LEGISLATIVE COUNCIL

Thursday 2 July 1998

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

NATIVE TITLE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of native title outcome.

Leave granted.

The Hon. K.T. GRIFFIN: The South Australian Government welcomes the resolution of outstanding issues relating to the Commonwealth's Native Title Act amendments and is encouraged that they will soon become law. While there is still a range of matters of interpretation and application that may ultimately have to be resolved in the courts, the finally agreed package of amending legislation is a significant advance on the current law. Ultimately, the amendments will improve the operation of the Act; enhance the possibility of reaching binding agreements as an alternative to expensive litigation; provide a more rigorous process for the lodgement of claims; and allow for alternative State and Territory regimes. These measures will benefit the States and Territories and are supported by South Australia.

As anyone who is familiar with native title issues and the Federal Act will know, the present Act is largely unworkable. The amendment package will remove many of the problems that make the Act unworkable, and will provide a more certain framework for dealing with native title claims, the rights of pastoralists and exploration and mining issues.

The State Government had urged that a broader legislative package should be developed, dealing not only with the claims process but also with the substance of native title. There was insufficient support for that position. Instead, we now have the agreed amendments. It is clear that these are the best that can be achieved to resolve the issues identified following the High Court's decision in *Wik*.

The detail of the package is still being considered by officers, including a review of our own native title legislation. However, among other things, we do know that the package provides significantly more flexibility in making area agreements. The passage of the amendments will enable South Australians to seek to achieve even greater certainty in dealing with native title issues through the development of area agreements.

South Australia is in the forefront of innovative approaches to resolving claims, engaging in wide ranging consultation with pastoralists and the South Australian Farmers Federation, Aboriginal people and the Aboriginal Legal Rights Movement, the Chamber of Mines and others. We will now be able to give this new momentum.

While claims that cannot be resolved through negotiation may still end up in court for resolution, it is in every South Australian's interest to avoid that outcome if at all possible. The State's costs alone are estimated to be around $5 million for each of those cases currently being litigated. Leaving the resolution of cases to the courts means that the parties get or do not get what the courts decide and, effectively, lose control of the agenda. The State Government believes that is an undesirable course to have to follow if it can be avoided. The State Government notes that the courts, both here and in other countries such as Canada, have recognised that negotiated outcomes are greatly preferable to litigation.

We understand that the agreed package allows for alternative State provisions, excluding the right to negotiate, where there are satisfactory State provisions in place. The South Australian Government will examine this opportunity carefully. The people of South Australia should remember that South Australia is the only State or Territory with its own State-based right to negotiate provisions relating to exploration and mining. They had to be consistent with the Federal Act and were approved by the Keating Labor Government. Those provisions are now being used by more people since the *Wik* amendments became bogged down, and are operating satisfactorily.

Those who have an interest in native title issues can be reassured from that experience that the South Australian Government has a responsible and innovative approach to resolving problems. It is also the only Government to have experience in obtaining Commonwealth recognition for alternative State-based procedures. That experience will be used to good effect under these amendments.

I take this opportunity to congratulate Prime Minister John Howard, Senator Nick Minchin and the Federal Government for achieving settlement on the legislative package as a considerable advance on what is currently in the law. They can be proud of what they have achieved. The South Australian Government now looks forward to making the new provisions work in the interests of all South Australians.

BRINK PRODUCTIONS

The Hon. DIANA LAIDLAW (Minister for the Arts): I seek leave to make a ministerial statement on the subject of a new theatre company for South Australia.

Leave granted.

The Hon. DIANA LAIDLAW: On 26 March this year in this place I announced that the Government would call for expressions of interest for the creation of a new, innovative and challenging theatre venture. In the context of a reduced—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: This is employment opportunities for artists, Mr Elliott, and I thought you might be interested. I am sure that the people who have won this group will be interested to hear that you are not. In the context of a reduced Australia Council budget for theatre, which caused both Red Shed theatre and Magpie Theatre to cease operations, this Government resolved to promote the strongest possible artistic base for a revitalised second tier theatre sector in South Australia. An amount of up to $300 000—effectively the full State Government subsidy previously provided to Red Shed and Magpie—was made available to support the new initiative, together with a one-off start-up grant of $50 000 from the Australia Council.

Expressions of interest were sought nationally and assessed by a panel comprising Robyn Archer (Artistic Director of the Adelaide Festival), actor Paul Blackwell, Rodney Fisher (Artistic Director of the State Theatre Company of South Australia), Jill Smith (General Manager of Playbox Theatre) and Caroline Treloar (Director, Arts Industry Development, Arts South Australia). The key selection criteria were:

1. A new creative vision for theatre both in content and presentation;

2. Strong artistic direction of the highest quality;

3. The generation of employment opportunities for South Australian theatre workers;

4. The creation of opportunities for collaboration with other South Australian theatre companies and with local writers;

5. Financial responsibility and business viability;

6. Innovative approaches to audience development.

I am now very pleased to announce that the panel has recommended and I have approved—at least the Hon. Ian Gilfillan is listening, and I am very pleased because—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —I am just coming to the punch line, and I advise that the winner is the Adelaide company Brink Productions.

An honourable member: Hear, hear!

The Hon. DIANA LAIDLAW: Hear, hear! Brink is a dynamic group of young theatre practitioners. They have gone from strength to strength to establish a brilliant record of artistic achievement both in South Australia and interstate. The principals of Brink are John Molloy, Victoria Hill, Richard Kelly, Michaela Cantwell, Lizzy Falkland, David Mealor, Michaela Coventry and Paul Moore, all of whom were trained in South Australia, seven of the eight at Flinders University.

In March this year, Brink's productions of *Mojo* and Pinter's *The Dumb Waiter* won them The Fringe Award for excellence, winning in a tough field of local, national and interstate companies all here for the Adelaide Fringe. Last year, Brink's production of *(Uncle) Vanya* won the inaugural Adelaide Critics' Circle award of best production for 1997.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: They are receiving up to $300 000. They have gained a national reputation through seasons at Sydney's Belvoir St Theatre Company in particular. Brink can be expected to bring energy and an impressive artistry to their carefully crafted 1998-99 program. They will certainly complement the range of excellent work done by existing companies such as Vitalstatistix, Doppio Teatro, Junction Theatre and Mainstreet and by leading project funded companies such as Theatre Praxis and Double Bind.

Brink proposes to work with South Australians Tim Maddock and Benedict Andrews, offering both these highly regarded young directors opportunities to build their careers and profiles and, in turn, to provide opportunities for a wider number of South Australian theatre practitioners.

In line with the Government's policy for annually funded companies, a performance agreement will now be developed between ArtsSA and Brink Productions. Funding will be provided conditionally until the end of the year 2000, with a major review to be undertaken early in the second half of 1999. Brink proposes a new board to be led by Adelaide businessman consultant John Jackson. Subject to commercial negotiations, the company intends to create an administrative base at the Odeon Theatre, Norwood, and will use several Adelaide venues for its productions.

I am pleased that Brink Productions is to be a part of what is undoubtedly a resurgence in South Australian theatre. This year, State Theatre has reported a 20 per cent growth rate in subscriptions, while its new production of *Macbeth* has sold out well in advance of opening night. The Theatre SA calendar for the remaining of this year lists a range and number of productions that is almost overwhelming. Once again, the challenges, the fun and the magic of live theatre are widely available to the people of South Australia.

QUESTION TIME

MERYL TANKARD AUSTRALIAN DANCE THEATRE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the Meryl Tankard Australian Dance Theatre.

Leave granted.

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: Are you another artistic Philistine? For some weeks now—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: There is no risk that you will ever be the Minister for the Arts. God help South Australia if you ever were!

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron will stop interjecting. It is a very bad start to Question Time—we have gone one minute without a question even being started.

The Hon. CAROLYN PICKLES: For some weeks now the community has witnessed a very public dispute between the board of the MTADT and its internationally acclaimed Artistic Director, Meryl Tankard. The dispute has made it to the national stage, where the country has watched, with both concern and fascination, an unprecedented attack on one of the country's finest artists. Obtaining the facts of this situation, particularly following the Minister's outburst during the Estimates Committee on 17 June 1998—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: —has been extremely difficult. The MTADT dancers have also become involved, and have decided to consider taking industrial action if the matter is not resolved urgently. South Australia cannot afford to lose an artist of the calibre of Meryl Tankard.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: It just shows how Government members are interested in the future of this person.

The Hon. Diana Laidlaw: They are all very supportive.

The Hon. CAROLYN PICKLES: We will just see.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Well, her remarks in Parliament were not exactly helpful. Miss Tankard has brought international acclaim to this State, and should be allowed to continue to do so. My questions to the Minister are:

1. Has the Minister had any discussions with either Miss Tankard, the board or the General Manager, Mr Christian Haag, regarding this matter and, if so, what was the nature of those discussions and when were they held?

2. Will the Minister table any written correspondence from herself or her department to Miss Tankard, the board or Mr Haag regarding this matter?

3. Will the Minister assist in the resolution of this dispute, and will she support the appointment of a mediator?

4. Does the Minister support Miss Tankard remaining as the Artistic Director of the Australian Dance Theatre, despite her attack on Miss Tankard two weeks ago, when she said (*Hansard* 17 June 1998):

I have lost some of that confidence in terms of the Artistic Director in the past 24 hours.

The Hon. DIANA LAIDLAW: I made no attack on Miss Tankard. What I indicated, in answer to a question from Miss Gay Thompson during Estimates, was—and I quote here again for the benefit of all honourable members—as follows:

> We will work through this and I ask Meryl Tankard to work through this with us. We are very keen to continue the association with Meryl. That is certainly the offer that is on the table, including opportunities for new work and international touring.

I also said:

> I have enormous confidence—and continue to have confidence—that the board and Meryl Tankard will work out these differences. I have lost some of that confidence in terms of the Artistic Director in the past 24 hours. Her statement that she has been given marching orders and that she has been sacked is false.

That is the context in which I said I had lost a little bit of confidence. You should be aware, Mr President, and I highlight to all members, that Miss Tankard's representatives have requested that all matters that are now being discussed between the board and Miss Tankard in terms of the contract be kept confidential and, notwithstanding that, we had Miss Tankard speak out in terms of receiving marching orders and being sacked and, as her solicitor would report—as I confirm, as indeed would the board and the Australia Council—that is blatantly false. She has not been given marching orders, nor has she been sacked, and by highlighting those facts to suggest that that is an attack on Miss Tankard is, I believe, a little unsound.

I also highlight, as I said publicly (and if this is suggested as an attack on Miss Tankard I would be surprised), that we are keen to continue the association with Meryl. That is the offer that is on the table. It is still there. She has given an indication that her preference is international work, and we are keen to accommodate that preference. However, as the State is contributing $732 000 to the company, we would like to see a balance between local, national and international work.

As I advised the Estimates Committee, if it is Ms Tankard's preference not to do so much local work, then perhaps there should be the opportunity for the company to engage a visiting choreographer, as well as South Australian dancers, to undertake that work. The options are there for Ms Tankard to consider the way in which she would wish to accommodate what she wants in terms of her career. I would highlight that South Australian taxpayers have invested heavily and rightly should be proud of the fact that the company, with Ms Tankard as Artistic Director, has achieved so much and brought credit to Ms Tankard and the company at an international level. We are very keen to keep and build on that focus, and I have made that point before. To suggest that that is an attack on Ms Tankard is interesting.

I also highlight that, in terms of the company's dancers—and this was made very clear in the statement released by the board of yesterday's date—there is no existing industrial dispute between the company and the dancers. Media reports suggest that some company dancers would consider striking on Monday 6 July 1998. At a meeting last weekend between board and dancer representatives and Mr Stephen Spence from Media Entertainment and Arts Alliance, it was acknowledged that dancers have an interest in the Artistic Director and the company's future direction.

The discussions were positive and the dancers' concerns raised on Saturday will be considered by the board. Existing contracts between the company and the dancers are not under threat or discussion, and I highlight that the issue of industrial action has lapsed as the board considers these issues which, as I say, were discussed in a positive manner with the dancers. In terms of correspondence I have had with the board, I do not believe that I have with me the letter that I wrote to the board some weeks ago but, if I can obtain it before the completion of Question Time, I can either table that letter or read it into *Hansard*.

I should also highlight that Mr Haag, General Manager, received correspondence dated 19 June from the Australia Council, Catherine Brown-Watt, Manager of Major Organisations, and Tim O'Loughlin, Executive Director of Arts SA, highlighting the expectations of the two major funding bodies. If it is agreed by the Australia Council and the Executive Director of Arts SA, I certainly would be happy to table that correspondence also.

YATALA LABOUR PRISON

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Correctional Services, a question about the Yatala Labour Prison.

Leave granted.

The Hon. T.G. ROBERTS: In March this year I asked a question about the staffing levels at Yatala Labour Prison, and whether the under-staffing that appeared to be a temporary problem had turned into a long term problem. The situation has now escalated into a major dispute. The industrial relations problems that are starting to occur at the prison certainly need attention. There are different views about whether the management problems at the prison are short or long term. As it is not his major portfolio, the Attorney replied that he would refer the question to the Minister in another place.

I still do not have a reply. However, I notice that, in answer to some similar questions from Mr Conlon during Estimates Committee hearings, the Minister said that staff vacancies exist at the prison and that, at the moment, the prison is operating on a 10 per cent shortage. A new course of about 20 inductees is currently under way. The Opposition has a general position of bipartisanship in relation to the management of prisons, as long as issues do not deviate too much from our own policies, and we would be inclined to give prison management and the Government time to correct this problem.

I understand that the PSA has been given information which indicates that the problem is not short term; that the budget contractions that have taken place in placing staff at the prison will continue into this next financial year, and that there will be a long term problem associated with staff shortages, which will include early lock downs and which will create some tensions. My questions to the Minister are:

1. What short term remedial action is being taken to alleviate the staff shortages at the Yatala Labour Prison?

2. What long term remedial action is being taken to alleviate the staff shortages at Yatala Labour Prison?

3. Will the Minister and/or the CEO, Mr Paget, meet with the PSA/CPSU representatives to negotiate a satisfactory settlement of these problems at the Yatala Labour Prison?

4. Has the management configuration of the prison classification of prisoners been changed in any way to suit the new circumstances so that transfers can take place from Yatala?

5. Has the configuration of accommodation been changed to suit the new circumstances, that is, that the prison is operating 20 per cent below capacity?

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

MINERAL SANDS

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing some questions to the Minister for Justice, representing the Minister for Primary Industries, Natural Resources and Regional Development, about mineral sands.

Leave granted.

The Hon. T. CROTHERS: Australia has long been the world's largest producer of mineral sands and huge quantities have been mined along the beaches of the country's east and west coasts. The value of mineral sands, as titanium minerals, exported annually by Australia is around $1 000 million. Sierra Leone has a big mineral sands operation, which unfortunately has been closed down due, it is said, to the long-running political turmoil in that nation. It is further believed by experts that it will not re-open for the immediate short term. Further, world stocks of titanium minerals are in decline, as are the Australian coastal deposits.

Recently, an exploration rush has commenced in the Murray Basin due to some titanium mineral discoveries in that area. The Murray Basin, which today is largely an agricultural region and which by area covers some 320 000 square kilometres, is based in New South Wales, South Australia and Victoria. About five million years ago this basin was an inland sea with a shoreline formed from material washed down from the Great Dividing Range and, thus far, less than 5 per cent of the region has been effectively explored for mineral sands. The likely value, it is said, of deposits already discovered is in excess of $2 000 million.

In the light of the foregoing, and given South Australia's reliance on Murray River water for some of this State's water needs, I direct the following questions to the Minister.

1. Are the Minister and his department keeping a close watching brief on the activities of mineral sand seekers in Victoria and New South Wales and, if not, why not?

2. Have any exploratory leases been already granted or applications for exploratory leases lodged with the South Australian Government and, if so, by whom?

3. Will the Minister ensure that, given the bad days this State has suffered from for years at the hands of the River Murray Commission, all actions that are necessary are taken to ensure the quality and quantity of water delivery to this State from Murray River waters for personal use by citizens of South Australia?

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

ELECTRICITY, PRIVATISATION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government a question about ETSA privatisation.

Leave granted.

The Hon. L.H. DAVIS: This matter, which may be of interest to Opposition members, was only yesterday described by someone in the Opposition to the *Advertiser* as the most significant policy issue in this State for the past 20 to 30 years, so I am pleased to be able to be the first member in Question Time today to raise a question about this matter.

The Hon. A.J. Redford: Look at their front bench!

The PRESIDENT: Order!

The Hon. L.H. DAVIS: There is visual confirmation that the Opposition's front bench is running on empty. I think the Latin maxim *res ipsa loquitur* is apt at this point. On Thursday 25 June, the Australian Democrats, in releasing their findings in opposition to the Electricity Trust privatisation, discussed specifically the issue of Optima, and the Kanck report states:

> In the South Australian market, Optima will effectively exercise monopoly control. By strategic bidding Optima can set the regional pool price between 60 per cent and 96 per cent of the time.

Quite clearly, the pricing of electricity is of critical importance to the voters of South Australia, whether they be domestic consumers or industry users. Could the Treasurer please advise whether he has examined the matter of pricing, whether Optima is split up into separate units or whether it continues to exercise monopoly control as is mentioned in the Kanck report?

The Hon. R.I. LUCAS: I thank the honourable member for his interest in this matter and for his question.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: If you do not interject, I will not take 20 minutes—there's a deal.

The Hon. T.G. Cameron: That's a promise!

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: You can't keep your end of the deal, that's the problem. I refer to page 4 of the Kanck report. The honourable member has referred to the first sentence—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! That's enough.

The Hon. R.I. LUCAS: If I could be allowed to continue, I was trying to undertake a deal with the Hon. Mr Cameron, but I am finding it very hard. The first sentence has been referred to by the Hon. Mr Davis, and I want to refer to a subsequent sentence which says:

> As a result of the scrapping of Riverlink, Optima's market control is increased.

This is the Kanck report's analysis of Optima's position in the market. As we referred to yesterday, at least the position of the Democrats as we understood it last week was that they believed—and I quote:

> Under these circumstances Optima should be maintained in its current structure and other private companies should be encouraged to set up gas fired generation capacity in SA.

So, a combination of both those statements would indicate that the Democrat position is Optima should be maintained, at least according to this document, and an acknowledgment that it already exercises monopoly control and that, by strategic bidding, it can set the regional pool price between 60 and 96 per cent of the time, and acknowledging that Optima's market control will be increased by the position they support in terms of the removal of the Riverlink option.

We talked also yesterday about the importance of pricing. We were talking about the differential between city and country pricing, which is important. But the other issue which is important is whether or not under the market and under privatisation we will see a higher level of prices, about the same level of prices, or downward pressure in real terms on prices. The Government's policy is we should adopt the policy which places as much downward pressure on prices as we can. The Democrat position as outlined in the Kanck report is to allow Optima to effectively exercise monopoly control through strategic bidding so that Optima can set the pool price between 60 and 96 per cent of the time.

The Democrat position is arguing Optima should be able to set the monopoly price for up to 96 per cent of the time in the electricity market in South Australia. All I want members to consider is that the Kanck and Democrat position is arguing that there must be upward pressure and a higher level of prices under the Democrat model for electricity in South Australia than to have a disaggregated Optima which has competitive pressure between a number of generators in the South Australian electricity market.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Well, the Democrats have argued about a maintenance or increase in dividend flow to the Government. They have argued that there will be no reduction in dividend and income flows to Government, and it is a zero sum gain. There is no magic money tree out there. If you are going to allow Optima, as one Optima, to excise monopoly control over price for up to 96 per cent of the time and you also want to maintain or increase dividend flow to government, the only policy option as a result of that is that the long-suffering consumers out there will have to pay higher electricity prices under the Democrat or Kanck model of the electricity industry here in South Australia.

WORKCOVER

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about WorkCover.

Leave granted.

The Hon. M.J. ELLIOTT: In February this year WorkCover conducted a survey of 100 injured workers involved in its Job Club program. Of the workers surveyed—and these people have been involved for some considerable time—26 per cent had obtained a job, although not necessarily through the Job Club itself. Out of those 26 people who had a job, 46 per cent were no longer in a job when surveyed. The average duration in which those people were in a job was nine weeks. So, out of 100 people surveyed in the Job Club, only 14 were still in a job, and just under 12 had had a job for an average of nine weeks. My questions are:

1. What is the Minister's view of the effectiveness of this scheme?

2. What mechanisms does WorkCover have in place to address the results of this survey?

The Hon. K.T. GRIFFIN: I will refer the questions to the relevant Minister and bring back a reply.

MERYL TANKARD AUSTRALIAN DANCE THEATRE

The Hon. DIANA LAIDLAW (Minister for the Arts): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: I was asked earlier in Question Time if I could table correspondence. I mentioned that I had written to the Chair of the board of the Meryl Tankard Australian Dance Theatre. I did so on 16 June. The Chair is the Hon. Justice Margaret Nyland. In that letter I stated:

> I refer to your letter of 14 May 1998 and your invitation to me to comment on the points that have emerged from the board's strategic review.

I highlight in this context that the board has been going through a strategic review exercise, as have all of the 20 leading arts companies in South Australia as part of their performance agreements that have been negotiated with Arts SA. Almost all of those agreements have been reached. There are important factors in terms of looking at the long-term future: for instance, where those companies want to go in terms of the range of work opportunities for South Australian performers, dancers and so on; and international exposure, local work and national programming. The board indicated to me that, as part of that strategic planning, it was looking at the following issues: Meryl Tankard's success in building her international reputation; the impact of this development upon the company's activities within Australia and South Australia; and the associated need to generate greater income needed to support those international activities. Against that background, I was asked to comment on the board's strategic review. I wrote as follows:

> I understand that negotiations are proceeding between the company and its artistic director and you may wish to receive the Government's comment on the proposals that emerge from those negotiations. In the intervening period I reiterate my earlier advice that the Government is looking for the company to achieve an effective balance between international, national and South Australian performances. In this context, I believe that there is potential to develop the South Australian audience base further and I am reinforced in this belief by the excellent attendances of last year's season of *Furioso*—

and of course this year's performance of *Possession* during the Adelaide Festival—

> I also believe it is important that the company examine carefully the opportunities to make greater use of South Australian dancers.
>
> I trust this provides you with some guidance and look forward to being advised on the proposals which emerge from your current negotiations.

I have not at this stage received any confirmation that I can either table or read out the joint letter from the Australia Council and Arts SA in relation to this matter, but it is an important letter because of the funding situation. The Australia Council has worked with Arts SA in advising the company in terms of the funding arrangements with that company.

LEGISLATIVE COUNCIL

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Leader of the Government in this place a question about the future of the Legislative Council.

Leave granted.

The Hon. A.J. REDFORD: In today's *Advertiser* the former Deputy Leader of the Opposition, Mr Ralph Clarke, when referring to the Legislative Council is quoted as saying, 'By and large, it serves no useful purpose.'

The Hon. G. Weatherill interjecting:

The Hon. A.J. REDFORD: No, I will come to that in a minute. The former Deputy Leader, who is an affable sort of bloke, has not had a good year, losing his deputy leadership to the high profile member for Napier, despite the support of the Leader of the Opposition, Mike Rann. In response to the Hon. George Weatherill, what Mr Clarke did say—and the article seeks to report what he said in Parliament on Tuesday evening—is as follows:

> I would be more than happy to embrace any such referendum to abolish the Legislative Council. . . It would be far better for the governance of this State to abolish the Legislative Council.

He then goes on to expand on how he would see the governance of this State conducted under one House of Parliament,

although I must say there is some disappointment in the fact that he never seems to be able to count.

I have long suspected another thing that he mentioned in *Hansard* on Tuesday night, and I understand that suspicion is shared by many of us in this place. He said:

> We could do that if we had a decent series of standing committees in this Lower House. It would also give backbenchers something to do because, quite frankly, backbenchers in this Parliament—and I should say more particularly in this Chamber—

referring to the House of Assembly—

> have very little to do.

I checked some of the past utterances of the former Deputy Leader of the Opposition and I came across an article that had appeared in the *Sunday Mail* of 28 December 1995 which, in part, states:

> A senior Central-Left figure—

and for members who are new, that is a former faction of the ALP—

> Mr Ralph Clarke, said the faction would not support the abolition of the House but there might be some support for kerbing its power in relation to money Bills—

and I might say we do not have any power for money Bills, but, be that as it may, Mr Clarke has been on a fast learning curve. The article continues:

> Mr Clarke said there might have been some argument for abolishing the Upper House when it had a restrictive franchise and 'you had to own property to be able to vote for it (prior to 1975)'.
>
> 'Now that we've got proportional representation, the Upper House performs a much more useful role,' he said.

Some members opposite might notice that there are some differences between what he said in December 1995 and what he said last Tuesday. Indeed, it has been reported to me that in the debate at the Labor State Council the honourable member said that the Upper House served a very useful purpose for retired union officials for the ALP, which, apparently, was met with a great deal of mirth and was enough to carry the day. In the light of all that my question is: what is the Government's position concerning the existing role and the future role of the Legislative Council?

The Hon. R.I. LUCAS: It will not surprise members to know that the Liberal Government's position is one of very strong support for the bicameral system that operates in South Australia and—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: I am not sure whether Greg will run that tomorrow, but be that as it may—

An honourable member interjecting:

The Hon. R.I. LUCAS: This was actually raised by one of your colleagues, so do not talk about mine. Be that as it may, whether or not Mr Kelton runs it is an issue for him and the *Advertiser*. Obviously the Liberal Government's position is one of very strong support for the bicameral system that operates in South Australia, and indeed all endorsed Liberal candidates are required to abide by the Party platform—and, Mr President, I know you are a very religious reader of the Party platform—which, as one of its fundamental tenets, has the retention of the bicameral system—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: No, we have a platform and we have a constitution and we also have an application that we sign when we indicate that we will be preselected candidates for the Liberal Party. It is a combination of the platform, the constitution and the signature on the line which says we will be Liberal candidates. The Government, as I said, therefore is a very strong supporter. Having said that—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: No, it is not a pledge; it is an undertaking to become a Liberal candidate—

The Hon. T.G. Cameron: Thank you for that.

The Hon. R.I. LUCAS: You call them pledges: we sign applications to become preselected candidates. In relation to the issue of the operation of the Legislative Council, it is fair to say that in recent times increasing numbers of members—and indeed there have always been a number of members in the Labor Party and I think some members of the Liberal Party—have expressed some concern about the operations of the Legislative Council.

The big change that we have seen in recent times is that a number of journalists in the morning newspaper have commenced a campaign for the eventual abolition of the Legislative Council. They are entitled to their view, but the only message I have for members in this Chamber is that it is important that it is seen that there is an appropriate balance between the exercise of power and responsibility in terms of the way in which we approach issues. I can only give the example of our current debate on ETSA and Optima, where members of the community and the media see an issue that they hope will be treated as the critical issue it is for the future of the State, and not for it to be treated as a Party political issue and to be used by the Democrats and some members of the Labor Party to garner political support in the community.

There are many other examples, but whilst members of the Government may feel a sense of frustration at an inability to get critical measures through Parliament, such as potentially the difficulties we confront with ETSA and Optima, let me say as a member of the Government that I will remain a very strong supporter of the important role of the Legislative Council in our system of government in South Australia. Members of the Legislative Council who share that view will need to take up within their own Party fora the arguments for the retention of the Legislative Council. I think that will be assisted by responsible use of power and, hopefully, an approach by members of the Parliament that takes a little bit of the Party politics out of the important issues that confront the future of the State, and a willingness to address those issues on behalf of all South Australians rather than the particular political Party members represent.

RAILWAYS, CROSSINGS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question on the subject of safety at rail crossings in rural South Australia.

Leave granted.

The Hon. R.R. ROBERTS: Recently I attended a meeting of the Spencer Gulf Cities Association and I was made aware of a matter that has been investigated for the last couple of years by the Port Augusta City Council in respect of three crossings in its council area. These investigations and considerations have been impinged upon by the privatisation of AN and some of its facilities. As a result of those discussions, the council received a letter from the State Level Crossing Safety Committee, and I will precis the letter for the sake of brevity.

The committee advised the council that the three crossings concerned simultaneously met the warrant for active protec-

tion, that is, flashing lights. That was caused by recent traffic increases. It was also pointed out by the same committee that a window of opportunity existed to attract black spot funding, and it was suggested that officers of Transport SA would be prepared to assist the council in its submission.

As a result of the receipt of that correspondence, further discussions were held with officers of Transport SA in Adelaide, and confirmation was received that flashing lights were to be installed on the respective rail crossings. Council would be required to provide $100 000 towards the cost of the works. Council would also be obliged in future financial years to contribute towards the estimated maintenance costs of the three sets of flashing lights. These costs have been estimated by Track Access to be in the vicinity of $10 000 a year, with a total maintenance bill of $30 000 gross, of which council would be expected to find $15 000.

I am advised that council indicated to Transport SA that it believed that it was not in a position to agree to contribute $100 000 towards this project prior to the adoption of the 1998-99 budget. It was also indicated that, because of the rate capping imposed on the council by the State Government, it was the professional view of their Chief Executive Officer that council would not be able to afford to contribute towards the cost of the works until at least the 1999-2000 financial year. Having identified that the problem exists, we now find ourselves in a situation where it is almost impossible to address it.

It was also indicated that the assumption that a contribution from the Pichi Richi Railway Preservation Society Inc. towards the cost of the flashing lights and the boom gates on two of the rail crossings was based on the premise that funding for the extension of the Pichi Richi railway from Stirling North to Port Augusta Station would be obtained from the AN Rail Reform Fund and currently there was no guarantee that such funding would be available.

It was also pointed out that, since the issue was raised with the State Level Crossing Committee, with the aim of having the rail crossings illuminated so that motorists were able to see the sides of the trains when they were crossing the intersections, the matter has now extended to the provision of warning lights and boom gates because two railway tracks are involved. They were told that this is a statutory requirement where there are two rail lines, that is, that there needs to be boom gates where there is the possibility that two trains may cross each other.

In addition, an arbitrary decision appears to have been taken by Track Access and the State Rail Authority for local government authorities to be held responsible for 50 per cent of the ongoing maintenance costs for all new flashing light systems installed at rail crossings in South Australia. I am advised that the problem has been identified at Salisbury. Further information was provided to the council after investigations were carried out by a local government officer. The officer spoke to Mr Colin Anderson, the secretary of the committee who has replaced Mr Malcolm Smith from DOT, who informed the officer that, historically, rail authorities have been responsible for the maintenance of level crossings.

However, council was advised on 27 April that that could possibly change because of the privatisation of the rail industry. The officer was advised on 27 April that the current arrangements for the installation of rail crossings was a fifty-fifty split between Transport SA and Track Access. As far as this officer was aware, no precedent had been set for maintenance costs to be split. He also informed the officer that that could possibly be dealt with in the near future. An observation was also proffered, as follows:

> It is interesting to note that when he mentioned cost-share arrangements, he did not once mention councils being party to the cost share but only the State Government and the rail industry.

That was despite the officer's seeking clarification of which parties installation and maintenance would be shared between, suggesting councils would be included in such an arrangement.

The PRESIDENT: Order! Is the member close to asking his question? He has now taken six minutes.

The Hon. R.R. ROBERTS: Right now, Mr President, you will be pleased to know. I apologise to the Council, but it was necessary.

The PRESIDENT: The member knows that explanations should be used not to debate an issue but to lead into questions.

The Hon. R.R. ROBERTS: I have done it over the last three days, so I will ameliorate the cost. My questions are:

1. How many councils will be burdened with these new and ongoing imposts in South Australia as a consequence of the arrangements for privatisation?

2. Given that the Government has set rate caps which will preclude Port Augusta from participating in any projects, black spot or otherwise, until at least 1999-2000, what arrangements will the State and the Federal Governments make to ensure the speedy upgrading of these crossings to their own standards and statutory requirements, and to ensure the safety of road users, South Australians, other Australians, overseas visitors and residents in this area? Quite clearly, that has been identified as a dangerous situation.

3. Is this not another tragedy of the Liberal Government's economic rationalisation gone horribly wrong by privatising the profitable parts of Australian National and socialising the ongoing cost of safety equipment to the public, in this case in particular to the Port Augusta City Council, requiring it through its rates to tax the redundant railway workers and other Government workers who are the victims of this economic rationalist policy?

The Hon. DIANA LAIDLAW: I am sure that it was not meant to be comedy hour, but to hear the honourable member say that this is an example of privatisation gone horribly wrong by privatising the profitable parts of AN is boarding on farce, let alone comedy. There were not areas of operation that one could say were profitable. When one looked at the losses each year one could see that it was a national tragedy. During the Estimates Committee I made a statement reflecting on the profit made by Australian Southern Railroad since it had commenced operating in October last year, and I refer the honourable member to that. We are seeing a resurgence of traffic and business going to rail, and that is in everybody's interest.

This Parliament has passed a Rail Safety Act, which was proclaimed recently. The issue of contributing to safe access across railway lines has never been resolved. It has nothing to do with privatisation or this Government. I remember working with AN and the council—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I remember doing work on the Warnertown crossing—and the honourable member would be particularly interested in that crossing. I worked with the council, the district council and AN, as did Mr Barry Wakelin, the Federal member, for about 18 months, trying to work through the issues. In that instance it was a third-third-

third split amongst AN, the State Government and the council. I have not seen the correspondence: I think the honourable member said that it was to the department and not to me. I will take an active interest in the issue and see whether it can be resolved promptly. If we were able to gain the additional funds for the Pichi Richi railway line to extend it from Stirling North to Port Augusta that would help address the issue as well.

I accept that there is a more fundamental matter to be resolved—for once and for all to determine the fund share arrangements for level crossings. That has never been sorted out in the history of rail in this State, but I will get it done.

ROADS, OUTBACK

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport a question about road maintenance and upgrading in outback areas.

Leave granted.

The Hon. J.S.L. DAWKINS: Having recently travelled through some of the State's pastoral areas, I noted upgrading and maintenance projects being conducted by Transport SA on unsealed roads outside of council districts. One example was the significant work being carried out on the Parachilna Gorge Road, which carries a significant amount of tourist traffic, particularly at this time of the year when the staggered national school holidays are under way. Will the Minister indicate whether Transport SA has a program to upgrade the vast network of unsealed outback roads for which it is responsible?

The Hon. DIANA LAIDLAW: Yes, this Government has adopted such a program, and I am pleased to outline it. For the first time ever this Government has adopted a tourist road strategy which is being led by Transport SA (formerly the Department of Transport). The area through which the honourable member was travelling—Parachilna—is part of a strategy that was developed three years ago for the upgrading of tourist roads in the Flinders Ranges. The upgrading work includes the road through Parachilna Gorge and the road from Blinman to Wilpena. We are now upgrading the road from Copley to Balcanoona, which is an important access road to Arkaroola and the Gammon Ranges.

The total value of the upgrading during the current financial year is $2.16 million; and over a five year period it will be $10 million—and that is all new money for the Flinders Ranges to make better roads so that the area is more attractive for tourists to visit and to provide jobs. The importance of the roadwork is that it employs what is called the 'wet maintenance' technique, which improves safety, reduces dust for motorists and requires much lower maintenance work in the future.

The honourable member has asked about the longer term responsibility for the entire unsealed network in unincorporated or non-council areas of the State. Transport SA is responsible for 10 100 kilometres of unsealed roads in such areas. Many of these are access roads to stations, and our responsibility is to maintain them at a reasonable level of access, and we do that work in coordination with pastoralists. This is important for freight and the movement of stock.

I am pleased that the budget for the current financial year for the first time includes funds to establish grids which will be extremely useful as regards stock and tourists because, to the nightmare of many pastoralists, tourists leave gates open, not understanding that stock moves through them. If we can help pastoralists by putting down grids, I think it will encourage them to be more relaxed about tourism. This is an issue about which the Hon. Michael Elliott will be pleased, and it is probably something that we will address as part of the pastoral lands select committee.

There is an important network of outback roads, and I highlight in particular the Birdsville, Strzelecki and Oodnadatta Tracks. Transport SA has a program of upgrading these roads with an expenditure of approximately $4 million per year. In this financial year we will be upgrading the following sections of outback roads: the Birdsville Track, the Clifton Hills area, the Merty Merty to Cameron Corner road, resheeting the Marla-Mintabie road; and resheeting the Oodnadatta Track near Marla. Overall, if one looks at our tourist road strategy, the access roads to stations and the network of principal local roads, one sees that Transport SA on behalf of taxpayers is spending a total of $12 million per year in upgrading and maintaining these unsealed roads in unincorporated areas.

RETIREMENT VILLAGES

In reply to **Hon. IAN GILFILLAN** (27 May).

The Hon. K.T. GRIFFIN: I have considered the matters raised by the honourable member on 27 May in his question without notice about retirement villages and am now in a position to give a reply. A number of issues contained in my previous response of 17 February have been raised once again and I offer the following response:

Will the Government support monitoring of the retirement village industry?

The industry continues to be monitored on an 'as required' basis. The Office of Consumer and Business Affairs (OCBA) deals with problems in the industry being brought to its attention by residents or administrators in the form of requests for assistance. In addition, the Retirement Villages Advisory Committee is a useful forum for raising and considering issues of concern.

OCBA officers are trained in the areas of providing advice which includes encouraging the parties to attempt to resolve the dispute themselves. If this is not possible, officers are trained in the processes of negotiating, mediating and conciliating.

Procedures are in place within OCBA for handling disputes which are reported and if a breach of legislation is detected during this procedure then the complaint is referred for further investigation. It must be noted however, that many Retirement Village issues are not about the Act itself, but relate to the particular wording of particular residence contracts. While such matters can be resolved without the need to resort to legal proceedings, in some instances of continuing disagreement, legal action is necessary.

Will the Government assure retirement village residents that it is actively working on their behalf?

The role of the OCBA is to ensure that all South Australians enjoy the benefits of a fair, competitive and informed marketplace. The staff of the OCBA are committed to providing their customers with assistance within the constraints of the relevant legislation.

The Retirement Villages Advisory Committee (RVAC) meets bi-annually and is chaired by the Commissioner for Consumer Affairs. This Committee reports to me on matters of policy and comprises representatives from Government, industry and residents organisations. In addition to this, officers from OCBA meet two weeks prior to each RVAC meeting with the South Australian Retirement Villages Residents' Association to discuss issues of a more specific nature.

What does the Government do to ensure that all retirement village operators have proper dispute settling procedures and proper scrutiny to ensure that they are complying with the code of conduct?

The RVA Code of Conduct is owned by that Association, and compulsory to its members. Consequently it is not possible for the RVA, and certainly the Government, to ensure compliance with this Code.

It is desirable for all businesses (whether Retirement Villages or not) to have their own internal mechanisms for dealing with complaints. Seeking resolution of disputes by consensus as far as possible, at an early stage, will reduce costs and build better relationships between parties. It is laudable that the RVA requires

the establishment of a Disputes Committee in each Village which is a party to their Code. However, it is not for the Government to determine whether such Committees should exist or not. Goodwill and a desire to see appropriate outcomes are necessary for such Committees to work effectively. Forcing their establishment could be counterproductive.

However, as I have stated, an inexpensive, informal means by which attempts can be made to reach resolution of disputes is available through the OCBA, and, in most cases, this process is successful. If a dispute cannot be settled using this process, Section 14 of the *Retirement Villages Act* provides for either party to apply to the Residential Tenancies Tribunal for assistance. The advantage of using the Residential Tenancies Tribunal as the body to settle disputes is that it is capable of issuing binding orders and is available to all residents.

The Tribunal is an official judicial body and as such decisions made by the Tribunal are subject to appeal to a higher Court. Section 20 of the *Retirement Villages Act* provides for an appeal to be made to the District Court against any decision of the Tribunal.

Prospective residents who contact the OCBA for advice are strongly encouraged to seek advice from a legal practitioner who is familiar with the legislation before signing a contract to enter a village. It is also important for prospective residents to talk to existing residents to ascertain practical information about how the village operates on a day to day basis.

A comprehensive Education Kit which contains information sheets directed at residents, prospective residents and administrators of retirement villages has been compiled in consultation with representatives from Government, industry and residents' groups. It has been written in easy to understand language in an attempt to explain the roles and responsibilities of all parties to a contract.

POLICE COMPLAINTS AUTHORITY

In reply to **Hon. IAN GILFILLAN** (4 June).

The Hon. K.T. GRIFFIN: I provide the following responses:

Question 1.

The issue raised by the complaint was the significance or otherwise of the fact that the statement of one of the persons present immediately after the NCA bombing differed in some minor respects from those of the other three persons present, one of whom was the complainant. It was never in dispute that the statements differed. The issue was whether there was any significance in that difference.

If the other two officers had been interviewed and confirmed their original statements, the issued would have remained. Had they resiled from their statements, the issue would have dissolved.

The Police Complaints Authority chose to investigate the issue. Having done so, it was readily apparent that there was no sinister significance in the differences that existed. They were typical of the differences commonly found in the various statements of independent witnesses.

It would have been quite improper for the original investigators to have done that which the honourable member suggests and re-interview earlier witnesses about the detail of a statement obtained later in an investigation.

Question 2.

This question assumes that the 'record of the Police Complaints Authority' is called into question. I do not accept that assumption.

Question 3.

There is nothing I wish to add to the answer I have already given.

JAMES CONGDON DRIVE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the need for a pedestrian crossing on James Congdon Drive at Thebarton.

Leave granted.

The Hon. SANDRA KANCK: A recent edition of *Thebarton Voice*, which is the newsletter of Thebarton residents, contained an article regarding the need for a pedestrian crossing on James Congdon Drive. I have since been in contact with some of the members of the Residents' Association about that. The association has been lobbying the Department of Transport for such a crossing for some time, but to no avail.

It is my understanding that to qualify for a pedestrian crossing a road must meet a number of criteria, which is called a warrant. I gather that the warrant is a mathematical formula which requires that in two separate one-hour periods of a typical week day there should be no fewer than 60 pedestrians crossing the roadway within close proximity to the site and at least 600 vehicles passing that site subject to the product of the number of pedestrians per hour and vehicles in the same hour exceeding 90 000, whatever that means.

Obviously, the time of day at which the calculation is done will have a significant effect on the figures. The Thebarton Residents Association also contends that the formula does not distinguish between pedestrians' desire to cross the road and the opportunity to cross the road. It points out that the 1997 peak flows on James Congdon Drive were 1 250 vehicles per hour, or a car every 1.4 seconds, which would preclude many people from even attempting to begin the crossing of the road. The Thebarton Residents Association notes that Adelaide High School and Temple College students cross James Congdon Drive going to and from school. My questions to the Minister are:

1. Is the warrant calculation the only factor in assessing the need for a pedestrian crossing?

2. Does the Minister consider the current assessment procedures adequate?

3. Will she commit personally to viewing the situation on James Congdon Drive to assess the efficacy of the warrant system?

The Hon. DIANA LAIDLAW: Yes, I will visit the site at the member's request, with or without the honourable member. The warrant factor has been deliberately established Australia wide so that it is an objective basis, not a subjective or political basis, for funding allocations for various pedestrian crossings. Sometimes, I must admit, I find it uncomfortable to write to members of Parliament when they have sought funds for pedestrian crossings for the worthiest of purposes, but once you start deviating where do you stop, in terms of the demands, which far outweigh either the amount of money available or the definition of what is acceptable? There is a real dilemma in getting the balance right between the flow of vehicles and pedestrian safety.

While I have been Minister, the department has been asked to focus much more strongly on pedestrian safety and not just on seeing the roads for motor vehicles. But there is a time when motorists get so fed up stopping and starting at traffic lights and pedestrian crossings that they actually decide to take things into their own hands and defy pedestrian safety crossings, which are no longer safe havens because motorists have decided that there are just too many and they have been frustrated in their access across Adelaide.

It really involves quite a balancing act but, at the same time, I have not sought to question the warrant that applies Australia wide and imposes an objective basis for analysis and recommendation by the department to me. However, I will look again at whether, on an Australia wide basis, we should be looking at that warrant. There may be other forms of safe access that we can provide at that location which differs from the one the honourable member advocates, because then there are not only lower costs but also different standards of speeds and warrants applying.

JOINT COMMITTEE ON TRANSPORT SAFETY

Adjourned debate on motion of Hon. Diana Laidlaw:

1. That, in the opinion of this Council, a joint committee be appointed to inquire into and report upon all matters relating to transport safety in the State;

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

3. That Joint Standing Order 6 be so far suspended as to entitle the Chairman to vote on every question, but when the votes are equal the Chairman shall have also a casting vote; and

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

which the Hon. Carolyn Pickles had moved to amend by leaving out paragraph 3.

(Continued from 4 June. Page 866.)

The Hon. SANDRA KANCK: I know that the Opposition has already indicated its support for this motion, so it will pass. Whilst I do not find myself particularly supportive of it, I recognise that there are questions of transport safety that need to be addressed in this State and there have been some difficulties, it would appear, with the ERD Committee's long-term willingness to address transport issues.

The Hon. M.J. Elliott: Road safety issues.

The Hon. SANDRA KANCK: Or road safety issues, but they are transport issues as well. Given that the Committees Act gives the responsibility for transport issues to the ERD Committee, it seems to me that, if this is not working, rather than setting up another committee, we should actually be revisiting that Act and finding a way to make sure that our existing standing committees are working properly. For instance, a reasonable argument could be made that these matters could have been submitted to the Social Development Committee, if we had had the opportunity to revisit the Committees Act.

The one thing that I have been assured by the Minister in private conversation is that this will not be a paid committee, and that is good for the taxpayer. But, given that we have a series of committees where members are paid, it behoves this Parliament to make sure that we have those standing committees working properly.

So, I will be supporting the motion as amended by the Hon. Carolyn Pickles, but I indicate that it is very much on a proviso: once the committee is up and running I will be watching carefully to see how well it is working. As I am lucky to be one of the three people nominated from this Chamber to be on the committee, I will of course always have the right to withdraw my labour, so to speak, if I am unhappy with it and if that was the case.

Members interjecting:

The Hon. SANDRA KANCK: I am in the Commonwealth Parliamentary Association. I indicate that I am supporting this to give it a go, but it is very provisional support.

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

MEMBERS' REMARKS

The Hon. SANDRA KANCK: I seek leave to make a personal explanation.

Leave granted.

The Hon. SANDRA KANCK: In Question Time today I was again misrepresented by the Legh Davis-Rob Lucas duo. Again I was quoted from the document that I released on Thursday and again the dynamic duo failed to give the other half of what I said. The particular part of the paper was looking at what the market risks to Optima Energy were, and the document goes on to say, under the heading 'Optima market risks: Conclusion':

> Optima in its current configuration by virtue of its regional market control faces minimal market risks. Indeed, in its present form regulation may be necessary to ensure it does not exploit market control.

So, the allegation which was made that I was trying to have it both ways does not stand.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: AQUACULTURE

The Hon. J.S.L. DAWKINS: I move:

That the report of the committee on aquaculture be noted.

The Environment, Resources and Development Committee was instructed to examine and make recommendations on the economic, environmental and planning aspects of South Australia's present aquaculture operations and any potential aquaculture operations. The inquiry took place over a period of 10 months, with a break in the latter part of 1997 due to the State election. Following the election there was a period of changeover, and it is appropriate that I commend the current Deputy Leader of the Opposition in another place, the Hon. Caroline Schaefer and the former member for Chaffey, Mr Kent Andrew, for their work in the early stages of the inquiry. I came onto the committee part way through the inquiry, along with the members for Hanson and Chaffey in another place. It was good to work with them along with the Hon. Terry Roberts and the Hon. Michael Elliott on this complex inquiry, under the chairmanship of the member for Schubert. I understand that the Hon. Mr Elliott and the Hon. Mr Roberts will also contribute to this motion.

The inquiry had 31 submissions put to it, and 43 witnesses appeared before the committee during this reference. Aquaculture is a successful new industry for South Australia, and had a value of approximately $93 million in 1996. It has the potential to become a significant economic contributor to the State if managed in a sustainable way. The committee felt that this will happen if codes of practice and environmental management programs are put in place as soon as possible for all sectors of aquaculture. Ongoing monitoring will also ensure early recognition of possible problems.

The committee uncovered some dissatisfaction with aquaculture management plans, and their deficiencies recently became apparent. After time and effort were invested to set up tuna farms near Kangaroo Island in a designated zone, the relevant authority did not grant permission for the farms. The committee visited the site of one of the research and development lease applications off American River. I was personally concerned that this site in particular was not allowed to go ahead on a research and development basis. Aquaculture management plans do not currently give any certainty to stakeholders. If the recommendations of this report are heeded, this situation should not happen again. There is a need for continual Government support of this important regional industry and the committee notes that, since the commencement of the inquiry, the Government has increased its expenditure in the area of aquaculture by around $5 million. The committee believes that this report can assist

and influence the decision on the allocation of these funds and highlights the need for additional ongoing funding for this growing industry.

One of the important issues uncovered by this inquiry was that of communication and information transfer. For the industry to continue to grow in South Australia, adequate training courses must be readily available. The committee commends the efforts being made by the Cowell Area School, which was visited prior to the election, Flinders University and various Institutes of TAFE, to fill the need. The availability of Internet courses will greatly assist access for people in more remote areas who plan to begin aquaculture projects.

Another essential issue that must be addressed is the need for advice for new investors regarding suitable project sites and suitable species, and access to research data. The committee is aware of the limited employment opportunities in the country and believes that the aquaculture industry offers hope to regional areas, where it is creating local employment. In the 1996-1997 financial year, there were over 550 jobs directly in aquaculture and the industry has created a further 900 jobs in other sectors of the State's economy.

The committee took four regional site inspections to visit Eyre Peninsula, Yorke Peninsula, Kangaroo Island and the South-East of the State. In 1997, the committee visited Port Augusta, Cowell, Coffin Bay, Louth Bay and Port Lincoln, while this year visits were made to Wallaroo, Tickera, Port Victoria, American River, Cygnet River, Cape Jaffa, Lucindale, Penola and Mundulla. These site visits provided the committee with important insights into the industry, and first-hand knowledge of the challenges faced by aquaculturalists. The committee had the opportunity to view a wide range of species under aquaculture, including tuna, oysters, abalone, salmon, barramundi, trout, marron, yabbies, crabs and mussels. Some of these are marine-based and others are farmed on shore. Tuna and oysters are the predominant species, but considerable research is being undertaken with species such as snapper, whiting and nori—which is edible seaweed.

This inquiry has taken many months, but has been extremely interesting and informative. On behalf of the Presiding Member, I would like to take this opportunity to thank all those people who have contributed to the inquiry, especially those who spent time with us on field inspections. The current committee is composed of members of the four political Parties represented in this Parliament, and I believe that we have worked well together to produce this report.

The Hon. M.J. Elliott interjecting:

The Hon. J.S.L. DAWKINS: The Hon. Mr Elliott says 'again', and I concur. I also thank the committee's secretary, Mr Bill Sotiropoulos, and its research officer, Ms Heather Hill, for their work on this complex reference.

I believe that the low population and unpolluted environment of South Australia make this State an excellent place to have a thriving aquaculture industry. Aquaculture has the potential to generate significant economic benefit for the State if it is properly managed in a sustainable way. There is no doubt that the opportunities for this industry are enormous, with the possibility of supplying domestic and overseas markets. Additionally, the aquaculture industry offers hope for the regional areas of South Australia, as it is creating local employment at a time when some other industries are in decline. The committee has made 36 recommendations, and looks forward to a positive response to them. I commend the report to the Council.

The Hon. M.J. ELLIOTT: As the mover of the motion which first sent this term of reference to the committee, I am pleased to see that we are now reporting. The committee first started looking at this early last year, although my recollection is that it was referred to the committee about a year previous to that. That was not due to delays within the committee but was because of a backlog of other work and, in addition, there was some turnover of staff about 18 months to two years ago, which slowed things down a bit. I am glad to see that the report is now before the Council. I suppose, like every member of the committee, if I were writing it alone I would have written it differently and probably would have used some stronger language, but this is a report that ultimately has been agreed to by all six members—members, as the honourable member said, of the four Parties represented in the Parliament.

There is no question that aquaculture has already become a significant industry in South Australia and is likely to become much larger. Looked at from a purely environmental perspective, it is quite plain that fisheries are not capable of expanding further. Populations of various fish species in South Australia are already being fished to their limit—and there is some suggestion that perhaps some species even today are still being over-fished—and one has to recognise that, if there is to be extra seafood going onto our plates, it will not come from the wild fisheries but will have to come from aquaculture.

So, from an environmental perspective you say, 'Well, aquaculture is important.' My concern about aquaculture, from its beginnings in South Australia, is that it has grown during a period when there was insufficient knowledge about the environment into which we were placing it, which results in two possible consequences: first, damage to the environment; and, secondly, if you do not understand the environment well enough then the environment will come back and bite you and cause damage to aquaculture. It is my view, and I think the committee shared the view, that, probably, inadequate work and, perhaps, inadequate monitoring was done beforehand which led to the tuna deaths in Port Lincoln.

I became very active in the tuna deaths issue and it was not because I was opposed to tuna farming: I was opposed to the processes that had allowed tuna farming to grow like topsy in an area in which insufficient work had been done beforehand. My opposition was on the record prior to the tuna deaths occurring. What is more worrying is that, through FOI, I was able to ascertain—and some of the information also came before our committee—that people inside Government departments were warning about some risks in relation to the tuna deaths.

With hindsight I think that most people are saying, 'Yes, we can see that perhaps we did not get it quite right.' I just hope we have learnt our lessons. If one reads the committee report one will see that it recommends more resources for aquaculture. More money needs to be spent up front. It is all very well to say that the industry must pay its own way, but Government must look at aquaculture and say, 'This is a new industry that, for the good of the community, we want to grow and we want to get it right.' You cannot ask a fledgling industry of this sort to pay its own way. We must expect the Government to put in a lot more dollars up front.

The next question is: how are those dollars spent? Already some work is happening in trying out new species, although I think more work could be done in that area. A small amount of environmental work is occurring, but there was enough evidence before our committee to make it plain that, at this

stage, we do not know the marine environment other than in broad detail. As I speak some 300 lease applications are being assessed and, because the backlog has become a bit of a problem, I understand that the Government has put on extra people to facilitate and move the planning ahead more quickly.

But these people know nothing about the marine environment: they are simply form processors—nothing more and nothing less. The Government has put in no extra resources up front to facilitate careful thought about where we want to put leases to ensure that they are in the right place. A number of witnesses who came before the committee made plain that aquaculture should not be application driven. The committee clearly formed the view that what we should be doing is creating zoning which gives us a great deal of certainty from the beginning; that you have a very clear idea about what is likely to be approved and where and what the conditions are likely to be.

Of course, each lease will need some finetuning but there should be a great deal of predicability from the beginning. To simply hasten these 300 lease applications through the system is a grossly irresponsible act. To some extent we got away with it with tuna but only because tuna has such high profit margins. Although the operators lost a lot of money—money that, personally, I cannot imagine—the industry has such high returns that within a couple of years the operators will fight their way back and come out on top, but most aquaculture will not have the sort of profit margins one sees with tuna. Much of it will be like most farming operations: there is a margin on which to survive and on which to run a business but there will not be huge profits.

If what happened in Boston Bay had happened to, say, the salmon or snapper industries, or something like that, which operate on much leaner margins, the operators would have been destroyed. That would have been the end of them. They would have been wiped out and, more than that, anyone else contemplating going into aquaculture would have been frightened away because they would have seen all these people whose fingers had been permanently burnt. I cannot see that there are any winners out of that process. That is the sort of thing we are setting ourselves up for if we try to rush these applications through without doing the right sort of homework.

We know that the assessments are happening at a desk-top level; that very rarely are the lease sites being visited; and that not much is known about many of those areas other than in general terms. We know that the zoning is not particularly helpful in terms of telling you what is and what is not likely to be approved. The committee looked at one classic example where zoning did not give a clear picture of what was likely to happen in relation to the applications for tuna leases off Kangaroo Island. There was some difference of opinion within the committee about one of the proposed lease sites, but in relation to a second site, I believe most of the members, if not all, certainly shared the view that it should never have had a chance of getting up because it was within about four kilometres of a fur seal haul-out site.

Evidence before the committee suggests that anything within 20 kilometres will have major problems for seals and sea lions. One must ask why a zoning system cannot say, 'Fin fish will not occur within certain distances of fur seal haul-out sites'. Lines would be able to be drawn on maps which would say, 'Fin fish operations will not happen inside this distance.' You could argue whether the distance should be 20, 15 or 10 kilometres, or whatever, but that should be a relatively easy thing to do. Unfortunately, the zoning was not that precise.

All it did was to create a great deal of uncertainty for the people who wanted to locate the fish farm there and for the people who, I think for good reasons, were opposed to its location. It took up a lot of time and money and caused a great deal of heartache when it was all, in my view, totally avoidable. I think that most members of the committee would have shared that view. While there was some difference of opinion with respect to one of the sites, in terms of the other site there was no question that it was not a suitable site, and that it was amazing that it had got so far through the system.

I believe that the one-stop shop approach has a great deal going for it, but it also has some downsides. Unfortunately, the downsides, I believe, have been highlighted in the way that aquaculture has been handled in South Australia. The one stop shop process in South Australia in relation to aquaculture is running with a general assumption that aquaculture is a good thing and is more likely than not to be approved. It is operating in such a way that environmental information, what there is of it, is not finding its way through the system: it is being sifted out and, as a consequence, I believe the process currently has an inherent bias within it. The committee's first recommendation states:

> The committee recommends that, for a one stop shop process to work properly, it must operate under clear guidelines, which spell out assessment processes formalising the involvement of various agencies and using quantifiable criteria. These processes must be transparent and scientifically rigorous.

Unfortunately, I do not think that, at this time, the process matches that recommendation. There are no clear guidelines. There are no quantifiable criteria, for example, that sites should be a certain distance from fur seal and sea lion haul-out sites, which is something that is easily quantifiable. The processes are anything but transparent and scientifically rigorous. Much of the time they are happening at a desk top level behind closed doors. I think that some officers are taking too much upon themselves in terms of what does and does not get through the system.

I have some real concern about the internal workings of SARDI. I believe that the knowledge which is held broadly across SARDI is not being applied in a way it could be so that lease assessment happens properly. I also feel that there is some evidence that DENR (Department of Environment and Natural Resources) also from time to time is sidelined. There has been something of a habit in the industry to try to sideline anybody who might dare to question the direction that aquaculture is taking.

I am aware of one case where an officer was on the aquaculture committee established by the Government, but he made a few recommendations that aquaculturalists were not happy with, so he was taken off. This particular person suggested that they were overstocking on oysters in the bay at Ceduna. His advice was overruled and the stocking rate was made much higher. As it turned out, he was absolutely right, and a number of leases had to be shifted elsewhere. Because he was giving that sort of advice, he was considered to be a nuisance and was removed from the committee.

I do not think that one shoots the messenger. If there is something you do not like, you do not say, 'It is wrong because I do not like it.' You have to address the issues being raised. There have been a couple of cases where oyster leases have failed to fatten up oysters and it seems to relate to site selection. There may not be sufficient food in the water to sustain the number of oysters. In two cases, at Ceduna and

Coffin Bay, there has been a need to shift oysters to another site to bring them up to condition. I suppose the only defence one can put out at this stage is that it is a learning process but, frankly, with better up-front scientific work, that would not have been necessary.

In relation to getting certainty in planning, recommendation 5 said that aquaculture management plans should include some resolve and responses to public comments, must state reasons for selection of zones, should make quite plain what the monitoring requirements are, the carrying capacity of zones and more detail regarding types of species suitable for zones. At this stage there is nothing like that level of certainty contained in the aquaculture management plans. That level of certainty will only occur if adequate scientific work has been done up front.

I had a great deal of concern when the committee found that there had been several delegations made to Primary Industries which they have either misused or not used, depending on how you want to interpret it. For instance, the powers of the Native Vegetation Act were delegated to Primary Industries but in fact have not been exercised at all. It is quite likely that failure to exercise the powers could have made quite a few of the aquaculture operations illegal. If I could explain that further, one cannot clear native vegetation without an approval. Some aquaculture operations, because of their very nature and fouling of the sea bottom, are destroying native vegetation and, as a consequence, have breached the Native Vegetation Act in that they have not been given a dispensation.

Primary Industries, by not giving a dispensation for that to occur have, I believe, potentially left aquaculturalists open to litigation. I am not saying for a moment that I think that litigation should occur. What I am saying is that there was a legal power delegated to Primary Industries which they have not exercised. Their failure to exercise may have put aquaculturalists at risk of prosecution. As a side comment to that, having accepted that delegation, Primary Industries not only had a responsibility to use it in terms of granting rights for clearance in relation to aquaculture but also had an obligation to make very clear decisions about when they would grant such rights and when they would not. Instead, having accepted the delegation, they have virtually ignored it. That is a gross abrogation of responsibility.

I also understand that the Environment Protection Agency had placed a number of requirements on Primary Industries under a memorandum of agreement regarding molluscs and fin fish, and they have not been fully implemented. Both these delegations and memorandums have happened under the one stop shop ideal. The very fact that those delegations have been ignored indicates perhaps the contempt that is being displayed within this one stop shop process with people perhaps not taking all the responsibility that is required of them.

I briefly draw the attention of members to recommendation 23 that recommends all data collected in environmental monitoring programs should be publicly available. I recall during an earlier Environment, Resources and Development study, when we were looking at Olympic Dam, hearing some evidence which suggested that Olympic Dam was considering taking all the environmental monitoring work they were doing themselves and making it publicly available.

We were told that an operator in Northern Territory was putting all their data straight onto the Internet. That seems a risky thing to do but I would in fact argue it is a riskier thing not to do it. With new industries, industries which perhaps have not had a good reputation in the past, if you put on the public record precisely what is happening and what you are finding, then you are in a position to actually build up trust. If there are problems, they are not your problems alone. They really are the community's problems as well. I think we will see in the years to come that what is being done by just a few mining companies will become more common in the environmental area, where this sort of data will be made public property immediately.

We spent some time on the area of marine mammal entrapment. It would be fair to say that, while we received evidence that a number of dolphins and seals had died in relation to the tuna operations in Boston Bay, there was a great deal of uncertainty about precisely how many had died—or, more correctly, how many were not found and how many were not reported. It will always be very difficult, particularly where people are operating far enough away from shore that they cannot be regularly watched. There have been some difficulties in the area of marine mammal entrapment, and I believe that the Government needs to put some greater attention into this issue.

We really do need to develop some methodologies which significantly reduce the potential for marine mammal entrapment. There would be a range of options, including predator net design. One witness argued that predator nets were causing more trouble than they were worth. Predator net design is one issue, and I alluded earlier to sighting. As I understand, one tuna farm that was having a lot of trouble with dolphins was in a particular part of the bay where dolphins were moving backwards and forwards all the time. Being an area of high traffic density, if you like, it was more likely that entrapment would occur. So sighting, not just net design, would have been an obvious way to tackle that. Clearly in relation to sea lions and seals, keeping them away from haul-out sites will significantly reduce their visitation rate and, therefore, reduce the rate of deaths. Over all, it is an area that needs far more attention than is currently the case.

The committee also looked at marine feed stock and the issue of pilchards in particular. The committee intends to look at this matter in more detail, but we did make one recommendation, recommendation 29. That recommendation was that, if marine feed stock, for example, pilchards, are to be used for food and aquaculture projects, the size and sustainability of the fishery and impacts on other species should first be thoroughly researched and monitored to determine appropriate quotas. It appears from the evidence that we received that the issue of whether or not the fishery was sustainable has been given some consideration by Primary Industries and it appears that they have been relatively conservative in terms of how many pilchards are allowed to be taken. I say 'appears' because I am not absolutely convinced of that at this stage.

In terms of the evidence that we did hear, what concerned me was the fact that it is evident that virtually no work has been done on the impact of fishing pilchards on other species. It needs to be realised that pilchards are quite low down in the food chain and not only do tuna enjoy feeding on them but so do penguins, dolphins, seals, sea lions and a range of other larger predators. We do not need to look just at the sustainability of pilchard fishery for pilchards; we need to look at the sustainability of the pilchard fishery in relation to the ecosystem overall. That work has not been done and it is clearly an urgent need.

I move to a couple of other economic and development matters. I was particularly impressed by the work being done

by regional development boards. At Port Augusta I recall seeing—and I hope I have not forgotten others—a lot of work being done particularly with snapper. They were using the warm water from the power station to grow them up to size much more rapidly. A degree of experimental work is going on in that area which will bear fruit in years to come. I was quite excited also by the work being undertaken at Wallaroo. They were doing work with a seaweed, Nori, which is an edible seaweed and which is quite attractive to the Japanese markets. Again, I suppose it is still experimental but looking very promising.

I was also impressed by the establishment of an aquaculture business incubator. I notice that a business incubator is not about incubating fish, it is about incubating aquaculture businesses. At the time we visited, which was a couple of months back, two aquaculturists were establishing small operations within that incubator. As I understand it, they will receive a great deal of technical support and advice in terms of running their business—including, as I understand, their book work and everything else as well—by being placed within the incubator, but with an understanding that after a couple of years they will shift out. The incubator is then available for others to move into.

I have been a proponent for some years of business incubators generally. In regional areas particularly they are an extremely promising way of starting up new small businesses. Small businesses have people with a particular skill, but running a small business requires a whole range of skills. Therefore, in those early years when most small businesses fail the incubator can ensure that the major reasons for business failure can be addressed. I hope that we might see more of those sorts of programs operating elsewhere. In any event, I see the potential for regional development boards to become more of a conduit of information, skills and so on into regional areas where obviously aquaculture will grow.

I was also impressed by what I saw of programs running within TAFE. It seems to me that the Government could not go wrong in trying to use both TAFE and regional development boards—and sometimes working in tandem (which I think they were doing in Wallaroo)—as a conduit for getting the skills, information and everything else out to people interested in aquaculture in regional centres and growing the industry. It is another place where dollars spent will be returned many fold to the economy over the years.

I have not covered all the recommendations, but I hope that I have covered the major ideas that were addressed by the committee. I commend the report to all members. As I said, it has been quite a while in coming and it has been developed after a great deal of comprehensive consultation. I commend the report to the Council.

The Hon. P. HOLLOWAY: I am not a member of the Environment, Resources and Development Committee but I welcome the report that it has brought down on aquaculture. The report highlights many of the deficiencies in current policy on aquaculture issues and I believe that it makes a constructive contribution to the debate on how we can best develop our aquaculture industry in this State in a sustainable and orderly way. There can be no doubt that aquaculture industries offer considerable potential for growth in this State, and indeed we have seen considerable growth in the past 10 years. For many aquaculture ventures we have natural advantages when compared with other parts of the world, in particular a low pollution coastal environment. At the same time, in many parts of this State we have learnt from hard experience that aquaculture ventures can involve considerable financial and environmental risks.

As shadow Minister for Primary Industries, I have received many representations in relation to aquaculture issues. It is clear to me that there is considerable dissatisfaction about the difficulties and delays facing such projects from those seeking to develop aquaculture ventures. At the same time, there is also substantial concern from many in the community about the impact of aquaculture ventures, particularly offshore ventures, on the marine environment or on competing uses for that environment. The recent application for a tuna farm off Kangaroo Island is a classic case of those competing concerns. As the overview to this report points out, this is an example of how the current development plan process does not provide sufficient certainty for any of the stakeholders.

There are weaknesses in the current processes of assessing aquaculture development applications and they must be addressed and also more resources must be provided by the Government to overcome these weaknesses. I particularly endorse the key recommendations made by the ERD Committee in relation to planning. From my contact with this industry, I also suggest that some filtering process for aquaculture applications is desirable. The Hon. Mike Elliott has covered many of these issues, but it certainly seems to me that, if these applications are addressed on a first come first served basis, it is not particularly sensible that some applications which really have no chance of success and should not succeed have to be handled before other applications.

The Hon. Diana Laidlaw: Could you repeat the argument?

The Hon. P. HOLLOWAY: I have not finished explaining it yet. It seems to me that some filtering process for aquaculture applications should be introduced.

The Hon. Diana Laidlaw: Rather than in order of receipt.

The Hon. P. HOLLOWAY: Yes, I am saying that on a first come first served basis it would be silly if we are considering projects which have no chance of success perhaps because of environmental or financial concerns.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I understand what the Minister is trying to say—and I agree with her—but it is not particularly easy to resolve these questions. We have to have some sort of process for considering applications. Clearly, if we had better guidelines, then we could introduce a filtering process for these applications and I believe that would help speed up the projects that are more likely to succeed. I do not say this is an easy issue, but obviously it is one that needs to be addressed. One further matter in the report which I wish to address is the Presiding Member's foreword which indicates the committee will be reporting on the pilchard fishery in a separate report. Pilchards are an important source of feed for tuna farms.

I have had great concerns about the management of this fishery for some time, and I am pleased that the ERD Committee will pursue these issues in a further report. As a result of my concerns about this fishery earlier this year, I sought under freedom of information legislation all ministerial correspondence, Government reports and memoranda in relation to the pilchard fishery. I believe that these documents are essential reading in any consideration of the pilchard fishery, and I seek leave to table the documents to facilitate public debate on this subject. These documents, 144 in all, are described in detail in a schedule attached to the documents.

Leave granted.

The Hon. P. HOLLOWAY: At a more appropriate time, perhaps during the Appropriation Bill debate next week, I will address this matter in more detail, but at this stage I wish to make the comment that the recent decision of the Minister for Primary Industries, Natural Resources and Regional Development to allow tuna boat owners to allocate amongst themselves a 2 500 tonne pilchard quota is an appalling way to manage a fishery, and it sets a disastrous precedent for the management of other fisheries. The Minister has abrogated his responsibility in allowing this group of fishers to allocate quotas, and I have grave doubts about the legality of his actions.

I look forward to a review of this fishery by the ERD Committee, and I trust that the information that I have provided is of some use in assisting public debate on the fishery. In conclusion, I hope that the committee report will lead to greater debate and perhaps more importantly greater action by the Government in relation to this important industry. I commend the report to the Council.

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

CRIMINAL LAW (SENTENCING) (VICTIM IMPACT STATEMENTS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

ADJOURNMENT

At 4.18 p.m. the Council adjourned until Tuesday 7 July at 2.15 p.m.