poker machines or it should be looking at it as an industry that is worthy of consolidation, worthy of being maintained, and providing industry assistance, just as it is prepared from time to time to provide industry assistance to business people, especially some of those interests such as Catch Tim which have connections overseas. If the Government can provide finance and infrastructure for those types of industries, I assert that the third biggest industry in South Australia is worthy of industry assistance. We shall be supporting the Bill, because it will give some short-term relief to the trotting, racing and greyhound racing industries in this State.

The Hon. K.T. GRIFFIN (Attorney-General): Unfortunately, the honourable member decided to throw in a criticism of the Minister. I thought for a while that this Bill was relatively uncontroversial until he made that observation. I do not intend to provoke debate on that matter, except to say that I do not agree with the honourable member's assertions about the Hon. John Oswald, the Minister for Recreation, Sport and Racing.

The fact is that this proposal has developed as a result of serious difficulties in which the three codes find themselves. All of the statistical information was included in the second reading debate. The TAB profit distribution has steadily declined from $44.4 million in 1990-91 to an estimated $39.8 million in 1994-95. In the second reading debate, it was indicated that the reduction comes at a most difficult time for each of the codes and the racing industry generally. The honourable Minister in another place indicated that there is a review by Mr Mark Kelly in relation to greyhound racing and that there is a review into harness racing by Mr John Delaney. The Minister is now meeting with the SAJC in relation to difficulties with the galloping code.

When responding in the other place, he observed that one of the biggest difficulties in the galloping code is that it is controlled by a private club with principal racing club status. It is the controlling authority of racing; yet, historically, it is a private club. The Minister indicated that the SAJC was aware that he had concerns about the management of the galloping code and the mix of country, city and provincial racing and a number of other issues. The Minister will continue to give attention to those matters in consultation with interested parties.

In relation to the question raised by the Hon. Mr Ron Roberts, I indicate that that matter will be referred to the Minister and I will ask him to provide a reply by letter over the break. It is something that I do not have the answer to, and it is something to which the Minister will have to direct his attention. Again, I thank the honourable member for his indication of support for this Bill.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. M.J. ELLIOTT: I should have made these comments during the second reading stage because I want to respond briefly to the comments from the Hon. Ron Roberts about the extra distribution to the codes. I have an understanding, although it may be a mistaken one, that the board had considered the issue and, although the three code representatives on the board were keen to get this extra distribution to the codes because they each have problems in putting up adequate prize money, they decided that they should get some independent business advice. I thought that such advice had been sought and given, but I am not absolutely certain about that. Whilst this extra distribution might be of short-term benefit to the three codes, the concern was that the money came directly out of the TAB kitty, which it otherwise would have used in its business operations. If, as a consequence of that, the TAB's business operations lose capital, it could mean that they do not achieve as much as they should. All businesses have to reinvest constantly.

If one of the consequences is that business actually starts to drop off further as a consequence of that, the codes have made a short-term gain and suffered a long-term loss. It must be put on the record that that was a concern of the TAB board, and that is a legitimate business concern. However, this Minister has decided that he wants to take direct control of the TAB and in the process is now making the business decisions. If he is making these business decisions despite advice that has been given, this Minister—if he is still a Minister when it hits the fan a little later on—will have to bear the responsibility.

The Hon. K.T. GRIFFIN: So far as the operations of the TAB are concerned, this will put them on a par with TAB capital funding in Victoria, New South Wales, Queensland,

Western Australia and the ACT, where capital funding is provided on a commercial basis; that is, the TAB is required to bid for the funds it requires from operating revenue. The whole problem, as I understand it—and I do not profess to be an expert on racing or on the TAB—is that there is in a sense a cushion for the TAB in this 1 per cent which comes in automatically to the capital fund and which it is not required to deal with in a way that ensures proper accountability. That is part of the issue.

As I understand it, the reduction proposed in this Bill will, in fact, require the TAB to operate on a more responsive basis for the future in respect of capital funding, and it will have to bid for funds rather than independently making decisions that may not necessarily be in the best interests of the racing industry. That is my understanding of it. What the Hon. Michael Elliott has said will quite obviously be seen by the Minister, and if what I have said misrepresents the position, I would ask the Minister to ensure that that is corrected by way of letter.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill read a third time and passed.

MISREPRESENTATION (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

RESIDENTIAL TENANCIES BILL

The House of Assembly intimated that it had agreed to amendments Nos 43, 56, 57 and 65, did not insist on its amendments Nos 1, 2, 4 to 42, 44, 48, 54, 61 to 63, 66 to 69, 71, 75, 76, 78 to 80, had agreed to alternative amendments in lieu of amendments Nos 1, 5 to 11, 15, 17 to 39, 44, 48, 54, 61, 66, 67, 78 and 80, and had agreed to the amendments consequential to amendments Nos 45 and 46.

BUILDING SAFETY

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

That the regulations under the Development Act 1993 concerning simplified safety provisions for buildings, made on 27 April 1995 and laid on the table of this Council on 30 May 1995, be disallowed.

This motion arises as a result of a resolution passed yesterday by the Legislative Review Committee. It concerned regulations that modified the insurance provisions relating to private certifiers of building work under the Development Act. The committee received evidence, but today was the last day for disallowance of the regulations, and yesterday a motion was carried to the effect just noted. The committee did not receive as much evidence as it would have wished had it had more opportunity to do so. Information was supplied by the Minister to the committee today, following which the Minister wrote a letter to me, as Presiding Member of the committee, giving certain undertakings relating to the matter of insurance for private certifiers.

That letter was duly tabled at a meeting of the committee today. In light of the undertakings given by the Minister the committee, by majority, resolved not to proceed with its motion for disallowance. With that in mind, and bearing in mind the undertakings of the Minister, the majority of the committee resolved not to proceed with this motion of disallowance. I understand that my colleague on the committee, the Hon. Mario Feleppa, wishes to speak in relation to the motion, and I propose to say nothing further about it.

The Hon. M.S. FELEPPA: I would like to take only a few minutes of the Council's time to address my personal view on this matter to other colleagues on the Legislative Review Committee, namely, the Hon. Barbara Wiese and Mrs Robyn Geraghty. I appreciate the circumstances in which we had to have an extraordinary meeting this afternoon in order to accommodate the concerns of the Minister in relation to the decision the committee took on this regulation. I am certainly sympathetic to the fact that, in the past 24 hours since we made our first decision, an enormous number of representations have been made to the Minister that reflect the decision we took yesterday, taking into consideration, of course, the personal commitments of the Minister, who has promised to redress certain important matters that concerned many witnesses who appeared before the committee.

However, I make the point that the Department of Housing and Urban Development has been the only source of support for the amendment to these regulations. The department is in favour of the proposed amendments because in its view it should speed up the certification of buildings, and the department holds the view that:

Disallowance of this regulation would cause some hardship and confusion to the development industry, mainly.

In its letter to the committee the department does not detail the degree of hardship nor the areas of confusion that would eventually result from the disallowance of the regulation. After evidence given to the committee yesterday it seemed to me that the department left in a further cloud of confusion. I hope that the intervention of the Minister at this morning's meeting will clarify that confusion and therefore satisfy the several parties involved and the concern over the destiny of this regulation.

The committee received evidence from various groups, including the Local Government Association, somebody in the planning field from the City of Port Adelaide, the Australian Institute of Building Surveyors, the City of Campbelltown (in a written submission), the South Australian Council for Social Services and the Payneham Council planner, all of whom vigorously opposed the amendment to these regulations. The lack of support for and the strength of the opposition to the amendments alone should have been sufficient to persuade the committee and the members of this Council to somehow consider the regulation which is the subject of this motion. I fear that severe ramifications to the consumer and home owners, without the personal commitments given this morning by the Minister, certainly could occur in future if proper steps are not taken in consideration of the regulation.

This amendment will take away the 10 years indemnity provision of the private certifiers insurance and replace it with a one-year indemnity for the current term of the policy. There is no run-off period of which a client can be guaranteed. The present position therefore is that no private certifiers have been able to practise because they cannot be given that sort of policy by the insurance industry. The reason given is that, with a 10 year run-off offer period in which a claim could be made, there is not a sufficient number of people to insure, in order to provide a pool of funds to meet any claims.

What seems to be a more important reason from the point of view of the insurance industry is that private certifiers pose

a great risk to those who participate in the building industry. That view has been put to the committee by a few witnesses. By eliminating the 10-year indemnity provision, private certifiers will be able to operate. That is the objective. However, making these kinds of drastic amendments poses an adverse effect for others. It takes away the protection mainly which the home builder or client claims to have enjoyed so far.

I do not wish to take any more time. I would like to make a few more comments, but I think the Chairman of the committee has made the point clearly as to why the committee had to reconsider this motion. While in Committee, the motion has been supported and no action has been taken to redress it, I want to make my personal position clear: I remain concerned. That is the same position that my colleague would express. I trust that the Minister will seriously consider the future of this regulation and take into account what other witnesses have said to the committee by expressing reasonable concern in so far as the regulation was proposed for the committee to consider.

The Hon. R.D. LAWSON: I thank the honourable member for his contribution. I do not propose to comment on the matters which he raised, because the Legislative Review Committee is continuing an ongoing inquiry into the subject matter of this regulation. However, as foreshadowed, I now indicate to the House that I do not propose to proceed with this motion. I seek leave to withdraw the motion.

Leave granted; motion withdrawn.

BIRD SCARERS

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

That by-law No. 14 of the Corporation of the City of Noarlunga concerning bird scarers, made on 18 April 1995 and laid on the table of this Council on 30 May 1995, be disallowed.

This motion is to disallow a by-law of the Corporation of the City of Noarlunga concerning bird scarers. The by-law was made on 18 April 1995 and replaces an existing by-law which was made in 1991. The Legislative Review Committee heard evidence from the member for Mawson (Mr Robert Brokenshire, MP) concerning the effect of the amendments wrought by this by-law. In the view of the committee, two of its effects render this by-law undesirable. The by-law is the result of the inevitable tension which arises when urban development expands into hitherto agricultural or rural land—in this case, horticultural and viticultural land, because the southern boundary of the Noarlunga council runs near to the northern extent of the region known as the Southern Vales.

As I said, the committee was convinced by the evidence given by the witness that two aspects of this by-law are undesirable. The first is the imposition of a restriction on the operation of bird scaring devices without council permission other than during the hours of 7 a.m. to 10 a.m. and 4 p.m. to 7 p.m. The witness said—and the committee was inclined to accept this as commonsense—that birds do not confine their operations to the hours of 7 a.m. to 10 a.m. and 4 p.m. to 7 p.m. The by-law which the proposed by-law sought to replace allowed the use of these devices during the hours of 8 a.m. to 6 p.m.

The Hon. M.J. Elliott interjecting:

The Hon. R.D. LAWSON: Central Standard Time, for the benefit of the honourable member. It is quite apparent to the committee that the proposed by-law would result in a considerable reduction in the use of these devices. The committee heard evidence that a second aspect of the by-law was objectionable, namely, the one which limits bird scaring devices to one per property, irrespective of the size of the property.

The Hon. L.H. Davis interjecting:

The Hon. R.D. LAWSON: Or indeed the device. As was pointed out, in the region covered by this by-law there are properties of 20, 40 and more than 100 hectares in places, and clearly the imposition of a restriction of one device to each property without allowing any adjustment for area, etc., was inappropriate. The new by-law proposed a requirement in certain circumstances for permission of the council to be obtained in relation to these devices, but no criterion is specified in the by-law as to how such permission might be granted or refused. In these circumstances the committee considered that this by-law unduly impacts upon rights previously established by law. In those circumstances I urge the council to support this motion for disallowance.

Motion carried.

MOUNT GAMBIER PRISON

Adjourned debate on motion of the Hon. T. G. Roberts:

I. That a Select Committee of the Legislative Council be established to inquire into and report on the tender process and contractual arrangements for the operation of the new Mount Gambier Prison with particular reference to:

- (a) the forward program for rehabilitation through education, training, work, psychiatric support and counselling;
- (b) costs and benefits to the people of South Australia resulting from any transfer to the private sector;
- (c) the criteria upon which the tender was assessed;
- (d) the recommendations of the tender assessors;
- (e) whether or not the tendering process was genuinely competitive;
- (f) the role and conduct of the Minister for Correctional Services;
- (g) the legality, or otherwise, of the contract;
- (h) public standards of accountability as embodied in the terms of the contract;
- (i) methods by which Parliament can ensure scrutiny of expenditure of public funds in the provision of correctional services by organisations other than the Department of Correctional Services;
- (j) methodology for evaluating contract management of the new Mount Gambier Prison which includes:
  - (i) the basis on which costs should be compared;
  - (ii) the basis on which quality of service can be assessed;
  - (iii) the overall financial and other impacts on the State and State's corrections system of contract managed centres;
- (k) any other related matters.

II. That Standing Order No. 389 be suspended as to enable the Chairperson of the Committee to have a deliberative vote only.

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

IV. That Standing Order No. 396 be suspended to enable strangers to be admitted when the Select Committee is examining witnesses unless the Committee otherwise resolves, but they shall be excluded when the Committee is deliberating,

which the Attorney-General had moved to amend by inserting:

After paragraph I insert new paragraph IA as follows:-

IA. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the Committee be fixed at four members.

(Continued from 19 July. Page 2358.)

The Hon. T.G. ROBERTS: I thank the members who made contributions on setting up the committee and the reasons for it. The select committee was found necessary by the Opposition and the Democrats. We would hope that the committee will look at the documentation by which the tendering process was put together and put in place a monitoring program in the absence of any legislative support and debate in this Council. Some of the reasons given for why it should not be set up are a little narrow, and perhaps some comments need to be made in relation to some of the Government's policies in terms of restructuring the prison system and the difficulties that particularly regional communities are facing in anticipating some of the changes that will follow the Government's new position on the reconfiguration of the prison system.

Members of the select committee have to look through the statements that have been made publicly and the Minister's announcements regarding the savings that have been made in the system. In some cases, we would argue that the savings are illusionary and that in the case of privatisation we need to look at some of the figures that have been put forward to make sure that the Government is getting value for money when spending taxpayers' money, given the way the circumstances have changed.

A lot of public comment has been made about the CEO's presentation regarding the business woman of the year award and as to her role in restructuring the prison system and, in part, privatisation. The way in which people make assessments on success in relation to particularly restructuring of the prison system is far different from measuring success by being able to present awards for business acumen and success in the private sector. You can measure results in the private sector far better than you can in any restructuring program in the public sector. You have to measure results particularly in relation to prison rehabilitation and incarceration.

It is easy to be able to say, 'This person, individual or Government has made great savings in prisons or in prison management', but basically the proof is in the rewards that come with results. Although the public can look at what moneys the CEO, Sue Vardon, and the Minister, Wayne Matthew, have saved—cuts are announced almost every day in the papers in relation to the cost per prisoner—you have to be able to evaluate the results over a number of years. We need to get this select committee up and running as soon as we can so that all relevant documentation and the monitoring process can start. Hopefully, the select committee will be able to report back in a reasonable time, with some results as to how the process was first put in place. Perhaps we may even be able to present to the Parliament some documentation on ongoing results that may be achieved or some of the deficiencies that may become apparent in the process of privatising the management structure.

The Council divided on the amendment:

AYES (8)

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

NOES (9)

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

Majority of 1 for the Noes.

Amendment thus negatived.

The Council divided on the motion:

AYES (9)

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

NOES (8)

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

Majority of 1 for the Ayes.

Motion carried.

Bill referred to a select committee consisting of the Hons J.C. Irwin, Sandra Kanck, A.J. Redford, T.G. Roberts and G. Weatherill; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to have power to sit during the recess, and to report on the first day of the next session.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): Mr President, there appears to be—as we have just experienced—some problem with hearing division bells on the lower ground floor completely and there are varying reports of completely not hearing them on the first floor or at least part of the first floor. Given that there might be the occasional division, I warn members not to spend unduly long periods in those locations, if that is possible.

SELECT COMMITTEE ON THE CONTROL AND ILLEGAL USE OF DRUGS OF DEPENDENCE

Adjourned debate on motion of Hon. Bernice Pfitzner:

That the report of the committee be noted.

(Continued from 18 July. Page 2309.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): This select committee has taken evidence over a period of four years. I would like to record my thanks to the research officers of the committee, in particular, Richard Llewellyn, who assisted the committee assiduously in the final preparation of the report. I was very disappointed at the implied criticism of the Hon. Dr Pfitzner about the ability of research assistants to the committee. As a former Chairperson of the committee before the election and as a current member of the committee, I do not think this kind of attack is called for. It is normal for select committees of the Parliament to thank parliamentary staff and all who assisted with a committee, and I do that most sincerely. As former Chairperson, I would like to thank former members of the committee, the Hon. Dr Ritson and, you, Mr President. Your work on the committee was appreciated by the present committee, which received evidence from that first committee.

I was rather disappointed at the implied criticism of witnesses. The trouble with the type of comment made by the Hon. Dr Pfitzner that better evidence should be expected from witnesses casts a slur on all witnesses. The Hon. Dr Pfitzner admits that this was the first select committee on which she had served. I advise her that there are always varying levels

of ability of a witness, just as there are varying levels of ability of the members of the committee.

For the record I indicate who some of these so-called 'unsatisfactory witnesses' were: Professor Felix Bochner and Dr Jason White, both of the Department of Clinical and Experimental Pharmacology at the University of Adelaide; Detective Superintendent England of the South Australian Police Force; Dr Eric Single, Director of the Canadian Centre on Substance Abuse, Policy and Research Unit and Professor of Preventative Medicine and Biostatistics at Banting Institute, Toronto, Canada; Ms Judith Lane, a representative of the South Australian Voice for IV Education and the AIDS Council; Dr Robert Ali of the South Australian Drug and Alcohol Services Council, together with Mr Graham Strathear, Chief Executive Officer, and Ms Simone Cormack, Senior Project Officer from the same organisation; three members of the Drug Assessment and Aid Panel; the Chairperson of the panel, Mr Ian Bidmead, Christopher Reynolds, a member, and Miss Margaret Ramsay, a social worker; Mr John Buxton; Mr Lindsay Osborn, Clinical Manager, Aboriginal Health Service; Hon. Michael Moore, convenor of the Australian Parliamentary Group For Drug Law Reform and a member of the Australian Capital Territory Legislative Assembly; Dr Alex Wodak, Director of the Alcohol and Drug Service, St Vincent Hospital, Sydney; Dr Gabriele Banner, Research Fellow, National Centre for Epidemiology and Population Health at ANU; Dr Rene Pols, Director of the National Centre for Training and Education of Addiction; and Dr John Emery, President of the AMA South Australia. Those were some of the significant witnesses whom I name to refute the statement made by the Hon. Dr Pfitzner that there should have been better evidence.

Members interjecting:

The Hon. CAROLYN PICKLES: They were significant positions and they were good. I think it is rather disappointing—

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: Well, if you sat down and read all the evidence, you would find that they gave very good evidence.

The Hon. A.J. Redford: Say why instead of saying he is good because he holds that position.

The Hon. CAROLYN PICKLES: Why don't you go back upstairs to the first floor? When I joined this select committee I was unconvinced that there should be any changes to existing legislation. I felt that we had gone as far as we should with the so-called 'relaxation' of laws relating to marijuana. I felt that we already had two legal drugs (alcohol and tobacco) that were causing horrific social harm and costing the nation enormous amounts of money. I felt that we did not want to add another social drug to the list.

However, evidence over the years of sitting has convinced me that these illegal drugs are here to stay and that, as legislators, we should be ensuring that we minimise the harm that they do to people who indulge in their use and that we stamp out the vile illegal trade in drugs. My major concern is that this illegal trade is destroyed.

I turn now to some of the evidence given by expert witnesses. Through Professor Bochner and Dr White we heard of the effects of illegal drugs, and these effects are explained in some detail in the report, which I refer to honourable members. When we questioned these two witnesses in detail about the effects of illegal drugs, it became apparent that legal drugs (tobacco and alcohol) together with prescribed drugs are in many cases more dangerous and addictive. So we already have the dilemma that so-called illegal drugs may be in certain circumstances safer while legal drugs used to excess are highly dangerous—indeed lethal.

If I believed that prohibition would work, this would be an obvious legislative option: ban tobacco, ban alcohol and bring in enormous penalties for doctors who over-prescribe prescription drugs. History has shown that prohibition does not work, so we have to adopt a sensible approach. With alcohol and tobacco we have made some attempts at health promotion. Much more work needs to be done, particularly with young people. We have made it difficult in legal terms for minors to obtain tobacco and alcohol, but we do not implement the law. We have not really addressed the issue of over-prescribing of legal drugs, but the committee has recommended that the Government examine this issue.

I should like to quote some of the statements made in the evidence to the committee on this issue by Professor Bochner. I refer honourable members to pages 30 to 32 of the evidence. Professor Bochner was asked:

> Are you able to indicate the number of drug-related deaths within Australia, including cigarettes and alcohol?

The response was:

> Some statistics are available. The most recent figures indicate that about 25 000 drug-related deaths occur per year, 18 500 of which are due to tobacco, 5 500 of which are due to alcohol and about 500 of which are due to illicit drugs. A few hundred might be due to prescription drugs, but those are the key figures.

He was then asked the following question:

> If someone asked you in the course of a conversation, 'Which drug would Australian society abuse?' what would you say?

He responded:

> As a medical practitioner, I would say tobacco and alcohol cause more problems.

There was a statement and question again to Professor Bochner:

> As we proceed we will have to balance the State medical ideas about what drugs do, what impact they have, whether or not they are likely to be addictive, how many people will die from taking them, as well as the effects of making them legal, and what would happen by our doing so. If you were told, as medical people, that the drugs we have talked about today will be legal in some fashion, what would be your reaction? Would you say 'Yes' to some and 'No' to others? I do not necessarily mean legal in the sense of being able to buy them through the corner shop.

Dr White responded:

> I would have concerns about some of those drugs. I think that barbiturates would be the most dangerous because they have some of the problems of alcohol.

Professor Bochner then said:

> I think barbiturates are highly lethal drugs. In fact, I tell my students, 'You will be successful with barbiturates, but unsuccessful with benzodiazapin.' I say that to them just to bring a point home. The anti-liberalisers think, 'If there ain't no drug, there ain't no problem.' I think that is a view held by many people. The pragmatists will say, 'You can't have a world where there ain't no drugs.' One way or another it will not work. Some of us will say that the prohibition of drugs has led to a secondary wave of problems, crime, the spread of AIDS and all those other things which one might link to the use of drugs, and that the legalisation of the drugs might curb all that.
>
> I suspect, though, if the drugs were legal and available on prescription, we might see a higher rate of incidence not of illicit but of inappropriate use. Whether that will harm society is another matter which we have to look at. We must look at the individual who is at risk of becoming dependent, the effects of that dependence, and so on. I believe that legalisation would lead to fewer problems with crime and break-ins and so on, but it would lead to a higher proportion of people becoming dependent on drugs, some of which

are noxious; in other words, the dependence on benzodiazepines may not matter very much.

I turn now to the evidence of Professor Eric Single, Director of the Canadian Centre on Substance Abuse, Policy and Research Unit. Professor Single gave very long and detailed evidence of studies on drugs done in both Canada and the United States, and I urge members to read his evidence. Indeed, they should read the evidence from all the witnesses and not just rely on the report, which summarises the evidence in some parts. One of the committee members asked Professor Single the following question:

To some extent, communities in Australia are in the position you are talking about. Some would baulk at the term 'experiment', but I would have thought that you would develop some fairly clear picture about the directions you would take. Presumably, it does not move away from criminalisation. How fast would you move? Would you have to take a major step to find out the worst?

The witness responded as follows:

I would look over some of the harm reduction approaches that have been tried in Spain, Italy, Germany, Switzerland and so on, where they have tended to localise. The most extreme case is Amsterdam in which there are cafes that are able to sell cannabis legally, but they do make a distinction between cannabis and illicit drugs. That might be worth considering. It would be important to make sure that sufficient harm reduction programs are available in relation to the most pressing issue, that is, AIDS. I do not know the situation in relation to South Australia or pretend to be the least bit expert about it, but I do know that there are needle drop boxes in the washrooms. I also know about the various public education campaigns. It seems as though Australia has gone further than Canada in this respect. The needle exchange program should be supported as much as possible.

The professor went on to say:

I am a little reluctant to advocate the idea of a legal source of supply, but certainly we have tried experiments with decriminalisation where we still contain controls over supply. I would wait before ascertaining whether or not decriminalisation works.

The following question was asked of the witness:

Your first advocacy would be to look at users as a distinct group and remove some of the sanctions against them while maintaining strong sanctions against the suppliers?

The response was:

Yes. You need to bring users back into the community as much as you can. Do not threaten them with criminal sanctions if they come in for treatment as you are just chasing them away.

I refer now to evidence from John Buxton, the General Manager of Policy and Information of the National Crime Authority in Melbourne. In answer to a question about particular studies that have been done in relation to drugs, the witness said:

We are familiar with a number of studies that have been done on the subject by the national campaign against drug abuse. From my limited research, that body has done consistent research over the past few years into matters relating to this term of reference. The NCA thinks that any substantial consideration of the nature and extent of the illegal use of illicit drugs needs to be supported by accurate facts and figures relating to the availability and use of, as well as the economic and social effects of illicit drug use, its prohibition and the effectiveness of law enforcement.

We believe that not a comprehensive amount of research or data is available to draw any firm conclusions about the effectiveness of the law enforcement response, or possibly even the nature and extent of illegal use of drugs. I do not want to minimise the amount of research that has been done by such bodies as the National Campaign Against Drug Abuse, because the work it has done has been very valuable. More research needs to be done on the whole problem of drug use and abuse to be able to draw satisfactory conclusions about the effectiveness of law enforcement, use, abuse and trends.

As to availability and use, it appears that the information from the National Drug Abuse Information Centre indicates an apparent increase in the availability and use of amphetamines in recent years. Amphetamines aside, the NCA considers that, apart from some fluctuations in the figures, the level of demand and use of other illicit drugs has been reasonably stable over the past few years, namely, heroin, cocaine and cannabis. We observe that the supply and distribution of drugs in any Australian State is not a local State problem. The supply is both an international and interstate problem and that applies to all illicit drugs.

The witness goes on to say:

The figures that the National Crime Authority has are not our figures: they are from the National Campaign Against Drug Abuse report statistics on crime abuse in Australia of 1989. They show that nearly 12 per cent of Australians used cannabis during 1988— in one particular year. Of course that shows that one out of every eight Australians used cannabis during the preceding year. I have seen some other figures that list nearly a third of the population as having used cannabis at all, but I am not so sure about the value of those figures and, of course, when one looks at the figures on availability and use, one really must take account of what are the criteria, and that is a bit difficult.

I make the observation about being able to assess level, frequency of use and amount used by purely relying upon a number of the statistics, because many of the statistics really do not go far enough. Whilst the statistics might state, for example, that one in eight Australians has used cannabis in the preceding 12 months, those statistics do not tell us how much is used. They do not tell us the frequency or the strength and a number of other relevant factors that really do bear upon use patterns. I get back to what I said before, and perhaps I will make the point further as I go through, that it really is necessary from the National Crime Authority's point of view to obtain accurate and comprehensive statistics about use patterns and availability in order to make some valuable conclusions in this whole area of use and abuse of drugs and the effectiveness of law enforcement strategies.

I also make the observation that cannabis is the cheapest available illicit drug in Australia, and that could be expected because it is the cheapest and continues to be the most widely used. As far as the production of cannabis is concerned, I make the observation that Australia apparently does not produce all its own requirements and imports cannabis from some overseas countries. In our experience, cannabis is imported from countries such as the Philippines and, more recently, apparently, Papua New Guinea, and this is becoming somewhat of a trend.

In response to the following question that I asked Mr Buxton:

In relation to the production of drugs in South Australia—and the committee is predominantly concerned about that—is it a large scale production or a small backyard operation? Are we looking at a major problem here? It is hard to get a handle on it.

He replied:

I understand. Again from the NCA's experience, we have looked at some particular groups that operate in both South Australia and Victoria, and it is difficult, because of my relatively limited knowledge of the whole range of amphetamine production in Australia, to say precisely where the people that the NCA investigated fit within that range.

However, I can say that the groups that the NCA investigated were not amateurs; they were people who we believe have been involved in criminal enterprises before and there was a number of people involved in the enterprise. We believe that they were in the business of wholesale production with a view to making the material available to distributors.

The next question asked:

It was an organised criminal activity and not just a backyard operation?

The answer was:

No, certainly not. It was organised in that sense and they were producing quantities at a commercial scale.

A further question to Mr Buxton was:

If you were to define it as a major problem in this State, what is its magnitude? Is it something about which the Government should be concerned?

The reply was:

It is regarded by law enforcement as an increasing problem and one that needs to be given attention. I think that every law enforce-

ment agency in Australia is aware of the increasing problem in the growth in the use of amphetamines over the past few years.

Further evidence from Mr Buxton was:

The NCA and major law enforcement agencies have joined together in recent times for the purposes of making assessments on all criminal information and developing national strategic plans to deal more effectively with those organised criminal groups. In essence, that means that this initiative in law enforcement agencies putting their heads together has resulted in the sharing of information and intelligence so that the specific areas of major crime in Australia can actually be identified and so that combined resources can be put to carrying out strategic assessments and developing some strategies so that the law enforcement resources can be utilised in an effective and efficient way of combating those major problems.

I might say that, in relation to agencies working together, in recent years the NCA has moved towards this end and is devoting more resources to carrying out a coordinating and support role within strategic plans that are developed on a cooperative basis. The role might be, for example, depending on the investigations, for the NCA to lend specialist support to investigations. We have multi-disciplinary staff, accountants, lawyers and analysts who might concentrate, for example, on asset tracing and proceeds of crime tracing. We might equally lend our support to individual States or combined States who are again working within the strategic plan that is developed in order to assist with their collection of information; the collection of evidence by the use of our powers, namely, our powers to subpoena documents, obtain records and things; and also to examine witnesses in NCA hearings.

We turn now to some questions from the committee about the cost of all this law enforcement; some of the replies were quite staggering. A question asked:

You may wish to take this question on notice. What was the annual budget and the South Australian budget for the NCA?

The reply was:

The national budget is about $35 million. Offhand I cannot give you the South Australian budget.

It is important to put this evidence on the record for the benefit of some members who seem to think that the NCA does not do a very good job in this country. In a reply to a question, Mr Buxton said:

As far as cost to the community is concerned, some figures were released yesterday [and this is going back some years, members must recall] by the Australian Institute of Criminology. They may be of some assistance to the committee. The paper that was released will be available from the Australian Institute of Criminology and I can provide the committee with a reference for the paper. The paper quotes the total cost of crime and justice in Australia. The figures range broadly between $16.7 billion and $26.7 billion and include the community costs, as it were, of law enforcement. The figures combine the costs of enforcing laws in the community—that is, law enforcement and police costs—and include the cost of the justice system, the courts and the prisons. According to the figures the community costs for drug offences are $1.2 billion per annum.

The Hon. Mr Elliott asked:

What is the community cost? Is that the cost in terms of damage?

The response was:

It includes treatment for drug-related illnesses, accidents resulting from drug use and misuse, loss of productivity through absenteeism, premature death, property crime and damage.

It excludes law enforcement. The $1.2 billion I will call community costs. Depending on which figures one accepts as the grand total for law enforcement in Australia, it is between 4.5 per cent and 7.2 per cent of the grand total. That includes the law enforcement costs. I contrast drug offences with fraud, forgery and false pretences which the Australian Institute of Criminology estimates range between $6.7 billion and $13.7 billion, which is between 40.2 per cent and 51 per cent of the grand total. Drug offences in terms of community costs are relatively low. In terms of police and law enforcement, the Australian Institute of Criminology estimates that approximately $2.58 billion is spent on the police and law enforcement agencies.

In response to the question: 'What about correctional services or are they separate?' Mr Buxton replied:

No. The courts are $600 million to $1 billion and Correctional Services are $600 million. The total of the criminal justice system—police, law enforcement, courts and corrective services—is $4.3 billion to $4.8 billion. There is no break-down of the police and law enforcement costs of approximately $2.58 billion in terms of specific offences—drugs as opposed to fraud. The authority has not seen any such breakdown within law enforcement agencies. It is probably a problem that those figures are not available.

Mr Buxton goes on to say:

I observed in the Parliamentary Joint Committee on the NCA report that the committee assessed the law enforcement, police, court and prison costs at $123 million per annum. It made that assessment fairly broadly. I cannot comment on the accuracy of that, but, assuming that the figure is reasonable within a plus or minus range, I make the interesting observation that the costs of the judicial system—enforcement, courts and prisons—at $123 million are about one tenth of the community costs of drug offences quoted by the Australian Institute of Criminology of $1.2 billion.

I have quoted some of the costs directly from the evidence given by the witness and I ask honourable members to make judgments about the costs to the community themselves. In his final statement to the committee Mr Buxton stated:

The sort of criminals that we [the NCA] investigate are professional criminals who are usually involved in more than one aspect of criminal activity. They are involved in criminal activity as an occupation and, of course, with a specific motive of making a profit. If a particular activity is not paying dividends, I expect that they would turn their attention to another area of criminal activity in order to make a profit. We do observe that, with some people whom we are involved in investigating, they diversify their criminal activities, and sometimes in the drug area predominantly, but they will be involved in other matters, perhaps involving fraud, money laundering or theft of one sort or another. So, I suspect that, first of all, they would turn their attention to other areas of criminal activity.

You spoke about decriminalisation and one of the matters that could be observed is that the only real way of stamping out a black market is to take away the profit motive. That gets back to what you were saying earlier, and in fact it really means that, if one is going to take the profit motive away, we need to make the drugs readily accessible and at an affordable price and probably free from significant regulations that might encourage the black market to continue to exist.

I have spent some time dealing with these areas of evidence, but there is much more. Due to time constraints, I will not take up the time of the Council any longer. However, I urge members to have a close look at the evidence and not just at the conclusions of the committee. It is obvious from the committee's findings that in several areas the committee members had a different view of what the outcome of the findings should be. However, as members can see, the committee agreed on most issues. What we can see from the evidence is that there are many misconceptions about the long-term effects of drugs, both legal and illegal. We already have drugs legally in our society which we acknowledge are very harmful to health and cost the nation an enormous amount in both economic and social terms, yet we continue to allow them to proliferate. It could be said to be hypocritical in the extreme to try to urge political sanctions on people who continue to use drugs which may or may not be as harmful or addictive as legal drugs simply because we think that that is the right thing to do.

There is very little evidence that criminal sanctions have any effect on the use of drugs, but they have an enormous social and economic effect on the nation. I stress that there should continue to be harsh legal sanctions against those criminals who pedal drugs. Their disgusting activities cannot and should not ever be condoned. It is obvious from the evidence that prohibition has not stopped criminal activity,

neither has it stopped drug taking. It is also obvious from the evidence that the economic cost to the nation is huge and that there is an inaccurate data collection in the whole area of the use and abuse of illegal drugs. How can we accurately define the magnitude of the problem, its cost and the long-term social effects if we fail to keep accurate and comprehensive data in all those areas. The committee was particularly critical of the South Australian Police Department for its failure to present accurate and up-to-date data to the committee. The committee had to make repeated requests to the department for information, and it recommends that the South Australian Police Statistical Services Unit brush up its act.

I turn briefly to some of the recommendations. The committee's first recommendation is that scientifically designed and controlled clinical trials in the use of cannabis for therapeutic purposes be undertaken for specified medical conditions. That is the unanimous view of the whole of the committee. The committee recommends that, in the absence of any other substantial changes to cannabis laws, the cannabis expiation notice system be changed to ensure that criminal convictions are not recorded if expiation does not occur. The select committee further recommends that persons who have received criminal convictions for the possession of quantities of cannabis for personal use in the past should have these convictions expunged. It is true that, at present, if expiation notices are not paid, the recipient is summoned to court where the likely consequence is a more onerous financial penalty and a conviction for possession, although there are limited grounds on which it can be argued that a conviction should not be recorded.

One could make the generalisation that people who are less well off are more likely to be able to pay expiation fees on time resulting in more convictions for poorer members of the community. If this generalisation is valid, there is an inherent inequity in the current law. The Government has provided the Opposition with a draft Bill that deals with expiation notices generally. Without committing the Opposition at this stage, it must be said that there are many good points in the Government proposals including the idea that recipients of expiation notices could work off the financial penalty by doing community service activities instead. There is also a proposal for a 10 per cent discount for recipients of expiation notices who suffer from hardship. If these proposals are implemented, the inequity of the current expiation notice system would largely be corrected. I am pleased to see those proposals.

The third recommendation of the committee is that, on the basis of supporting harm minimisation policies, the South Australian laws relating to the use of cannabis paraphernalia be repealed. The majority of the committee members feel that this is a rather ridiculous aspect of the law that has been left in place. If it were left in place it would mean that if you had an ornament in your home that was brought in from overseas, such as a hubble-bubble pipe, this could be termed an illegal implement and one could have to pay the penalty for that.

The select committee recommended in a divided report that South Australia adopt a regulated availability regulation model for cannabis laws. The law should seek to destroy the black market and criminal activity connected with the distribution and sale of cannabis. The law should regulate the growing and sale of cannabis, ban the sale to minors, ban public usage, prohibit advertising and promotion of cannabis and require the provision of health information to users. In his speech to the Council last night and this morning the Hon. Mr Elliott discussed this at some length, and the Bill is currently before the Parliament.

A unanimous recommendation, following a great deal of evidence that we received, although the select committee notes that some issues still need to be resolved, urges that the State and Federal Governments support the proposed heroin trial in the ACT. That has been quite well documented, and I will not take up the time of the Council. Some recommendations should be on the record so that people understand what the recommendations of this committee were to recommend heroin trials in the ACT. I seek leave to insert into *Hansard* without my reading it a list of those recommendations.

Leave granted.

RECOMMENDATIONS

Recommendation 1. That two carefully controlled pilot studies are conducted in Canberra to assess the addition of injectable diacetylmorphine to maintenance treatment for registered dependent users. If these produce positive outcomes, that a full-scale trial of expanded maintenance treatment which includes injectable diacetylmorphine is conducted in at least three Australian cities.

Recommendation 2. That the exploration of expanding maintenance treatment to include injectable diacetylmorphine is coupled with continuing law enforcement and prevention activity to control illicit drug use. The addition of diacetylmorphine to maintenance treatment should not be linked with permissive attitudes to illicit drug use.

Recommendation 3. That the first pilot study is conducted with 40 established ACT resident volunteers who have either dropped out of ACT methadone treatment or who are current ACT methadone clients who would prefer the expanded treatment option That, over a six-month period, the study examines the following questions:

- can the addition of injectable diacetylmorphine to maintenance treatment for dependent heroin users be undertaken successfully on a small scale in the Australian context?
- can dependent heroin users be stabilised on injectable diacetylmorphine or injectable diacetylmorphine plus oral methadone and what are the optimum dosage ranges?
- can injectable diacetylmorphine maintenance treatment be successfully integrated with oral methadone maintenance treatment to provide flexibility in treatment
- does the expansion of maintenance treatment to include injectable diacetylmorphine improve the health and social functioning and reduce the criminal behaviour of participants?
- is it possible to develop a package of indicators to measure the social impact of adding injectable diacetylmorphine to maintenance treatment?

Recommendation 4: Pilot study 1 will be deemed a success if the following criteria are met:

- that a stable maintenance dose of injectable diacetylmorphine or injectable diacetylmorphine plus oral methadone is found for more than half of the participants;
- that injectable diacetylmorphine maintenance treatment can be successfully integrated with oral methadone maintenance treatment;
- that there are indications of improvements in at least half of the outcome measures pertaining to health, criminal behaviour and social functioning;
- that workable measures of social impact are determined.

Recommendation 5. If pilot study 1 is a success, that a second pilot study is conducted with 250 dependent heroin users drawn from volunteers who have been resident in the ACT since 1993, and who have dropped out of ACT methadone treatment, or who are current ACT methadone clients who would prefer the expanded treatment option. That, over a six month period, this pilot address the following questions:

- does the addition to maintenance treatment of injectable diacetylmorphine attract back and retain in treatment dependent heroin users who have dropped out of methadone treatment?

- does the expansion of maintenance treatment to include diacetylmorphine improve retention in treatment for those drawn from current methadone clients?
- is it possible to conduct a successful randomised controlled trial with dependent heroin users when the highly desirable 'choice' option, which provides injectable diacetylmorphine, is available to only half of the participants?
- does the addition of injectable diacetylmorphine to maintenance treatment produce better outcomes in terms of health, criminal behaviour and social functioning.
- can dependent heroin users be stabilised on injectable diacetylmorphine or injectable diacetylmorphine plus oral methadone, on a large scale?
- can injectable diacetylmorphine maintenance treatment be integrated successfully with oral methadone maintenance treatment to provide flexibility in treatment, on a large scale?
- are the individual measures of outcomes 'workable'; in other words can the questionnaires be administered without undue respondent burden and can the results be analysed in a timely fashion? If new measures are used, are they valid and reliable?
- is the package of indicators developed to measure the social effects of a trial workable? Have there been any major negative social effects?

Recommendation 6: Pilot study 2 will be deemed a success if the following criteria are met:

- that there is an indication that dependent heroin users, who have dropped out of methadone treatment, are attracted back to treatment and that the retention rate for both this group and for those recruited from current methadone clients is better than for participants who receive oral methadone only.
- that the process of randomising participants into two groups, only one of which receives the choice of injectable diacetylmorphine prescription, is shown to be feasible for evaluating the multi-centre two-year trial.
- that at the end of six months, there are indications of improvements in at least half of the outcome measures pertaining to health, criminal behaviour and social functioning.
- that a stable maintenance dose of injectable diacetylmorphine or injectable diacetylmorphine plus oral methadone can be found for more than half of the participants in the 'choice' group.
- that injectable diacetylmorphine maintenance treatment can be integrated successfully with oral methadone maintenance treatment.
- that individual measures of outcomes are determined to be workable.
- that the package of indicators developed to measure the social impact of diacetylmorphine prescribing is workable and there have been no major negative effects.

Recommendation 7: If the pilot studies are shown to be successful, that a two-year trial with 1000 participants is conducted in three Australian cities. That it target three groups of dependent heroin users—those who have never been in treatment, those who have dropped out of treatment, and current methadone clients who would prefer the expanded treatment option. That it address the following questions:

- can the availability of injectable diacetylmorphine as part of maintenance treatment attract into and retain in treatment, people who have not previously been in treatment?
- does the addition to maintenance treatment of injectable diacetylmorphine attract back and retain in treatment dependent heroin users who have dropped out of methadone treatment?
- does the expansion of maintenance treatment, to include diacetylmorphine, improve retention in treatment for those drawn from current methadone clients?
- for each of the three target groups, does providing a choice of treatment which includes the option of injectable diacetylmorphine improve outcomes over the option of oral methadone only? Participants in the 'choice' and 'control' groups will be compared on the following measures: health, criminal behaviours and social functioning. If the outcomes are positive in the first year, all participants will be allocated to the 'choice' group for a second year, to test if the positive outcomes can be sustained.
- what is the social impact of expanding maintenance treatment to include diacetylmorphine prescription?
- is adding diacetylmorphine to maintenance treatment cost-effective?

Recommendation 8. That the service provision for the pilot studies and the ACT component of the trial is provided by the Alcohol and Drug Service of ACT Health. That the independent evaluation is conducted jointly by the National Centre for Epidemiology and Population Health at The Australian National University and the Australian Institute of Criminology. That a committee is established to oversee the running of the pilot studies and the ACT component of the trial. Its membership should include representatives from the clinical staff, participants and researchers; the police and judiciary; the medical profession and non-government treatment services; ACT Health and the ACT Attorney-General's Department; relevant Commonwealth departments; and an ethicist. That this committee will recommend to the ACT Legislative Assembly whether or not there should be progression from pilot 1 to pilot 2 and from pilot 2 to a trial or if the prescription of injectable diacetylmorphine should be stopped at any time.

Recommendation 9: That, noting the national significance of the ACT-based pilot studies, there is extensive financial support from outside the ACT to fund the pilot studies.

Recommendation 10: That the ACT government institutes a three-month consultation period in which the results of the feasibility research are widely disseminated and discussed. That a committee is established to receive and consider the feedback from groups and individuals. That the committee includes representation from the ACT Health Alcohol and Drug Service; the police and judiciary; the ACT Attorney-General's Department; relevant Commonwealth departments; illicit heroin users; the medical profession and non-government treatment services; an ethicist; and the Director of the Feasibility Research. That the committee reports to the ACT Minister for Health on the results of the consultation no later than 31 October 1995.

Recommendation 11: That the ACT Health Alcohol and Drug Service is proactive in disseminating information about eligibility criteria to drug treatment services and user advocacy groups around Australia.

Recommendation 12: That, to establish the first pilot study, the ACT Legislative Assembly either amend existing legislation or introduce special legislation to make diacetylmorphine available for carefully controlled and limited medical prescription. That the ACT government liaise with the Commonwealth and other States about the passage of relevant legislation and the provision of the necessary licences and permissions. That a service manager and a senior specialist are employed as soon as practicable to establish policy and procedures for the service delivery. That the service manager is also responsible for finding a suitable location for the new clinic; organising refurbishment; and hiring and training non-medical staff.

The Hon. CAROLYN PICKLES: The select committee recommends that culturally relevant information about drug abuse be prepared and distributed amongst ethnic groups. The select committee recommends that culturally appropriate drug and alcohol treatment centres staffed by Aboriginal health workers be established in locations frequented by Aboriginal populations. The select committee notes that the use of prescription drugs is a significant problem in South Australia and urges the Government to examine this issue further. In acknowledging the reality that prisons are not drug free environments, the select committee recommends that the South Australian Government introduce harm minimisation strategies for the South Australian prison system, provide sterilising and exchange needle programs and introduce a methadone program for prisoners suffering from drug dependence. The select committee recommends that the South Australian Police Statistical Services Unit collect and present data in an accessible form, including accurate costing of the South Australian police detection and prevention activities and other costs associated with illicit drugs in South Australia and statistics which identify the level of crime related to illicit drugs.

The committee sat for four years. Some members may be critical that we took such a long time, but it must be remembered that the first committee was disbanded during the calling of the election, then set up again. The members of the old and new committees worked very well and diligently to try to produce a sensible and precise report. Select committees should get pats on the back sometimes, and I will quote from a letter that was written by Alex Wodak who is the Director of the Alcohol and Drug Service at the St Vincent's Hospital, Sydney. Following receipt of a copy of the report, Dr Wodak wrote to the secretary to the committee, Mr Paul Tiernan, in a letter dated 21 July, as follows:

> Thank you for providing me with a copy of the report of the Select Committee on the Control and Illegal use of Drugs of Dependence. I would be extremely grateful if you could pass on to all members of the committee my gratitude and admiration for the excellent report they have produced. South Australia set a very high standard for reports into this subject 17 years ago. The present report carries on the excellent tradition established by the 1978 royal commission.

That is high praise indeed. The letter continues:

> No doubt, the members of this committee can expect to be severely criticised for attempting to introduce logic and rationality into an area generally reserved for emotional responses only. It is striking how many official inquiries have come to similar conclusions, although I expect that the members of this committee had different views at the outset.

Dr Wodak sums up my thoughts that this committee produced a thorough and reasoned report. I would like to thank all members and the staff who worked on this committee and congratulate them for their excellent work. In the main, it is a unanimous report. I support the motion.

The Hon. M.J. ELLIOTT: I support the motion. In doing so, I thank the research officer, Richard Llewellyn, and those from within this Parliament itself who provided clerical assistance. The committee was set up on my motion on 10 April 1991, which seems (and it is) a very long time ago—four years and a few months. The committee had already started drafting a report just before the last election. I must say, when we re-established the committee—I thought to finish off a job—I never expected for a moment that the committee would still be going and reporting some 18 months later. Quite an amount of evidence had been collected to that point. We got to the ridiculous point where the other evidence was out of date in terms of statistics, and we had to start rewriting whole tables and bringing in new evidence. It was not the arguments but simply the statistics that had become dated. To some extent, I am not sure that that extra time was warranted, because we had collected most of the important evidence prior to that. I must say it was a somewhat frustrating experience, particularly when we sometimes went for months at a time without one meeting.

The Hon. T.G. Roberts: Were the new stats more convincing?

The Hon. M.J. ELLIOTT: No, they just gave the same trends as before. Essentially, the evidence kept on going in the same direction. There is no doubt that two people can listen to the same conversation and evidence and come to a quite different conclusion, and that is the reality of human nature. I must say that, although I went into the committee believing that the law needed to be changed, I was stunned by how little evidence we received to refute that view. Usually, you expect that you will have evidence put on both sides and that you will have to tussle and fight your way through it. I did not really feel that at all. The evidence was very compelling in one direction—that, for a range of reasons, the current laws are a farce and that we should be looking at reconsidering them. If you look at the terms of reference, you see that the use of illegal drugs, particularly cannabis, is very high in our society. There is no doubt about that.

With regard to the effectiveness of the drug laws, surely if close to 40 per cent of males have consumed cannabis at some time—and it appears that close to 10 per cent consume it regularly—we do not really seem to have cut off the supply particularly well. It is not controlling trafficking at all. The statistics are quite stunning as to the cost to the community of the enforcement of the laws, and they are available for people to read, both in the report and in the evidence itself. However, we are talking about hundreds of millions of dollars. The impact of criminal activity on South Australian society was a little more difficult to assess, and part of the problem was that the police simply were not able to provide statistics in terms of the level of drug-related crime. They could tell us what the Drug Task Force costs to operate, but we all know that the substantial amount of policing is done not by the drug task force but by the ordinary police.

Anecdotally, we know that a large amount of housebreaking and those sorts of crimes are driven by people seeking the money to pay for a drug habit, yet the police could not even give us a ball park figure as to the extent that that was occurring in South Australia. I would argue that the drug laws are not working. Dealing first with cannabis, I point out that the evidence is also very compelling that, while cannabis has health risks, although they are not insignificant they are not to the extent that some people seem to imagine they are. They are clearly comparable to and no worse than two licit drugs, alcohol and tobacco. It is anomalous that we should treat those three differently and you cannot justify it in terms of not wanting another drug because, as I have said, the evidence is already quite compelling that that drug is here and is widely used.

So, it is a nonsense and it certainly shows a remarkable inconsistency in attitude. In this place there are members who opposed moves to ban tobacco advertising, yet tobacco is responsible for health costs in this community equivalent to about 2 per cent of GDP. There are members in this place who would oppose regulated availability of cannabis yet in previous votes in this place have supported advertising and promotion of a drug known to be dangerous. In relation to cannabis this report is actually advocating some consistency in our attitude.

The Hon. A.J. Redford: Two wrongs don't make a right!

The Hon. M.J. ELLIOTT: No, it is consistency. It is saying that we recognise that alcohol, tobacco and cannabis are dangerous for people and the level of danger is about the same.

Members interjecting:

The Hon. M.J. ELLIOTT: I am not sure that I heard 'rubbish', but that is what the evidence to the committee found over four years. It is what the most comprehensive study ever made in the past 12 years, made in Canberra, found. I talked about it last night and it clearly found that the medical effects of cannabis are not inconsequential. I am not saying that it is good for you: I am saying they are of the same relative scale.

There is no consistency in punishing people because they are using the drug that a person disapproves of while approving people using another drug with similar effects. I find it incomprehensible that members can have a puff of

tobacco or go to the bar and drink alcohol and say, 'We should be banning cannabis and treating it differently.' That is remarkably inconsistent. What the majority of the committee and I am saying is, 'Having made cannabis available, we should be regulating it and regulating it strictly.' We are not sending a message to people that it is a good thing any more than we are now sending a message to people that tobacco is a good thing. That is why we banned tobacco advertising and promotion. That is why we are limiting where tobacco can be consumed. Clear messages are being sent to the community that tobacco, whilst it is legal, is not being encouraged. Progressively the rate of consumption is dropping—not as much as we would like—but the reality is that the rate of consumption is dropping, as indeed is the rate of alcohol consumption in our society.

I believe that that is what would happen to the rate of cannabis consumption. I do not believe at all that cannabis consumption would rise: there might be a slight blip at the beginning as some people experiment with it but evidence clearly shows that most people, having tried it, do not persist. Cannabis is less habit forming than tobacco and certainly no more habit forming than alcohol, probably less so.

So the majority of the committee did recommend a change in the cannabis laws; not to legalisation, which says that anything goes and which means that you can advertise it, promote it, encourage people to use it and that it can be sold absolutely anywhere to absolutely anyone. The committee did not recommend that. It made a recommendation which it believes has less negative impacts on our society than the current law, where we still have a very large number of prosecutions and where, even if we do something sensible about CENs (cannabis expiation notices) in so far as we do not have people going off to court and getting criminal records, it still involves an enormous amount of police, court and supervisory time cost which, at the end of the day, cannot be justified.

I will not talk further on the question of regulated availability because that was the essence of the Bill which I introduced last night and to which I spoke at some length. Other recommendations in relation to cannabis which I think are important are, first, that the offence for the use of cannabis paraphernalia be repealed. It really is a very stupid law because some forms of paraphernalia are hard to detect. For instance, people use tweezers to hold their roach; they use matchboxes to construct smoking devices; they use teapots and all sorts of things, and it appears that if you possess some things which are identifiably cannabis paraphernalia you will be fined but if they are not clearly identifiably cannabis paraphernalia, even though they can be used just as easily, you will not be fined. There is an argument that bongs, in particular, by cooling the smoke and by removing the tar are significant in relation to harm minimisation.

Secondly, in relation to criminal records, the majority of the committee recommended that, whether or not recommendations 3 and 4 are adopted, not only should the CEN system be changed to ensure that there are no further criminal convictions but also that previous criminal convictions be expunged. It is quite ludicrous that an adult who has made an informed decision—whether or not someone else agrees with it—which has no harmful impact on anyone else should have a criminal record which limits them for the rest of their life. They often make that decision in their late teens or early 20s, and it is something they have to wear for the rest of their lives. It has an impact on employment, which countries they can visit and so on. I would hope that, if nothing else, the Parliament will do something about that.

The final recommendation in relation to cannabis that I will refer to concerns the use of cannabis for therapeutic purposes. There is certainly a deal of evidence which suggests that cannabis does have therapeutic purposes. We did not recommend that we immediately legalise it for that purpose; what we have recommended is that properly scientifically-designed and controlled clinical trials be carried out to make an assessment one way or the other. I believe that Queen Victoria had tinctures of cannabis, among other things, as a regular treatment and she lived to a ripe old age. Whether or not it actually fixed up anything, I do not know. My grandmother always claimed that her therapeutic brandy—she didn't drink—used to help.

However, there are some quite serious and significant diseases which appear to be treatable by cannabis. It is claimed that forms of glaucoma will respond to no treatment other than cannabis treatment and that multiple sclerosis responds to it. In fact, we had one witness who suffered from MS and who was regularly getting busted by the police for growing a few plants to keep up his own supply. What great joy the police get out of that has me beaten.

In fact, people suffering from AIDS and cancer respond very positively to treatment. Cannabis is notorious among users for giving them the 'munchies'. People suffering from AIDS, cancer, and particularly those undergoing treatments, often have a lot of trouble keeping food down. Apparently, cannabis has a significant impact and, as a consequence, they eat better, keep their food down, put on condition and the quality and the length of their life is significantly improved.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Yes, it has been but our recommendation is that there should be scientifically designed and controlled clinical trials to put it beyond doubt. The evidence is just not anecdotal: it is beyond that. We would be fools not to take notice of that evidence. It is no different from the fact that a number of products that we use regularly come from opium poppies. Whilst heroin has been banned in Australia, we use quite a few products which are derived from opium poppies. They are grown legally in Tasmania for that very purpose. It is not unreasonable to accept that cannabis may have other useful applications. I am glad to say that the committee was unanimous in its support of the proposed heroin trial in the ACT. We can argue until the cows come home about what will and will not work, but until it is tried you do not know.

The ACT has been investigating this for years. It is being incredibly thorough. We have a great deal of evidence on this matter. We have no doubt that, if the trial is carried out in the ACT, it will have great scientific credibility and, at the end of the day, a hypothesis will no longer exist about what will or will not happen if you supply heroin to addicts, because we will know. Since one jurisdiction in Australia is prepared to try that, it would be irresponsible for the other jurisdictions not to at least give it the opportunity and support for it to proceed. Culturally relevant information about drug abuse is clearly important, and we had received evidence that there were difficulties in this regard.

Similarly, in relation to Aboriginal health workers and the fact that they need to be staffing treatment centres in locations frequented by Aboriginal populations: it is true in health matters generally that Aboriginal people are often loath to use the European services. While that is not true of all, it is true of a significant number and, for those reasons, we recom-

mended that we should provide centres staffed by Aboriginal workers specifically to assist Aboriginal populations. We did note that there is abuse of prescription drugs. We did not spend a great deal of time on that issue but suggested that this issue deserves further attention from the Government. I know anecdotally that it is believed that prescription drug abuse is a much bigger problem in Australia than either the illicit drugs or alcohol and tobacco.

In relation to recommendation 9, we realise that even prisons do not manage to be drug free, and people in prisons have human rights—should have human rights—and also should be subjected to harm minimisation strategies. I do not know if it is still true, but it was certainly true until a couple of years ago that, if prisoners were on a methadone program when they went into prison they could continue with it but, if they were using heroin and went into prison, they could not go on to a methadone program. That is quite absurd. Obviously, that creates the sort of pressure which encourages people to try to become involved in smuggling such drugs into the prison.

The final recommendation, and I commented on this earlier, was the need for the South Australian Police Statistical Services Unit to collect and present data in an accessible form. Certainly during the life of this committee there appears to have been a significant upgrade. I think that was in response to the fact that we kept asking questions that they could not answer. On what I have seen, I suspect that they may not yet have gone far enough.

As a Parliament we need to know the true scope of the police resources that are required. We also need to get some idea of the exact level of crime which is linked to drugs and to prostitution or whatever else. We cannot make informed decisions if we do not have good information. Frankly, the quality of information from the police leaves something to be desired. I do not think it was a matter of their being slack so much as that I do not think they had ever been challenged to produce that sort of data before. But now they have been challenged and I hope that they will respond to that challenge.

In conclusion, this committee received a large amount of very credible evidence. I believe that the evidence compellingly supported all the committee's recommendations. I am aware that one member of the committee said that she previously supported law reform and now does not, but I am also aware that two members said they did not support a change in the law but, having listened to the evidence, came out in favour of further law reform. To my knowledge, every committee of inquiry or royal commission which has ever been set up in Australia and which has ever spent any time examining the drug question has always recommended that the law needed to be changed in the sorts of directions in which we are now going. Every time a committee of inquiry or royal commission has been set up they have come to that recognition.

The Hon. Carolyn Pickles: Who will be brave enough to change it?

The Hon. M.J. ELLIOTT: I think the big problem—

An honourable member: Most of them around the world have come to that conclusion.

The Hon. M.J. ELLIOTT: That's right. The problem is that a lot of people have their own prejudices, and unless they have had to sit in a room for a long period of time and have all this information come to them they are very comfortable to remain with their own prejudice.

The Hon. T.G. Roberts: Is it a recommendation of your select committee: that everyone sits on one?

The Hon. M.J. ELLIOTT: Perhaps if over the next year or two we set up a whole series of committees and everyone sits on them. However, it is a really useful experience. Despite the frustrations we have in these committees from time to time, we do sit there, we do hear a large amount of evidence and we do see people changing their mind. It is unfortunate that all members are busy or are on other committees and do not all get the opportunity to see the level of evidence that we saw. If members are interested—and they will be challenged with a private member's Bill later—I hope that they look at a couple of the key reports and not just the select committee report. Although I disagree with one of the recommendations of the National Task Force report, it has very useful background information. I recommend that all members in this place find the time to read the report because it is not a long report. I support the motion.

The Hon. A.J. REDFORD: I support the motion and note that there is a recommendation regarding a regulated availability model for cannabis. I will not comment on the basic principle of that recommendation, as I believe that it is fully covered in the context of the Hon. Michael Elliott's Bill. I think that is the appropriate place and time for those comments to be made, and I will make comments in due course. I go on record as saying that I have a number of mixed views in relation to some of the issues which the Hon. Michael Elliott's Bill raises and which lead from this report—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: Yes, and my concerns are quite basic. If the recommendation is adopted I am concerned about whether or not there will be a substantial increased use of the cannabis drug and, if there is to be an increased use, what the effect thereof would be on society, what the cost of that potential increased use might be and what new social problems might be created.

The Hon. M.J. Elliott: Read the National Task Force report on what happened in the Netherlands.

The Hon. A.J. REDFORD: I have read about what happened in Holland, although I am not one of these people who look at the Scandinavian countries every time I run across a problem. Euthanasia is probably a classic case of that, but is another topic altogether. I probably fall into the category of not being a gambling person, so I would remain to be convinced.

Another issue relates to the driving of motor vehicles. We are a very mobile society. Over the past 40 or 50 years we have had enormous problems with drink driving. We have developed enormously complex structures and responses to drink driving and reached the position, after many years, of having random breath tests.

I understand that if someone is driving under the influence of marijuana or cannabis there is no breath or blood test possible to analyse or assess the effect that that drug might have on the person who is driving. As I understand it, the only possible way is a tissue test, and I am not sure that the public would accept random tissue tests. I am not being flippant. The question of driving and the use of drugs is important. I hope that the Hon. Michael Elliott will deal with that in some detail when he next introduces his Bill. I shall be most interested to hear what he says on that aspect.

I congratulate the committee on its detailed report. It is obvious, from whichever perspective one approaches the problem, that an enormous amount of time and effort has been put into it. However, I take issue with the criticism by the Leader of the Opposition of my parliamentary colleague,

the Hon. Bernice Pfitzner. I am sure that the Hon. Dr Pfitzner will share the sentiment that, simply because a list of experts come from a particular quality institution, it does not necessarily mean that their views ought not to be tested and analysed, and that we should not demean the debate by simply saying that we have these experts on our side. I am sure that, given time (and it would not take long), the Hon. Dr Pfitzner could come up with a similar array of experts with a contrary view. Therefore, I take issue with the Leader of the Opposition in that context.

The principal issue to which I want to refer briefly is a disappointing part of the report relating to treaties. It is well known that the Liberal Party in this State and at Federal level has expressed enormous concern about the use of treaties by the Commonwealth Government to undermine the power of ordinary people to make decisions about their lives. This is yet another case where that has occurred.

I draw members' attention to page 44 of the report where it refers to the United Nations Convention 1988. The report states:

> On 19 December 1988, the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 was adopted.
>
> Scope of Convention.
>
> The purpose of the Convention is to promote cooperation among parties so that they may address more effectively international aspects of illicit traffic in narcotic and psychotropic substances. The Convention states that:
>
> > Parties shall carry out obligations under the Convention, including legislative and administrative measures in conformity with the fundamental provisions of their respective domestic legislative systems. . .

It then goes on to state:

> Australia is a signatory to this Convention and, as a result, the Convention's terms may restrict a number of options for drug harm minimisation strategies which may condone the use of illegal drugs for recreational purposes.

If the Hon. Michael Elliott's Bill is accepted or if the recommendation of this committee is adopted, in my view, because of the use of the treaty power of the Federal Government, there is real doubt that this Parliament has the power or the capacity to do what the Hon. Michael Elliott or the Leader of the Opposition recommend in this report. Quite frankly, whilst we have seen some self-congratulation on this report, this is a major deficiency in it. It is all well and good to talk esoterically about a particular issue, but the majority in this report is sadly deficient in the area of treaties.

I do not wish to bore members in detail about some of the writings on treaties, but I will refer them to a number of papers, none of which was referred to in the bibliography of this report and none of which seems to have been referred to by the self-acclaimed majority in the enormous amount of time that they had to deal with it. First, I take members to an article entitled 'Legislative options for cannabis in Australia', which was produced by the National Drug Strategy and printed by the Australian Government Publishing Service in Canberra in 1994. In that article, reference is made to the inability of Governments, both Federal and State, to properly analyse and deal with these issues, particularly in the context that the Hon. Michael Elliott wants this Chamber to deal with it, because of the limitation placed upon them by treaties entered into by the Executive Government of the Commonwealth. Parliament has no say in it. Reference is made in the report to schedule 4 of the convention, which is referred to very briefly in the report before this place. Article 2.5 in schedule 4 states:

> (a) A party shall adopt any special measures of control which in its opinion are necessary having regard to the particularly dangerous properties of a drug so included; and
>
> (b) a party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare, prohibit the production, manufacture, export and import of, trade in, possession or use of any such drug except for amounts which may be necessary for medical and scientific research only, including clinical trials. . .

It would seem to me that the intention of the treaty that was entered into by the Federal Government was to prevent or ensure that the sorts of measures that the Hon. Michael Elliott and the Leader of the Opposition have recommended cannot be done in the face of that. I assume that, if those members accept the force of what I am saying and if they undertake the same research, albeit belatedly, having regard to the fact that they have had a long time to prepare this report, they might join with the State Liberal Government and the Federal Liberal Opposition in condemning the Federal Government in the use and abuse of treaties in this country.

An article written by Jennifer Norberry on legal issues associated with international treaties and drugs was not referred to in the bibliography.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: She may well have given evidence, but the committee did not give it much shrift—only eight lines—in its report. Quite frankly, that is appalling. I quote:

> To bring a controlled availability—

The Hon. Carolyn Pickles: The evidence gets tabled in Parliament—

The Hon. A.J. REDFORD: The honourable Leader of the Opposition says it gets tabled.

The Hon. Terry Cameron: Have you read it?

The Hon. A.J. REDFORD: No, I have not read the evidence.

Members interjecting:

The Hon. A.J. REDFORD: Hang on, just hear me out. The honourable Leader of the Opposition might say that the evidence was tabled. What I am criticising is the eight line analysis that has been given, which is really a repetition of a general principle in a treaty. All I am inviting the Opposition to do is join with the Liberal Government in this State and with the Federal Liberal Opposition in condemning its Federal colleagues for the willy-nilly signing of treaties, which undermines the sorts of things it is endeavouring to achieve in this report. That is all I am doing. I am sure that when the honourable member goes home, in the fullness of time, she will analyse that what her Federal colleagues are doing in the use of treaties is undermining her ability as a legislator in this State to control the destiny of the people of this State.

Going back to what Jennifer Norberry said, before I was rudely interrupted, she stated:

> To bring a controlled availability of opioids trial within Australia's international treaty obligations, it would be necessary to show that the trial was for a medical or scientific purpose.

The fact is that the recommendations go well beyond what Australia's treaty obligations allow us to do. The fact is that this report did not deal with that issue at all. I would be delighted to hear if there is a way around Australia's treaty obligations, as would the Hon. Graham Gunn in another place, to see how he can get around some of these treaties that the Opposition's Federal colleagues have entered into willy-nilly over the years.

I am sure that it is an issue that will exercise their minds, perhaps not in the near future but in the distant future, should members opposite have the opportunity again to occupy the Treasury benches. It may well be that this committee, as well meaning as it has been, has embarked upon an exercise in futility, because whatever it comes up with, whatever it chooses to do, is undermined by the Opposition's Federal colleagues' approach to treaties.

Further in the article that I have referred to, Jennifer Norberry says this—and I cite this in all fairness:

> The one policy option which the commentators appear to agree would not be accommodated by the convention is that of legalisation.

She refers to an article written by a Mr Woltring and says this:

> Woltring concluded that so long as they served—

by that he means legalisation or some permissiveness in the use of marijuana—

> —a medical or scientific purpose, a number of policy options are available to the Government of a Party. These included the manufacture, trade in and distribution of heroin or cannabis either by a State enterprise or a licensed private enterprise and supplying or dispensing drugs to drug abusers or AIDS/Hepatitis B risk users under appropriate programs.

If one analyses that statement in any detail, the broad brush recommendation made by the majority in this report cannot be taken up by this Parliament. The fact is that the Opposition's Federal colleagues, by wandering around the world and signing treaties, are undermining the ability of this Parliament and, by definition, the majority in this report, to implement what they see as right for the people of South Australia.

The challenge to members opposite next time they go to a State council meeting, and the next time they go to a national convention of the ALP, is to say to their Federal colleagues, 'When you sign a treaty, all you are doing is preventing us from implementing what we may be able to implement in political terms in our own jurisdictions.'

That is the challenge I invite the majority to make, and I say that, whilst this report is very good in some parts, it is deficient in a very important part. I am proud to be a member of this Legislative Council. The people of South Australia are entitled to expect quality reports from this place. This report is deficient in a major respect, and I would hope that, when members opposite get on the committee next time—if they are going to come up with something as radical and important as this—the quality will improve. I hope that will happen and I am sure that the people of South Australia hope that that will happen.

The Hon. T.G. Roberts: Only if you're on it.

The Hon. A.J. REDFORD: The Hon. Terry Roberts interjects, 'Only if you're on it.' I cannot be on every committee, and I say that in all humility. The Hon. Bernice Pfitzner was on this committee and the quality of her contribution was enormous and extraordinary but, while members opposite keep putting three people on as opposed to our two, dressing it up as a majority, and running around creating false hopes in the minds of South Australian communities, I will hold them up to ridicule because their reports are deficient, and they are deficient in a major way. I look forward to hearing the contribution from the Hon. Michael Elliott when he embarks upon his exercise in futility in the next session—I am sure it will get him some publicity—and introduces his legislation again.

I am sure that we will get a detailed analysis of what this State can and cannot do under the treaty obligations entered into by the Executive Government in Canberra, which has no support in this State—none whatsoever. We hardly send a bean over to the Executive Government—

The Hon. G. WEATHERILL: I rise on a point of order. The honourable member is not talking about the report.

The PRESIDENT: The honourable member is straying a little wide. I ask the honourable member to keep his remarks loosely attached to the question.

The Hon. A.J. REDFORD: The remarks are very closely attached. There is half a page on treaties—

The Hon. T.G. Cameron: Eight lines.

The Hon. A.J. REDFORD: About eight lines, that's it. What I am saying—and I am sure the Hon. Mr Weatherill, if I say it again, will grasp the point I am making—is that the report is wholly deficient in the area of treaties. I suspect that it is highly deficient in the area of treaties because if the Labor Opposition had confronted the issue it would have been forced into a position where it had to criticise its Federal colleagues on the use of treaties. I invite members opposite and the Australian Democrats to confront the issue: go out and tell the people of South Australia how the control of their own lives and destinies has been enormously undermined by the activities of the Labor Government and, in particular, the Labor Executive, and perhaps even the Labor leadership group in Canberra, without any say, any control, any comment or any feeling of confidence from the ordinary South Australian.

The Hon. G. WEATHERILL: I would like to thank all members of the select committee, those present at the finish and those who were working on this prior to this committee. I would also like to support Richard Llewellyn, the Research Officer. In the past 10 years I have been in this place I have never seen anyone who was not a member of a committee speak on the committee report when it was being presented. Other members have been here much longer than me, but that is the first time I have heard anyone who was not on the select committee speak on the committee report. I have a funny feeling that the Hon. Mr Redford has been watching *Superman*, because he thinks he is the protector in this place: if one of his members is attacked on some issue, he stands for justice and the Liberal parliamentary way.

He tends to jump up any time anyone is challenged in this place. I do not know what goes on, but he obviously has not read the report all the way through; he has just picked bits out of it. He is trying to be very protective of some of his colleagues who, in my opinion, did not listen to the evidence, either. I will not speak for very long on this issue; I will not waste the Parliament's time, because the Hon. Carolyn Pickles talked about the number of expert witnesses who appeared before the committee, and I agree with everything she says. I also agree with the Hon. Mr Elliott: we did bring down a majority report. We have been talking about doctors, specialists, professors and all these other people, but let us talk about the worker—the person who needs some support. I often wonder whether it is prescription drugs versus some of these other drugs, such as cannabis. One person who gave evidence had MS. He contracted MS when he was 19 years old. He was in a wheelchair and he wheeled himself into the committee. He told the select committee that he had been smoking four joints a day. He is on a pension, and he smokes four joints a day, which stops the spasms in his legs, the pain, etc. That man had been arrested eight times for using cannabis.

I asked him why he was smoking cannabis, and he gave those reasons. He took a box from the back of his wheelchair and threw some tablets on the table, and every one of those tablets was addictive. How did he get those tablets? They were given to him on prescription by a doctor, but they did not help him: the cannabis did. We heard other evidence about people with cancer. Doctors will say that drugs fix them up, but that does not happen all the time.

Of the people who get cancer and go to the hospital for radiation, 25 per cent cannot eat and cannot keep their food down, etc. If they are on a course of cannabis they can, and it makes them want to eat. That was the evidence we received, not from one person but from several people. I fully support regulated availability of cannabis in South Australia. It is on the market. It has happened in the north of England, where in one city drugs are supplied. The first year they started providing these drugs, the crime rate halved and in the second year it halved again. That was a fact, and it is proved. If we do not do it in this State, all we are doing is making the gangsters richer and making people like this bloke in the wheelchair pay all his pension to get some relief that the doctors could not provide. I support the motion.

The Hon. BERNICE PFITZNER: In closing the debate I thank the Hons Ms Pickles and Messrs Elliott, Redford and Weatherill. I will make a brief comment on each of the contributions. With his usual sharp mind, the Hon. Angus Redford has perceived that this report is deficient in major areas. He has also perceived that with marijuana intoxication and driving there is great cause for concern, that the quality of the evidence is not all that it could be, and that the international treaty, a very important part of the report, is not discussed in detail.

As to the response of the Hon. Ms Pickles, I take issue with her and say again that the evidence is poor. I say that I have a duty to identify this. Even she says that the police in gathering their data need to clean up their act. I suppose that my standards may be different and my expectations higher. One cannot just name people and their positions as equating to high quality evidence. For example, I know a prestigious medical foundation in Melbourne with a well-known director who has subsequently produced poor quality research. In particular, I was disappointed with the doctors who were ill-prepared, particularly those who were against legislation.

It was raised time and again about Dr White and Professor Bochner. There was repeated reference to their opinion and what they think but there was not much data. As members know, members of the medical and legal professions often have different and divergent views. I also note Dr Wodak's letter. He has come here and compared this report with the 1978 royal commission. That is a bit rich because in the four years that we considered the report we saw only 22 witnesses, about half a witness a month and that was a bit of a problem.

With regard to the Hon. Mr Elliott's contribution, he continues to claim that he does not encourage the use of drugs, but why does he want to decriminalise its use? The Hon. Mr Elliott claims that decriminalisation does not decrease the pattern of use, but there is inconclusive evidence for this and, with all the inconclusive research, one can either emphasise the positive or the negative part, whichever suits your ideology. I would like to identify quickly some of the latest information that has come to hand in reports that members do not even know about. I refer to a medical magazine which states:

> Sleep loss linked to use of marijuana by mother. Disturbed patterns of night-time sleep in three-year old children with a history of prenatal exposure to marijuana may reflect a teratogenic effect of the drug [in] the brain, according to a US study.

There is then much more on that. In another medical journal of June 1995 an article is headed 'Marijuana not as safe as some may believe', and the first paragraph states:

> Advocates for the legislation for marijuana should consider the drug's adverse effects—including an increased risk of suicidal behaviour—on a significant minority of adolescents, according to the co-author of a major report on child health.

There is then a huge write-up with facts and data on that. Even the *Sunday Mail* has a report in July headed 'More use of marijuana since law changed'—

Members interjecting:

The Hon. BERNICE PFITZNER: That is right, even the *Sunday Mail* has statistics with regard to that. I will not bother to read them because of the lateness of the hour, but I would like to quote one well accepted medical journal and the very deeply researched medical implications on marijuana. I refer to the *American Journal of Childhood Disease* and the article 'Short term memory impairment in cannabis dependent adolescents', which states:

> The concentration of 9-tetrahydrocannabinol [which is the active part] in marijuana available in the United States has increased by 250 per cent since investigations of the effects of marijuana on short-term memory first appeared in scientific journals.

The article concludes:

> We concluded that cannabis dependent adolescents have selective short-term memory deficits that continue for at least six weeks after the last use of marijuana.

And more besides. Another article from *Environmental Medicine* headed 'Marijuana carryover effects on aircraft pilot performance' states:

> This study finds evidence for 24 hour carry-over effects of a moderate social dose of marijuana on a piloting task. The results support. . . [the] study. . . [which] suggest that very complex human/machine performance can be impaired as long as 24 hours after smoking a moderate social dose of marijuana, and that the user may be [quite] unaware of the drug's influence.

The article asks: do these carry-over effects extend beyond the task of piloting an aircraft? Is it possible that carry-over effects might occur any time that information process demands of the human and machine tasks match those of the present experiment? For example, 24-hour carry-over effects may occur in automobile driving under particularly difficult traffic and weather conditions. We have to consider that. The third article from the very well-known English publication, the *Lancet*, states:

> The association between levels of cannabis consumption and development of schizophrenia during a 15 year follow up [was studied] in a cohort of 45 570 Swedish conscripts. The relative risk for schizophrenia among high consumers of cannabis. . . was 6.0.

This means it was a very high risk. The persistence of the association after allowance for other psychiatric illness and social background indicated that cannabis is an independent risk factor for schizophrenia—not only is it a complicating factor. Due to the lateness of the hour I will not read any further, although there is more if members would like to avail themselves of it.

In conclusion, since the committee completed its report we are getting more and more evidence which shows trends that affect the health of people and, in particular, that of young people. Although the committee had the majority vote to decriminalise marijuana they were probably misled by what Elaine Walters calls 'experts' whose credentials and *modus*

operandi remain largely unchallenged. To take into account only the cost of policing this drug is short-sighted when more and more evidence is accumulating to support the irrefutable fact that there was a very high medical risk and a very high risk of marijuana intoxication leading to poor driving judgment and a high risk of accidents at work. Yet we have allowed tobacco and alcohol use in the community to be almost unrestricted. If we are to add marijuana then we may more accurately say that we have now three wrongs which do not make a right. I put it to this Council that this report has difficulties in some areas in validating and sustaining some of its recommendations.

Motion carried.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

The Hon. DIANA LAIDLAW (Minister for Transport): I have to report that the managers for the two Houses conferred at the conference, but no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made, the Council, pursuant to Standing Order 338, must either resolve not to further insist on its requirements or lay the Bill aside.

The Hon. DIANA LAIDLAW: I move:

That the Council do not further insist on its amendments.

It is with some disappointment that I report that the conference of managers, after meeting for 16 hours, has not been able to reach agreement. There were 73 amendments passed by this Council to be considered. The House of Assembly made considerable concessions, and that should be recognised by honourable members here. Regrettably, however, while concessions were given and agreement was reached on a number of amendments, the Opposition and the Australian Democrats, who hold the balance in this place, have not been able to reach accommodation with the Minister and members of the other place on the provision that private contractors must furnish reports.

I recall arguing in this place—and it was argued forcefully in the House of Assembly—that it is unreasonable to insist on this amendment. Essentially, the Legislative Council is requiring private hospitals to furnish details which no other private contractor in any other instance of contracting work would have to furnish to anybody in any circumstances. I emphasise a point that I made widely: this is not a private-public sector debate; it is a debate about the reporting standards that it is reasonable to expect any company to furnish for public consumption, whether that company or enterprise be public or private. Both public and private enterprises are today tendering for Government work.

I know from my experience with TransAdelaide, which has tendered for bus route services in the outer northern and southern areas, that it would not be prepared to provide any of its tender submission and financial details to anybody other than the Passenger Transport Board Evaluation Committee that is assessing the tenders. No-one should insist that it make that information public, because it is part of its competitive bid and it is critical to its future success as an operator that it should keep those—

The Hon. R.I. Lucas interjecting:

The Hon. DIANA LAIDLAW: That is the point. In a sense, it is almost like intellectual property. If honourable members continue to insist on this matter, we shall be insisting that information that has been developed to ensure that a company won a bid—it could be innovative and put in the category of intellectual property—would be made public for everybody else to see and steal and thereby make that business vulnerable to predators in the competitive environment.

It is with some degree of charity that I say that it is a ridiculous amendment to have been moved in the first place, let alone insisted upon by this House of Review. It seems almost to be based on prejudice of business, not recognising that the private and public sectors are involved in this environment today.

I do not have the correspondence with me, but the Minister referred to it from time to time. There is correspondence from Geoff Sam, Chief Executive Officer of Ashford Community Hospital. That is a not for profit hospital, so we are not even talking about a company going for profit. It is a respected hospital and leader in many areas. He made clear in his correspondence that the amendment that we seek to insist upon would jeopardise their effectiveness in ensuring that they got value for money contracts and quality of work for that money. He says that it would prejudice their ability, in terms of value for money, in offering many of the services that they offer today through savings that they have generated from competitive tendering.

With the knowledge that there has been some progress and some give and take on both sides, I have to ask that the Legislative Council do not insist on its amendments on the basis that there has been an irretrievable breakdown in the progress made to date on the amendment relating to private contractors furnishing reports.

The Hon. BARBARA WIESE: I oppose this motion. I regret to inform the Council that this Bill has foundered because the Government has not been prepared to be properly accountable for large sums of public money. What we have been discussing as part of this Bill and for many hours during the conference is a matter that is related not only to the health system and health budget in South Australia but to the plans that the Government has, both now and for the future, to move increasingly to a policy whereby there will be more and more private sector involvement in the management of public institutions and the management of very large sums of public money.

What we have seen so far, in the past 18 months since this Government came to power, is a move in that direction. In the health field, we have seen the privatisation of the Modbury Hospital and we know from all the debates that have occurred in the Parliament, both in this place and another place, and from questioning, that this Government has been totally unprepared to provide the sort of information that both the Parliament and the public need in order to assess whether this and future deals are beneficial to the health system and to the State.

The whole Modbury privatisation issue has been shrouded in secrecy. We have not been able to have access to the contract, on a confidential or any other basis. We have not been provided with financial details of the contract. We have not been provided with very basic information about the health system at Modbury Hospital under the new regime with respect to staffing numbers and a whole range of other things that are critical to the way the organisation works, and we therefore have no real ability to assess whether the Minister's claims that this is a good proposition for the State are in fact correct.

The Chief Executive Officer of the South Australian Health Commission has indicated in at least one speech that he has delivered in recent months that it is the policy of this Government that, in the health area, the health authority will become a contract manager. He says that the idea is that the entire health system will be contracted out within two to three years. We are talking about a budget of over $1 billion, and if we are going to have a continuation of the policy that we have seen put in place with respect to the Modbury management situation, where we as a Parliament are not able to get access to relevant information, the people who are representing the community, in order that we may assess whether or not the Government's actions are appropriate, then that is simply not satisfactory.

It is not satisfactory to us and it is not satisfactory to the community we represent. We are not talking just about what is happening in one health unit or one hospital in our State. We are talking potentially, in the very near future, about the entire health system. We have a system where the Minister has wanted to keep all of these things under wraps. He wants to adopt a policy of 'trust me'. It is very difficult to trust the Minister for Health, because we have found, in a number of situations already, that he says he will do one thing but actually does something quite different. He introduced what he called a policy of contestability in the health system, whereby public health authorities were going to be able to compete for their work under the competitive tendering policy being implemented.

Before there was any opportunity for the radiology services at Modbury Hospital, for example, to put that policy into practice, there was a contract let with a private sector company. So, they did not get the opportunity, under the Government's contestability policy, to preserve their own work. So, we do not trust the Minister, because we have found that the things he says do not always ring true. And neither does the health sector trust the Minister. One reason why we had to introduce so many amendments to the Bill in the first place was that we received such large numbers of representations from people in the field who simply were totally unsatisfied with what they saw, and who complained to us about the lack of consultation and the problems they saw with the questions of accountability.

That is why we had a conference that ranged over so many matters, because this Government did not consult properly in the first place, and people in the community feel they are not being involved in a matter that is of crucial importance to each and every one of us, that is, the provision of a high standard and adequate health care system. With this Government's plans not only to contract out services right across the whole health sector but also in other critical areas, such as the provision of water supplies, potentially within the next few years we can anticipate that billions of dollars of taxpayers' money will be in the hands of private sector companies to manage.

We do not have any particular ideological problem with the contracting out of services, as has been acknowledged many times. Labor Governments have also been contracting out services, but when we start getting into the realm of contracting out very large slices of the State budget, we say it is not satisfactory to keep financial details secret; it is not satisfactory to keep benchmarks secret; it is not satisfactory for there to be no basis upon which the Parliament and the people can judge whether the Government is acting in our best interests. It is simply not acceptable. We are very disappointed that this Bill has been laid aside by the Minister. Before it was laid aside we had some very amicable discussions on a range of issues and had reached a number of agreements.

On this key issue the Opposition was cooperative, and we modified our original proposal in the spirit of compromise in order to try to meet some of the concerns that had been expressed by the Government, but on this matter the Minister was intransigent. In fact, I think his whole approach in this health field demonstrates that he has not been particularly interested in listening to Parliament or the community anyway, because many of the provisions and issues that are provided for in this Bill are matters that he has already started to implement, without the imprimatur of Parliament which he was seeking through introducing the legislation in the first place. He has already introduced a policy of regionalisation, he has already introduced privatisation, and there is more to come; so in fact he started his move down this track long before he introduced the Bill that has now been laid aside.

In short, the Opposition has not been prepared to allow the Government *carte blanche* permission for the Government to hide what it is doing in the area of the provision of health services. It is not prepared to allow for inappropriate accountability measures with very large sums of money. We now live in an era where the community is expecting much higher standards of accountability from governments—and companies as well, in the private sector. That is all we sought to achieve: to provide community consultation in greater measure than this Government seems to be interested in and much greater accountability. They were reasonable requests and propositions and they have been rejected and unfortunately that has led to the laying aside of the Bill.

The Hon. SANDRA KANCK: This has been the first major test of the Health Minister in Parliament, and he has failed. From 3.30 this afternoon onwards we have been meeting and discussing almost exclusively one clause, although prior to that we had reached some form of consensus or agreement on about half the clauses that were in disagreement. If the Minister had gone through a proper consultative process in the first place before introducing the Bill, we may not have reached this impasse. The fact that this Bill is grinding to a halt now shows how out of touch this Minister is. What all the people who lobbied me about this Bill kept telling me was that they wanted accountability, and that is what the Democrats were absolutely committed to having in this Bill—accountability. Somewhere in this legislation, the people who use the health system seem to have been forgotten. What seemed to be of more importance to this Government was commercial confidentiality; forget about making sure that the taxpayer gets best value out of the health dollar.

Earlier today in Question Time I raised the issue of 32 acute medical beds being closed at Modbury Hospital and the fact that the ambulance service is being told to take emergency patients elsewhere. Modbury is South Australia's first privately managed public hospital, the first of the experiments. If this is what we are seeing it does not augur very well for the future. That is the sort of thing we wanted to make sure was put on the public record. It is not much to ask that information showing up this sort of pattern should be provided by the contractor so that it can appear in the hospital's annual report. Why would the Minister object to people knowing this information?

The Minister has to bear the responsibility for the fact that this Bill is now being laid aside. It is possible that if he had been prepared for the conference to continue tomorrow, when

a little more research could have been done and people involved in the health field could have been consulted, some further consensus could have been reached, but the Minister had to do it his way. That has been the pattern with this throughout. Right from the beginning, a piece of legislation was introduced without consultation with health providers and health consumers. Only very few people knew what was in this legislation before it came before this Parliament. It comes back to the Minister. He is entirely responsible for this. If he had done this properly in the first place, if he had talked with people and if that Bill had been circulating in the Parliament, we probably would not have ended up in a deadlock conference anyway. I reiterate: this is the first major test of the Health Minister in this Parliament, and he has failed.

The Hon. CAROLINE SCHAEFER: It was not my intention to speak tonight, but I too was involved in this conference and I feel after listening to the somewhat vitriolic and personal attack that has just been launched by the Hon. Ms Kanck on the Minister I should at least stand to defend him. She has mentioned amongst other things that this legislation was introduced without consultation. That sadly shows how little Ms Kanck knows of the health system, because in fact this legislation was the result of first a white paper, then a green paper, both of which were introduced by the previous Labor Government and which were extensively discussed by all health units and at public meetings throughout the State.

The Hon. Sandra Kanck: Are you saying that all the hospital boards that contacted me were lying?

The Hon. CAROLINE SCHAEFER: I was on one of those hospital boards for 10 years and I have been working with them very solidly ever since I have been in the Parliament. As I pointed out yesterday, a number of compromises were reached with those small health units long before this legislation came before Parliament.

The Hon. Sandra Kanck interjecting:

The Hon. CAROLINE SCHAEFER: No, they are not wrong; I told you that last night. The Hon. Ms Kanck says I am to go back and tell them they are all wrong. What I now have to go back and tell them is that, after exhaustive consultation that lasted nearly three years, out of the pig-headedness of a few people who refused to negotiate with any degree of logic at all, the results of their discussions have now been shelved.

The Hon. Sandra Kanck interjecting:

The Hon. CAROLINE SCHAEFER: No, I'm sorry: it was a mutual shelving, and I am very sorry that it was a mutual shelving, because we have now moved back to the dim, dark ages before this very innovative legislation was introduced. Not only will the health units suffer for this but so will the patients of South Australia. We have only a certain amount of money to go around. We have endeavoured to bring in cost savings which will immediately feed back to the patients, and now that has to be shelved.

We have talked about accountability and this being the first of the experiments but the Government offered during the conference an amendment which allowed a full report to be sent on a monthly basis to the board of management of that health unit by the private contractor and for that board of management, the same as any other business board of management, to report to the Minister and for the Minister to table that report in Parliament.

I do not know how much more accountability anyone requires than that. I was prepared to sit here and listen to all that sort of thing being said, but when you start to attack a Minister personally who is not in this Council, it is most unacceptable and, unfortunately, you have shown your complete lack of understanding of the legislation as it was meant.

The Council divided on the motion:

AYES (7)

Davis, L. H.	Griffin, K. T.
Laidlaw, D. V. (teller)	Lawson, R. D.
Lucas, R. I.	Schaefer, C. V.
Stefani, J. F.	

NOES (8)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Kanck, S. M.
Levy, J. A. W.	Pickles, C. A.
Weatherill, G.	Wiese, B. J. (teller)

Majority of 1 for the Noes.

Motion thus negatived.

Bill laid aside.

FRENCH NUCLEAR TESTS

Adjourned debate on motion of Hon. Sandra Kanck:

That this Council deplores plans by the French Government to recommence nuclear fission tests in the Pacific Ocean and therefore calls for—

1. a complete ban on sales to France of uranium from South Australian mines;
2. a complete ban on South Australian Government purchases of goods and services manufactured or produced in France or by French companies; and
3. French-owned organisations or consortiums containing a French-owned partner to be precluded from tendering for any South Australian Government contracts including any contract to operate Adelaide's water supply and waste water systems.

(Continued from 5 July. Page 2218.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I move to amend the motion as follows:

Leave out all words after 'That this Council' and insert the following:

'condemns the resumption of French nuclear tests. We further condemn the French Government's heavy-handed over-reaction in its raid on the *Rainbow Warrior II* 10 years after it used State-backed terrorism to sink *Rainbow Warrior I.* We call on—

1. the Federal and State Governments to take decisive action to protest against this outrage;
2. all Pacific nations to work towards an ending of nuclear testing in our backyard;
3. the Federal Government to cease the sale of uranium to France until the French Government announces a permanent cessation of nuclear testing;
4. the Federal Government to sponsor a resolution before the United Nations General Assembly to oppose nuclear testing in the Pacific;
5. the Federal Government to strengthen its efforts to resist the resumption of nuclear testing by any other nation;
6. the Federal and State Governments to support the South Pacific and Oceanic Council of Trade Unions' boycott of French-produced goods and services;
7. all French companies (both parent companies in France and their Australian subsidiaries) entering into contracts with the South Australian Government to publicly declare their position on the Chirac Government's plans to resume testing at Mururoa Atoll before any new contracts are signed.

Further, that this resolution be forwarded to the Prime Minister, the Federal Minister for Foreign Affairs and the Federal Minister for Trade.

In addressing this issue, I refer honourable members to my grievance debate on 7 June when I outlined my concern about what the French Government would do in relation to the resumption of nuclear testing. This was before President Chirac's announcement to resume testing. I think I was right to be concerned, as we were all right to be concerned, and we should continue to be concerned.

Added to the French Government's arrogance on the resumption of testing was the ill-timed bombing of *Rainbow Warrior II* on the tenth anniversary of the sinking of the *Rainbow Warrior* by French Government terrorists. It was an absolute over-reaction to a peaceful protest. We had Rambo-like French sailors with tear gas and arms, which seemed to me to be completely and utterly over the top.

It is interesting to look at the historical background to Chirac's decision. France, since the war, has tried very hard to retain the status of a significant power. Defeated and humiliated in 1940, it emerged from the war trying to fly the colours of a victor. Its ownership of nuclear weapons provided domestic reassurance of an independent deterrent capability and allowed it to create a defence and security image separate from the United States, NATO and Britain.

Edward Foster, an analyst at the Royal United Services Institute in London, says that the nuclear strike force was an important factor in the rehabilitation of France after the war. In case President Chirac has not noticed, the war has been over for 50 years. I think his action is entirely inappropriate.

The Hon. Caroline Schaefer interjecting:

The Hon. CAROLYN PICKLES: He hasn't done it yet, but his action in announcing it—

The Hon. Caroline Schaefer interjecting:

The Hon. CAROLYN PICKLES: No, I think he thinks he should still keep it going. It was not bad enough to announce the resumption of nuclear testing. We all know that France will not be letting the bombs off on the Champs Elysees or in the Mediterranean—it will be letting them off in our region in Mururoa Atoll, and I think it is an absolute outrage that he should consider doing so. The Australian Prime Minister has inserted in *Le Monde*, the French newspaper, an article that has been widely quoted in Australia, and I draw the attention of members to the *Australian* of Thursday 29 June. Due to the lateness of the hour, I will not read any of the article into *Hansard*.

I believe that my amendments are self-explanatory. I will not go through them in detail, but I urge members to support the amendment.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I can assure you, Mr Acting President, at this hour that, whilst I appreciate the fact that the honourable member wished to say much more about it, I would like to say much more as well but I also intend to be mercifully brief at this late hour. To my knowledge, all members in this Chamber, irrespective of their Party affiliation, have grave concern about the resumption of testing. It is the action being recommended in the motion and the various amendments that is likely to create the difference of opinion around the Chamber and amongst various members. In relation to a complete ban on sales to France of uranium from South Australian mines, I am advised by Western Mining and the Minister for Mines and Energy that no uranium from Roxby Downs goes to France, so that is not an issue. There is much more I could say about that, but I do not intend to.

The second issue is a complete ban on South Australian Government purchases of goods and services. In the end, it is the Government's view that the actions we take ought to be directed at the French leadership, the Government, and not the French people or, indirectly, the South Australian people. To take an action in relation to a complete ban on the purchasing of goods—I was going to make a cheap point about the honourable member using a Bic pen, but I will not.

The Hon. Sandra Kanck: I don't actually. That is just what they leave on the desk.

The Hon. R.I. LUCAS: Good. I wasn't going to make that point. More important points are, for example, that Orlando Wyndham is a private company with French involvement here in South Australia, which employs hundreds of South Australians. I understand that it makes wonderful wines like Jacobs Creek and a variety of other wines. The end result of this resolution is that such a boycott would harm many South Australians, not the French leadership, which is where the criticism ought to be directed. It ought not to be that South Australians lose their jobs, livelihood and income because of something the French leadership has undertaken.

I noted also that the boycott mania has caused other problems. There is a bread or yeast item produced in New South Wales which evidently had a French name but which was made by a family based Australian company. It happened to have called it by this name for the past 10 or 15 years but, because of the boycott mania, people refused to purchase it in large numbers, and this Australian based company was facing going broke.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: They might be, but this Australian-based company, which had nothing to do with the French, was faced with going broke. It was a small family company with a very successful product. That is the sort of concern that I believe notions of boycotts etc. potentially can arouse. It is not the French leadership we are hurting: it is a small family-based Australian company; it is Orlando Wyndham, which employs South Australians, etc. There are many other examples I do not intend to pursue.

The final point is in relation to the French owned partners being precluded from the water supply and waste water system contracts. I understand that in an article in the *Advertiser* on 16 June 1995 two of the companies that are bidding for the contract publicly declared their opposition to the decision.

That happens to be a decision that they have taken. In the end, from the South Australian Government's viewpoint we ought not be making decisions in relation to water and waste water systems and such an enormous potential contract on the basis of their particular attitudes to various French Government decisions. Again, it is the French leadership and the Government that have taken these decisions; the companies or the people of France should not be punished or penalised because of what is seen as a wrong decision taken by the leadership of that country. As I have said, all members could live with the amended motion comfortably without having to worry about depriving South Australians or Australians of jobs as a result of a decision that another Government leader has taken. I now move:

Leave out all words after 'Pacific Ocean'.

The Hon. SANDRA KANCK: I thank members for their contribution. At this point it is important to recognise the effect of the blasts that are going to occur at Mururoa. So far there have been more than 130 nuclear detonations there, and the effects of those blasts obviously must be to weaken the

structure of the atoll because this is clearly how any underground mine works—to loosen up the ore body. Scientists who have been allowed to get close enough to the atoll say that the basalt surrounding the detonation chambers is fractured severely. That is not surprising of course when you consider that the last blast in 1991 was equivalent to 80 000 tonnes of TNT.

Scientists estimate that leakage of nuclear material could start to occur within approximately 500 to 1 000 years. I happen to be much more of a pessimist when it comes to nuclear actions. The Three Mile Island and Chernobyl accidents were not supposed to happen statistically for a few more thousand years according to the experts, but they occurred within 40 years of the nuclear age beginning. So I am more inclined to expect that that split in the atoll will occur sooner rather than later, especially with the extra nine blasts the French now plan. When it does, the consequences will be just unthinkable for the whole Pacific Ocean.

I have not moved this motion lightly. We are talking about a future ecological disaster which can only be added to by these extra tests. I am not surprised that the Liberals have come up with their amendment. It does not commit us to anything, and I think my motion obviously was much too hard hitting for them. The response from the Opposition is not bad, although it fails to address the issue of having French companies involved in the tender for the management of Adelaide's water supply. I applaud those aspects suggested in relation to terrorism associated with the bombing of *Rainbow Warrior I* and the standover tactics that have occurred and the arrogance shown in relation to *Rainbow Warrior II*. I also think that the suggestion of getting the Federal Government to sponsor a resolution in the UN General Assembly is a good move.

The Opposition motion calls on the Federal and State Governments to support a boycott of French-produced goods and services but then makes an exception for the two French companies involved in tendering to operate South Australia's water supply. From that point of view, it is a wimpish motion because it simply will require those two companies to state what is their position in regard to the testing. Under the circumstances, they will say—and the Leader of the Government already has pointed out that they have said this—what they think South Australians will want to hear. Of course they will say they are opposed; they have too much to gain from privatising our water system and they do not want to do anything to jeopardise their chances.

The one matter of concern in South Australia in which the French will have their greatest impact on residents of this State is the one where the Opposition is not prepared to see a boycott imposed. So, despite the fact that the Opposition has wimped out on the issue of French companies operating our water supply, I recognise the reality of the numbers here. I will be accepting the Opposition's amendment in preference to the Government's because, at least, it does commit us to do something, and it is better that we have something on the record than nothing.

Hon. Carolyn Pickles's amendment carried; Hon. R.I. Lucas's amendment negatived; motion as amended carried.

SITTINGS AND BUSINESS

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

That the Council at its rising adjourn until Tuesday 22 August 1995 at 2.15 p.m.

The Hon. R.I. LUCAS: In moving the traditional motion can I very briefly, given the lateness of the hour, thank you, Mr President, for your assistance and thank the Leader of the Opposition and her members for their assistance. It has been a relatively orderly end to a session. I thank the Deputy Leader of the Australian Democrats, representing the Australian Democrats, for her assistance. We do not always agree with the decisions they take, as has been made clear this evening but, nevertheless, I thank them for their general cooperation in processing the business of the Chamber.

I thank the table staff and all staff of Parliament House—I will not go through all of them. I particularly thank new members of staff for their assistance. I wish members well for the very brief break we have before we meet again in September.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I, too, would like to thank all members for their cooperation during this rather hectic term, particularly in the last week. It is a relief to us all that we actually rise just on midnight and will not have to come back tomorrow. I would like to particularly thank the table staff, the messengers, *Hansard* and all the people who work in this Parliament. I thank you, Mr President, for your forbearance and, at most times, your good sense of humour. On occasions we hear little rumblings from your seat of office, but we choose to ignore those minor interjections that are totally out of order. I wish all members a well-earned break although, of course, I do realise that members do not have much of a break between the sittings of Parliament.

The Hon. SANDRA KANCK: I am pleased to support this motion. It has been interesting to observe the different styles that we see emerging from the members of the Legislative Council in deadlock conferences compared with those in the House of Assembly. There is no doubt that we are a much more civilised place. Despite the fact that we sometimes sling off across the Chamber at each over, in the end we manage to get through and still retain respect for each other. I also thank *Hansard* and the table staff. I know that when we go home now they will continue to work. I think sometimes, with these late night sittings, we do not give them enough credit for the wonderful contribution they make. I hope that during the break they, too, manage to at least reduce some of their stress levels. I wish everyone the best until we meet again.

The PRESIDENT: I would like to thank the Parliament for being so cooperative. It makes it easy to be President or the Presiding Officer when people are relatively easy to control and they understand the running of Parliament. I have just been to a Presiding Officers' conference with Trevor Blowes. We enjoyed it immensely and we learnt a lot. From my observations, some of the other Parliaments are much more difficult to handle than this one. So I thank you all for that, and I thank Jan, Trevor and the boys on my left for all the good work that they do.

Motion carried.

DEVELOPMENT (REVIEW) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

ADJOURNMENT

At 12.3 a.m. the Council adjourned until Tuesday 22 August at 2.15 p.m.