LEGISLATIVE COUNCIL

Wednesday 26 August 1998

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

STATUTES AMENDMENT (MOTOR ACCIDENTS) BILL

The Hon. R.I. LUCAS (Treasurer): I move:

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

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I bring up the twenty-first report 1997-98 of the committee; the report of the committee concerning regulations made under the Water Resources Act 1997; and the report of the committee concerning regulations made under the Education Act 1972—materials and service charges.

NATIONAL CRIME AUTHORITY

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.T. GRIFFIN: I am advised by the State Coroner, Mr Wayne Chivell, that he has decided to hold an inquest into the National Crime Authority bombing of 2 March 1994. This follows discussions with the Deputy Commissioner of Police, the Director of Public Prosecutions, the Crown Solicitor's Office and the Chief Executive Officer of the Attorney-General's Department. Mr Chivell has indicated that the inquest will begin in early 1999.

As I am sure honourable members are aware, the bombing claimed the life of Detective Sergeant Geoffrey Bowen and seriously injured lawyer Peter Wallis. A person was charged over the bombing and ordered to stand trial, but the Director of Public Prosecutions decided not to proceed with the case because he determined that there was no reasonable prospect of conviction. No charges have been laid and the case is still open. The Commonwealth Government has offered a reward of $500 000 for information which may help lead to an arrest.

The scope of the inquest will be determined by the State Coroner. I would expect that it will address security issues at the former NCA premises in Adelaide. These security issues will probably include those raised by the Parliamentary Joint Committee on the National Crime Authority.

A member of the magistracy or the judicial auxiliary pool will be made available to assist with other cases which come before the Coroner's Court once the inquest begins. Given that the bombing was an attack against Commonwealth Government employees and occurred on Commonwealth premises, the Federal Attorney-General's office is being approached to ask that it provide additional funding for the inquest.

DEVELOPMENT ACT

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

Leave granted.

The Hon. DIANA LAIDLAW: The Development Act 1993 was hailed as landmark legislation which would deliver an efficient, effective and integrated planning and development process for State Government, local government, proponents of projects and our community at large. The Act was designed to make an important contribution to South Australia's competitive advantage by promoting economic development while preserving environmental and social values. In essence, the Act aims to enhance the quality of life values that we prize in this State.

In 1997 the Act was amended to introduce, among other things, the major development provisions. Last year the Development Assessment Commission finalised 92 per cent of applications by the due date, and 96 per cent of applications were approved. Now the performance of the plan amendment system is being monitored against specific time frames. I am pleased to advise that over the past nine months the average time that a PAR was with Planning SA was reduced by more than 40 per cent.

I have held the portfolio responsibility for urban planning since October last year as part of the creation of a new Department of Transport, Urban Planning and the Arts. This move has been excellent in terms of bringing together for the first time urban and regional development, all forms of transport plus art and cultural experiences. We are now providing a unique opportunity to further improve the living environment for all South Australians.

Over the same period, I have come to appreciate that in many respects South Australia's planning and development system leads the way nationally. It has also become very clear to me, however, that it is timely for the Government now to assess whether the Development Act is meeting the high expectations that accompanied its introduction some five years ago. Accordingly, I advise today that Ms Bronwyn Halliday has been engaged by the department to conduct a survey of customers to assess the performance and administration of the Act.

Ms Halliday's extensive experience in strategic planning, change management and organisational effectiveness will ensure that she will be able to address all the demands of this task, and there are many demands because of the often competing needs and desires of the many and diverse stakeholders in the planning and development process. Ms Halliday will be responsible for undertaking the customer survey process, which will involve at least four workshops focused on the planning and development system, including but not limited to plan amendment reports, the development approval system and building rules.

In addition, I propose to ask local councils generally, Government agencies, including Planning SA, representative groups and members of Parliament to participate. Individual contributions from the general public will also be welcomed. Overall, the assessment and survey process that I have outlined is designed to identify areas of potential change and improvement to the operation of the planning and development system in South Australia. We need to be confident in terms of performance and administration that the Act delivers the outcomes that are in the best interests of the State as we enter the next century, and that it does so with the maximum efficiency and effectiveness.

Although not directly related to this exercise but nevertheless relevant, the Government will shortly release a green paper on urban regeneration. Feedback from the issues raised in that paper will be considered in association with the

planning and development process issues identified in Ms Halliday's report, which will then be presented to me by November this year. Following consideration by Government, Ms Halliday's report will be made public and next year I anticipate that Parliament will have the opportunity to consider matters arising from this report and the green paper.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER: I bring up the report of the committee on gambling and move:

That the report be printed.

Motion carried.

STATUTORY AUTHORITIES REVIEW COMMITTEE

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

That the report be printed.

Motion carried.

QUESTION TIME

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 Australian Dance Theatre.

Leave granted.

The Hon. CAROLYN PICKLES: I refer to statements made by the Minister in Parliament on 21 July this year regarding attempts to negotiate the Artistic Director's contract with the ADT, and I quote from *Hansard*, as follows:

They stalled in March 1997—

the Minister was referring to the negotiations—

when the board first learnt—as did I—from an article in the *Australian* that Ms Tankard had submitted an artistic program for the position of artistic director for the new dance company to be established in Melbourne. In April, informal advice was received by Arts SA that, while Ms Tankard was on a short list of three for the Melbourne job, she would not be offered the job. I have no idea if Ms Tankard was ever made aware of this situation.

The Minister's inference was that Ms Tankard applied for the job in Melbourne and withdrew only when she discovered that she was likely to be unsuccessful. Today I have received a very significant letter from a very reputable arts industry person who also happened to be on the selection panel which was considering the new Victorian contemporary dance company. The facts are as follows. I will now read the letter from Professor Shirley McKechnie OAM dated 25 August 1998:

I understand that questions have been raised with you suggesting that Jeff Kennett as the Premier of Victoria 'rejected' a proposal by Meryl Tankard regarding the newly formed contemporary dance company in Victoria. I hope I may be able to clarify some of the issues connected with this very petty gossip.

I was appointed in 1997 to a selection panel of six which was charged with the task of choosing an artistic director/choreographer for the proposed new contemporary dance company in Victoria. This panel finally recommended to Premier Kennett that Gideon Orbarzanek and his Chunky Move company should be the successful tenderer. In the period leading up to this event a senior member of Arts Victoria's staff had consulted me regarding possible tenderers as it was considered desirable to interest the best talents in Australia in the foundation of the new company. I know that Meryl Tankard was strongly encouraged by Arts Victoria to submit a tender and that she finally responded to this very tentatively with a briefly written 'expression of interest'. My understanding is that Arts Victoria, anxious to include her, treated this as an 'application' of some kind and Miss Tankard was short listed as one of three parties to be interviewed by the selection committee. When further efforts were made to pursue this matter Miss Tankard withdrew from the process.

The late Stephen Porter, then General Manager of the Melbourne Symphony Orchestra, was Chair of the selection panel for the proposed company. He was also Chair of the Premier's Arts Advisory Committee and was a person much loved and respected by Melbourne's large arts community. During the discussions prior to the interviews with the two final applicants, Stephen remarked how surprised he was that Meryl Tankard had withdrawn from the process. All members of the panel seemed bemused by her actions and found it disconcerting that only two tenderers would be interviewed.

I think you will agree that none of this adds up to a rejection of a proposal by Miss Tankard. In effect, there was no 'proposal' to reject.

I hope these comments may be helpful to you. I am personally very saddened by the situation in Adelaide regarding the termination of Meryl Tankard's contract. The disempowerment of artists is to be deplored by any cultivated society. It is, of course, not the first time that similarly high-handed action has been taken by the board of ADT.

My questions to the Minister are:

1. Does the Minister still stand by her statements made to the Parliament on 21 July 1998 which have now been very clearly refuted by Professor McKechnie?

2. Will the Minister make an unreserved public apology to Ms Tankard for damaging her reputation by implying she was unsuccessful in her bid for a job for which she did not apply?

3. Will the Minister now admit she has severely damaged South Australia's arts reputation by using Parliament to vilify one of this nation's greatest performing artists, or will the Minister defend her actions once again by accusing Professor McKechnie of being just a personal friend of Meryl Tankard, as she has done with Michael Lynch and Peter Goldsworthy?

The Hon. DIANA LAIDLAW: I have never vilified Ms Tankard and the honourable member knows that and, if she wishes to read realistically and fairly the ministerial statement and all other comments, she will know that on every occasion I have indicated my support for Ms Tankard continuing in some form of work in this State. And I repeat yet again for the public record and for the benefit of the honourable member, it was—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: I am only telling the honourable member what the facts are and I will keep repeating what the facts are; and, in terms of my own position in this matter, there could be no person better who knows my views than myself. I say that I have at no time sought to see that there was not a continuing opportunity for Ms Tankard to work in this State, and that was why Arts SA offered the option for Ms Tankard to undertake a new work within the next two years. I understand also—and this is important for the public record—that the board sought to amend the contractual terms, but also sought that there would be opportunities for a new work within 1999. Now, if anyone can interpret those actions as vilification, I am very surprised.

The ministerial statement that I gave on 21 July indicated—and I will put it in perspective—that in April informal advice was received by Arts SA that while Ms Tankard was on a short list of three for the Melbourne job, she would not be offered the job. I went on to say:

I have no idea if Ms Tankard was ever made aware of this situation. But two days later the ADT received a fax from Ms

Tankard's agent that Ms Tankard had opted not to proceed further with the Melbourne application.

I went on to say that, notwithstanding the first fax received from her agent, a day later a second fax advised that:

The situation is not as clear as it may have sounded. Meryl is obviously keen to investigate all options and whether or not she stays in Adelaide is dependent on these, and of course the terms and conditions offered to Meryl by ADT.

I made those statements under the heading of Contractual Negotiations because it was proving increasingly difficult at that time in 1997 for Ms Tankard and the board to consider the terms for continuing the contractual arrangements for Ms Tankard to work with the company as Artistic Director. I went on to say that even from this date until a new contract was signed on 11 August last year there was uncertainty, but that on 11 August Ms Tankard agreed to sign for a period of three years. I have made the point before and I will make it again that, despite the best will in the world, sometimes situations do not work out as people would wish.

I know that the honourable member has problems in her own Party in respect of this. She probably would not have wanted Terry Cameron to resign; she would not have wanted things to fall apart for the ALP but, despite all her good work, that has not come to be. The Party is suffering great difficulties, although, as I say, it may not have been the honourable member's wish for that to happen; sometimes these circumstances occur. In terms of the Australian Dance Theatre, if anyone believes that the board would not have made every effort possible to make sure that the contractual terms met the interest of all parties, including the long-term interests and viability of the company, they would be wrong. I simply repeat that the informal advice that was provided to Arts SA was the advice that I made available to this place.

The Hon. Carolyn Pickles: And it was wrong. Why will you not apologise?

The Hon. DIANA LAIDLAW: It was not wrong. The informal advice was received by Arts SA, and I cannot deny that fact.

The Hon. SANDRA KANCK: As a supplementary question, given the suggestion that the Minister may have given wrong advice to the House, would she consider approaching Arts SA and asking that the review that is currently taking place consider whether or not the Minister was given incorrect advice?

The Hon. DIANA LAIDLAW: I will go back to Arts SA, if that is the honourable member's wish. In fact, if the honourable member wishes, she can speak to the person who received the advice in the first place. That might be better than going through the review process to confirm the advice that was given to me and the advice that I provided to the Parliament.

MOTOROLA

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General a question about the Motorola contract.

Leave granted.

The Hon. P. HOLLOWAY: Yesterday in Parliament Premier Olsen admitted writing a letter to Motorola in 1994 relating to a contract for Motorola to become equipment suppliers for the whole of Government communication network, understood to be worth about $60 million, subject to Motorola's establishing its software centre in Adelaide. In his 1995 annual report the Auditor-General referred to a 'pre-emptive communication' being made to a company without the compliance of the State Supply Act, which had the effect of 'creating a legal relationship that gives rise to obligations, liabilities, rights by either party.'

My question to the Attorney-General is: was a Crown Law opinion sought on the Premier's 1994 letter about the legal obligations of that letter in terms of awarding to Motorola the contract to become the sole suppliers of radio equipment for the whole of government communications network and, if so, what was that advice?

The Hon. K.T. GRIFFIN: I have to take that question on notice. I will have the matter examined and bring back a reply.

DEVELOPMENT ACT

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation before asking the Minister for Transport and Urban Planning a question about the Development Act 1993.

Leave granted.

The Hon. T.G. ROBERTS: It is quite coincidental that I have a question on the Development Act, but it is timely that it has come after the statement made by the Minister in the Council today. I have been approached by a constituent to, I guess, suss out information regarding information I do not have at hand in relation to the application by the Westfield Corporation in respect of extensions to the Tea Tree Plaza complex. I really do not have an answer to the question posed to me in relation to the legality of the principles and requirements.

It is a little bit easier to interpret some of the clauses of the Act, and they have been tested in the courts, but to test the principles and requirements is a little bit more difficult. It is difficult for individuals in the community when councils put their proposals on display in council chambers. It is okay if you have an application in or if you have a vested interest, but if you are waiting for either the Act to honour applications or to turn them down, it is very difficult for members in the community to follow through the process. My questions are:

1. What legal status do the principle and requirements of the plan amendment report have?

2. What lawful or other obligations do the council have as the planning authority to comply with those principles and requirements?

3. Will this section of the Development Act be subjected to any further recommendations as perhaps outlined by the Minister in relation to the Act being further assessed?

The Hon. DIANA LAIDLAW: Certainly there are statements of intent that must be lodged by councils with regard to PARs and projects, and councils are required to work within those statements of intent. From time to time Planning SA will continue to remind a council of the initial statement of intent for particular development projects and PARs. I will have to get more information for the honourable member on some of the specifics of the case that he has raised in terms of Westfield, and I will happily do so. I will have to reply to him during the parliamentary recess.

In the meantime, I certainly would welcome his participation in the assessment process and survey that I have outlined today because misunderstandings can arise from the complexities of the development process. Those complexities are often there in terms of providing checks and balances in the system, but those checks and balances can also create time

delays and misunderstandings. It is those matters that I am very keen to see addressed.

I know that most members of Parliament over the few months that I have had responsibility for the portfolio have raised planning issues with me. Therefore, I want to make it very plain at the outset that I am keen to have individual input from members of Parliament in this assessment or, if they want to refer constituents in relation to individual projects, an officer will be provided in Planning SA to receive correspondence on this matter.

STRAIGHT TALK PROGRAM

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Justice, representing the Minister for Police, Correctional Services and Emergency Services, a question about the Straight Talk program.

Leave granted.

The Hon. IAN GILFILLAN: Straight Talk is a crime prevention program which seeks to educate young people about some of the personal circumstances that bring people into contact with the criminal justice system and the consequences that can arise. (Incidentally, this is a promo; I will be speaking at more length about Straight Talk during Matters of Importance.) I have attended several of its presentations and have been most impressed, as I think other members would be.

The Straight Talk program is coordinated by just one person, Mr John Fila, in the Department for Correctional Services. Using the voluntary services of serving prisoners, the program is taken to schools throughout South Australia. Occasionally it has been presented to adults at Rotary clubs, Neighbourhood Watch and other community groups and to family conferences under the auspices of the Youth Court.

The program is most often presented in high schools, sometimes to whole classes but it is also targeted specifically to students who are deemed to be at risk of offending or repeat offending in adolescence. It gives them a realistic insight into life in prison—not glorified as they may see or hear about it in certain circumstances. Most importantly, it teaches them that criminal acts have long-term, unfavourable consequences.

Most of the information is presented by the prisoners with the teacher and Correctional Services staff member present. Each student needs written permission to attend. The program has been going since 1995 and has won favourable media coverage and warm responses of appreciation from many schools, police, academics, the courts, Family and Youth Services and the Victim Support Service.

The program includes a video which was produced with the assistance of a $20 000 donation from the Insurance Council of Australia. After a presentation, one teacher wrote that students had been heard leaving the session declaring, 'That's not going to be me.' A recent Police Transit Division evaluation found that, of 200 young offenders who had been exposed to the Straight Talk program since September 1996, 66 per cent had not reoffended by June this year. That is quite a remarkably successful statistic.

However, there is some concern that the Government, or more specifically the Department for Correctional Services, might not be fully supportive of the Straight Talk program. The coordinator, John Fila, has recently lost his office accommodation and has been forced to move to another location much farther away from the Yatala and Northfield complexes, and this hinders his work. I understand that the University of South Australia in May 1997 offered to donate office space and support for a full evaluation and documentation of the program and its effectiveness with a cost to the Department for Correctional Services of $55 320. However, the offer was turned down by the department. Presumably the Correctional Services Department does not need to know whether or not the program is working, but I am sure members would agree that it is in the interests of several other departments and the community generally to prevent young people at risk from becoming offenders. My questions are:

1. What is the Government's attitude to the Straight Talk program? Does it agree that prevention is better than cure in this area?

2. Given the wide support for the program from within several Government agencies—the Youth Court, Family and Youth Services, Transit Police and the Department for Education and Children's Services—should the University of South Australia's proposed evaluation or the Straight Talk program itself be funded jointly by two or more of these various agencies?

3. If the offer of a university evaluation is not taken up, how will the Government satisfy itself that the Straight Talk program is successful and worth continuing with its current funding, and perhaps even with additional funding?

The Hon. K.T. GRIFFIN: I will have those matters referred to the Minister for Police, Correctional Services and Emergency Services and bring back a reply. I do not have access to the information immediately, but I will ensure that a reply is provided in due course.

RURAL WOMAN OF THE YEAR AWARD

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation prior to asking the Attorney-General, representing the Minister for Primary Industries, a question about the Rural Woman of the Year awards.

Leave granted.

The Hon. CAROLINE SCHAEFER: About this time last year I had the pleasure of awarding the South Australian ABC Rural Woman of the Year award to Mrs Sally Tonkin of Cowell. At that time the ABC announced that it would no longer be able to sponsor those awards, and the Department of Primary Industries at that time allowed me to announce, with great pleasure, that the State Government would not allow these awards to lapse in our State.

It was later acknowledged by the Federal Rural Industries and Research Development Corporation that it would take over the Federal awards. However, I have heard nothing of what has happened to those awards either on a State-wide or Australia-wide basis since that time and people are beginning to ask me for some details of when the next lot of awards will be made and by whom. Will the Minister provide some details?

The Hon. K.T. GRIFFIN: I am not familiar with the detail. I will refer the question to the Minister in another place and bring back a reply. My recollection is that the Hon. Rob Kerin as Minister gave an indication that the awards would continue in some way, but I recall that the Rural Industries Research and Development Corporation was taking it up with a national focus, and it would be a significant achievement for this State if that were to occur. So far as the detail is concerned, I will obtain the information and bring back a reply.

WOOD FIRES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment and Heritage, a question about wood heaters.

Leave granted.

The Hon. CARMEL ZOLLO: Recent media reports suggest that South Australian homes with wood heaters may soon need to look at adopting an Australian standard for emission control. I understand that the standard has been available since 1992. South Australia has been one of the States that has not adopted the standard, although I understand that the majority of heaters available meet this tough emission standard. South Australia has been urged to implement the standard as soon as possible. The recommendation was one of the findings of a recent inquiry into urban air pollution by the Australian Academy of Technological Sciences, carried out at the request of the Federal Environment Minister.

Changing out of older heaters for new EPA approved wood heaters was also a recommendation of the inquiry. The article pointed out that heaters that comply with the Australian standard for emission control are not only more fuel efficient than older ones but are also quite safe to leave burning all night. This is obviously good news for both the environment and families, who can have a warm home 24 hours a day. Will the Minister advise whether there are any plans to make South Australian households with wood heaters comply with the Australian standard? If so, what time line will be provided for households that do not have certified heaters to comply with the standard?

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

GULF ST VINCENT PRAWN FISHERY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the Gulf St Vincent prawn fishery.

Leave granted.

The Hon. R.R. ROBERTS: I am advised that on 15 September a workshop is to be conducted with respect to the Gulf St Vincent prawn fishery. This year all fishermen were required, under the regulations as I understand it, to provide their catch and effort, including the number of hours and the value of catch, by 15 June. My constituents have contacted me trying to obtain those records for the conduct of this workshop, only to be told over two months later that those figures are not available. I understand that there is considerable anxiety within the bureaucracy of SARDI over the future of the Gulf St Vincent fishery, a subject to which I will refer later. Will the Minister provide this Council, so I may inform my constituent, with details of the 1997-98 catch effort and value figures?

The Hon. K.T. GRIFFIN: I will refer the honourable member's question to the Minister in another place and bring back a reply.

BETTER HEARING WEEK

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking you, Mr President, a question about Better Hearing Week.

Leave granted.

The Hon. M.J. ELLIOTT: Better Hearing Week is being celebrated this week to raise the community's awareness of people living with hearing impairments. One in 10 Australians have hearing impairment, which can be a barrier to participation in the broader community. There are many small things that we as a society can do to improve our ability to communicate with hearing impaired people. In the Federal Parliament audio loops have been installed in the visitors galleries to allow people with hearing aids to tune into the parliamentary proceedings.

Audio loops are simple, inexpensive devices which can be installed without structural change to a building. The cost of installing a loop certainly is not prohibitive. I am told that for an average sized church hall such a loop would cost about $1 300. The South Australian Parliament does not presently have this facility. Amplified sound is often impossible for hearing aid wearers to hear. I understand that amplification, when further amplified through hearing aids, makes things much worse.

Under the Disability Discrimination Act most public venues may be required to install them so that hearing impaired people have equal access. I understand that the Festival Centre and the Playhouse have installed audio loops, as have the new cinemas at Marion and Tea Tree Plaza and that Her Majesty's Theatre is heading down the same track. Will you, Sir, ask the Joint Parliamentary Service Committee to introduce audio loops within the Parliament to enable hearing impaired people to hear the proceedings, and would you report back on the committee's response? Finally, will you, Sir, confirm whether, although the Disability Discrimination Act does not apply, any other premises would be in breach of the Act?

The PRESIDENT: I thank the honourable member for his question. My inclination is to refer the question to the Clerk in front of me. The nature of the question is such that I should seek answers to the two parts of the question and bring back a reply tomorrow.

PARLIAMENT, STAFF

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer a question about parliamentary staff.

Leave granted.

The Hon. G. WEATHERILL: Approximately 12½ years ago when I came into this place I was looking for a secretary, and I found that we were sharing one secretary between every three members of Parliament. In the past five or six years, that ratio has been reduced to one secretary for every two members of Parliament. Thanks to the Treasurer and this Government (and we appreciate it), we have finally moved into the twentieth century and each member of Parliament has one staff member. My questions are as follows:

1. Will the Treasurer confirm or indicate whether the Hon. Terry Cameron will be given additional staff following his defection from the Labor Party?

2. If the honourable member is given additional staff, what will the cost of that staff be to taxpayers annually?

The Hon. R.I. LUCAS: I thank the honourable member for the generosity of his explanation before the sting in the tail. I have been in the Parliament longer than the honourable member: he remembers coming here with one staff member between three members. When I first came here—

Members interjecting:

The Hon. R.I. LUCAS: That was paradise. When I first came here there was one secretary to five members of the Opposition. That is all John Bannon would give us and that is all the Labor Party would give us under a succession of two or three Premiers.

An honourable member: There was one computer between two staff.

The Hon. R.I. LUCAS: There was one computer between two staff members and three members to an office—

Members interjecting:

The Hon. R.I. LUCAS: It was probably an abacus at the time, or whatever it was. It was probably a typewriter.

Members interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Exactly.

Members interjecting:

The PRESIDENT: Order! The Treasurer will resume his seat. Would the photographer please not take photographs of members if they are not on their feet. I have made that point almost daily now for three weeks.

The Hon. R.I. LUCAS: Sadly at the moment the photographer can take photographs only of me. I will sit down quickly. Even in our earlier days, one of my colleagues, the erstwhile Mr Davis, had to paint his own room. He did attract some publicity for it at the time. I am sure that had nothing to do with it, but times were tough. I appreciate that the honourable member's question acknowledges that this Government has at last proved to be quite realistic in that members of Parliament have at least one staff member each to assist them in their difficult task.

When I became Treasurer I did a number of things: one related to seeking the Government's agreement to that change. The second task was to try to rationalise the additional assistance that is given to members of Parliament who are not members of the two major Parties. The decision which I took and to which Cabinet subsequently agreed was that non-major Party members—or Independent members is perhaps the best way to describe them, and that would include the National Party member and the No Pokies Party member—would have a constant level of staff assistance. In other words, each of them is provided with 1.6 staff, so that each of the three Independent members in the House of Assembly is provided with 1.6 staff; the Hon. Mr Xenophon has been provided with 1.6 staff and each of the three Australian Democrats is provided with the equivalent of approximately 1.6 staff. I will leave it to the Australian Democrats to sort out how that level of assistance is actually divided amongst them. That is an issue of some debate but, basically, that is up to the three members of the Australian Democrats.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I am just saying that that is something that can be sorted out amongst the three Australian Democrats. All Independent members or third Party members are provided with 1.6 staff. When the Hon. Mr Cameron advised me, as Treasurer, that he had left the Australian Labor Party and had become an Independent member of the Legislative Council, under the policy that I had set down earlier this year he was automatically entitled to be treated in exactly the same way as the Hon. Mr Xenophon and the Independents in another House.

The Hon. T.G. Cameron: That's what I asked for—not one penny more and not one penny less.

The Hon. R.I. LUCAS: He asked for not one penny more and not one penny less, and he would not have been given a penny more or a penny less, either.

The Hon. T.G. Cameron: I might have got less.

The Hon. R.I. LUCAS: He might have got less, but he certainly would not have got a penny more. I assure the Hon. Mr Weatherill that if members are suggesting that the Hon. Mr Cameron is being given a special deal, a side deal, or a little benefit here or there, or whatever, that that is completely incorrect.

The Hon. R.R. Roberts: How much is it going to cost? That was the question.

The Hon. R.I. LUCAS: The honourable member knows how much a secretary is paid—calculate 60 per cent of that.

The Hon. R.R. Roberts: He didn't ask me; he asked you.

The Hon. R.I. LUCAS: I will get the figure for you, if you like. I will get the exact figure, but it will be the equivalent of 60 per cent of your secretary or of your staffing entitlement. The honourable member knows how much a staff member is paid. They are paid on a three level—

The Hon. Carmel Zollo: It depends what band they are on.

The Hon. R.I. LUCAS: It depends which band they are on. There are three bands and it will depend on the particular band of the person who will be appointed to that position. The Hon. Mr Weatherill need not fear that the Hon. Terry Cameron is being treated any differently from any other Independent member of Parliament. I must say that there was a huge incentive, I thought, for some of my own members of the backbench to automatically become Independent members of the Legislative Council. However, the argument for Independent members has been they do not have the comfort and solace of large numbers of their colleagues to assist in sharing the work.

The Hon. T.G. Roberts: No-one to fight with, you mean?

The Hon. R.I. LUCAS: I will let that one go through to the keeper.

Members interjecting:

The Hon. A.J. Redford: Don't look at us. We're pretty happy on this side now. I haven't seen a Liberal without a spring in his step for weeks.

The Hon. T.G. Roberts: Or a knife in his back.

The Hon. R.I. LUCAS: Do not talk about knives in the back. Ask Mike Rann. The original debate came with the position of the Hon. Lance Milne, whose son we have had the privilege of serving with in this Chamber—some members might not have. The Hon. Lance Milne put the view clearly that he was being expected to make some difficult decisions as he had the balance of power in the Legislative Council. He was being required to vote on all these issues, whereas members of a major Party—although, I suppose, the Labor Party is becoming smaller by the day; but it is still a major Party; I think it still has seven members—have the capacity to share the workload amongst three shadow Ministers and the associated staff. The same applies to Government members. The Democrats, the No Pokies Party, or, indeed, an Independent member of the Legislative Council—

An honourable member interjecting:

The Hon. R.I. LUCAS: The No Pokies person—

The Hon. T.G. Cameron: Would the Treasurer like the CV of my new staff member to make sure that that person meets the appropriate standards?

The Hon. R.I. LUCAS: If the Hon. Mr Cameron was prepared to share with his colleagues and me not only the CV but also, I hope, the history and the record of the staff person

he appoints, in due course it may be of great interest to members of the Chamber. I will do the precise calculations for the honourable member and bring back a reply, if he really wants it. But .6 of a full-time equivalent staff person is being made available to the Hon. Mr Cameron.

The Hon. G. WEATHERILL: Supplementary to my question: is the honourable member also provided with equipment, such as printers, etc.?

The Hon. R.I. LUCAS: Whatever the arrangements have been for the Hon. Mr Xenophon will apply to the Hon. Mr Cameron. I have given an indication that a fax machine will be provided if required. I have indicated that in relation to a photocopier, as with all other members, the Hon. Mr Cameron will share the photocopier with others on his floor. It has been a subject I have discussed with a number of members: we do not provide an individual photocopier for individual members. A number of photocopiers are located on the floors of Parliament House and we all share photocopiers in a collegiate way.

The Hon. T.G. Roberts: We're not concerned about the photocopiers but the shredders.

The Hon. R.I. LUCAS: I am not sure about shredders. If the Hon. Terry Roberts is interested in shredders I will take advice as to whether he wants to do the shredding or be shredded, I am not sure. In relation to other bits of equipment, clearly a staff person has some equipment requirements: pens and pencils. I am sure that the Hon. Mr Weatherill would not seek—

The Hon. G. Weatherill: Do you want a bet?

The Hon. R.I. LUCAS: I should not have said 'the Hon. Mr Weatherill': I should have said that most members, being reasonable about this, would not wish to deny a staff member a pen, pencil and a bit of paper to work with, as well as the other normal requirements for a staff member operating in Parliament House. My rule of thumb is that, if it is good enough for the Hon. Mr Xenophon in relation to whatever the issue is, we will work in broad concert in the same direction in relation to any other current Independent member of the Legislative Council or any future Independent member of the Legislative Council, should there be another one in the not too distant future.

The Hon. A.J. REDFORD: My supplementary question may have been answered. Will the Treasurer give an assurance that, if other members leave the ALP, they will receive the same treatment as the Hon. Terry Cameron?

The Hon. R.I. LUCAS: I briefly alluded to that. If another member of the Labor Party leaves the Party, he or she would be treated in exactly the same fashion. We are a very reasonable Government in relation to that.

CUTTLEFISH

In reply to **Hon. M.J. ELLIOTT** (23 July).

The Hon. K.T. GRIFFIN: The Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development has provided the following information:

1. The future management arrangements for the spawning cuttlefish aggregation, occurring in the area of Port Lowly and Black Point, will not be finalised until the biological surveys being conducted by the South Australian Research and Development Institute (SARDI) are completed and the findings reported. Management arrangements for the cuttlefish harvest will then be carefully considered by the Marine Scalefish Fishery Management Committee (MSFMC). Advice from the committee on an appropriate strategy will be provided to me for consideration before the cuttlefish aggregations occur next year.

2. The introduction of a permanent seasonal moratorium on the taking of cuttlefish by commercial fishers is one option which will be considered as part of future management arrangements for the cuttlefish spawning aggregation in the Port Lowly area.

Other options may include, a protected area for cuttlefish, or a small sustainable commercial fishery with recreational access being controlled by bag and boat limits. These options may provide marine scalefish licence holders a seasonal income at a sustainable harvest level.

Formal management arrangements of the cuttlefish spawning aggregation have been complicated by the paucity of scientific knowledge of the species. This has to-date necessitated the adoption of a precautionary approach to management of the resource and led to the current closure due to increasing catches. Increased scientific knowledge resulting from the biological surveys currently being conducted by SARDI and further surveys throughout the spawning seasons until 2000-2001, will allow effective implementation of management arrangements to fulfil the requirements of Section 20 of the Fisheries Act 1982.

3. Future management options for cuttlefish will also include consideration of the tourism potential which may result from this unique spawning aggregation. Promotion of the area for tourism is however, not within my portfolio, although I anticipate that if the area were to be promoted as a 'tourist-diving mecca' this would be a relatively minor seasonal activity, given that the aggregation of cuttlefish occurs over late autumn and winter.

The perceived benefits of tourism, a sustainable commercial harvest and access by recreational fishers are not mutually exclusive and decisions on the future management of cuttlefish in the Port Lowly area will include all aspects of access, optimal resource utilisation, equitable distribution, and conservation of the resource.

4. There is an obligation on the government and the fishery management committees for the sustainable development and equitable distribution of fisheries resources under the Fisheries Act 1982. To ensure that these objectives are achieved, I will consider all stakeholders with an interest in this resource, including commercial and recreational fishers and the community in general. The underlying priority, however, is the conservation of the cuttlefish resource for future generations.

I am willing to consider alternative suggestions for the use and utilisation of this resource and will investigate the merit of any suggestions received.

The nature of this unique phenomenon is recognised and the importance of appropriate conservation measures for the benefit and enjoyment of future generations is the focus for future management of the spawning cuttlefish aggregation in the Port Lowly area.

MARREE MAN

In reply to **Hon. T.G. ROBERTS** (21 July).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Police that the Far North Division police have made numerous enquiries within Marree and surrounding areas in an effort to obtain evidence that may identify the person/persons responsible.

The 'Marree Man' has been created by scarifying the outline with what appears to be a disc cultivation implement which is approximately 1.8 metres wide. There has not been any significant environmental damage caused by the work and attempts to reinstate the land to its original condition are likely to cause greater damage than to leave it regenerate naturally. The Department of Environment Heritage and Aboriginal Affairs is in the process of erecting signs to prevent public access to the site.

A crime report has been raised for offences relating to being on premises with intent to commit a crime (Section 17a of the Summary Offences Act) and for unlawful entry on land (Section 64 of the National Parks & Wildlife Act).

No information has come to hand which would identify the person/persons responsible.

The police enquiries into the person/s responsible for 'Marree Man' have not been terminated, and will continue until all leads are exhausted.

Marree Police are maintaining a close liaison on this matter with the Aboriginal Communities and the Department of Environment and Heritage and Aboriginal Affairs.

COMMUNITY SERVICE ORDERS

In reply to **Hon. T.G. CAMERON** (1 July).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Department for Correctional Services of the following:

1. Will the Government consider alternatives to the current system for people who are too old or are physically impaired, or is the government so strapped for cash that it is willing to force sick and aged pensioners to undertake manual work in unacceptable working conditions?

The Community Service program provides an alternative to the payment of fines. The Government recognises that not all people who incur fines have the ability to pay them, and that payment of fines may cause undue hardship to the offender and their dependants.

Under the current system of fine enforcement, the offender has two options available to satisfy the penalty. The offender can either pay the fine, or if the payment of the fine will cause financial hardship, he/she can make an application to the Court to perform community service.

If the offender chooses to pay the fine he/she can either make payment in full, or can make arrangements to pay the fine in instalments. The Court will assess the offender's financial situation and may enter into an agreement with the offender for payment of as little as $10 per week.

If the Court believes that the payment of the fine will cause financial hardship to either the offender or his/her dependants, then it may approve an application from the offender to perform community service.

Mr Cameron's constituent, Ms Desdame, was approved to perform community service. She was interviewed by a Community Service Officer at the Noarlunga Community Correctional Centre, who placed her on the 'special needs' program. This program is offered to offenders who, due to medical or family reasons, are unable to work on regular projects. The 'special needs' program makes the Community Service program available to a wider section of the community, and does not disadvantage the physically and mentally disabled.

It is a condition of the Community Service program that offenders must perform at least four hours work per day. At Noarlunga, the 'special needs' program offers the offender the opportunity to perform eight hours if he/she believes that he/she is able, however, the offender may elect to leave after four hours and arrange to make up the remaining four hours.

Any person undertaking community service may opt, at any time, to apply to the Court seeking to pay the outstanding amount of their fine/s by instalment. Ms Desdame was made aware of this alternative.

Ms Desdame was offered the option of participating on the 'special needs' program because of her health issues. Consequently, she decided to perform four hours per day on 19 and 26 May. As the legislation provides for community service workers to perform one day's work for every $150 or part thereof, Ms Desdame was required to perform an additional eight hours community service to satisfy the remainder of her fine. However, she elected to pay the remaining $24 of her fine rather than work the additional eight hours of community service. This was her prerogative.

2. What precautions are currently taken by the Department for Correctional Services to ensure that people who undertake community service in order to pay a fine do so in a safe working environment?

Each Community Correctional Centre has a Community Service Committee which is made up of representatives from the Department for Correctional Services, trade unions, a Magistrate or Justice of the Peace, and the wider community. This Committee assesses the community service project applications to ensure that they comply with the legislation, and do not create a risk of injury. The Department for Correctional Services has recently been assessed as a Level 3 Organisation in relation to Occupational Health and Welfare. Noarlunga Community Correctional Centre was audited on 10 June 1998.

Medical reports were obtained from Ms Desdame supporting her need to be assigned to the special needs group. Duties of the special needs group vary and include undertaking general mail-outs for external agencies and sewing activities such as making patchwork quilts and baby booties for sale in various welfare shop outlets. This work is of a sedentary nature with a supervisor readily available to assist as required.

3. Is it true that a fine of $183 requires two days community service work to pay off, the same as a fine of $283? If this is the case-and I am asking whether it is-does the Attorney consider this fair and will he review the anomaly?

Yes, this is true. Under the Expiation of Offences Act (1997), an offender who converts a fine to Community Service may work his/her fines off at a rate of $150 per eight-hour day. The community service must be completed within 6 months. This legislation does not allow for small amounts of a fine to be paid off by working part of a day. Such allowances would be extremely difficult for the Department for Correctional Services to manage, given their reliance on community agencies to supervise offenders performing community service work.

When the legislation was developed, the Government sought to provide an incentive to offenders to reduce the amount of fines outstanding in the Community. The expiation scheme has been successful in achieving this, with 5573 individuals performing community service through this scheme in the last financial year.

The legislation has not been identified for review. However, the Government has now introduced additional payment options for fines, with credit card payments being available through the Penalty Management Unit administered by the Courts. This will assist the Government to recover the large amount of unpaid fines that burden the wider community.

RAILWAYS, BLUEBIRD

In reply to **Hon. R.R. ROBERTS** (20 August).

The Hon. DIANA LAIDLAW: Bluebird Rail Systems Pty Ltd has successfully introduced the Barossa tourist train, operating a regular Sunday only rail service into the region without any State or Federal financial assistance.

The Directors of the company have invested in excess of $1.25 million in the project to date.

The new agreement with South Australian partners SACT (South Australian Cruise Train), a consortium of Proud Australia and Coachlines of Australia groups, will see the train to the region increase to three (3) regular services on Tuesdays, Thursdays and Sundays in addition to ad hoc charters, groups and conventions. This will be achieved by incorporating their own inbound and regular markets to feed extra passengers into the train service.

Bluebird Rail Systems will remain as owners and operational partners with SACT by providing drivers, accreditation, maintenance services and the actual train safe working operation.

The SACT group has discussed its marketing and sales plans with the community and to various operators in the region and they propose to continue to utilise suitable local ground transport and associated services in the region as established by Bluebird Rail on 1 May 1998.

Coachlines of Australia is in fact feeding its long established passenger market into the train services with regular hotel to Adelaide Railway Station passengers on all service days.

The issue of the condition of the track and other infrastructure such as the station platforms is quite separate. The railway line from Gawler is owned and controlled by Australia Southern Railroad (ASR)—all users of the line including Bluebird Rail pay fees and charges to ASR to travel on the track. The Barossa Regional Economic Development Authority (BREDA) has applied for both Federal and State Government funding to assist with upgrading of the line and platforms. This includes upgrading the now closed line between Nuriootpa and Angaston. While the State Government has indicated it will provide financial support, the level of this support is still being determined as it will depend on finalisation of the overall budget and the level of community funding input.

ROADS, PATCHING

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Transport a question on the topic of black line patching.

Leave granted.

The Hon. A.J. REDFORD: I notice in the letters to the editor in today's *Advertiser* a letter entitled 'A near-death experience on our roads'. In that letter, written by Mr Peter Kennedy of Hawthorndene, reference is made to some difficulties he encountered with black line patching while cycling. He indicated that they cause problems for cyclists, particularly in wet conditions. Indeed, he described one experience that he had as a near-death experience.

In his letter, he urged the relevant authorities—and I think that the Minister is a relevant authority—to invest whatever funds are required to develop a patching material with a suitable friction coefficient so that even in the foulest of weather he is able to commute to work. In the light of that, I would be delighted if the Minister could advise this place as to whether or not she has seen this letter to the editor, and the earlier letter from Mr Neville Gray on 21 August 1998. If she has seen it, does the Minister have a response in relation to Mr Kennedy's constructive suggestion?

The Hon. DIANA LAIDLAW: I advise the honourable member that Transport SA, local government in South Australia generally and road authorities in other States are using this black substance to seal cracks in the pavement as a cost effective initiative to increase the life of our road pavements. What is clear from inspections undertaken by Transport SA engineers and traffic authorities and by council workers is that the underlying pavement is essentially sound but the pavement itself is cracking. Rather than go to the enormous expense, which would have been the case years ago, of digging up all that surface and resealing or allowing the surface to remain cracked, letting water through and undermining the base of the road, they are now sealing those cracks.

Transport SA has become increasingly aware that, while this is a most cost effective measure from its perspective, it poses some considerable danger to cyclists on our road system, and more cyclists are using the road system, particularly the bike paths. Transport SA is working with the manufacturers of the material to see whether more skid-resistant substances can be incorporated into it. Some substance is already included, but clearly it is not working as effectively as it should.

Transport SA is also looking at working with the manufacturers and those who lay the substance to spread sand over the substance when it is first applied. After it has been on the road surface for some time and has worn down, it is not raised as it is when it is first laid, it is not as black, and it loses some of its shiny skid quality, but that is of little satisfaction to cyclists and even motorcyclists, some of whom have had a bad experience with sliding not only in wet weather but in normal conditions where this crack sealing has been laid extensively on the roads.

The Hon. T.G. Roberts: I thought it was a conspiracy to get rid of the Democrats.

The Hon. DIANA LAIDLAW: I do not think the Democrats ride their bike as often as I do, to be honest, although they might have the image of being fitter and more active. I highlight that I am very conscious of the cyclists' needs in this area. Transport SA is working with the manufacturers and those who have been contracted to apply this crack sealing, and as a priority we will undertake to make sure that we do better in the future in terms of the anti-skid qualities of this application.

SMALL BUSINESS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Treasurer a question regarding the South Australian small business Perspicacious.

Leave granted.

The Hon. T.G. CAMERON: On 21 July, I asked the Treasurer questions about Government assistance or lack of it for the new small business Perspicacious. As I said at the time, the company was formed by three young South Australians, all under the age of 22, who have tapped into the growth market of filming the highs and lows of the final year of high school for year 12 students. In just three years, the three young men have grown their business to employ 50 school leavers as casuals and four full-time people. Its turnover has grown by more than 200 per cent and it is expected to gross $400 000 this financial year.

Recently, Perspicacious has spent considerable time chasing the South Australian State Government for assistance, advice, grants, office space, etc., but did not even get past the interview stage. In fact, they were told to go away. As I said previously, the Victorian Government has been extremely helpful in its offers of support to the young men. It has offered them tax benefits for employing young people, free WorkCover, office space and has even offered to pay their relocation costs to entice them to move to Melbourne.

At the time, the Treasurer undertook to have this matter investigated if I would supply the contact details to his office, which I did. I am most unhappy to have to report that, so far, all these three young men have received is one brief telephone call from the Treasurer's office two weeks after I asked my previous question, and that was in response to prompting from my office.

It has now been almost five weeks since the Treasurer agreed to investigate this matter. We are talking about three young men who have had the guts to get off their behinds, pool their own money and use their heads to get a small business off the ground—one that is filling a niche market—and all they are getting is the run around from this Government. Therefore, my question to the Treasurer is: Minister, following Question Time today, will you personally telephone Mr Troy Jones from Perspicacious to sort this matter out to show you are serious about retaining and encouraging local small business in South Australia? I have the name and telephone number for you.

The Hon. R.I. LUCAS: I am concerned to hear that there has been some delay in following up the honourable member's question. No, I will not take up the issue this afternoon because a number of matters on the parliamentary agenda this afternoon will require my presence here. I will be happy to make a telephone call tomorrow before Parliament sits, if the gentleman is available, but what I will ask—

The Hon. T.G. Cameron: Morning or afternoon, so I can have him sitting by the phone?

The Hon. R.I. LUCAS: In the afternoon I am in the Parliament; but I will endeavour to at some stage—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: It might even be easier if we could do it at night time; after hours is the time when I have more time to make telephone calls. Having made the contact two weeks ago, I am presuming that someone in Treasury and Finance, together with perhaps someone from the Department of Industry and Trade—which is the department which does or does not provide assistance—would have pursued this matter and would be in a position to give me some advice so I am able to have a discussion based on what is and is not available from the Government through the appropriate department. I thank the honourable member for his reminder and we will certainly take up the issue with as much speed as we are capable of.

NATIONAL CRIME AUTHORITY

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question

about the coronial inquiry, announced today, into the NCA bombing.

Leave granted.

The Hon. IAN GILFILLAN: In an earlier question in July, I asked the Attorney about a coronial inquiry into this matter, reflecting that it had been successful in New South Wales in charging those who had murdered John Newman. In that question I made the observation that, from my understanding in South Australia, the Coroner is prevented from investigating the 1994 National Crime Authority bombing by section 26 of the Coroner's Act. This section prevents the Coroner holding an inquest where a person has been charged with criminal proceedings unless the Attorney-General so directs. I would be very interested to hear whether that was the wrong interpretation of South Australian law. The other part of the question is: can the Attorney shed any light as to why it has taken so long for the Coroner to decide to hold a coronial inquiry, bearing in mind that the actual offence took place on 2 March 1994?

The Hon. K.T. GRIFFIN: Let me deal with the second question first. I am not privy to why the Coroner did not decide to have an inquest earlier than the intimation which I have made today. He has been considering it for some time, particularly since the Director of Public Prosecutions determined not to proceed with particular charges because of there being insufficient evidence. However, I would surmise that the Coroner, seeing that there were proceedings afoot prosecuting a defendant, seeking to have a coronial inquiry may well have compromised the legal proceedings. It is not uncommon that the Coroner may commence an inquiry but suspend it whilst criminal proceedings are undertaken.

In this State, the DPP having determined not to proceed with the prosecution and subsequent investigations having occurred, it may be that the Coroner took the view that it was now less likely to create a difficulty either for continuing police investigations or for legal proceedings in the future, if someone should be arrested ultimately and brought to trial, for the Coroner to undertake the inquiry would not have interfered with either of those two matters.

So far as the honourable member's first question is concerned, my understanding is that there was not an Attorney-General's direction required to the Coroner and that the law does not prevent the inquest occurring while criminal proceedings are under way, but the normal practice is not to allow an inquest to continue whilst those criminal proceedings might be current. I think it should be recognised that in any coronial inquest that will not be an attempt to solve the crime. The police investigations will continue but the inquest is directed towards ascertaining facts and the Coroner himself will make a decision ultimately as to the direction the inquiry will take. As I have said in the ministerial statement, I would expect security issues would be among the issues addressed by the Coroner.

The Hon. IAN GILFILLAN: A supplementary question: did the Attorney have any discussions with the Coroner about this matter at any stage?

The Hon. K.T. GRIFFIN: No, I did not personally, but the ministerial statement indicates that there were discussions with the Deputy Commissioner of Police, the Director of Public Prosecutions, the Crown Solicitor's office and the Chief Executive Officer of the Attorney-General's Department. I did have discussions with the Chief Executive Officer of the Attorney-General's Department. I did have discussions at some time—I cannot remember precisely when—with the Director of Public Prosecutions as well as with the Crown Solicitor.

CONSERVATION PARKS

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Heritage, a question about conservation parks.

Leave granted.

The Hon. P. HOLLOWAY: It was reported in the *Border Watch* that a public meeting was to be held last night in Mount Gambier to discuss the proposed acquisition by the Minister for Environment of Crown land adjacent existing conservation parks. Local amateur fishermen are unhappy with the process which has taken place so far as they feel proper consultation has not taken place. My questions to the Minister are:

1. Can the Minister advise what consultation has taken place to this point?

2. Can the Minister advise as to the reasons for this acquisition taking place?

3. Can the Minister guarantee that the areas to be acquired will continue to be available for use by local fishermen?

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

MATTERS OF INTEREST

CRANLANA PROGRAM

The Hon. CAROLINE SCHAEFER: I would like to speak today on an article published in the *Australian Farm Journal*, July 1998, entitled 'Revaluing the Bush, Vital for its Survival'. In his article Mr Field says, in part:

> The perceived plight of the rural sector is attracting increasing attention in the media and from Governments. Recent national newspaper headlines and commentaries in the mainstream print media highlight the diversity of opinion of how rural Australia is and should be positioned in society. The perceived plight is exacerbated, if not caused, by actual decline in terms of trade for farmers and by declining rural populations.

Certainly that is the perception of the bush and even though I have highlighted by way of questions recently the somewhat upward trend in the economy of rural Australia, and particularly rural South Australia, certainly there is still a decline in services, there are lower education standards, there are declining populations and, with those declining populations, declining services.

Mr Field has highlighted in his article a privately funded partnership known as the Cranlana Program, formed to generate new ideas and to concentrate expertise on ways to overcome the negative perceptions of rural Australia and, if possible, to reverse underlying trends. The Cranlana Program was established as a non-profit, independent venture in 1993 with the support of the Myer Foundation, and also involved the National Australia Bank, the Institute of Land and Food Resources, the University of Melbourne and Salsi Pty Limited. I must say I was attracted to this article, because there was at last some private commitment, rather than the

usual expectation that all issues will be solved by Government.

In March a two day seminar was conducted in Melbourne with 25 invited participants, to develop strategies for investment and development. The five most important changes required for the rural sector, as identified at that seminar, were:

1. To develop human resources, specifically through enhanced leadership and an improvement in business skills.
2. To develop a coherent national vision for all Australia, with a well articulated rural mention.
3. To further develop rural infrastructure.
4. To resolve native title and resource security.
5. To promote value-based trading.

They also suggested an action plan, which included introducing a system of brokerage for education and training; investing nationally in a central rural infrastructure for telecommunications, health and education; convening a national convention to develop coherent national vision; taking a leadership role in the Aboriginal reconciliation process; promoting mutual understanding and mutual respect and institutional reform; and ensuring that the market provides signals for product quality and efficient and sustainable use of resources. A second seminar, to be held this month, will bring together another group of senior executives to reflect on and discuss further these possible actions. The next group of executives will be invited to discuss ways of implementing these plans.

Whilst this is an embryonic plan, it is an exciting innovation on the part of these private investors. I look forward to learning more about the development of their plans. There are a number of similarities between the identified changes required to those which were identified within the Eyre Peninsula Task Force report, and many similar rural partnership plans and reports throughout Australia. However, this appears to be a system that is being developed at a much higher, perhaps more businesslike, level, and I look forward to reading of the developments of this program.

OLYMPIC GAMES

The Hon. T.G. ROBERTS: I rise on a matter that I have raised in Question Time with the Attorney-General and passed on as a question to the Minister, that is, the possibility of regional Australia and other State capitals sharing in some of the benefits of the Olympic Games. The Olympic Games target for 2000 in Sydney was to make sure that the capital overrun was nil. I understand that the administrators are advertising that they are on track and on budget, and I congratulate them for that. As far as sharing the Games with the rest of Australia is concerned, I think they have failed. The rest of Australia could make some contribution and share in some of the benefits of the Sydney Olympics. I understand that the Games organisers would like to call it the Australian Olympics but, be that as it may, it is certainly taking in a lot of capital and skilled labour from other parts of the State and nation, but very few benefits as yet have trickled down through the States into the regions.

The suggestion I have to put to the Olympic 2000 Committee and to other State Sports Ministers who may be interested is that Australia could make this different from other Games by including the regional outlying areas in the lead up to the Games. That does not mean five minutes before the Games start, or the Opening Ceremony, but we could be inviting third world nations who do not have the wealth of the first world nations, nor do they win the gold medals and recognition they deserve; we could be helping some of those nations by inviting them to come to Australia earlier. I am sure that people in your regional area, Mr Acting President, and many other members of this Council would know that many sporting clubs would appreciate being able to support these third world nations, either by billeting them or by organising regional support services through Games facilities, perhaps to allow them to participate on a more equal playing field than they do now.

Many of these athletes just will not be able to get onto planes and into Australia unless this special provision is made. My suggestion is that States and regions start to advertise the facilities they have. In this State, the Riverland has a lot of unused facilities and sporting areas: they have the river, which could be used for kayaking and training facilities. The South-East has a lot of unused facilities or facilities that could be used more. They would certainly like to see a visiting team from, say, one of the Soviet States, which is bankrupt at the moment or facing bankruptcy; they would like to see and perhaps to sponsor a team to stay in that region for a while. I am sure that regions in Victoria along the river and in the outlying areas of Melbourne, such as Geelong, Gippsland and those sorts of places, would like to participate.

I am sure that the Pacific island nations, which are also impoverished as far as sporting effort goes, would like to see some of those facilities being shared. There are also possibilities for training camps and coaches to be used from Australia, and it would be valuable in terms of cultural exchange if these people were able to take up temporary residency in the lead up to these Games. It would be no skin off Australia's nose to provide specialist coaches for African athletes, although they could probably train some of our athletes, but certainly African nations and South American nations would be finding it very difficult to get the teams they would like into an international arena such as the Sydney Games.

I am sure that with a State Government push from this end, and with other States getting together to speak to the organisers of the Games and to the Commonwealth Government, which may be able to provide some funding for a project such as this, either through aid programs or through other programs, we may be able to pull together and make it a Games with a difference.

PLANE, Mr TERRY

The Hon. L.H. DAVIS: I have examined 79 political columns in the *City Messenger* written by Terry Plane, who is also the bureau chief in this State for the *Australian* newspaper. These columns have appeared weekly since 5 February 1997, a period of over 18 months, and I seek leave to have inserted in *Hansard* a table of a purely statistical nature.

Leave granted.

City Messenger
Synopsis of Terry Plane Articles

Date	Pro Olsen/Lib	Anti Olsen/Lib	Neutral	Pro Rann/ALP	Anti Rann/ALP
5/2/97		1		1	
12/2/97		1		1	
19/2/97		1			
26/2/97		1			
5/3/97		1			
12/3/97		1		1	

City Messenger
Synopsis of Terry Plane Articles

Date	Pro Olsen/Lib	Anti Olsen/Lib	Neutral	Pro Rann/ALP	Anti Rann/ALP
19/3/97	1(tariffs)				
25/3/97		1			
2/4/97				1	
9/4/97		1			
16/4/97		1			
22/4/97		1			
30/4/97				1	
7/5/97			1		
15/5/97	1(EDS)				
21/5/97			1		
28/5/97			1		
4/6/97		1			
11/6/97				1(neg've headline)	
18/6/97		1			
25/6/97		1			
2/7/97		1(anti-Howard)			
9/7/97				1	
16/7/97		1			
23/7/97			1		
30/7/97		1			
6/8/97		1		1	
13/8/97		1			
20/8/97		1			
27/8/97		1			
3/9/97		1			
10/9/97		1			
17/9/97					1(headline only, pro-Rann article)
24/9/97			1		
1/10/97		1			
8/10/97		1			
15/10/97		1			
22/10/97		1			
29/10/97		1			
5/11/97			1		
12/11/97		1			
19/11/97		1			
26/11/97		1			
3/12/97		1			
10/12/97			1		
17/12/97		1			
7/1/98		1			
14/1/98				1	
21/1/98			1		
28/1/98		1			
4/2/98			1		
11/2/98			1		
18/2/98		1(Legh Davis)			
25/2/98		1			
4/3/98		1			
11/3/98			1		
18/3/98		1			
25/3/98		1			
1/4/98			1		
8/4/98	no article				
15/4/98		1			
22/4/98		1(anti-Howard)			
29/4/98		1			
6/5/98		1			
13/5/98		1			
20/5/98		1			
26/5/98		1			
3/6/98		1			
10/6/98		1			
17/6/98		1(anti-Howard)			
24/6/98		1			
1/7/98		1			
8/7/98		1			
15/7/98		1			

City Messenger
Synopsis of Terry Plane Articles

Date	Pro Olsen/Lib	Anti Olsen/Lib	Neutral	Pro Rann/ALP	Anti Rann/ALP
22/7/98		1(anti-Howard)			
29/7/98		1			
5/8/98		1			
12/8/98		1			
19/8/98		1			
26/8/98		1			
79 stories#	2	59	12	8	1

This table summarises the tenor of 79 columns written by Terry Plane since 5 February 1997. The column totals exceed 79 because some stories have been deemed to be both anti-Olsen and pro-Rann.

The Hon. L.H. DAVIS: It should be noted that Terry Plane is a former key staff member with Labor Premier John Bannon. I have assessed the columns for political bias. They show an unrelenting and vituperative bias against the Liberal Party and, in particular, against Premier John Olsen. Fifty-nine of the 79 stories can be tagged as anti-Olsen or anti-Liberal, but only one story can be classified as anti-Rann. That article, written way back on 17 September 1997, had a negative Rann headline, although the story itself was not unduly critical. I judged 12 columns to be neutral and eight to be pro-Rann or pro-ALP. Only two are pro-Olsen or pro-Liberal: one on tariffs in March 1997 and one on EDS in May 1997. However, the last 20 consecutive columns, starting on 15 April 1998, have been anti-Olsen, anti-Liberal or anti-Howard.

That is over four months of remorseless and blatant bias. The *Guinness Book of Records* could be interested in this! On 3 December 1997 I made a speech in the Legislative Council highlighting this bias and followed it with a letter to the Editor of the *City Messenger*, which was published on 10 December 1997. On 18 February 1998, Terry Plane devoted his whole column—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: —to an attack on me for daring to raise the issue of bias.

The Hon. T.G. Cameron: He rang me up looking for dirt on you.

The Hon. L.H. DAVIS: Is that right?

The Hon. T.G. Cameron: That is right.

The Hon. L.H. DAVIS: That was before an article attacking me?

The Hon. T.G. Cameron: That is correct.

The Hon. L.H. DAVIS: It is interesting to get that on the record: that Terry Plane in fact rang looking for dirt. That would be his form. I thank Mr Cameron for that, and I will speak to him later. Since that date, his bias has been so bad that his bowl would not even stay on the rink. He has not even touched the Labor Party with a powder puff. For instance, he has ignored the bitter battle between Ralph Clarke and Annette Hurley for the Deputy Leadership of the Labor Party, the dumping of Ron Roberts as Deputy Labor Leader in the Legislative Council after the 1997 State election and Ron Roberts's understandably bitter public outburst when he said, 'I spit in the face of your offer.' He also ignored the savage report of ALP Returning Officer, Paul Dunstan (son of Don), delivered at the ALP State Convention in December 1997.

Any Liberal unrest is given star treatment and is used as an excuse for Plane's favourite line, over many months, that Olsen is about to be dumped. Funny about that, because

Premier John Olsen is still there and has the overwhelming support of his colleagues. Either Terry cannot count or he does not want to. On the other hand, Labor unrest is ignored. On 12 August, after Terry Cameron had gone public in support of ETSA privatisation, Plane suggested, 'Mike Rann wouldn't lose a great deal if Cameron did choose to cross the floor. For a start, it would rid the Party of a member seen as difficult and unpredictable.'

If it had been a Liberal member causing unrest, the column would have been written in a very different way. With Terry, his good pal, Mike simply never has any hurdles to jump. Some 59 columns against Olsen and one against Rann over the last 18 months would suggest that that is a very accurate assessment. Alex Kennedy, the previous *City Messenger* columnist, has worked for Premier John Olsen. However, many of her articles were critical of the Liberal Government and individuals within it. In fact, on more than one occasion the Parliamentary Labor Party gleefully quoted from her columns to score a political point. The Liberal Party over the last 18 months has not once been able to use a Plane column to its advantage.

The Plane bias is perhaps best revealed when, in his column on 26 May 1998, Plane managed to attack Premier Olsen for saying, 'Domestic violence is a serious issue.' The Olsen comment was in response to a question about police charges being laid against former Deputy Labor Leader Ralph Clarke for domestic assault against his partner.

On 1 July, Terry Plane was a paid apologist for the Labor line on ETSA privatisation. He did not tell the readers that Rann had been forced to adopt his anti-privatisation stance on ETSA nearly two years ago because of the unions or that in New South Wales Labor is actually in favour of privatising its power assets through its Premier and Treasurer. Instead, Plane talks about the Liberal Government's 'failure to explain how the Government would replace the substantial income from ETSA' and 'the unsubstantiated market price for ETSA-Optima'. He is not only ignorant in terms of bias, but he also reveals his financial ignorance.

Terry Plane is a disgrace to journalism. How does the *Australian* justify his position as the South Australian Bureau Chief in the face of his sustained and unrelenting bias in the Messenger Press? Every day—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The honourable member's time has expired.

STRAIGHT TALK PROGRAM

The Hon. IAN GILFILLAN: I want to give a brief explanation of my contact with 'Straight Talk', a program which is conducted for young people by four serving prisoners who are made available to schools or groups of young people to talk about their experiences. The aim is quite clearly to put in the minds of the young people a deterrent for the consequences if they pursue a course of crime or offending against society.

I have been to three presentations by this group: first, a rather exclusive private school where matriculation students were the audience; secondly, at Magill Detention Centre, where offenders confined in the juvenile system were the audience; and, thirdly, Neighbourhood Watch, where 200 members of the public sat spellbound while four serving prisoners, two men and two women, and Mr John Fila, the Correctional Services departmental officer who heads up this program, recounted the reality of what it is like inside prison. They are aided with that intention by using a video which simulates an accused or a guilty person being taken into the prison system. It is quite graphically described and shown in this medium.

The impact, as I observed it, was riveting on the young people. Their attention, which is often not easy to hold, was undivided for two hours. A large part of the second hour was taken in questions and answers. The reason it worked so well is that the four people genuinely want to help young people who are at risk not to offend, and genuinely want to show the outside world what life in prison is really like, not the sort of motel glamour image which is often rather falsely and maliciously displayed in the media, which is just doing it for kicks. The reality is far less attractive and rather horrifying, and that message gets through to the young people.

I am not advocating that Straight Talk is the complete answer, and no-one involved in it does. However, it has this commendation from criminologist S. Cameron Fox of the University of South Australia who, in a letter dated 4 July 1995, the early days of the program, stated:

> As a criminologist, I consider that Straight Talk is one of the most promising crime prevention measures that I have been involved with, and if properly developed should prove not only to be of social value but of considerable economic benefit as well.

The Courts Administration Authority's family conference team commends the program in a letter dated 12 March 1996 and says how useful to family conference and police work the Straight Talk program has been. I quote a paragraph of that letter, as follows:

> The availability of Straight Talk has been met with enthusiasm by the police and conference participants and has developed as an important alternative where, for example, community service work is not an option but where conference participants believe that the youth would benefit from information about the realities of the adult penal system.

I do not have time to give more graphic detail of the circumstances. Suffice to say that the offenders I have heard speaking are not just the sort of minor offence criminals. One has been in prison for 16 or 17 years for manslaughter, whilst others are serving four or five years for drug offences.

The important point is that if we as a community are to continue to lament the number of offences, and the cost of incarceration in dealing with the problems of crime in this society, we must look at the other end of the scale and put resources and enthusiasm into prevention measures. This is one low cost, very effective, way of doing that, and it will be of benefit not only to the people who hear it but also to those serving prisoners who actually feel that they are giving back something of value and showing responsibility to the community. It has such a range of pluses that I am very keen to do whatever I can. I urge the Government to put in resources so that it will not only continue but also expand its very valuable work.

UNITED STATES OF AMERICA

The Hon. CARMEL ZOLLO: Before President Clinton's belated so-called confession on his relationship with a certain young lady, an editorial in the *Advertiser* referred to the fiasco as 'Zippergate'. The editorial echoed the sentiments of, I think, the majority of people who believed the adeptly named Zippergate to have nothing to do with the good governance of the Republic of the United States. The editorial went on to say:

> Mr Clinton's conduct of public policy is not at issue. His character defects are, anyway, a matter of record. But so are his strengths.

So why are people in the United States taking such a deep and passionate interest in a private matter which, in most other countries, would be considered irrelevant to the running of a nation? Millions of dollars and thousands of hours are being expended on proving what at the end of the day: that the President of the world's richest and most powerful nation has human weaknesses, has an overgrown libido, may have told a lie or two, is not showing moral leadership, and is setting a bad example, and so on. There is probably an element of truth in all these assertions, but so what?

There are enormous issues confronting American society and many other countries. Organised crime and other corruption flourishes undiminished, illegal drugs and pornography are huge industries corrupting young people, and the gap between rich and poor and black and white Americans is widening. Americans continue to kill each other in droves because vested interests continue to promote the idea that everyone has a right to own and use whatever firearms they like. Why does the media and President Clinton's opponents believe that we are interested in sexual indiscretions on a day by day account at the expense of other major issues that should really concern most citizens? I believe in many ways it is a diversion to that so that those in power and the community do not tackle those real issues. It is part of the enigmatic American psyche, a country of contrast and opposites; a land of opportunity and wealth and, at the same time, extreme poverty and racial intolerance; of personal freedoms and rights which, at the same time, may be subject to abuse such as the literal right to bear arms; and the at times narrow-minded bigotry of some religious groups and, at the same time, flourishing sex, drugs and pornography cultures.

Americans are probably more patriotic than most Australians and certainly have a greater respect for many of their political institutions, particularly the Office of the President. The problem is that that respect for the office is not the same as respect for the actual occupant of the office. I suppose in Australia we call it the 'tall poppy syndrome'. Being the most powerful person in the United States, and some would say in the world, the President is a target of every aggrieved (real or imagined) individual or group, or any group with a vested interest in a particular policy or cause promoted by a President.

Once elected, if he (and up to now they have all been men, and perhaps this is part of the problem) tries to implement his policies or tackle some of the major issues, he becomes a walking target ready to be shot down (literally, in some cases). I think we would all acknowledge that the deep cultural changes that have occurred in the past 30 years or so are ones over which no single law or Government policy in the end can have total influence. Unfortunately, every time we attack the person we weaken the institution itself.

The *Advertiser* editorial commented that the price of democracy can be high indeed, but I am sure we would all agree that democracy requires not only a legal and economic framework but also a certain kind of citizen—a citizen with virtues such as moderation and self control, as well as a bent for cooperation, compromise and reflection. I am not for one minute suggesting that if a leader has committed a crime or felony it should be ignored for the sake of the institution. If the institution is effective and has survived the test of time, it will survive problems that may arise from time to time because of the human weaknesses or failings of the occupant.

But if we are attacking the institution for Party political purposes or to divert attention from the real issues confronting society, then not only do I fear for the survival of an institution that provides political and economic leadership for the USA, and in many ways the rest of the world, but also the survival of democracy itself could be at stake.

UKRAINIAN JUBILEE CONCERT

The Hon. J.S.L. DAWKINS: On Sunday 23 August I had the pleasure of attending the Ukrainian Jubilee Concert in the Scott Theatre of the University of Adelaide. The concert was to mark the fiftieth anniversary of Ukrainian settlement in South Australia and also the seventh anniversary of the independence of the Ukraine nation which occurred in August 1991. I was pleased to be joined at that function by the Hon. Julian Stefani and the member for Spence in another place.

The concert was dedicated to the many Ukrainians who, 50 years ago, made the long journey from post-war Europe to Australia to begin a new life. It was also dedicated to the beloved Ukraine with its new-found independence. In fact, the function marked the contradiction between the 50 years of freedom enjoyed here in Australia while their native land has had only seven years of freedom.

The large difference in time explains the presence of the Ukrainians in Australia. They arrived in Australia as displaced persons after the Second World War. The end of the war saw many Eastern Europeans stranded in Germany as leftovers of that country's harsh war effort. The future at that time looked very uncertain. The Ukraine was in the tight grip of the communists and Europe was in ruins. Migration overseas was seen as the only option.

It took many years of languishing in various displaced persons' camps before the opportunity to emigrate arose. I quote the President of the Association of Ukrainians, Stephan Zacharko, as follows:

> The lucky ones went to America, to Canada and other places around the globe. The very lucky ones came to Australia.

The achievements of the Ukrainians who came to South Australia are many, and some of them were witnessed on stage in a display of traditional culture which was brought to those who attended the function on Sunday as a wide representation of the Ukrainian community.

Over the 50 years that the Ukrainians have lived in South Australia they have formed many musical and dance groups. Some of those who performed on Sunday include the Kashtan Ensemble, the Kozachok Dance Group, the Vodohrai Bandura Ensemble, the Ivan Franko Ukrainian Community School, the Kalyna Senior Citizens Choir, the Voloshky Group and the Homin Choir, which I understand will be celebrating its fiftieth anniversary next year in 1999.

The concert was sponsored by the Hoverla Ukrainian Credit Cooperative, and I extend my congratulations to Mr Zacharko, the President of the Association of Ukrainians in South Australia, the Secretary, Mr Volodymyr Fedojuk, and all who contributed to the celebrations.

GREYHOUND RACING

The Hon. R.R. ROBERTS: I rise again to talk about the greyhound racing industry. On 3 August 1998 I received some correspondence from Mr David Seymour-Smith, the Chairman of the Racing Industry Development Authority (RIDA), inviting me to make some corrections or alterations to comments that I had made in this place. He issued a couple of challenges to me to which I am very happy to respond. In his last paragraph he said:

I have provided you with factual responses to the comments you have made in the Parliament. . . I trust that you will accept that many of your statements need correcting and I request that you do so in the Legislative Council at the first available opportunity. . .

Well, this is it. He stated for my information:

I met personally with the Presidents of each of the three clubs in the Iron Triangle on 24 June 1998, and made a particular point of personally visiting each of the club's venues to familiarise myself with the various tracks and standard of facilities.

That was very interesting to my constituents because they were at the track all day, and at no time did anyone observe Mr Seymour-Smith or the rest of his delegation at the track or in the precincts. They would have been very happy to meet him and help support the club and their major sponsor. He goes on to talk about some of the sequential things that took place at the meeting. I have mentioned the status of that meeting on another occasion and I do not intend to go over it again.

Mr Seymour-Smith then came to the subject of the Gawler Greyhound Club and said that it was disappointing to him that Port Pirie meetings held last year—compared to Gawler, where the majority of Wednesday night meetings will be held this year—were very disappointing. Furthermore, he stated that the number of licensed persons located within the Port Pirie area is substantially less than in the Gawler region. That is not surprising, seeing that it also catches from the same area as Angle Park.

He totally rejects a statement I made that he had from time to time said that the TAB was either all but sold or sold, and he invited me to correct that because he said that he was in South Africa at the time. I would like to remind Mr Seymour-Smith of a meeting held during the Southern Lexus Carnival held at Morphettville in February when, in response to a question about the TAB, he stated:

It wouldn't be if it was sold but a question of when.

There were 200 people at that meeting. If Mr Seymour-Smith would like me to get some statutory declarations, that can be arranged. However, I point out to him what happened in the racing industry. I am sure that if Mr Seymour-Smith asked the former Minister for Racing he probably would not pursue that line.

He also refers to a comment that I made, namely, that 'the intervention of the Mayor of Port Pirie led to an acceptance that the Chief Executive Officer of RIDA would meet with representatives from the Port Pirie Club'. I made that statement because the Mayor of Port Pirie contacted the Secretary of the Pirie Greyhound Racing Club and informed her that he had had discussions with the Hon. Rob Kerin, the local member, through whom, as I have pointed out before, I have encouraged these people to work from day one. He said that he had had contact with him and that he had arranged a meeting. If Mr Seymour-Smith is suggesting that the Mayor of Port Pirie was not telling the truth or, indeed, that the Hon. Rob Kerin, the Deputy Premier, was not doing his job, I invite him to take up those matters with those people.

Having discharged my responsibility to respond in the Parliament, as requested by Mr Seymour Smith, I finish on this note. I note in the press in the past few days a number of reports on the TAB and I understand that many investors are looking to get involved in the TAB. I put to the Government: how many jobs will be lost to South Australians if indeed the TAB is sold? I look forward to that reply. With regard to the Port Pirie club versus the Gawler club, I note that the Gawler club went broke. The authority took up the challenge to keep it alive. I understand that the greyhound racing industry is on its knees in Port Pirie. I invite Mr Seymour Smith, his colleagues and the Minister to provide the same even-handedness of treatment when they treat these northern clubs in the next few days—and I understand that the situation is crucial—and provide those clubs with the same standard of facility as the Gawler club enjoys.

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

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

A quorum having been formed:

MOTOR ACCIDENT COMMISSION

The Hon. NICK XENOPHON: I move:

I. That a select committee of the Legislative Council be appointed to inquire into and report on—

(a) The activities of the Motor Accident commission, its policies, financial affairs, board composition and the incidence and management of claims against the Compulsory Third Party Fund;

(b) The level of compensation payable to victims of road trauma in South Australia;

(c) The current and future roles and responsibilities of the Motor Accident Commission in relation to road safety and injury reduction; and

(d) Any other related matter;

II. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only;

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

IV. That Standing Order No. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I rise to speak in support of my motion to establish a select committee of this Council to inquire into and report on the Motor Accident Commission, including its policies, financial affairs, board composition and the incidence and management of claim against the Compulsory Third Party Fund. It is proposed that the committee will look into the level of compensation payable to victims of road trauma in South Australia as well as the current and future roles and responsibilities of the Motor Accident Commission in relation to road safety and injury reduction. I express my thanks to the Hon. Mike Elliott for his input in relation to subparagraph (c) of the motion.

The debate we have seen in this House over the motor accident Bill has been less than satisfactory for a number of reasons. The Treasurer has in effect stated that the basis for the need for legislative changes was two-fold: first, the financial position of the Compulsory Third Party Fund; and, secondly, the increases in registration premiums recommended by the Third Party Premiums Committee. I can safely speak on behalf of a number of members in this Chamber who have some very real disquiet about the lack of information that has been provided to us by the Government on the financial position of the Compulsory Third Party Fund. For instance, the actuarial reports obviously have been based on assumptions they have been asked to rely on by the Motor

Accident Commission, but we have yet to see these assumptions.

We have seen before this Parliament an attempt to further whittle away the common law rights of the victims of road trauma in this State with no adequate justification or basis for so doing. Unless there is a comprehensive inquiry into the Motor Accident Commission in the terms set out in this motion, we will continue to see a steady erosion of benefits payable to the victims of road trauma in South Australia. It seems that the Motor Accident Commission has been hijacked by bean counters where the important social and public policy role of compulsory third party insurance has been marginalised. I commend the motion and seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SOCIAL DEVELOPMENT COMMITTEE: GAMBLING

The Hon. CAROLINE SCHAEFER: I move:

That the report of the committee on gambling be noted.

At the outset I note that this report has been some time in its development and in being pursued in this Chamber. As such I would like to acknowledge the work done by committee members prior to the time that I was elected to this committee, namely, the Hon. Bernice Pfitzner (the previous presiding member) and Mr Stewart Leggett. I would also like to acknowledge the work of the previous Secretary to the committee (Mr Ben Calcraft) and the current Secretary (Ms Robyn Schutte) and Ms Mary Covernton, the Research Officer. I also acknowledge the other committee members: Mr Michael Atkinson, the Hon. Terry Cameron, the Hon. Sandra Kanck, the Hon. Bob Such and Mr Joe Scalzi, MP.

As seems to be the lot of the Social Development Committee, many of its references, including this one, are quite contentious and often end up being the subject of a conscience vote. As such the committee and the people on it represent the diverse views of the South Australian public generally and many of us have very diverse views on the topic of gambling. However, by and large we worked well together to produce the report that has been tabled today.

The Social Development Committee was directed to inquire into gambling in South Australia after a resolution instigated by the Hon. Robert Lucas was passed by the Legislative Council on 17 November 1994. The wide ranging terms of reference now cover the extent of gambling addiction that exists in South Australia and the social and economic consequences of that level of addiction; the social, economic and other effects of the introduction of gaming machines in South Australia; and any other matters.

The issue of gambling has had a long history in the Parliament of South Australia. The subject of the accessibility and availability of legal gambling came under close public and parliamentary scrutiny when the then Premier of South Australia (Hon. John Bannon) raised the prospect of opening a casino in South Australia. In 1992, responding to the prompting of several members of Parliament and the active lobbying of members of the public, the Hon. Mr Lucas, the then Leader of the Opposition, moved in the Upper House that a select committee be established to look at the effects of gambling among South Australians.

The motion was supported by all members in the Legislative Council and passed in May 1992. The select committee had only just begun to work on researching and analysing the issues involved when the election was announced. Eighteen months later, in October 1994, the Hon. Mr Lucas again raised the issue in Parliament, suggesting that the Social Development Committee take over the investigation. On 15 February 1997 submissions for the committee's reference into gambling were called. The Social Development Committee's reference is one of several major inquiries conducted by the Government into gambling in the past few years. In August 1995 the then Premier (Hon. Dean Brown) announced an inquiry into the use of gaming machines and the extent of their impact on the South Australian public. Later that year, the then Minister for Family and Community Services (Hon. David Wotton) also began research into the prevalence of problem gambling in relation to gaming machines. The Gaming Supervisory Authority has undergone a review of its role and relationship with the gaming industry agencies and the organisations that fall under its control. The Racing Industry Development Authority is currently under Government review, and the Gamblers Rehabilitation Fund is also in the process of being evaluated.

The level of public concern over the issue of gambling and, in particular, gaming machines was brought into sharper focus in South Australia with the election to the Upper House in October 1997 of the Hon. Nick Xenophon, who stood for Parliament as an Independent on the single issue of No Pokies. However, public and Government interest in gambling is not restricted to the State of South Australia. In May 1998, the Federal Government announced, through the Treasurer Mr Peter Costello, that the Productivity Committee is to hold a national inquiry into the social and economic impact of gambling.

The Social Development Committee heard its first evidence on 16 April 1997 and listened to the last of the witnesses on 29 May this year. In the intervening months it has received comprehensive testimony on its terms of reference. The committee has taken evidence from and questioned representatives of hotels and licensed clubs, charities and churches, the Lotteries Commission of South Australia, the TAB, the Casino and Treasury. It has talked to those who counsel problem gamblers, to academics, to medical practitioners, including psychiatrists, and to the victims of gambling losses. It visited the Northfield Women's Prison to take *in camera* evidence from an inmate.

Committee members have also spoken to police, bookmakers, gaming machine consultants and retailers. It has also spoken to a representative of the Aboriginal community and representatives of the Vietnamese, Chinese and Cambodian communities in South Australia. The committee has visited gaming rooms of hotels and has heard from the Liquor, Hospitality and Miscellaneous Workers Union and the Council on the Ageing. It has also taken submissions from the Hon. Nick Xenophon of the No Pokies Party.

The Hon. R.R. Roberts: Stop laughing.

The Hon. CAROLINE SCHAEFER: It is not a joke, either. The committee is very conscious of the criticism Governments confront with their increasing reliance on revenue from gambling.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: The gambling industry has given this State a number of economic benefits and opportunities, which include the employment of many South Australians and the revitalisation of the hotel industry, but the committee also acknowledges that there are problems associated with gambling. The issue is to ensure that the

disadvantages do not outweigh the benefits, or *vice versa*. As a result, the committee has concluded that changes to the present South Australian legislation need to be introduced.

One of the proposed changes includes overcoming any potential conflict of interest in the Treasurer's responsibilities relating to gambling. The committee believes that this could be achieved without having a single Minister solely responsible for gambling (as is the case in some States) but by ensuring that the Treasurer's authority is restricted to receiving revenue from gambling. To attain a proper balance in revenue raising functions and licensing and community welfare responsibilities, the committee believes that gambling should be coordinated through a Cabinet subcommittee comprising all Ministers with portfolio responsibilities in the area of gambling.

The committee was presented with many differing view points and widely varying arguments on gambling. The gambling industry has helped to bolster employment in South Australia. Thousands of South Australians are employed, either directly or indirectly, as a result of gambling. The racing industry provides approximately 11 000 people with either full-time or part-time work. The South Australian Totalisator Agency Board employs 580 people, the majority of whom work part time while the equivalent of 750 people work full time for the South Australian Lotteries Commission, including 89 staff at head office and a network of 640 agents throughout the State.

Hotels and licensed clubs employ as many as 20 000 South Australians—approximately a fifth are employed in work directly related to gambling. Less explicitly gambling is an important feature of the hospitality and tourism trades which are also major employers in this State. It is, however, the view of the committee that there is a great deal of evidence to support the fact that gambling activity and per capita gambling expenditure in South Australia has escalated since the introduction of gaming machines, and continues to rise here and in other States as access to machines increases.

The Hill report shows that per capita expenditure grew by 53 per cent in the first two years of gaming machine operation compared with an average annual growth rate of around 5 per cent per annum during the previous two decades. Statistics show that in 1996-97 South Australians aged 18 or older outlaid more than $570 per annum on gambling, compared with $526 per person per annum in the previous financial year. Almost $490 of that $570 was outlaid on gaming with the rest on racing. A 1996 South Australian study found that 44 per cent of the population had played gaming machines in the previous 12 months, and concluded that gaming machines were the second most popular form of gambling after Lotto.

In looking more closely at the paragraph related to the gaming industry in the committee's reference into gaming, I point out that one of the legislative and regulatory changes we have recommended is that the number of gaming machines in South Australia be capped at 11 000 and reviewed biennially, with the long term aim of reducing them to fewer than 10 000 in the future. The committee is mindful of the significant capital outlaid under current legislation by licensees, and would envisage the reduction being by natural attrition rather than compulsion. The committee recognises that gaming machines are not the only cause of problem gambling in the community.

However, there is a public perception, supported by some research and fanned by the media, that gaming machines are associated with more problem gambling in our society than any other code, apart from the TAB. In support of this contention the committee recommends that the statutory limit of 40 gaming machines per venue, excluding the Casino, be retained. The committee is also opposed to the licensing of 'pokie parlours' which do not provide refreshment or relaxation areas.

There are many references in the literature that refer to gambling as part of the Australian culture. Every State and Territory in Australia has a casino. Queensland has three. Most States and Territories have gaming machines and there are innumerable newsagents selling instant scratchies, lottery tickets and keno. Nine of the top 10 companies in the cultural and recreational services industry in Australia and New Zealand, based on net profit after tax, are involved in the direct provision of gambling services.

It is well recognised that per capita expenditure on gambling in Australia far outranks that found in any other contemporary western society. In fact, more dollars are outlaid on gambling than are directed towards defence spending or education. Today, Australia's per capita expenditure on gambling annually is 60 per cent higher than it is in the United States, 647 per cent higher than it is in the UK, and 716 per cent higher than in Canada. Almost 80 per cent of Australians have a bet on the Melbourne Cup. In fact, in 1996 Australians gambled $51 million on the cup, and South Australians staked $7 million on that race.

The committee would like to emphasise, however, that it is aware that for most South Australians gambling is a way to relax and enjoy themselves. We are very conscious of the fact that the majority of people will not come to any harm from gambling. We recognise that some people never gamble and that others only have an occasional flutter on the races or a regular ticket in lotto, and that there are those who gamble more regularly, and a few who may gamble for a living. But there is also a minority of South Australians who will experience serious problems with gambling at some stage in their life.

Current evidence indicates that there are some problem gamblers in all codes. Experts believe that between 1 per cent and 2 per cent of adult Australians are problem gamblers. They say that this is an average across all codes, but one expert witness told the committee that this percentage of problem gamblers might be as high as 5 per cent in some codes such as gaming and the TAB. Others estimated that only about 10 per cent of problem gamblers seek help, and some services suggest that these clients represent less than 5 per cent of all problem gamblers in this State.

A number of witnesses informed the committee that as many as eight to 10 other people, who are likely to include family members, friends and work colleagues, may be affected by the behaviour of a problem gambler. There is evidence to suggest that the problem rate has grown steadily in response to the increased availability of machines and seems to have peaked at about 50 per cent or slightly over of all people who seek help doing so because they have a problem with gaming machines. The committee is aware of the need to provide services in a responsible manner for this sector of the population.

The committee would like to acknowledge that the Australian Hotels Association (South Australian Branch) and the Licensed Clubs Association donate money voluntarily to the Gamblers Rehabilitation Fund and that they are the only contributors to that fund. We recommend that all gambling codes be responsible for providing services to gamblers and their families and be required to contribute to the fund.

The committee believes that South Australians must have access to appropriate information on gambling to help them make informed choices about what is involved, including the risks and servicing available to those who seek help. The committee was unanimously concerned about the aggressive nature of the marketing and self-promotion used by some gambling codes and organisations to gain market share and encourage South Australians to gamble. The 'Break Free' media campaign of the South Australian Lotteries Commission advertisements, promoting the South Australian TAB and the Casino, came under close scrutiny by the committee, which considered some promotions to be irresponsible.

The committee submits that one measure that could be instigated to curtail this practice is to ask that a code of advertising practice, which is appropriate to each gambling code, be presented to the Attorney-General and tabled in Parliament no later than the first sitting day in 1999. The committee would like to commend the work undertaken by the Australian Hotels Association and the Licensed Clubs Association in conjunction with Government and welfare services in developing just such a code: The Gaming Machine Advertising and Promotions Voluntary Code of Practice. I seek leave to conclude.

Leave granted; debate adjourned.

The Hon. R.I. LUCAS: I draw your attention to the State of the Council, Mr President.

A quorum having been formed:

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORTING

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

That the report of the Statutory Authorities Review Committee on the second inquiry into the timeliness of annual reporting by statutory authorities be noted.

The Statutory Authorities Review Committee has concluded its seventeenth report since being formed in May 1994, and this is the second inquiry into timeliness of annual reporting by statutory authorities. In July 1997, the committee released its report 'Timeliness of Annual Reporting' which showed that in the 1995-96 financial year and for the 1996 calendar year, one-third of all Government agencies and authorities identified by the committee had failed to table their reports within the specified time frame as set out in the provisions of the Public Sector Management Act. Thirty three of those bodies had tabled after the date required by law and another 18 had not tabled in Parliament at all. As a result of that major shortfall in timeliness, the committee resolved to revisit this situation, so today just over 12 months after we identified this as a serious problem, we report again on this matter of timeliness.

The report reveals a significant improvement. Whereas in the 1995-96 financial year and the 1996 calendar years only 58 per cent of reports of statutory authorities had been tabled within the required time, for the 1996-97 financial year and the 1997 calendar year, 88 per cent of all annual reports were tabled in accordance with all legislative requirements. That *prima facie* would seem to be a dramatic improvement and reflected perhaps on the fact that the Statutory Authorities Review Committee had raised this as an issue. I have had anecdotal information that Ministers have become more aware of the need for timeliness and also that better procedures are in place to ensure that timeliness does occur.

Whilst that would give everyone a warm inner glow, and notwithstanding the fact that I am a Government member, I have to say that one of the very big reasons for the very high compliance rate undoubtedly was the fact that the State election of October 1997 meant that the hurdle for timeliness, which had to be jumped, was not very far off the ground. In normal non-election years, the tabling provisions of the Public Sector Management Act would almost invariably lead to reports being required to be tabled in early to mid November, and that is for the vast majority of statutory authorities because they do have a financial year balance date.

In other words, the Public Sector Management Act requires that statutory authorities that rule off their books on 30 June must provide an annual report to their relevant Minister within three months of that date, namely, 30 September, and then that Minister has 12 parliamentary sitting days in which to table that annual report. Down through the years that '12 sitting day' provision would invariably lead to the last date for tabling of an annual report for a financial year to be in early or mid November. However, with the State election being held in October 1997, the 12 sitting day rule required by the Public Sector Management Act meant that tabling was not required until 26 February 1998. So, as I have said, the hurdle was a very low one indeed.

The committee again addressed the important issue and challenge of the definition of 'statutory authorities'. It again drew attention to the fact that, whilst the definition in the Parliamentary Committees Act of what is a statutory authority and what bodies we can legally examine as a standing committee of the Parliament, nevertheless a very large number of public bodies are outside the definition of 'statutory authority'. There are unincorporated bodies such as the Parole Board and the Police Complaints Authority, which, although they sound like statutory authorities, by the strict definition are not. Then there are other bodies, major bodies at that, which, because they are not established by their own Act of Parliament, again fall outside the strict definition of 'statutory authority'.

It surprises many members of Parliament, including experienced members, that the major hospitals in South Australia, the incorporated hospitals and health centres established pursuant to the provisions of the South Australian Health Commission Act 1976 are not statutory authorities. That raises real concerns for the committee because it could mean that major bodies which are not statutory authorities may fall between the cracks.

Over the past four years there has been the gradual and steady acceptance of the fact that the Statutory Authorities Review Committee addresses matters relating to statutory authorities, and the Economic and Finance Committee addresses matters of the day relating to Auditor-General's items, budgetary matters, perhaps matters of topical importance such as the Hindmarsh bridge, the ETSA privatisation, and so on. Sometimes, particularly under Presiding Member Heine Becker's rule, they did stray beyond their boundaries and did embrace statutory authorities. However, I think it is important for there to be more precision in the definition of 'bodies' which can be examined by this committee, and we previously recommended in an earlier inquiry that the committee's parameters be broadened to include the ability to examine 'statutory bodies', as distinct from the narrower term 'statutory authorities'.

The other matter which we again addressed and on which I personally place some importance in terms of the need for

this Government to adopt a businesslike, professional and transparent approach to Government agencies is the pressing need for a comprehensive register of statutory authorities. This was a focus of our first inquiry into timeliness of annual reporting by statutory authorities a little more than 12 months ago. I have to say, having seen at first-hand the experience of the highly qualified and dedicated staff of the Statutory Authorities Review Committee, both research officers and secretaries—and the committee—that it has taken an extraordinary amount of time—

The Hon. A.J. Redford: And past members.

The Hon. L.H. DAVIS: —we will not go that far—to cobble together a list of statutory authorities. In fact, we are not confident in presenting this report that we have identified all statutory authorities. To do this, it would be necessary to examine the constitutions and legislation creating and governing the operation of hundreds of statutory bodies. We do not have the resources and the time constraints make it impractical but, nevertheless, at the conclusion of our report, we have presented in Appendix 1 bodies for which reports are required to be tabled in Parliament and which we believe is correct as at 21 August 1998. This involves some 160 statutory bodies and the committee believes that this would be a very useful starting point for the establishment of a register.

In this day and age when I can receive (as I did today) via the Internet some correspondence from my daughter in Edinburgh, it is not seemingly beyond the wit of a Government in a high-tech State to give some priority to the establishment of a register of statutory authorities. This is not a high-tech job; it is very low-tech indeed and not very costly. In Queensland, for example, there is a register of statutory authorities, which, for some years, has been able to be freely accessed by the public. It is transparent and the public not only get hard copy but they can also access it via the Internet. In Queensland, that register contains the details of over 400 statutory authorities including the name of the authority, a description of the function, its enabling Act, the detail of the type of body it is (for example, is it a service provider), whether the body is wholly or partly Government owned, whether it is a body corporate, its constitution date, its address and contact details, the number of employees, its budget status and source of funds and the name and terms of office of all the board members. Now that is a very good starting point for a register. I think the committee would agree in saying that we would add additional detail of the fees payable to board members, in bands.

The Government of the day has a commitment to identify fees in bands of $10 000, which is not very practical when many of the smaller boards and smaller bodies have annual fees perhaps in the order of $1 000 or $2 000 and smaller, discrete bands at the lower end, up to $10 000, may be appropriate and then, say, from $10 000 to $15 000, $15 000 to $20 000 and then thereafter $10 000 bands.

The committee reiterates its belief that there is an urgent need for the Government to establish and maintain a comprehensive electronically accessible database of statutory authorities that is regularly updated. It is not only transparency for the public and for the Parliament, but it also is a matter of good housekeeping that Ministers can actually be aware of which statutory authorities are under their purview; of vacancies that are about to occur in their boards; and of discrepancies in fees payable, because it is quite clear that over many years Governments of whatever persuasion have not been across some of these basic housekeeping requirements.

The other matter that was identified by the committee (I suspect, again, for the first time) is the overdue need to standardise the reporting requirements of statutory authorities. As I noted, 160 bodies are identified by the committee, as set out in appendix 1: 38 of these bodies were required to report to Parliament as a result of the provisions of the Public Sector Management Act (that is, specifically required in their establishment legislation); 80 were required to report to Parliament by both the Public Sector Management Act and their establishing Act; 36 were required to report to Parliament solely by their establishment Act; and six were not required to report to Parliament at all, by any legislation. So, there is this inconsistency and confusion which obviously leads to some ongoing problems.

For example, the Enfield General Cemetery Trust's annual report has been published. The committee is aware of that because it has received a copy of it, but it has never been tabled in the Parliament. There are other examples where one suspects that a report has been provided to the relevant Minister but it has not been tabled in Parliament. There are other examples, such as the Australian Dance Theatre, which appeared not to be aware of the fact that it was required to report to the Parliament. It is hard to believe, with bodies established by an Act of Parliament, that the responsible executive officer is not at least aware of the basic reporting requirements. It is hard to believe that somewhere in the bowels of a Minister's office there is not an executive officer who is responsible for ensuring that the annual report is on time and is complying with the standards set out for reporting requirements.

It is also hard to believe that there is not a proper procedure across Government to ensure that board vacancies are properly filled. We had a recent example with the Enfield General Cemetery Trust, where there was a vacancy for three board members for a period of 12 months. Whatever the colour of Government, that simply is not acceptable. Of course, that is the very essence of the Statutory Authorities Review Committee, which is a bipartisan committee and which, I am pleased to say, over four years has always made unanimous reports.

The other matters that were dealt with by the committee include the existing reporting requirements under the Public Sector Management Act, whereby Ministers are required to table annual reports within 12 sitting days of their receipt.

We took evidence from the well respected South Australian Auditor-General (Mr Ken MacPherson). He was asked specifically about this matter, and he was inclined to the view that 12 sitting days was too long. It is interesting to note that if the six sitting day requirement had applied in the 1997 election year, as we have recommended, this change would have required a tabling by 11 December 1997 rather than by 26 February 1998. So, that is a recommendation that we think is achievable: that Ministers will be required within six sitting days after receipt of a report, pursuant to section 66 of the Public Sector Management Act, to table the annual report in the Parliament.

We also reiterate an earlier recommendation, namely, that, if a report is late in being laid before a House of Parliament, the appropriate Minister is to make or table a statement or to cause a statement to be tabled in that House as to the extent of and reasons for that lateness. We have had a commendable example in this Chamber on at least one occasion when I can remember the Treasurer did a very public *mea culpa* for a late

report. That is the sort of example that we hope would be taken up by all Ministers.

The Hon. A.J. Redford: Is there a model that they can follow—a model Minister?

The Hon. L.H. DAVIS: It's the Lucas model, yes. I think that over the years the Treasurer's bodies have been more prompt in reporting. In summary, of the 160 bodies identified by the committee, 150 report on a financial year basis, and only five report on a calendar year basis. Of that 160, 140 reported in accordance with all legislative requirements—which was an encouraging result. The report details those bodies that reported late for various reasons. I will not run through those, although there are some notable examples and, in some cases, repeat offenders who have been persistent in their lateness.

It is worth noting that the later a report the less relevant it is to the Government of the day, the Parliament and the public at large; that if a real issue and a real concern are emerging in that body, although it may have been audited on time by the Auditor-General, the broader picture may not necessarily emerge until the annual report is tabled.

When an annual report is tabled 12 or 18 months late and there is a serious difficulty, quite often it will be a harder problem to address than if the matter had been brought to public attention earlier.

In summary, the committee accepted that there had been some improvement in the compliance with reporting requirements by statutory authorities, although one would suspect that the State election of 1997 accounted for a large element of this improvement in compliance with timeliness requirements.

I reiterate the importance and the priority that the Government should give to establishing and maintaining the publicly accessible electronic register of statutory authorities to review the reporting provisions of section 66 of the Public Sector Management Act, perhaps tightening it from requiring Ministers to table within 12 sitting days down to six sitting days; for Ministers to be obliged to identify the cause of any delay in the tabling, whether it is in their office or whether it is due to slothfulness on the part of the statutory bodies; and also, most importantly, to standardise reporting requirements for all statutory authorities and other bodies.

In conclusion, the committee is indebted to Andrew Collins, who has recently retired as our research officer to move to Hong Kong with his wife and family. He produced this report in a very timely fashion, just prior to his departure. We are also indebted to the Secretary, Helen Hele who, since Andrew's departure, has been elevated to the position of research officer and who concluded the report for us.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

SOCIAL DEVELOPMENT COMMITTEE: GAMBLING

Adjourned motion of Hon. Caroline Schaefer (resumed on motion).

(Continued from page 1592.)

The Hon. CAROLINE SCHAEFER: It has been suggested strongly to the committee that a new law be made protecting problem gamblers by imposing duties on licensees with a reverse onus of proof on them. However, on deliberation, members considered that the introduction of legislation was no solution to this issue and indeed would be unfair to licensees and impossible to police.

The committee considers that Internet and interactive home gambling is one of the great challenges for Governments of today. Although as a country Australia is acknowledged universally as having an excellent reputation for regulating effectively and fairly in relation to gambling, the Internet and interactive home gambling are global. This makes it difficult to control, either locally or indeed in Australia. Australian gambling law is largely the responsibility of the States and Territories.

What Governments are confronting for the first time in history is the threat of technology assisted gambling subverting all attempts at regulation and the breakdown of jurisdictional borders as foreign providers offer Australians and South Australians opportunities to gamble at home. The committee deliberated long and hard about interactive home gambling and recognises that this is not an issue that can be tackled by States and Territories on their own.

The committee's first choice would be to ban virtual casinos, but we believe that the only way we can keep Internet and interactive gambling in check is for the States and Territories to cooperate and work together to protect Australian citizens. Accordingly, the committee made the following recommendations:

- that all gambling venues be required to display in a prominent position appropriate and relevant information on how to contact gambling rehabilitation and counselling services;
- that a community education program focusing on the potential risks associated with excessive gambling and the likely repercussions it may have for family, friends, the workplace and the community be initiated;
- that an education campaign involving all gambling codes be instigated to inform users of these codes of the counselling services that are available to them;
- that school-based education programs and media campaigns be directed towards young people to inform them of the risks associated with excessive gambling;
- that the preference of the committee would be to see interactive home gambling banned. (However, should this be impossible, we recommended that the national task force investigate the technical feasibility of banning gambling on the Internet);
- that the national task force continue to work closely with State and Territory Governments to investigate methods of regulating gambling on the Internet and interactive home gambling;
- that the national task force on Internet and interactive home gambling comprise legal, financial, regulatory and gaming industry expertise;
- that the national task force on Internet and interactive home gambling provide assistance to State regulators in enforcing legislation and ensuring that the model that is adopted is adhered to by all participants; and
- that the national task force establish links with international regulatory bodies.

In relation to gaming machines specifically, we recommended:

- that gaming machines with linked jackpots remain illegal within South Australia;
- that a moratorium be placed on all gaming machines with a capacity to accept denominations of money in notes; and

- that research be carried out as to the feasibility of implementing a time lapse between a major payout and resumption of play on that machine.

In the area of training and counselling, the committee recommended:

- that all Government-funded counselling services continue to be monitored and evaluated;
- that all staff employed in the gambling industry be informed about counselling and rehabilitation services available for people who might have a problem with gambling; and
- that counselling and support services be developed for families of problem gamblers and for others affected by problem gamblers.

In the area of research, we recommended:

- that an independent economic impact study on gambling be conducted to clarify and assess anecdotal evidence relating to the effects that gambling in general, and gaming machines in particular, are having on the retail industry and particularly small business; and
- that research on gambling conducted in Australia be coordinated and collated to avoid unnecessary duplication and to assist in facilitating other research programs, in particular, those relating specifically to South Australian conditions.

Finally, it has been brought to my attention that a member of the committee, Mr Michael Atkinson (the member for Spence), has attacked the report as a whitewash, rather like a school child's essay. I regret Mr Atkinson's attack, since there are ample provisions within the Act for him to submit a dissenting report. He gave no indication that he was going to do so. However, I understand that Mr Atkinson is in the habit of issuing this type of attack and has done so previously with this committee. I can only say I regret his actions. I believe that I have the support of the rest of the committee and, indeed, until I saw his news release, understood that I had Mr Atkinson's support also.

I further regret that a large portion of this report was leaked to the press over the weekend, and this again seems to be part of the act for this particular committee. As each of the committee members has assured me that it was not they who leaked this report, I can only assume that it is an act of some sort of international espionage, fairies at the bottom of the garden or whatever. I will finish my report by saying that trust is a tenuous thing that, once broken, is very hard to restore.

The Hon. SANDRA KANCK secured the adjournment of the debate.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORTING

Adjourned motion of Hon. L.H. Davis (resumed on motion).

(Continued from page 1594.)

The Hon. J.F. STEFANI: I endorse the comments of the Presiding Member of our committee dealing with the report on the timeliness of annual reporting by statutory authorities. The report covers the summary of conclusions by the committee, which are as follows:

- that there has been an improvement in the compliance with the reporting requirements by various statutory authorities;
- that there are continuing difficulties in identifying all statutory authorities and other bodies which are required to report to Parliament;
- that there is a need to review and strengthen the reporting provisions contained in section 66 of the Public Sector Management (PSM) Act;
- that, at the present time, it is impossible for anyone to determine the cause of any delay in the tabling of the annual report without further inquiries being made with the relevant Minister; and finally
- that whilst most statutory authorities are required to comply with the reporting requirements of the PSM Act, there are a significant number of bodies, especially the smaller bodies and committees, which are subject to a great variety of reporting provisions, making it difficult to have a consistent and rational approach to reporting requirements.

The committee formulated four recommendations, and the presiding member (my colleague the Hon. Legh Davis) has already spoken about them. I hope that the Government takes the recommendations seriously, particularly the recommendation in relation to having statutory authorities registered in a computerised system so that members of Parliament and the public can refer to them and see their charter. I support the noting of the report.

The Hon. CARMEL ZOLLO: In addressing this report I indicate that my colleague, the Hon. Trevor Crothers, has asked me to offer my comments on his behalf as well. As has already been mentioned by my other colleagues on the committee, following the release of the first report into timeliness of annual reporting in July 1997 the committee subsequently resolved to examine reporting by the statutory authorities for the 1996-97 financial year and the 1997 calendar year. At that time the committee found that nearly a third of the authorities had not complied under the Public Sector Management Act 1995 and were either not reporting on time or not reporting at all.

Of particular concern to the committee was the lack of a definitive register of bodies created by statute, as has already been mentioned. It made the task of identifying whether all bodies had tabled their reports in accordance with legislative requirements difficult. Comparisons were made with several other State Parliaments, in particular the New South Wales and Victorian Parliaments. As part of another inquiry some members of the committee took the opportunity to meet with members of the New South Wales committee. Their reporting and compliance requirements were definitely stricter.

The compilation of an electronic database should not be one beyond the capability of any Government, particularly the South Australian Government when we are trying to promote South Australia as the information technology State. I suspect that this is not the problem but, rather, a lack of commitment and incentive to carry out such a task is the problem. It is worthwhile remembering that the end result could be that it is costing taxpayers of South Australia money when some of their statutory authorities are not fully accountable.

We should remember that once a database has been established it is not an onerous task to keep it up to date. The establishment of a database, as has already been pointed out by the Hon. Legh Davis, would give the bands of board fees, an initial appointment date and the length of the appointment. This was also seen as very desirable by the committee. The Queensland Register of Statutory Authorities, which contains

significant details of over 400 bodies, is a very smart example of what should be available in South Australia. The register is readily available to the public of Queensland and Australia by being accessible on the Internet.

What constitutes a statutory authority, and the fact that a large number of public bodies are excluded from the definition 'statutory authority' which is contained in the Parliamentary Committees Act 1991, was also something about which the committee expressed concern. The committee commented that many Government boards and committees that exercise significant powers are outside the purview of the Statutory Authorities Review Committee.

Another advantage of having a register would be to help identify such bodies because the register would contain, amongst other things, reference to their establishing legislation and whether the Statutory Authorities Review Committee is able to inquire into their conduct and existence. The committee highlighted the need to tighten the reporting provisions as contained in section 66 of the Public Service Management Act. As a consequence of not knowing, for whatever reason, a report is sometimes tabled late. The committee has again recommended that legislation be introduced so that Ministers provide an explanation for the delay. Bodies report under varying provisions, and the committee expressed a desirability for standardised reporting. It suggested conformity with the reporting obligations contained in the Public Sector Management Act.

To conclude on a positive note, the committee noted a smart improvement in compliance since the first report was released in July 1997, an improvement from 58 per cent in 1995-96 to 88 per cent in 1996-97. However, it was difficult to know whether this improvement was an one-off occurrence because of the lack of other identifying factors mentioned above.

I would like to take this opportunity to say that I and my colleague, the Hon. Trevor Crothers, place on the record our appreciation of our present research officer, Ms Helen Hele, for her competence and diligence in her work on this very important report. This report was commenced by our previous research officer, Mr Andrew Collins, and I appreciate the difficulty in having to finish someone else's work. I also take this opportunity to welcome to the committee staff our new secretary, Ms Kristina Willis-Arnold.

The Hon. J.S.L. DAWKINS: I rise to speak briefly following the comments of my colleagues on the Statutory Authorities Review Committee. I thank them for the manner in which they have addressed this report. My parliamentary colleague, the Hon. Angus Redford, a former member of this committee, has indicated some delight in the quite significant improvement in the reporting of statutory authorities.

There has been a significant improvement in compliance with the reporting requirements contained in the PSM Act. We are not sure whether this improvement is the start of a trend or is a one-off occurrence because of the changes to the tabling deadline caused by the October 1997 election and the consequent prorogation of Parliament. We hope that Ministers and their staff will monitor it and establish the necessary procedures to make sure that this is the commencement of a trend towards achieving 100 per cent reporting.

I would like to pick up on a couple of the other recommendations in the report. There is a continuing difficulty in identifying all the statutory authorities and other bodies which may be required to report to Parliament. As a result, the committee has again recommended that the Government establish and maintain a comprehensive and publicly accessible electronic register of statutory authorities. I think that this is a very commendable recommendation.

While most statutory authorities are required to comply with the reporting requirements of the PSM Act a significant number of bodies, especially smaller boards and committees, are subject to a wide variety of reporting provisions. Of the 160 bodies identified by the committee, 38 were required to report to Parliament solely by the PSM Act; 80 were required to report to Parliament by both the PSM Act and their establishing Act; 36 were required to report to Parliament solely by their establishing Act; and six were not legislatively required to report to Parliament. The committee believes that this demonstrates an urgent need for standardised reporting requirements for all statutory authorities and other bodies.

In summary, I also thank my colleagues on the committee for their work in preparing this report. As the Hon. Carmel Zollo and others have mentioned, I thank Andrew Collins who was a very conscientious worker on behalf of the committee in his former role as its Research Officer. I also thank the former Secretary and current Research Officer (Ms Helen Hele) for her work.

The Hon. L.H. DAVIS: I thank members for their contribution on what is an important and productive subject.

Motion carried.

SELECT COMMITTEE ON OUTSOURCING OF STATE GOVERNMENT SERVICES

The Hon. CAROLINE SCHAEFER: On behalf of my colleague the Hon. Robert Lawson, I move:

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

Motion carried.

EDUCATION, MATERIALS AND SERVICES CHARGES

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

That the regulations under the Education Act 1972 concerning materials and services charges, made on 28 May 1998 and laid on the table of this Council on 2 June 1998, be disallowed.

I ask members to note that today on behalf of the Legislative Review Committee I tabled a report on the regulations made under the Education Act concerning materials and services charges. These regulations concern the charging of caregivers and care providers of children a materials and services charge pursuant to the legislation.

In giving notice of motion on 2 June 1998, the report tabled on the same day indicated quite clearly that the reason for this motion's being moved was to enable the Legislative Review Committee to consider the regulations, to take evidence, seek advice and present a report. The use of a holding motion by the Legislative Review Committee has been a common procedure undertaken by the committee over many years and one which anyone with a modicum of understanding of the legislative process and the practices of the Legislative Review Committee would understand.

It is also important to note that the Legislative Review Committee, in dealing with regulations, looks at those regulations within a certain compass. The Legislative Review Committee is charged with its responsibility pursuant to sections 10, 11 and 12 of the Parliamentary Committees Act and also pursuant to the Subordinate Legislation Act 1978,

in particular section 10A, which states that 'every regulation that is required to be laid before Parliament is, when made, referred by force of this section to the Legislative Review Committee of the Parliament'. It is pursuant to that section that the Legislative Review Committee considers these regulations. Earlier this year the Legislative Review Committee unanimously resolved to consider regulations on the basis of whether or not they impinged upon certain principles. Contained within this report is a copy of the principles which are considered.

The Legislative Review Committee is not charged with considering general policy issues, nor is it involved in the day-to-day, moment-by-moment political jousting that may occur from time to time on issues. It has been a tradition of the Westminster system that regulations are dealt with within this framework and that political issues are left for the floor of the Parliament. I also advise that this report, which recommends that this Council take no action and that the motion of disallowance previously given be withdrawn, was a majority decision.

In dealing with these regulations, it is important to note that they were signed within Executive Council on 28 May 1998 and on 2 June 1998 the notice was given. It was given purely and simply for the purpose of enabling the committee to proceed to investigate the matter further. On 2 July evidence was given by certain departmental officers and following that a draft report was prepared and circulated amongst members of the committee. The draft report was entirely a creature of the researcher and was prepared for the purpose of discussion. Last Wednesday the Legislative Review Committee, because of a concern raised by that officer, determined to write to the Crown Solicitor and the formal process through the Clerk of this Council was adopted. Yesterday we received a response.

The main issue to be resolved is whether or not the enabling legislation—the Education Act 1972—allowed the Minister to have the power to make regulations introducing enforceable charges for goods and materials provided to students of State primary and secondary schools. This was an issue that was not only considered by this Legislative Review Committee but also considered by the Legislative Review Committee that was in existence prior to the last election and chaired by my predecessor, the Hon. Robert Lawson Q.C. Evidence was given last year by a Mr Treloar, the then Director of Corporate Services, Department of Education. On 8 July we heard evidence from a Ms Kolbe, the Executive Director of the Department of Education, Training and Employment. I thank those two officers for their evidence. The report at pages 4 and 5 outlines in brief terms the effects of their evidence. Following their evidence the committee wrote to the Crown Solicitor and sought an opinion and a summary of that opinion appears at page 7 of the report. In brief terms, the Crown Solicitor said:

> On its proper construction, section 106 simply does not mean that the Executive is prevented or fettered from obtaining monies for the purposes of the Act from other sources.

The opinion further states:

> . . . it does not seem to have been doubted in the past that a regulation could be made which provided for the recovery of costs incurred in organising and distributing to students consumables for their use in the course of their activities at school.

The opinion further states:

> It may also properly be said that the charging for materials and other equipment and services used by individual students in the course of a year as a single annual charge is supported by those purposive regulation-making powers.

Finally, the opinion states:

> It is my view that the regulation is supportable for the reasons referred to above, namely, *(inter alia)*
>
> (i) that it is a reasonable exercise of the power actually given or properly construed to be given and;
>
> (ii) that it constitutes a practical adoption of measures which have the support of school communities and achieves of the Act to which it is directed.

Based on that opinion, the Legislative Review Committee was faced with the Crown Solicitor's view that these regulations were within the regulation making power of the Minister. The Legislative Review Committee makes no comment collectively about the underlying policy: that is a matter for the Government of the day or, in some cases if Parliament seeks to intervene, a matter for the Parliament as a whole, and certainly falls outside any of the terms of reference pertaining to the Legislative Review Committee to which I referred earlier. I do not normally make contributions when tabling reports, but I think that I need to make a number of comments in the light of some comments made by members in debate in both this and the other place.

I note that a similar motion is moved by the Leader of the Opposition, and I understand that that will be debated and voted upon shortly after we deal with this matter. However, on 12 August 1998 the Hon. Carolyn Pickles said:

> On this occasion, the disallowance motion has been moved by the Hon. Mr Redford of the Liberal Party, and the honourable member has adjourned the debate on his motion on behalf of the Legislative Review Committee, the Australian Democrats and the Labor Party. It must be some embarrassment to the Minister to have a Legislative Review Committee raise serious concerns about the power of a Minister to make such regulations under the Education Act.

The Leader of the Opposition talks about some of the merits and I do not wish to deal with those at this juncture, but I must say that the Leader's remarks are a complete and utter misrepresentation of the position the Legislative Review Committee was taking in moving this holding motion. I do not know whether the honourable member made that comment out of ignorance or whether some degree of mischief was attached to it, but I repeat: when a holding motion is moved it is simply to enable the Legislative Review Committee to complete its task. It has nothing to do with a view, one way or the other, that the Legislative Review Committee might take on an issue.

If members believe that that is the case, the Legislative Review Committee might well have to consider the process—and it is a process that has been around for decades—by which it deals with regulations. It may well be that the committee's responsibility in investigating regulations will not be fully carried out. I also note that last Thursday the member for Taylor, in moving a motion to disallow these regulations in another place, said:

> The Liberal member for Colton has placed the exact same motion on the Notice Paper on behalf of the Parliament's tripartisan Legislative Review Committee. I understand the reason for that parliamentary committee's desire to disallow these regulations is the serious concern that, under the Education Act, the Minister does not have power to make a regulation for compulsory fees and, of course, the Legislative Review Committee is chartered with the responsibility of ensuring that all regulations are, indeed, in accordance with the relevant Act of Parliament.
>
> The committee has clearly seen that there is a problem with these regulations.

On reading those comments it is clear that the honourable member does understand the role of the Legislative Review

Committee. However, I reject utterly that the committee had seen a problem or that the committee was concerned. The committee was merely adopting a step by step process in completing its responsibilities under its legislative charge. It does no-one any credit in either this or the other place to seek to politicise the proceedings and the way in which the Legislative Review Committee deals with issues.

It has been a tradition of the Westminster system, both in the United Kingdom and in every State in this country and, indeed, in the Senate, that these matters are dealt with in a bipartisan, non-political way. I have had many conversations with Senator Barney Cooney, who is a leading figure in the left of the Labor Party in the Senate and who, on every occasion, has expressed pride at the fact that the Senate manages to deal with these sorts of issues with its equivalent committee in a non-political fashion. I take no exception to members moving similar motions and playing politics in this place with their own motions, but to do so under the guise of the Legislative Review Committee causes a great deal of difficulty in the way in which the Legislative Review Committee operates.

I am extremely concerned about the way in which the Legislative Review Committee is being treated by some members. Last week I received a telephone call from a journalist who advised me that he had received a copy of a draft report, which report had not even been read by individual members and certainly not by myself, nor had it been dealt with at any meeting. The journalist purported to ask me questions about that leaked report.

The Hon. Diana Laidlaw: How did the journalist get it?

The Hon. A.J. REDFORD: The journalist advised me that one of the members of the committee had provided him with a copy of that report. I must say that that causes me enormous concern because the workings of the committee will be severely hindered. If the Legislative Review Committee is going to be politicised then, in the long term, its role and importance will be severely diminished.

I also express concern that a legal opinion of some detail was also provided to the committee to enable it to undertake its task. I would hope that that opinion will not be provided, leaked or given to any journalist or, indeed, to anyone else. It was a legal opinion provided only to the committee. On past performances, I am concerned somewhat that it will be provided either to the media or used for some political purpose. The net effect of that sort of conduct will be that we will not be provided with detailed legal opinions by the Crown Solicitor. What will happen is that the Crown Solicitor will provide a two line opinion fulfilling his responsibility, thereby enabling the Legislative Review Committee to struggle under a lack of information.

The fact is that the Crown Solicitor can easily fulfil his duty by providing an opinion which says, 'In my opinion this regulation is within power' and then put a signature to it. However, the potential of this sort of conduct is that the Crown Solicitor will adopt that attitude and not provide us with a detailed explanation. Given the appalling lack of knowledge of the customs, laws and rules within which we operate, I propose to draw members' attention to a couple of matters. Section 28 of the Parliamentary Committees Act 1991 provides:

> All privileges, immunities and powers that attach to or in relation to a committee established by either House attach to and in relation to each committee established by this Act. . . Any breach of privilege or contempt committed or alleged to have been committed in relation to a committee or its proceedings may be dealt with in such manner as is resolved by the committee's appointing House or Houses.

That warrants some investigation of how that might be dealt with, given the seriousness of leaking a draft report to the ultimate embarrassment of the staff of the committee. So, I have had some course to look at Erskine May. Page 129 of Erskine May states:

> Wilful misrepresentation of the proceedings of members is an offence of the same character as libel.

At page 86 it states:

> The privilege of freedom of speech may be invoked in certain circumstances to prevent the publication of memoranda of evidence submitted to a select committee until it has been reported to the House in cases where such publication has not been authorised by the select committee or by the Speaker in accordance with Standing Order No. 117 but, as such, publication is of the nature of a contempt.

Page 122 of Erskine May, under the heading, 'Premature publication or disclosure of committee proceedings', states:

> As early as the mid seventeenth century, it was declared to be against the custom of Parliament for any act done at a committee to be divulged before being reported to the House. Subsequently, though the House of Commons found it increasingly difficult to enforce effectively its rules against the disclosure abroad of proceedings in the Chamber, the privacy of committee proceedings and the prior right of the House itself to a committee's conclusions was upheld, and punishment was inflicted on a newspaper proprietor who published the contents of a draft report laid before a select committee but not considered by it or presented to the House.

I say that because it is important that members understand the position. In the past, members may have taken some solace in the fact that, with a combined vote of the Australian Democrats and the Labor Party, everyone was safe. I remind members that, given the changed nature of the make-up of this place, that is no longer the case and safety and security in that former structure and in those former numbers can no longer be relied upon. I say this in the strongest possible terms because, if draft reports are allowed to float around willy-nilly, at the end of the day committee processes and the Parliament will be brought into contempt. To use draft reports for silly political purposes without any real objective is a very dangerous course of action.

I hope that members will take on board some of the matters that I have raised and that, in future, the disclosure or the sending of draft reports to the embarrassment of committee staff ceases because, if it happens again, I will raise it as a matter of privilege and seek to take it to its end course. I heard the Hon. Caroline Schaefer talk about the shadow Attorney-General earlier, and I express my support for her concern. The traditions of this Parliament have been around for many hundreds of years. Under the leadership of Mike Rann they are being eroded savagely and without any forethought or understanding of why some of those rules exist. At the end of the day, we do none of us any service by this sort of conduct.

The Hon. R.R. ROBERTS: I thank the Hon. Angus Redford for his outline of the procedures of this committee. I do not necessarily thank him for the 'talk to the boys' at the end. It might go down well at the next scout jamboree, but most members of this Parliament are well aware of the procedures and practices of this Parliament that have existed for many years.

It is important to note that, whilst the deliberations that are covered within this report are accurate, there was dissension between members of the committee about page 7 of the report with reference to the Crown Solicitor's opinion. I point out

to members that the committee wrote to the Minister on matters raised in the report and sought an opinion from the Crown Solicitor. Clearly, this was on instruction from the committee. A duly constituted committee of this Parliament is entitled to ask for such information, and that opinion was put before the committee. In my view, that opinion then becomes the property of the committee.

The Hon. Angus Redford quoted the concise opinion which appears on page 7 of the report. In my view, it is a reasonable precis of the opinion that was provided by the Crown Solicitor. However, it is a precis of that opinion. In the past, many members have taken the trouble to seek advice on the validity of these regulations. I am certain that my colleagues in the Democrats have done it and I know that the shadow Minister for Education has looked at this issue from a legal point of view and taken advice. Whilst the Crown Solicitor's opinion has been sought and given, it does not necessarily follow that we all agree with it. There was dissension between the committee in respect of pages 7 and 8. Therefore, it needs to be recorded that the committee's decision was not unanimous.

On the substance of the matter in question, I point to what, as I understand it, will be the future format for the Legislative Review Committee. I will comment only on pages 3 and 4, which deal with the role of the Legislative Review Committee. We need to apply the principles on page 4 to the regulation itself, compare them with the Crown Law opinion and the opinions of other counsel, and make a judgment. The criteria set out in paragraphs (a) to (g) will now be used when the committee looks at regulations. Paragraph (a) provides:

> Whether the regulations are in accord with the general objects of the enabling aspects of the legislation.

I understand that this legislation was enacted in 1972. It was clearly based on the proposition of free education. My advice is that, since then, a voluntary charge was introduced for some goods and services of which students would be able to avail themselves. It was never an object of the enabling legislation that there would be anything but free education. This practice grew like topsy. In some respects, it is true that there is an aspect of this in lore—because the practice has gone on for so long, most people accept that there will be some charges—however, it has never been established that it is legal. It has been challenged on a number of occasions, but it has never been pursued. Paragraph (b) provides:

> Whether the regulations unduly trespass on rights previously established by law or are inconsistent with the principles of natural justice, or made rights liberties or obligations dependant on non-renewable decisions.

I would say that these regulations fail on that point because they unduly trespass on rights previously established by law; that is, that we were to have free education with a voluntary fee for goods and services. Principle (c) provides:

> whether the regulations contained matter which, in the opinion of the committee, should be dealt with in an Act of Parliament;

Clearly, the Act of Parliament about which we are talking has been bypassed. If there was any argument about whether the Act provides a certain procedure, then surely it ought to go. I submit that it fails on that principle. Principle (d) provides:

> whether the regulations are in accord with the intent of the legislation under which they are made and do not have unforeseen consequences;

I do not know about 'unforeseen', but I would again say that it fails on the intent of the legislation, which, as I pointed out, was on the basis of free education. Principle (e) provides:

> whether the regulations are unambiguous and drafted in a sufficiently clear and precise way;

It is very clear they want to take money and they want to have the right to enforce the taking of that money. I suppose one could say it meets that criterion. Principle (f) provides:

> whether the objective of the regulations could have been achieved by alternative and more effective means;

Quite clearly, I go back to the fact that this could have been achieved by amending the enabling Act and having the same effect as if it was the will of the Parliament. Principle (g) provides:

> whether the Regulator has assessed if the regulations are likely to result in costs which outweigh the likely benefits sought to be achieved.

I assume that a great deal of work would be required to ensure that the cost did not outweigh the likely benefits. In fact, I think there would be an advantage. So, there are a number of reasons for this, and it was disappointing that, on this occasion, the committee found significant differences of opinion, and that has not been the case since I have been a member of this committee and it has not been the case in the history of the Legislative Review Committee over the past few years. There is a clear intent in the submission by the Hon. Angus Redford that people were playing politics on this committee. Well, surprise, surprise, this must be the first time that it has ever happened. It just happens to be a parliamentary committee, so I find it amazing that someone would think that politics would not come into it.

I point out that when we talked about this matter today a division occurred. It was carried on Party lines with the casting vote of the Presiding Member, and it is his right under the Act to override the majority view of the Committee by the use of that technique. I am not complaining about that; I know the rules and I know how the game is played.

Let me make a couple of remarks in respect of the dire warning given by the Hon. Angus Redford as the Presiding Member about the ability of the committee, in future, to elicit proper Crown law opinions for the use of a properly constituted parliamentary committee. Quite simply, the answer to his dilemma is this: if indeed a Crown law opinion is requested by the Legislative Review Committee and it is in an unsatisfactory form, it is in the hands of the committee to exercise its powers and to call the Crown Solicitor before it to expand on that opinion to the committee. It is a very simple matter. All we would have to do is have a vote, and then we would see quite clearly whether any politics were played if the Crown Solicitor's opinion was to favour the Government's point of view and we failed to elicit that proper information from the Crown Solicitor because we could not get a majority decision of the committee to bring the Crown Solicitor before it.

The other matter is that my colleague has mentioned Erskine May precedents. I have been around, and I have lived some of the precedents. Reports have gone missing and been leaked for as long as I have been around the Parliament and well before that. I do not condone it and I hope that the Hon. Angus Redford's inference about a member of the committee giving a copy of a draft report to a journalist did not relate to me because it is untrue, and I would have to call the Hon. Angus Redford (if I was able) and that reporter perpetrators of lies because I did not give a copy of any report to a journalist.

When this matter was raised at the Legislative Review Committee, it was my suggestion that, in future, all draft

reports be labelled 'Draft'. Whilst I understand that members of the Legislative Review Committee all represent our Parties—the Democrats, the Labor Party and the Liberal Party—if the Hon. Angus Redford wants me, or indeed anyone else in this Parliament, to believe that he does not discuss with his colleagues on the committee matters that impinge on Government policy, I do not believe it. I certainly represent the Labor Party on the Legislative Review Committee and I discuss with the appropriate Ministers from time to time matters which impinge on their political duties and the area of their shadow ministerial responsibilities, because it is my duty to reflect the views of our Party in respect of the matters that we are discussing.

We in the Australian Labor Party have a great deal of leeway to discuss these matters, to pursue best endeavours and to report back. I will not make any apologies for the fact that that is the committee system under which I work. I happen to be a loyal member of the Labor Party; I know what the procedures are and I have no desire to break them. In that respect, I fully concur with the report by the Hon. Angus Redford about the substantive matters of this report, except for those which refer to the Crown Solicitor's opinion.

I congratulate the Secretary and the Research Officer for their work. They have done an excellent job and I thank them for their support. I am just sad that we cannot come before this Parliament as we have done on almost every other occasion with a unanimous report.

It is my view that the matters relating to these regulations in respect of the enabling Act covering them are best dealt with in another forum of this Parliament. I will not oppose the Hon. Angus Redford's motion to discharge this matter. I understand that substantive matters relating to these regulations will be discussed on a motion later in the evening after the Leader of the Government has had an opportunity to contribute on behalf of the Government, so I will make any further remarks at that time.

The Hon. IAN GILFILLAN: I have served on the Legislative Review Committee since my re-election to the Parliament and I believe that, to a large extent, it is a committee which strives to be non-political its deliberations. That may be at odds with some of the comments that some of my colleagues on the committee have uttered to date, but I believe that we do not want another forum for political debate. This is the arena for the political debate. We can have the discussions about the political aspects, and the freedom of the committee and its structure allow for a sharing of political views because, in many cases, those views are already known before an issue comes before the committee.

Our responsibility as a committee is to make an objective assessment on the issues before us and measured against the criteria which control our operation as a committee. I believe that our Presiding Officer attempts to do that to the best of his ability. However, all human beings have frailties, and from time to time he may vary slightly under the goal of absolute perfection in that respect. I do not aim to be facetious about it, but I think the Presiding Officer would recognise that no-one is perfect and that there is occasion when we as a committee divert into a discussion and maybe even an argument about the political aspects.

It is important for us to share this with the Chamber because I want the Council to have confidence that, when it receives reports from or refers matters to this committee, it can rest assured that the committee as a whole will give its best endeavours to do its job on behalf of the Parliament, not point scoring by one Party over another; and, to a large extent, that has been maintained. Unfortunately, I believe that today that standard has been departed from. This investigation of the regulations was not done to the standard to which I have expected the committee to work, partly because we did not have enough time. Realising that this was a major and significant matter before it, the committee heard a considerable amount of evidence, some of which is quoted in the report, and I think it worthwhile for members to look at that evidence.

It certainly is not an open and shut case as far as the Education Department goes, and the Act is under review. In those areas, members will note that there has been no dispute in the committee: we believe that constructive evidence has been taken and the contents of the report are helpful in that context.

However, the matter hung on whether the Government acted within the legal ambit of the Act in promulgating these regulations. That is a key question, which cannot be assessed objectively without at least one respected outside opinion being given to the committee and without the committee's having time to deliberate on it, to assess it, to question it and then to have an opportunity to come to a conclusion. The committee was deprived of that opportunity.

I saw quite extensive Crown Solicitor's opinion half an hour before I was obliged to give an opinion whether I thought it would be effective in convincing the committee one way or the other. That is hopelessly inadequate. It is an insult not only to the committee but also to the legal opinion. The Crown Solicitor presented an eight or nine page detailed legal opinion—and it was only as a concession that I was given 10 minutes in which to read it. And I had to leave the committee chamber to read it, because some members were not interested in reading it; they were more interested in talking. I had to take myself out into the corridor.

I appreciated the 10 minutes, because I had a chance to read it. I felt that it contained many very interesting observations that I would have liked to further investigate, to enable me to come to an opinion not from a political point of view as a Democrat politician but as a representative of the population of South Australia relying on me as a member of that committee to make a sage, balanced opinion on the matter before it. However, we were not able to do that. As a member of the committee, I would have preferred that the committee made an open statement that we were not able to maintain the standards to which we were accustomed in dealing with the matters before us or to make procedural decisions based on that. This is where I felt it was unfortunate.

Members interjecting:

The Hon. IAN GILFILLAN: I am sorry that some of the Opposition front bench members are more interested in interjecting than in listening. The report was presented to us as a *fait accompli* last night, and assumptions presumed to have been made by the committee were printed in the report. That is not good enough.

The Hon. T. Crothers: Shame!

The Hon. IAN GILFILLAN: No, the point is that, whether or not I agreed with the conclusions in that report, I would not in any circumstances, I hope, ever condone steamrolling through what was obviously a contentious issue and obviously a situation in which the committee was going to be divided, and present for approval a cut and dried document. The issue was resolved on a division, and the

majority vote of the committee has supported a move for discharge.

The Hon. M.J. Elliott: Was it a majority?

The Hon. IAN GILFILLAN: It was a majority of votes, because the Presiding Member had the power to make a casting vote. Therefore, I as a member of the committee will not vote against that move, because I am still a member of the committee and intend to continue to serve on that committee. But I must emphasise again that I am not happy with the process, so I cannot be happy with the result. The irony is that, had we had the time to do the job thoroughly and go down the track with question and answer, we could have had a unanimous decision. At least, we would have had the chance to get a unanimous decision. We were denied that, so I am full of regret that, for the first time since I have been serving on the committee, I have found that the report is unacceptable to me. Therefore, I cannot support the motion.

However, I indicate again that I will not be moving, speaking or voting against the motion that the Hon. Angus Redford has moved as the Presiding Officer. I hope that we are spared a repetition of this occurrence, either because we realise the problems with impending time or because we make use of other procedures. However, I hope it never happens again while I am serving on the committee.

The Hon. A.J. REDFORD: I will not respond to what the Hon. Ron Roberts said but I will respond to the Hon. Ian Gilfillan. Much of what he said has force, and I accept what he has said. I go on record as saying that this is the last scheduled day of Parliament for this type of matter, and this motion would have slid off into nothing if we did not report today. Rightly or wrongly, that is my explanation. The honourable member well knows that an opinion was received only yesterday. I would like to have provided a copy of that opinion to all members yesterday. Unfortunately, documents have had the habit of turning up in the media, and legal opinions are generally regarded as sensitive, and I made that choice.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Perhaps down the track we might reconsider it. In response to that interjection, the answer is 'Yes.' The Hon. Paul Holloway asked whether I was asked to keep it. The Crown Solicitor asked, and the answer was 'Yes.' I therefore now move:

That this Order of the Day be discharged.

Motion carried.

[Sitting suspended from 5.58 to 7.45 p.m.]

SCHOOL FEES

Adjourned debate on motion of Hon. Carolyn Pickles:

That the regulations under the Education Act 1972 concerning materials and services charges, made on 28 May 1998 and laid on the table of this Council on 2 June 1998, be disallowed.

(Continued from 12 August. Page 1338.)

The Hon. R.I. LUCAS (Treasurer): I oppose the disallowance motion. I guess I am pleased on this occasion to be able to do so with the full knowledge and authority of the mandate that the Government has now received at the last State election for this particular policy position. When this issue was last debated, the Australian Labor Party and the Australian Democrats indicated that they were moving to oppose the Government's policy and to disallow this resolution, and one of the principal reasons they used on that occasion was that the Government had no mandate from the people for this issue.

In fact, we had not mentioned this in our 1993 policy document, and that document was often quoted by our opponents stating that no position had been indicated by the Government in relation to the compulsory collection of school fees. That indeed was correct. There was certainly no explicit statement in the policy document in relation to the compulsory collection of school fees. I remember it well because, together with a group of supporters, I helped draft the 1993 policy document.

We did say on that occasion that we would work with school councils to try to assist them in this process and the particular problem they were having with people who could afford to pay the school fee but were snubbing their noses at school councils and parents and saying that they would not pay the school fee. The issue had been raised with me over a number of years when I was shadow Minister, and I must admit I was not clear at that stage as to what the solution could be. We did not have the advantage of advice from the Solicitor-General, Crown Law advice or other advice that is available to Governments and Ministers of the day.

Our 1993 policy document was framed relatively generally in terms of trying to indicate that we would do all we could to assist school councils and parents to collect fees from those parents who could afford to pay as a contribution to the operation of the school. As I said, in the last Parliament, the Australian Labor Party and the Australian Democrats often mentioned the fact that we did not have a mandate for this issue. Whilst acknowledging that, at the time I indicated that I would campaign on that issue on behalf of the Government from that point on and that I would highlight this as a significant policy difference between the Government, the Opposition and the Australian Democrats.

The *Hansard* record shows that, when this was last debated in this Chamber, I indicated quite clearly and explicitly that this would be a significant policy difference between the Government and the Opposition. I also indicated that it would be a significant issue in the lead up to the election campaign and during the election campaign itself. True to our word, the Government, in the drafting of the 1997 policy document, listed quite explicitly—and I have provided to members of this Chamber, in particular, the Hon. Mr Xenophon, a copy of the explicit policy commitment of the Government—that it was seeking a mandate in terms of its policy document, and a component of that was the issue of the compulsory collection of materials, services and charges within our Government school system.

In addition to that, I, together with the Premier, also issued a press statement at the time of the launch of the Government's education policy document. In that press statement we highlighted what we saw as the key issues. Clearly, it is an education policy document that might have been 20 or 30 pages long, and there are a number of issues in the policy document—not all as important as each other. As a Minister, when you release your policy statement, you highlight those things that are important, those issues that are significant. One of the things that was highlighted by the Premier and by me as Minister for Education in the attachments to the press statement was that the Government was seeking support for the compulsory collection of materials, services and charges.

During the 30 or so days of the election campaign, of all the issues raised regarding education, about six or eight were raised as being the most important from the Government's

viewpoint. Overall expenditure levels and staffing levels were key issues. The basic skills test was again a significant difference between the Government, the Democrats and the Labor Party. The Institute of Teachers in South Australia also opposed the basic skills test. When I spoke to school councils, groups of principals and parents or people involved in education, one issue that was always raised either by me or by one of the questioners at that education group was the collection of school fees by school councils.

Nobody on this occasion can say the Government has not clearly and explicitly gone to an election promising to make this change to give parents and school councils this quite explicit power. It was a campaign issue. We were challenged to make this an issue at the last election and we did. We sought the mandate of the people on this issue, and eventually we got it for not only this issue but obviously other significant issues in other significant portfolio areas.

Members interjecting:

The Hon. R.I. LUCAS: Like voluntary voting. This matter of mandate has become important for this Chamber in its deliberations on issues. It is important that members who were not part of that last debate know full well that this was an issue where a challenge was laid down to the Government, where the Government took up the challenge and where the people spoke in the end in support of the Liberal Government and a number of the key planks within its policy document.

That is the first important point I want to make. I now return to the issue of why we have this situation before us at the moment. For many years a good number of parents on school councils came to me as the shadow Minister for Education saying, 'We have tried to get support from this Government (the Labor Government as it was then) to help us collect these fees and charges, but we cannot get any support for the collection of fees and charges.' Let me tell members that the greatest support for this proposed policy came from schools in the northern suburbs such as Salisbury, Pooraka, Parafield Gardens and Para Hills and southern suburbs such as Port Noarlunga, Hackham and Christies Beach. When I was in opposition, they were the areas in which people continually put pressure on me and asked, 'Will you do something about this policy issue?'

When I became Minister at the end of 1993 and the start of 1994, those same school councils and others came back to me and said, 'You are in government now; you have to tackle this issue.' Some of our schools at the time, such as Christies Beach High School, gained publicity in the paper in regard to unpaid bills of up to $30 000. The costs had to be picked up by other parents within the school communities.

When I met with parents' and principals' associations in 1994, I said, 'In the real world of politics, the Labor Party and the Democrats will do whatever Janet Giles says they have to do. If she tells them to jump through a hoop, Carolyn Pickles and Mike Elliott will jump through it.' I told the parents and principals who came to speak to me that they needed to develop a unanimous view amongst all the principals' associations—and there are four of them: junior primary, primary, secondary and area principals' associations—and in addition to that they needed to get the support of the peak parent body in South Australia, the South Australian Association of State School Organisations (SAASSO). That one body represents all school councils and all parents on school councils throughout all of South Australia, both city and country, and that peak body has significant representation from both city and country schools. I said, 'If you can get an agreement among all those groups and come back to me with a solution, I am prepared to take up the issue in Parliament', even though I knew that Janet Giles, Michael Elliott and Carolyn Pickles would all be heading down a path which was different from the one that parents and principals were recommending.

Not long after that, all those principals' associations and the peak parent body, SAASSO, came to me and said, 'We know this is a difficult, controversial issue, but somebody has to assist us in collecting fees and charges from parents who we know can afford to pay those fees and charges.' That is the distinction, and it is an important distinction, because some people are portraying this move as originating in the leafy eastern suburbs schools, and it did not: it came originally from the north and the south.

There are some who are saying that those parents who are unable to afford fees and charges will somehow be left destitute if this policy is implemented. Even with the changes, when we stamped out the rorts that were being instituted in the School Card system, we still have about 40 per cent of all families in Government schools in South Australia getting free School Card, paid for by the taxpayers at the moment. About 40 per cent of our families are still getting free School Card, so they will be unaffected. Nobody can stand up in this Chamber and say that the poor, the disadvantaged or the less well off will be disadvantaged by this policy.

In evidence to the select committee of the Legislative Council last year, when a number of principals from the poorer northern suburbs schools were asked how the policy was going and how the compulsory collection of fees was going as some were using debt collectors, they said that they did and would use this policy with flexibility and with discretion. It is not a policy driven by the Education Department in Flinders Street or by the Minister but ultimately a policy decided at the local level by local parents and the local principal deciding what is best in the circumstances for parents in their community.

A number of those principals, in the evidence they gave to the select committee—and it was a bit of an eye opener to some of the select committee members who had not had as much experience visiting schools as Ministers and shadow Ministers might have had—made clear that they would interpret and use their policy with flexibility and discretion in terms of whether or not it should apply. If a family fell outside the ambit of this 40 per cent or so of families—almost half of all families in Government schools—who still get free School Card, of course they would look at time payment, which is a part of this regulation and which was already provided previously by schools but now is explicitly provided for in the regulations.

Salisbury High School was saying to its parents two years ago, 'You can pay off your school fee at $2 or $3 a week if payment is proving difficult for you.' In some cases, even with regard to families that did not qualify for School Card—that is, they were not in the bottom 40 per cent of families—the principals and school councils were making their own decisions at the local level and saying, 'We will not seek repayment of a school fee, because we know of the special circumstances and problems your family is facing at the moment.'

What frustrates these parents and school councils is the parents they see coming back from holidays interstate, the parents they see having just upgraded their family car, the parents who refuse to pay their school fee or charge and, because they refuse to pay their school fee or charge and say, 'You cannot compel me; you take me to court', every other

family and parent in that school has to pay a higher fee or charge to make up for the bad debts or the unpaid fees.

The Labor Party and the Democrats have conveniently ignored it, but this policy has imposed an additional burden on those parents in school communities who for years prior to Liberal Governments had always contributed to the running of a school through a school fee or service charge; it has imposed an additional burden on those parents who have struggled and have given up the niceties of life to ensure that they pay their contribution towards the operation of the school.

The major problem we have is that, if this particular regulation is again disallowed, mark my words, we will see the same circumstance as occurred in New South Wales two or three years ago, when a Liberal Minister of Education was foolish enough to say, and to say so publicly, that parents did not have to pay the fee and charge, that it was voluntary. Within 12 months there was a massive reduction in the level of fees and charges paid by parents to those secondary schools in New South Wales because of the publicity that had been given to the fact that this was a voluntary payment and that parents did not have to pay the fee or the charge in New South Wales.

In an ideal world everything would be absolutely free, with the Government having enough money from the taxes that we take from a whole variety of areas, including gambling, to pay for everything that goes on in our schools. However, we have not lived in that ideal world for decades. Under Labor Governments for over two decades school fees and charges were levied through the schools and the school councils, and parents paid their contribution towards the running costs of the schools. It is not an ideal situation but it was the reality under Labor Governments and it will be the reality under this Liberal Government and, indeed, if at some stage in the future there is another Labor Government, it will be the reality under that Government as well.

So it is a question of how fairly and equitably we share the burden of the school fee or charge, bearing in mind again that the bottom 40 per cent of parents in Government schools and families do not pay any fee or charge, and therefore the compulsory collection policy cannot, does not and will not apply to those 40 per cent of parents.

I have had and I have quoted on other occasions letter after letter from principals and from parents in relation to schools in the north and schools in the south. I will not do so again, although I know that there are some members in this Chamber who have not listened to previous debates. However, I will not go through all of those again this evening. I can summarise this by saying that there is a very strong view from parents, through their organisation, through their peak body, supporting the compulsory collection of fees and charges in the manner that is being suggested.

The final broad issue I shall refer to is that there is, I guess, a clouded view about whether or not, even under the existing Act and regulations, one is able to collect fees and charges. I know as Minister we took advice from the then Solicitor-General John Doyle—

The Hon. A.J. Redford: What's he do now?

The Hon. R.I. LUCAS: He is now Chief Justice John Doyle—to seek his advice in relation to this issue, because even back through the early 1990s we had a number of cases—and we still do—where in the small claims jurisdiction some school councils were successfully winning cases for the collection of school fees and charges. We have had one or two cases in the northern suburbs. The first was five or six years ago—I forget the exact date—in relation to which a magistrate believed that a school could not collect the fees and charge from a certain parent. The reality out there at the moment is that the situation has been confused. I took advice previously on this matter from the then Solicitor-General, now Chief Justice, in 1995. The press statement that I released on 19 April 1997 stated:

> The Solicitor-General, John Doyle, concluded that whilst it was probably not essential to clarify the legal situation, it was his opinion that it would be preferable to put the matter beyond any doubt. He also confirmed that there was power in the Education Act to regulate and no change to the Act was required. The Solicitor-General had confirmed the Government's view that schools did have the power to charge for materials and services provided to students but could not, in fact, charge tuition fees.

Our problem, of course, was that at least one magistrate, and possibly two, obviously did not share the view of the then Solicitor-General (now the Chief Justice). It is not for me, in the pecking order of the legal system, to impute any greater authority to the now Chief Justice than to a magistrate, but I think most members would acknowledge the excellence of legal opinion from the now Chief Justice, John Doyle, in terms of all that he has done in the law, both before becoming Chief Justice and since. The issue was that, obviously, some magistrates did not agree with that view. The issue was: did we (and do we) want to continue to fight court cases to, in effect—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: We are not in the business of taking people to the Full Court, the High Court, or whatever. We sought to do what the Principals Association, the Parents Association and the Government agreed was fair and reasonable to all parents and the operations of schools, namely, to put the matter beyond doubt by issuing this regulation. As I said, we did that, and we were rebuffed by the union, the Democrats and the Labor Party. We were challenged to take it to an election. We were challenged to make it an issue at an election and to seek a mandate for this policy. We took up that challenge from the Michael Elliotts, the Carolyn Pickles and the Janet Giles of this world. We put it to the people at the election; that was endorsed—

The Hon. T.G. Roberts: Show us the document.

The Hon. R.I. LUCAS: I am happy to show the honourable member the document: it is the education policy document. I am also happy to table the press statement, issued at the time by the Premier and me, which highlights this issue as one of the key policy differences between the Government and the Labor Party.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Mr Elliott says that it must be in an advertisement for the Government to be able to seek a mandate. 'It must be in an ad,' says the Hon. Mr Elliott. This is what is known as 'Elliott's moveable mandate'. It now must be in the TV ads, because he does not want to—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: That's a very good point. The Hon. Ron Roberts tackles the Government on the fact that it did not include that as part of its election policy document. He and others have used that as a reason for not supporting—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: As the Hon. Mr Redford says, that was not in the ads, either. The moveable mandate option from the Hon. Mike Elliott is interesting, but it comes from someone who is struggling to defend his position. When Janet

Giles says, 'Jump', the Hon. Mike Elliott says, 'How high, Janet?'

The Hon. M.J. Elliott: At least we stand by our policies.

The Hon. R.I. LUCAS: The honourable member's policy is to support Janet. The Hon. Mr Elliott has always supported and continues to support whatever Janet suggests. It is for those reasons—the mandate, the fact that 40 per cent of poor families in South Australia are still covered by the free School Card, the fact—

The Hon. M.J. Elliott: How much are they getting on School Card?

The Hon. R.I. LUCAS: That is another debate and another issue which is not impacted upon by the school fee or charge, because families are not charged a school fee or charge irrespective of the level of the School Card reimbursement. That is an important point because, if the Hon. Mr Elliott is making the point that some schools have a fee or charge above the School Card reimbursement level, the school cannot compulsorily collect the difference between the School Card reimbursement and the school fee or charge.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No, the school does not go short: what happens in the end is that everyone else pays a higher fee or charge to meet it, because principals and parents, working with the Government to maximise the dollars that the taxpayers give them directly and the parents raise through fundraising and fee income, know what they need to collect to deliver a quality education to their schools. So, it is incorrect for anyone to suggest that parents might be compelled to pay the difference between the School Card level and whatever the level of the fee or charge within the school system might be for an individual school.

For all those reasons—and, as I said, many others that I would go through if time permitted—I again strongly urge the Legislative Council to support this policy, which is supported by all the principals associations and the school council peak organisation in South Australia, and which was put to the people of South Australia at the last election and received their endorsement.

The Hon. A.J. REDFORD: At the outset, I must declare an interest: I have one child in secondary school and two children in primary school, all of whom are the subject of a school charge. I fully endorse what my Leader said in relation to the merits of the issue. I just want to make a couple of comments about this issue of mandate. In one of my earliest contributions in this place, I asked a question in February 1994 of the Hon. Michael Elliott about this issue of mandates—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: No, it was not my first question: I was active prior to the 22nd. It was my first question to Mike Elliott, and he was as evasive as anybody. If one stood that reply up against most of the ministerial replies, it would get into the grand final for evasiveness. However, if one reads it very closely, there are a couple of things that can be gleaned from what the Hon. Michael Elliott said on this occasion. He basically said that people do not vote for policies. He said, 'All I did was vote to get Labor out.' Starting from that basis he then said, 'No Government ever has a mandate to do anything,' and he went on and explained that, from the perspective of the Australian Democrats, it is a mandate that the Democrats decide from time to time—on what basis was not explained. Indeed, his final point was that policies are capable of significant interpretation in any direction and, therefore, really did not count for much. So much for his attitude there.

I was heartened, in some respects, by the contribution made by the Hon. Nick Xenophon on 11 August. In talking about mandates, he referred to the social researcher Hugh Mackay. I do not support much of what Hugh Mackay says, but he did say this:

> With trust in the political process being eroded with every bent principle, every broken promise and every policy backflip, the level of cynicism has reached breaking point for many Australians.

Indeed, the Hon. Nick Xenophon then proceeded to adopt his referendum proposal—and I will not comment directly on that. If we look at the issue in this context and this Council does not allow the Government to fulfil its policy, there is, in effect, a broken promise—another broken promise: there is, in effect, a policy backflip; and there is, in effect, aided and abetted by the Australian Democrats and the Australian Labor Party, a bent principle. So, in every respect, the attitude of the Australian Labor Party and the Australian Democrats is consistent with this breaking of trust in the political process.

The Australian Democrats and the Australian Labor Party have really not taken on board the comments made by the social researcher Hugh McKay, so ably quoted by the Hon. Nick Xenophon. Based on what the Hon. Nick Xenophon said in his speech, I have no doubt that, when we call for a division on this, he will be sitting on our side voting with us, because he is a principled man and he will stick to that matter of principle that he holds so dear. He brought a new level of standard to the statements of some commentators when he said:

> In the ordinary course of events, our system of parliamentary democracy expects our elected representatives to make decisions conscientiously in the interests of the State as a whole. If the electorate does not approve of those decisions it can deliver its judgment at the next election.

I am sure that the Hon. Nick Xenophon is aware that they delivered a judgment at the last election by returning us to Government. I am also sure that he will be mindful of the fact that, if the problems associated with this materials charge are so bad and so inflicted on the community, in the words of Nick Xenophon, they can deliver their judgment at the next election.

I have absolutely no doubt that the Hon. Nick Xenophon will be consistent on this because he is earnest and he will apply an intelligent thought process and inevitably come to the conclusion that the Government ought to be allowed to be trusted by the people, it ought to be allowed to fulfil its promise and it ought to go some small way towards restoring trust in the political process. I look forward very much to his sitting on the same side of the Chamber with me, consistent with the comments that he made on 11 August 1998.

The Hon. NICK XENOPHON: I am flattered by the remarks of the Hon. Angus Redford; I am quite touched by what he said. At the risk of stunning the honourable member, I would like to outline why I support the Leader of the Opposition and consequently oppose the Government's regulations for a number of reasons.

Members interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: Well, while I am—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Xenophon has the floor, and I ask members to listen to him.

The Hon. NICK XENOPHON: While I am sympathetic to the Minister's dilemma, this regulation could well cause more problems than it intends to solve. I know that the recovery rate for these charges is of the order of 95 per cent and that all other States collect such fees on a voluntary basis. Attempts at a compulsory system of enforcement have been unworkable to implement in terms of the sorts of enforcement provisions and the regulations that have been set out here.

Secondly, the dichotomy of a compulsory levy and a voluntary component seems fraught with difficulties and compounds in a practical sense the difficulties of collection. Thirdly, notwithstanding the advice of the Crown Solicitor's office and the former Crown Solicitor, now Chief Justice (John Doyle) that the regulation is valid, and I respect that advice, I am aware of a contrary memorandum of advice obtained by the Australian Education Union which raises substantive and serious concerns on the validity of the regulation.

The Hon. R.I. Lucas: Who is the advice from?

The Hon. NICK XENOPHON: The advice is from legal counsel.

The Hon. R.I. Lucas: Who?

The Hon. NICK XENOPHON: I am aware of the Treasurer's very high standard in not breaching confidences. I have been given a copy of this advice. I am more than happy to outline in brief terms the nature of the advice.

The Hon. R.I. Lucas: Who is it?

The Hon. NICK XENOPHON: No; perhaps I should have checked with the Australian Education Union to release the name of counsel but, in the circumstances, I thought I could outline some of the issues raised in that advice.

The Hon. R.I. Lucas: How do we know who it is?

The Hon. NICK XENOPHON: I am satisfied that it appears to be bona fide advice.

Members interjecting:

The Hon. NICK XENOPHON: Well, it does indicate that there is an area of concern that the regulations may not be valid but, if the Treasurer will be patient—

The Hon. R.I. Lucas: Do you know the name of the legal counsel?

The Hon. NICK XENOPHON: I would like to outline some of the concerns raised simply to indicate that there is a potential problem with the regulations, but I will not reflect on that too long for the Treasurer. My concern is that there could be problems with the validity of the proposed amendments in a number of matters, for instance, whether there are powers to levy these charges via regulation rather than under the Act itself. It may be, as I understand it, that this issue will revisit—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: The Hon. Angus Redford asks why this is not tested in court. I thought that was answered by the Hon. Angus Redford previously in terms of—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: That is for the Australian Education Union. I am afraid my communications—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: Well, that is not determinative. In my—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: With the greatest respect to the Chief Justice—

The Hon. R.I. Lucas: You don't even know who gave this advice.

The Hon. NICK XENOPHON: I know the name of the person, and I am quite happy to outline the substance of the advice. We can go around in circles all night, but I thought I could outline that there are some concerns, including whether compulsory charges for students attending Government schools can be levied via regulation without any amendment to the Education Act. That is an area of concern. Another area of concern is whether or not a regulation could be characterised as imposing a form of taxation. It refers to the High Court decision of *Air Caledonie International v the Commonwealth* (165 Commonwealth Law Reports) which refers to a tax being a compulsory levy of money for public purposes which is enforceable by law, unless the levy can be described as a payment for services rendered. It goes on to raise doubts about this. I will not reflect further on that opinion, other than to indicate that there is a body of legal opinion that raises some concern about that.

In terms of the matters raised by the Hon. Angus Redford with respect to quoting Hugh Mackay, I can only recommend to the honourable member that Hugh Mackay is a writer of some note and that I admire his writings. There appears to be a fundamental—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: No; there appears to be a fundamental misapprehension on the part of the Hon. Angus Redford and other members of the Government as to what I said on 11 August and what I said a week ago during the Matters of Interest debate. I can only recommend that members read carefully what I said and assess the nuances of what I said. However, there is a fundamental difference between a broken promise and a mandate issue.

Members interjecting:

The Hon. NICK XENOPHON: With the utmost respect to the Hon. Angus Redford and the Treasurer, there appears to be a fundamental misapprehension in terms of what I have said previously. There is a fundamental difference between a broken promise, a policy backflip that was a key issue during the election campaign, and a mandate to introduce a piece of legislation—which clearly the Government has done. Looking at the words of Hugh Mackay—

Members interjecting:

The Hon. NICK XENOPHON: Well, I am saying that this—

Members interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: My position is clear: I recommend that the Treasurer read and re-read what I said last week and the previous week.

Members interjecting:

The PRESIDENT: Order! Interjections are out of order and members ought to know that. I encourage the Hon. Mr Xenophon to conclude his remarks or bring them forward.

The Hon. NICK XENOPHON: Yes, thank you, Mr President. I quote Hugh Mackay, who spoke in terms of bent principles, broken promises and policy backflips, as follows:

> There is not an analogy between the two; there is a fundamental difference between the two.

The Government clearly has kept its word, and it is refreshing to see that the Government has introduced a piece of legislation which—

An honourable member interjecting:

The Hon. NICK XENOPHON: I am not making the honourable member do anything. I am saying that I cannot support a piece of legislation which I do not consider to be

meritorious. When the Act is introduced and, if it is amended, I will have to look at its merits and look at the consequences of that legislation. This debate on mandate appears to be disingenuous in the context of this Bill in the context of our bicameral system, and I can only recommend to members again on this side of the Chamber that they read, and re-read and understand what I said in this Chamber on 11 August and in the previous week.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: For the reasons I have outlined, I am unable to support the Government in relation to this matter. I hope that the Government will understand my position in due course.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I thank members for their contributions. I find it very ill-mannered indeed that I could not quite catch the content of the Hon. Mr Xenophon's contribution because of the consistent—

An honourable member interjecting:

The Hon. CAROLYN PICKLES: What I heard was a far better logical argument than that of the Hon. Mr Redford or the Hon. Mr Lucas. I refer to some comments made by the Hon. Mr Elliott in his contribution, when he stated that it was his view:

> that this move. . . is in fact part of a move towards the coupon system (which is supported by a number of members of the Liberal Party) and is, in effect, that first step along the way to quasi privatisation—in fact, full privatisation eventually—of the school system also. There are certainly members of the Liberal Party who believe that that should happen, and this is just one of the steps along the way.

He also went on to refer to the Senate inquiry on this issue to which I gave evidence, as did a number of other people, including a representative of the Government of that time. Certainly, the Senate inquiry was very explicit in its recommendations that schools should be funded across Australia to an appropriate level sufficient to deliver appropriate standards of education and without having to punish parents unduly. We have in this State a public education system which, I believe, has been declining under this present Government.

The Leader of the Government in this place made great play of the issue of the mandate. I must say that I agree with the comments made by the Hon. Mr Xenophon, that is, that this is quite a different issue, and I think it is pretty outrageous for the Leader of the Government to come into this place and talk about mandates when he did not have the guts to put what he now considers to be his most important—

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: And our views were in our education policy, as were Mr Elliott's views in his education policy.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: And we won 10 seats in the election and he won an extra one in this place, so it shows how popular your—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: I think it is appropriate to use a notice which has been sent out to parents by a public high school in this State as an example of why we need to reject this regulation. I will not name the school but, if anyone wants to talk to me afterwards, I will be pleased to show them the document that was sent out. I do not wish to pinpoint one school, but I do think that this highlights the criticism of the Government on this issue. This school has had quite significant achievements. Many of the things that it has done have been much admired; in fact, many years ago one of my children attended this school.

The notice that goes out to parents highlights how inadequate operating grants have left the school no option but to charge a wide range of fees to students, some of which appear to have, at best, doubtful legal authority. The materials and services charge for 1999 is $340 in years 8 and 10 and $360 in years 11 and 12—very substantial charges for textbooks and equipment—and, more significantly, the charge includes an amount to provide funds to maintain the school grounds and facilities. The point is whether the Act gives the Minister the authority to pass the responsibility for school maintenance—that is, the cost of fixing school grounds and buildings—to parents. I doubt whether that is the case.

The next charge of significance is a $50 non-refundable enrolment/application fee. Once again, this raises the question of the authority for the school to charge an enrolment fee and, in particular, to make this fee non-refundable. This is a point on which the Government needs to take some legal advice. It also begs the question: on what grounds are children refused enrolment, and on what authority can the Minister reject a child's application to enrol? Are children being rejected on grounds of ability, or are there more sinister criteria?

In addition to these fees there are several other charges: a charge of $100 per family for the resource centre; an invitation to make a voluntary contribution to the school building fund; a school diary to be included in the stationery order process; a charge for an ID card without which the student is unable to use the library; an administration entrance cost to sporting carnivals; special subject charges for special work books and materials used in some subjects; a charge for the school magazine; and payment for the year 8 camp.

The advice also makes it quite clear to parents that when enrolling their child they will support the uniform policy which we know will now be subject to a GST. A survey has indicated that it can cost parents up to $1 000 to equip fully a child with winter and summer uniforms and designated sporting dress. Like the non-refundable enrolment fee, there is another sting that I believe is outside the authority of the school council and the Minister, because the advice states, 'Payment of fees in full is required before your student commences the 1999 school year.' In other words, parents must pay, or their child will be denied access to education which the Minister is bound to provide under the Act.

I hope that the select committee that the member for Taylor will move to set up in another place tomorrow in private members' business will be supported, because it will look at the issue of fees in Government schools in South Australia. Perhaps if the Government were honest about it, it would support it and try to clear up this mess once and for all. I urge members to support the motion.

The Council divided on the motion:

AYES (11)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Holloway, P.	Pickles, C. A. (teller)
Roberts, R. R.	Roberts, T. G.
Weatherill, G.	Xenophon, N.
Zollo, C.	

NOES (8)

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

PAIR(S)

Kanck, S. M.	Davis, L. H.

Majority of 3 for the Ayes.

Motion thus carried.

RAILWAYS, EASTERN STATES LINK

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

That this Council calls on the Environment, Resources and Development Committee to be required to investigate and report on rail links with the Eastern States to ascertain the best configuration for the future development of South Australia.

(Continued from 19 August. Page 1463.)

The Hon. T.G. ROBERTS: I support the motion, on the basis put by the honourable member. We need to have a committee report that investigates a little more thoroughly the Commonwealth's position in relation to land transport restructuring, particularly of rail, and just how that will impact on this State. I suspect that the Commonwealth's position has been influenced somewhat by the forthcoming Federal election. In fact, I think the best description of the Melbourne to Brisbane rail link has been as a safety net for the National Party in relation to its struggle with One Nation and the breaking up of the conservative vote. I just cannot see how the proposition has been put forward in the hasty way that it was.

There was a proposition that it may cost $5 billion; another estimate that I saw got within $1.5 billion of that. The sums were very rubbery, and it did not appear to me to be a very well constructed argument by the Commonwealth. Having said that, other States over a period of time have put together ideas and applications for the Commonwealth to consider in putting a rail link if not from Melbourne to Darwin certainly from Sydney over the Blue Mountains, into the Queensland hinterland through their mineral deposits in central Queensland and linking it back into the Alice Springs to Darwin link. That was always a proposition or dream that some people had.

Other dreams have been put forward over 80 or 90 years which included the dream of many people who wanted to see rail expand in terms of land transport to provide an Adelaide to Darwin link, and it required a link from Alice Springs to Darwin to complete it. Also with that dream went a single State of South Australia and Northern Territory combined, an economic or business region made up of the Northern Territory and South Australia as one State.

I note that Tony Baker in the *Advertiser* has advanced that proposal and the Labor Party has had that as a policy for a considerable time. It is based on economic reality rather than the Commonwealth plan of setting up the Northern Territory as a single State. We would be much better served by having South Australia and the Northern Territory combine into one administrative unit with a good transport service system of rail, road and air through to Darwin and into Asia and all ports beyond.

Certainly, we need to put some work into completing a responsible report, one that has some identity and meaning so far as South Australia is concerned. If we do not, certainly the Eastern States will combine and use their political muscle to influence the outcomes, as they have done. They have just floated a proposal overnight and told the Prime Minister it is a good political idea and it has been picked up and floated publicly for Australians to consider, whereas the Adelaide to Darwin rail link has been around for some 80 years and not been put into place by any Federal Government in that period. There are now promises for finance for the Adelaide to Darwin rail link but we would wonder what the financial returns for individual investors would be because that would probably include private capital. What would be the returns if that proposal went ahead and there was then a proposal to build a Melbourne to Darwin link? What impact would that have?

I suspect no-one has considered the financial viability of a line from Adelaide to Darwin running in parallel to a Melbourne to Darwin line. The proposition the honourable member put forward in his motion was for an improved land linkage from Melbourne to Adelaide to be considered as a substitute for a Melbourne to Darwin linkage, coming back on this side of the range and linking up to Port Augusta, Alice Springs and Darwin. That makes sense. Those options have economic and financial implications which I believe have not been considered seriously by the Commonwealth. If South Australia is not careful it will end up being isolated by the political powers that rest in the Eastern States. The commitments that Governments make to large capital expenditure items before elections are as thin as cotton on a T-shirt and those promises can change as soon as the declaration of the vote on election night. For those reasons, I think the South Australian Government should support the proposal once the Environment, Resources and Development Committee does get set up. We are under-serviced and overworked as most committees are.

If this motion is passed in this Chamber and is referred back to the Environment, Resources and Development Committee as a living brief, I think it would be wise of the Minister to recommend that we are adequately resourced and adequately armed with the best available information that is held within the department and within the Chambers of Commerce within this State, as well as by the business leaders and organisations that would be prepared to substantiate the figures that make it a viable option. We should work closely with the Northern Territory Government to make sure that it supports a land linkage via South Australia, because its views and opinions would have some influence on the outcomes with the Commonwealth.

There has been work done. The Wran committee looked at a proposal some time in 1996, from memory. The Minister could facilitate a process of investigation to find out exactly what information does lie in dusty areas that might be of assistance, and I refer to any work that has been done at a Commonwealth level evidenced by reports or investigations. It is incumbent on the committee to do a professional job with professional research to put out a proper report so that that report can be picked up, endorsed by the Government and used as a lobbying tool for the Commonwealth to supply substantial funds to make sure it happens.

The other encumbrance that has to be removed is the block at the moment with the Aboriginal communities that are currently in negotiations in the northern regions over access. If there is more confidence in the general community that this proposal will go ahead, I believe we might get better results out of some of the negotiations that are occurring, and influences can be brought to bear to make sure that access for the track can go ahead. I am not saying that negotiations—

The Hon. Diana Laidlaw: Federal Labor doesn't want to support the legislation—

The Hon. T.G. ROBERTS: The Minister says that Federal Labor does not want to support legislation for that purpose. I only see it as a lukewarm commitment on both sides of the political spectrum at the moment, and States have to separate out what are potential promises that will stick and what are political promises that may evaporate. That is when I think we could form ourselves into an effective collective State lobbying group made up of both major Parties, and Democrats included, to put forward a proposal and then hopefully bring some pressure to bear for time frames and contracts to be looked at.

Once you start off with an idea and begin putting forward proposals so that businesses can actually start to look at possible investment strategies, you can win community support. At the moment that does not appear to be the position. Perhaps the Minister could give us some better idea. She could supply to the committee information that she has and we could call her as a witness so it is fresh and updated—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Perhaps I have made a rod for everyone's back by trying to get a commitment from the Government before it actually gets to the committee. It is no good the committee doing a half-hearted job on this—

An honourable member interjecting:

The Hon. T.G. ROBERTS: That's right—because of its national and financial importance for South Australia. We need to get a link into the Northern Territory and Darwin. Darwin is certain to have an expanded economic status, probably through a port of free trade with changed tax laws. Given the incentives that will be offered, Darwin will become an export centre for Asia. When the Asian economies start to pick up, if we do not have a linkage into Darwin for our manufacturing and tertiary sectors, South Australia will probably have to rely on air freight to gain an advantage into those regions where we would be competing in trade of similar sorts of products with Victoria. That would leave us running short on exporting our manufactured goods, because rail would give us a distinct advantage for mining and manufactured exports.

For all those reasons, I would expect the Government to support the referral of this investigation to the ERD. All the questions I have posed can be challenged by the Minister. Let us get the best available information on comparisons of land routes. The investigation would have to take into account the road transport of the competitors that may be interested in air transport. Let us see whether rail stacks up. There is a lot of evidence around that it will.

The Hon. M.J. Elliott: Not if it is not double stacked.

The Hon. T.G. ROBERTS: The honourable member has interjected, using satirical imagery of containerisation moving through the port of Adelaide and the Adelaide to Darwin rail link.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: That's right.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I would like to say at the outset that the Government does not consider that this reference is warranted or practical. However, having just heard the contribution of the Hon. Terry Roberts, I have come to appreciate that there is such a paucity of knowledge about rail issues in this country that, if the ERD Committee does nothing more than enlighten the honourable member, perhaps there is some purpose to the committee. For a moment—and I would not want to labour this—I felt some sympathy for the Hon. Terry Cameron and his comments about the Socialist Left of the Labor Party, but I will not dwell on that.

Plenty of information is available regarding the extraordinary amount of good work that this Government and the Federal Coalition Government have undertaken in recent times, and I would be pleased to make sure that that is available to the committee. If the honourable member is earnest in his statement tonight about lobbying for the Adelaide to Alice Springs railway, he could do no better than to lobby his Federal colleagues to support legislation that the Coalition wishes to move in terms of expediting the railway.

Three extraordinarily good bids have been put forward at this stage, along with a short list of consortia that are keen to advance this project. In terms of initial timetables, we would have expected that the bids would be assessed and a favoured selection of companies determined by October. However, because of the frustrations that the Northern Territory Government has encountered in terms of Aboriginal access issues regarding just a short length of the track, it is for good reason that these three parties will not further advance their bids.

In my view, the Aboriginal communities have been outrageous in their last minute application for $120 million. We are talking about 12 per cent to 18 per cent of the length of the track, and they are seeking $120 million, or 10 per cent of the total cost of the whole project. They are compromising a project that South Australians have held dear, and we have had good reason to expect the Federal Government to honour commitments that were made since 1911. If the ERD Committee can focus on these issues, with the lobbying effort that the Hon. Terry Roberts has outlined, I hold out some potential value for this reference.

I take issue with the Hon. Mike Elliott's comments that this Government has been side tracked or has focused only on the Adelaide to Alice Springs railway and has not been dealing with a whole range of issues, and I will outline some of them later. In reiterating my first comment that this reference is neither warranted nor practical, I highlight the very fact that since 1975 the South Australian Government has not owned the non-metropolitan rail network in South Australia. Today our interstate rail line and land are wholly owned by the Federal Government, the Australian Rail Track Corporation having been established to operate and maintain the line. The headquarters of that company is in Adelaide, as was promised by the then Minister for Transport and Regional Development, the Hon. John Sharp, during the negotiations for the sale of Australian National.

Since October last year, the non-metropolitan intrastate line and land have been fully owned by Australia Southern Railroad. That is a private company comprising no Government shareholding in this State. In every instance, the State Government has been working closely and effectively with the ARTC and ASR in order to build the rail business. I highlight that fact, because the Hon. Mike Elliott might not have been in the Parliament at the time when a select committee was proposed (by me, as I recall) to look into the non-metropolitan rail services in South Australia. The Hon. Ian Gilfillan was on that select committee. It would have to be one of the lowest points in references or investigations that this Parliament ever undertook, because Australian National, headquartered in Adelaide with some 7 000 employees at the time, would not give any evidence, written or in person, to the committee of the Parliament. That is how

poor relations were, how little influence we had as a State Government and how little regard AN had for the State in which it was operating.

I can only emphasise today what will be good news for the ERD Committee, namely, the good working relationships which privatisation has seen. That is one of the real benefits in terms of not only building the business but also re-establishing good relations with the South Australian Government, with rail again operating in the best interests of South Australia, which nobody could argue was the case with AN management in the past. Don Williams was Chairman for a time and then Jack Smorgon became Chairman. The irony of Mr Smorgon's chairmanship was not lost on those who wished to build a rail business in South Australia: he was head of the transport hub committee for Melbourne. Need I say more about Labor appointments to Australian National and its interest in the welfare of rail in this State?

I will refer to the better working relationship in the context of the way Transport SA has been restructured. More of this can be explored with the committee, but traditionally it has been road focused. It is now required not simply to look at the road task but at the freight task and as part of this exercise the manager of rail operations, the first since the days of the old South Australian Railways, will be appointed. South Australia has not had a manager of rail operations and safety since 1975 and advertisements will be placed in the next two weeks for that position within Transport SA.

The Hon. M.J. Elliott: Perhaps Don Williams could apply.

The Hon. DIANA LAIDLAW: I would be interested in who would be his referees. In the meantime, Mr Andrew Rooney, as co-ordinator of transport policy and planning in Transport SA, has been doing a mighty amount of work in this rail field. It would not be the State's intent in future to invest in the rail system interstate or intrastate, although as part of the sale of Australian National we invested up to $2 million for the standardisation of the Tailem Bend-Pinnaroo line, and that work now being undertaken by Transfield for ASR will be ready in October or November for the next harvest.

I refer to the standardisation of the Adelaide-Melbourne line because members may remember that, as part of the Federal Labor Government's One Nation commitment, rail was a huge focus of that undertaking. The initial estimate by Australian National for the upgrading of rail between Perth and Adelaide and for some activities within Launceston was $300 million, which involved the double stacking that the Hon. Mike Elliott talked about from Perth to Adelaide and double stacking from Adelaide to Melbourne, plus the easing of some grades. In the end the One Nation program allocated to the Adelaide-Melbourne standardisation program $115 million. This was increased by NRs own resources by 50 per cent and $166.7 million was ultimately spent on the line, but it is still $130 million short of what AN estimated this exercise would need.

Ian Webber's inquiry on the rail transport task in 1993-94 estimated that a further $92 million would be needed on the Adelaide-Melbourne line for double stacking purposes by lowering the line through the tunnels in the Adelaide Hills, easing the bends and improving the track, particularly in Victoria. There has been enormous pressure by this Government on the Victorian Government to do better in terms of the condition of its track, particularly from Ararat to Geelong and Melbourne.

For rail, the distance between the freight terminals in Adelaide and Melbourne is 834 kilometres—some 14 per cent greater than by road. Speed limitations vary greatly. The Adelaide Hills, with ruling grades of 1 in 39 and 200 metre radius curves, reduces average speed to just over 40 km/h for the first 90 kilometres. The remainder of the track from Murray Bridge to the Victorian border is in good condition, with concrete sleepers, and sustained speeds of 110 km/h are achievable. However, across the border it is a different story. Whilst from the border eastwards to just south of Ararat speeds are generally good (95 to 115 km/h), there is a section from Lubeck to Horsham which is limited to 85 km/h for freight. The situation from then on to Melbourne can only be described as medium to poor, with 44 kilometres limited to a speed of 50 km/h. A further 12 kilometres is limited to 65 km/h, and the final sections from Vite Vite to Geelong, a distance of 100 kilometres, and on to Melbourne, a distance of 76 kilometres, have a maximum limit of 80 km/h, rather than the general mainline speed of 115 km/h.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes, instead of 115 km/h. Travel time for a typical freight train of 2 000 tonnes is 15 hours, some five hours plus, or 55 per cent, more than road, and the average speed is 55 km/h, or two-thirds that achieved by road. One wonders how it is possible for rail to compete with road and we find that it can do so only under extraordinarily difficult circumstances. I think that those circumstances are most unjust for the new operators that we have sought to attract with private sector funds to build up our business.

It is for this reason that the State Government has worked very assiduously through the ARTC, first in making sure that we have the headquarters here, and that the focus of the Federal Government's new funds of $250 million is on the Adelaide-Melbourne link. I do not deny, and I will say it quite publicly here, that whenever the fight is on and there is any focus towards Adelaide with anything to do with rail the forces unite in Melbourne and Sydney. There is a last minute proposal that some operators are trying to wage now that the majority of that $250 million be spent on the Melbourne-Parkes line through to Perth. It will not win the day. But whenever we appear to be doing well through our efforts—for instance, Adelaide to Alice Springs or the majority of the funds of the $250 million for infrastructure investment through the Federal Government, Adelaide to Melbourne—the Eastern States forces will unite. I think the only time we ever see Sydney and Melbourne get on together is when rail investment funds are at stake.

I do not deny that it would be excellent to have a united lobby and a more informed Parliament about some of these issues. I would be upset in supporting this reference if the ERD Committee did go into this task believing that not enough had been done or that a major focus had not been undertaken by this Government on rail issues. In fact, in terms of Port Augusta and the work force and the unions, I think last year I spent almost three-quarters of my time on transport issues working on rail issues, in order to win back this opportunity, because it was such a unique opportunity that Adelaide and South Australia had. We had to capture that opportunity, and I believe we have.

Could I indicate briefly, and I do not want to talk too much about this, that it is very important for honourable members to realise that the other major rail project—so a third one here, perhaps the fourth with the Pinnaroo-Tailem Bend standardisation—is the upgrading of the connection between the Port of Adelaide intermodal container terminal

and Dry Creek. Honourable members would realise that before the last State election—I am not claiming mandate issues or anything—we came out with a very strong commitment for a third river crossing at the Port River. That includes a rail crossing to ensure that there is much improved freight access between the container terminals at Dry Creek and the port at Outer Harbor.

I point out that part of that third river crossing includes a $20 million rail project. I would like to highlight that Booz Allen Hamilton, the consultancy that has been appointed by the ARTC (Australian Rail Track Corporation) to investigate the best way to spend the $250 million of Federal funds, has indicated to us only in recent days that the best prepared public submission made for the investment of these funds has been by South Australia, in terms of not only the Adelaide-Melbourne lobby but also the upgrading of the connection between the Port of Adelaide container terminal and Dry Creek. It would give me great pleasure for the department to share that information with the ERD Committee.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I would love a star—just one; a little gold star. I have learnt in this job that you do not ask for much; you just work damn hard and you do not ask for much. We have made a focused effort. I am not looking for a star in truth. It will be difficult for us to influence or direct decisions that will be made by the Federal Government and by the private sector in terms of the ownership of rail. I believe that a better informed Parliament and the opportunity for a united lobby is really encouraging.

While I say that I do not think it is actually warranted in terms of the efforts that have already been made, I would never wish to be mean spirited. I want to share good news. If we can do better than we are doing now, I support this initiative.

The Hon. M.J. ELLIOTT: I thank members for their contributions and support for the motion. Having been a member of the Environment, Resources and Development Committee since its inception, I can say that I look forward to this particular reference, not just because I moved it but because it will be an issue about which all Parties—and four Parties are represented on the committee—will be totally as one—not that the committee has ever had too many really violent disagreements. There is no doubt that our rail links to the east are fundamentally important to our economic future.

Regardless of how much good work the Government has done, if this committee can bring extra focus to this issue, and perhaps bring the focus not only within the State but beyond the State, that will be all well and good. There is certainly a great deal of activity in the Eastern States in terms of rail upgrades, particularly between Melbourne-Sydney and Sydney-Canberra. I believe that it is absolutely imperative that the State as a whole gets behind not just the Adelaide-Darwin line but also our links to the east. Certainly our links to Perth already are of a high standard and I do not believe that there is any difficulty in that regard.

Again, I thank all members for their contributions. I suppose it will be somewhere near the end of the year before the committee will have a chance to get its teeth into this reference, but I certainly look forward to doing so.

Motion carried.

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

Adjourned debate on second reading.

(Continued from 19 August. Page 1480.)

The Hon. K.T. GRIFFIN (Attorney-General): The Government expresses concerns about this Bill, although I would expect it to pass the second reading and, in that event, the Government will endeavour to amend the Bill to make it workable. At the moment, it is, I submit, ill advised and unworkable and will create more problems than it seeks to solve.

Originally, the Bill sought to amend the Criminal Law (Sentencing) Act so that the victim would have the ability to make an oral statement to the court of the effect of the crime on him or her after conviction of the accused but before sentencing. But the Bill was amended in another place in a key respect: it now says that the victim must be given an opportunity to give a written statement to the court about any injury, loss or damage suffered by him or her, that a copy should be given to the prosecution and the defence by the court and that the victim must be given an opportunity by the court to present the statement orally. The victim is not liable to be examined or cross-examined on the statement.

Since the Bill has been introduced by the Opposition and since the Hon. Ian Gilfillan has indicated his support for it, I have a duty to try, by reasoned argument, to attempt to persuade members that this measure, however simple and popular it may seem, has a real capacity to do considerable harm to the criminal justice system. I have a duty to try, by reasoned argument, to persuade members to vote against the Bill. I want to start from first principles.

As the Hon. Carolyn Pickles pointed out in her contribution to the debate, the legal status of the victim impact statement was introduced by the then Labor Attorney-General, the Hon. C.J. Sumner. It is to be found in section 7 of the Criminal Law (Sentencing) Act. I will outline a brief history of the issue. In 1981 the South Australian Report of the Committee of Inquiry on Victims of Crime recommended (among other things):

> . . . prior to sentence, the court should be advised as a matter of routine of the effects of the crime upon the victim.

It considered that the consequences of a crime were relevant when a court was determining sentence. Under the law then prevailing, there was a particular problem in that if an accused pleaded guilty a sentencing court would not ordinarily receive information regarding the victim's physical, economic or mental wellbeing, yet these were, and should be, relevant factors to sentence on a guilty plea.

In October 1985, the South Australian Government adopted the committee's recommendation and followed the draft United Nations declaration of basic principles of justice for victims of crime and abuse of power by promulgating the declaration of rights for victims of crime, consisting of 17 principles designed to 'alleviate the trauma suffered by victims', and to govern the conduct of those who have contact with victims. The then Attorney-General, the Hon. C.J. Sumner, introduced the declaration, with a requirement that Government departments were to ensure that their policies and procedures conformed with the principles. The principles were not meant to be pious platitudes or optional extras to be added at the discretion of officers of the justice system: they were mandatory Government guidelines for action. It should

be noted, however—as, significantly, the Hon. Carolyn Pickles did not say—that the Hon. C.J. Sumner was always of the opinion that the victim impact statement should be conveyed to the court by the Crown on behalf of the victim and not by the victim himself or herself. The principles empowering victims articulated by the Hon. Mr Sumner read:

> (14) be entitled to have the full effects of the crime upon him/her known to the sentencing court either by the prosecutor or by information contained in a pre-sentence report;. . . Any other information that may aid the court in sentencing. . . should also be put before the court by the prosecutor.

There was considerable debate over who would be responsible for collecting information on the impact or effect of a crime on a victim. Ultimately, it was determined that it was philosophically inappropriate and not economically viable for social workers employed by the Department of Correctional Services to interview victims and subsequently prepare a victim impact statement.

For a number of years, police had collected information about the effect of the crime on a victim on an ad hoc basis. It seemed logical at the time to formalise this procedure. However, after a while it proved that the procedures put in place required too much in the way of police resources. About 12 months after implementation, the Commissioner of Police appointed a project team to examine the procedures, having particular regard to the resource implications. Among other things, the project team reported that police staff needed to be increased by at least 100 if the procedures were to be maintained and an appropriate level of service extended to victims, prosecutors and courts.

After a great deal of debate and review, a model based on a victim-prepared questionnaire was developed. A number of happenings facilitated and strengthened this model, including:

(a) comments by Justice Olsson favouring a victim impact statement in the victim's own words expressed in a Full Court case;

(b) supportive comments by visiting Professor Edna Erez, a proponent of victim impact statements; and

(c) sentencing remarks in a most serious murder case in which the victim's parents wrote their own victim impact statements.

In summary, the current process is that a victim impact statement is prepared by victims filling out a questionnaire provided by police or writing one themselves. A pamphlet entitled 'Preparing a victim impact statement' is given to victims by police. That pamphlet addresses the law pertaining to a victim impact statement and contains a guide for victims who wish to write their own statement. The pamphlet stipulates that a victim must not simply restate the evidence before the court, write long descriptions of the crime, write abusive or offensive comments, nor tell the judge or magistrate what the penalty should be.

Although the victim has the primary responsibility to complete a victim impact statement (no matter the form), the police, DPP, Witness Assistance Officer, Victim Support Service, Homicide Victims Support Group, Rape and Sexual Services (Yarrow Place), and Child Protection Services have agreed to assist victims satisfy their right to make a statement. In essence, nothing has changed in terms of the nature or type of information that can be furnished by a prosecutor to a sentencing court. Furthermore, the practice of appending where appropriate medical reports, quotes for damage, etc., to the victim impact statement continues. The principle that the victim impact statement should be presented to the court by the prosecutor on behalf of the victim has also remained unchanged.

There are good reasons for this principle. Most fundamental is that in a solemn hearing about sentence there are rules of law about what the court is entitled to take into consideration and what it is not entitled to take into consideration. It is not likely that the victim will know these rules and so may well be faced either with his or her statement being ignored or being told that it is not permissible to say that.

However, there may be worse consequences if care is not taken. Let me take a recent example. Let me assure the Council that it is not a completely isolated example. In *Lewis-Hamilton* (1988, 1 Victorian Reports, page 630), the accused was charged with three counts of rape and three counts of unlawful sexual penetration of a child. The complainant was 14 at the time of the alleged offences. The complainant alleged forcible sexual intercourse. The accused denied it and there were no witnesses. The jury acquitted of rape but convicted on unlawful sexual penetration. It can only have been on the very odd basis that the jury thought that intercourse had occurred but that the complainant consented. In any event, it was quite clear that the credit of the complainant was central to the case for the Crown.

The victim made a victim impact statement by statutory declaration after the conviction. In it she alleged that she suffered pain and vaginal bleeding after each attack. The allegation of bleeding could have been crucial. There were witnesses present on each occasion, minutes after each alleged attack occurred, who could have given evidence about blood and pain or the lack of any evidence of it.

The Victorian Court of Appeal overturned the conviction and ordered a new trial on the basis that the victim impact statement should have been provided to the accused before the trial. In this case the provision of the victim impact statement in an untimely manner resulted in the loss of a conviction and the necessity for the victim to go through the pain and suffering of a new trial process all over again with all that that entails.

I also point out that victim impact statements were the subject of a report by the New South Wales Law Reform Commission recently. In 'Report No. 79, Sentencing', published in December 1996, the commission said at page 44:

> Recommendation 7: Victim impact statement must be tendered in writing and verified on oath. With the exception that one submission favoured giving victims the option of making an oral victim impact statement, this proposal [in the discussion paper] was, again, strongly supported in submissions. The commission affirms it.

The commission noted that the New South Wales Victims' Advisory Council was not that exception, but did leave open the possibility that the victim should be able to read in court a written victim impact statement. I will return to this point later. So, there is some real background—the background of what actually happens and what the police and the courts really do, why it is done that way and what can go wrong. When compared with this Bill and the rhetoric with which it is promoted, it can only be said that the Bill is ill-considered and potentially dangerous.

This confusion can be seen in the way in which the Hon. Carolyn Pickles supported the Bill. She rightly pointed to the contribution of the Hon. Chris Sumner, to the establishment and maintenance of victims' rights, but failed utterly to point out that he continually opposed the principle in this Bill. She pointed out that Mr Justice King supported the principle in the Bill. She also pointed out that Mr Justice King favoured

the right to cross-examine the maker of a statement in the interests of justice and simply dismissed that argument without any countervailing argument whatsoever. The Bill, of course, explicitly denies such a right.

The honourable member quoted from the decision of the United States Supreme Court in *Booth v Maryland* (1987) 482 United States 496. She did not inform the Council what that case decided. In that case the majority of the United States Supreme Court held that a victim impact statement detailing the effects of a homicide on the family of a victim and the family's opinion of the defendant was inadmissible in evidence as contrary to the Constitution because, among other things, it would interfere with the requirement that the sentencing discretion not be based on caprice and emotion. The result of the decision was to strictly curtail victim impact statements to the point of irrelevance. *Booth v Maryland* stands for precisely the contrary to the position taken in the Bill. Without going into the matter in any detail—and I do not wish to mislead the Chamber in any way—I point out that *Booth* was overruled by the Supreme Court in *Payne and Tennessee* (1991) 501 United States 808.

The honourable member raised one further matter of principle which I wish to address. She drew a parallel between oral victim impact statements at sentence and family group conferences. That is a misleading analogy. There are crucial and important distinctions between the two processes. It is true that, in relation to juvenile justice family group conferences, the Government has embraced a notion of restorative justice. But it has done so in a setting in which restorative justice is the centrepiece of the process. That is not so in the common adult sentencing hearing—and I suspect that the honourable member would oppose the notion were it to be advocated. The fact is that, in the ordinary sentencing hearing, considerations of just desert, retribution and specific and general deterrence have a major role to play in what is an extremely coercive setting. That is simply not the case in the family group conference.

Taking the Bill subsection by subsection, I note that proposed section 7A(1) is very loosely based on the current situation. Currently, section 7 of the Criminal Law (Sentencing) Act authorises a prosecutor to furnish particulars (that are reasonably ascertainable and not already before the court) to a sentencing court about any injury, loss or damage suffered as a result of an offence, any offence taken into consideration, or any series of acts of which the offence forms part. The first question that arises is how the now to be written victim impact statement made pursuant to what is to be section 7A relates to the written statement furnished by the prosecutor pursuant to section 7. Are they to be the same document? If not, on what basis will they differ? Will victims want to make two written statements under different regimes, one to the prosecution under current arrangements and another to the court? What if they are inconsistent?

Section 10 of the Criminal Law (Sentencing) Act stipulates that a court, in determining sentence for an offence, should, if relevant, have regard to the circumstances of the offence, the personal circumstances of any victim of the offence and any injury, loss or damage resulting from the offence. The words 'if relevant' are a key to this section. They are notably absent from the proposed new section. There is, it appears, to be no limit or criterion of relevance applicable to these statements in the Bill. But that is not what the Hon. Carolyn Pickles says. In her speech she said:

> We should have an interest in information about the harm caused by the crime being before the court. We are not so interested in the victim's opinion about sentencing where that does not relate to the harm caused.

In other words, the information should be relevant. I agree with that, but the Bill does not say that. It should be amended at least to do so.

What exists now is a harmonious statutory scheme in which sections 7 and 10 complement each other. The introduction of section 7A as proposed, which refers to neither of them, will create an incoherent shambles of it. It should be opposed for this reason alone. Proposed section 7A(2) appears to represent a confusion. It seems to have been borrowed from what is section 8 of the Act, which deals with the case in which the court receives pre-sentence reports and makes a copy of those reports available to both the prosecution and the defence. That is required in the statute because often it is the court and not either party which orders the pre-sentence report. Therefore, neither party may have it.

However, where there is a written victim impact statement, the prosecution is obliged to furnish the court with a copy because it is clear that the victim impact statement is tendered to the court through the prosecutor. When parties tender documents to the court, they always provide a copy to the other side as a matter of course. That is why there is no statutory provision which says so. There is no need for it. This subsection confuses the two kinds of documents.

The requirement in this subsection will, I am advised, place an intolerable burden on the court system. How will the court receive a copy of the written statement? How will the court ensure that it is received in time? How will the court ensure that it is received by the prosecution and the defence? The Hon. Ian Gilfillan stated in his contribution that he assumed that the defence and prosecution would know what was in the statement and could lodge an objection to some or all of it, but how can this be assumed? The point of legislating about these things is not to make assumptions. For example, if there is no requirement of relevance, on what basis could any objection be taken?

Proposed section 7A(3) is of course the key provision. Paragraph (a) now provides that the victim must be given an opportunity by the court to present the statement orally. Both the Hon. Carolyn Pickles and the Hon. Ian Gilfillan proceeded on the assumption that this means that the victim is confined to reading out the written statement in court. I beg leave to doubt that. That interpretation is not in the Bill. The word 'present' is not defined. One must therefore look to a dictionary definition. 'Present' has many meanings. One of those is, 'to make a presentment of; to make a formal statement of; to submit,' and in a limited sense this looks rather like 'reading out'. Another quite defensible meaning from the same dictionary, that is, the *Oxford English Dictionary*, is, 'to make present or suggest to the mind; to set forth or describe; to represent,' and this would suggest a more descriptive function than merely reading it. I am of the opinion that, if as is suggested what is desired here by the supporters of this Bill is a reading out of the written statement, that be made unambiguously clear.

Proposed section 7A(3)(b) is very contentious, to say the least, in that the defendant will not be able to dispute the contents of any victim impact statement by examining or cross-examining the maker of the statement. This appears to be contrary to principles of natural justice and is unfair and unreasonable. In practice at the moment it is unusual for a victim to be cross-examined on a statement. That is because the process is carefully managed in the way that I have

outlined. It is the victim's own statement. But care is taken not to expose the victim to court pressures, nor the offender to unfairness. That is not to say that cross-examination is never the right course to follow. The victim may make statements which are factually incorrect, which exaggerate and which disclose matters that are true for the first time or which go beyond the verdict of the jury or the basis of the plea.

The consequence of this subsection will be that such statements are untested and will therefore carry little or no weight. Prosecutors may be placed in an invidious ethical position where there is some evidence which cannot be believed because it cannot be challenged. These considerations were recently made clear by the Court of Criminal Appeal in *R v. Byrnes & Hopwood* (1996) 189 Law Society Judgment Scheme 190. I am grateful to the Law Society for drawing this case to my attention. In it, the court made it absolutely clear that there is a duty on the prosecutor to act reasonably and responsibly in obtaining and presenting a victim impact statement, and if there is any reason for doubting the accuracy of it to refrain from submitting it to the court or doing so with some appropriate reservation.

The court also made it clear that, if the contents of a victim impact statement or a statement in it is challenged, the victim impact statement or that part of it must either be proven to the correct standard of proof, which is beyond reasonable doubt, or it must be ignored. This Bill ignores both of these important principles of law and the reasons why they have been brought into existence. These principles were applied by the District Court in *R v. Rudling* (1997) 193 Law Society Judgment Scheme 93 when a victim impact statement alleged without any supporting evidence that the offender knew at the time he committed an offence of gross indecency on the victim that a sister of the victim had been murdered after a sexual assault.

This statement, unsupported by any other evidence, could not be acted upon and was not acted upon. This is not just the South Australian position. For example, in *R v P* (1992) 39 FLR 276, the Full Court of the Federal Court noted that it was essential that that material should be presented in such a way that the prosecution was seen to be acting in the interests of justice and not promoting the interests of the victim at the cost of justice. In *R v RB* (1996) 133 FLR 335, Higgins J. of the ACT Supreme Court remarked:

> It is the duty of the court also to ensure that the victim impact statements, or analogous material, represent the truth. That may involve, in some cases, cross-examination by defence counsel of some victims or the tender of evidence which is inconsistent with their statements.

The Law Society goes on to point out that the unintended effect of the proposed Bill may well be that an offender can prevent the reception of any untested victim impact statement by simply announcing that he or she disputes all of it. The only alternative left by the Bill is the equally unreasonable one of assuming that any assertion by the victim in a victim impact statement amounts to unassailable proof beyond reasonable doubt. That is simply not sensible. There is also the valid question raised as to what are the rights of any third person attacked in a victim impact statement.

In short, this Bill is confused, unfair in its intended operation, and not thought through. Both the Chief Justice and the Law Society have identified a number of problems with the Bill, largely reflected in what I have already said. The DPP has also drawn attention to a number of problems, again basically in line with what I have been saying. It is of concern that all those who are concerned to prosecute offenders or hear cases in the interests of the community are all of the view that this Bill is ill-considered. The Director of Public Prosecutions makes a number of observations on the Bill and says among other things:

> If the court is to allow oral representations by victims in relation to all matters in which there has been injury, loss or damage it places a great burden on the court system and also the prosecuting authorities. There may be many matters in the Magistrates Court that are dealt with swiftly in which an inquiry will then need to be made from the victim as to whether they wish to make representations in an oral manner to the court. Each of these matters will then have to be scheduled at a specific time in which a victim and prosecutor, defence and the court are available to hear such oral representations. In the higher courts this problem will also require the attention (from custody in some cases) of the prisoner. To place this burden on the system will provide many difficulties.
>
> It is often the case that it is victims who have been the subject of violent offences or offences with a motor vehicle that have resulted in death or injury, either personally or to loved ones, for example, murder or rape. . . who express the most poignant thoughts in victim impact statements. Consideration could be given therefore to restricting the right to make oral representation to the victims of a range of offences in which there has been violence and offences pursuant to section 19 of the Criminal Law Consolidation Act. Providing for victims to make oral representations to the court during the sentencing process, whilst providing them with a voice, does not offer any more assistance to the court on the question of determining the sentence than does the victim impact statement.
>
> Assuming that the legislation intends that the victim read the prepared statement, it would appear to be a duplication of material for the court to consider. The oral representations present problems of their own, including an opportunity to harangue an accused in an impermissible way and make incorrect assertions of fact. These may not just be directed to the accused but to his [or her] family and friends and may be unfair and unjustified. The offender is to be sentenced by the courts, not the victims. There is also a very real possibility of the victims, during a highly emotional time, making statements that result in an appeal and possible retrial.

There are other comments in a similar vein from the Director of Public Prosecutions. Several months ago I announced a comprehensive review of the operation and effectiveness of victim impact statements. There has been no delay in this process. The review is nearing completion. There may be other options in this area for giving victims a greater voice. For example, it may be an option to provide that the victim may be called to give evidence at sentence, with appropriate machinery provisions and protections which are well thought through, or some kind of pre-sentence proceeding may be the right way to go. The Law Society has suggested a variation on this kind of option. However, I must stress that I make no judgment about these or any other possibilities now. This particular issue should not be hived off from a general and comprehensive review and certainly not in this way.

A comprehensive review of issues affecting victims is already under way, as I have indicated. It is the first such review in at least 10 years and is directed towards a rational and coherent as well as comprehensive outcome for victims. The Government's preferred position is to leave this Bill on the table until the results of the review are available and policy decisions have been taken by the Government. We can then deal with victim impact statements as one part of the whole and not in an isolated way directed towards a quick and simplistic political answer.

As I said at the outset, this Bill, because of the way in which it has been prepared, should not be supported in its present form. I suspect that, having said that, the next thing we will see is publicity given to that statement, with some misleading reference to the Government not supporting victims and the review of victim impact statements. Of

course, nothing could be further from the truth, both in terms of victim impact statements and other areas of support for victims. I want to see something which is coherent, comprehensive and fair in the system and which achieves for victims what some of them wish to see, that is, the right to make some personal representation of the impact of the offence upon them.

On the basis that I suspect that this Bill will pass the second reading, notwithstanding what I have said, I indicated at the outset that I have placed amendments on file which I believe make the proposals much more workable and coherent and much more consistent with the existing section 7 as well as section 10, without all of the objectionable features and possible controversial aspects of the Bill before us.

The only other matter to which I wish to make reference is the statement by the Hon. Carolyn Pickles in her second reading report, as follows:

> It is really a modest proposal, but I do not believe that that will stop the Attorney-General, ever jealous of any member but himself changing the criminal law of the State, opposing the measure on spurious grounds.

That is totally false and misleading and I suspect that she did not really comprehend exactly what she was reading into *Hansard*. It is not my purpose to stifle genuine attempts to reform the law, but it is my purpose to stifle those attempts which are ill-considered and inadequate and every one of those which the Opposition has presented so far has been fatally flawed or otherwise flawed in a way that does not enhance the criminal justice system or the rights of victims or the accused for that matter. It is for that reason that I believe there ought to be a proper, reasonable and rational approach, which I seek to bring to bear on issues such as this. I urge the Council to defer consideration of this Bill until the next session when a report on a wide range of issues affecting victims is available.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I thank members for their remarks. I particularly thank the Hon. Mr Gilfillan for indicating his support for the second reading of this Bill. I have noted the comments made by the Attorney. It is quite obvious that the Attorney does have quite profound objections to the intent of this legislation, although I have already indicated to him today that his amendments will be supported, mostly. There is one particular provision that we will not support, that is, proposed new subsection (3a).

We will support the Attorney's amendments with goodwill, because we believe that they will tighten the intent of the original Bill. We have no objection to supporting them. I will deal with the amendments in more detail in Committee. I urge members to support this legislation, because I believe it will give victims an opportunity to make a choice about whether or not they will either give a written victim impact statement or make an oral statement to the court. I urge members to support the second reading.

Bill read a second time.

In Committee.

Clause 1.

The Hon. A.J. REDFORD: According to my copy of the Bill, new section 7A, which is inserted under clause 2, includes subsections (1), (2), (3) and (5). What is the position? Was there some sort of muck-up by the House of Assembly?

The CHAIRMAN: My advice is that, when the Assembly sent the Bill through, corrections were made to the numbers and new subsection (5) should be renumbered new subsection (4).

The Hon. A.J. REDFORD: I do not think we should be unnecessarily harsh on the House of Assembly staff, but perhaps it ought to be drawn to their attention.

Clause passed.

New clause 1A.

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

> Page 1, after clause 1—Insert new clause as follows:
> Commencement
> 1A. This Act will come into operation on a day to be fixed by proclamation.

This amendment provides that the Act will come into operation on a day to be fixed by proclamation. That is necessary if my subsequent amendment is carried. The subsequent amendment requires rules of court to deal with the matters with which a victim impact statement must comply and in accordance with which it must be furnished. Obviously, if this first amendment is not included, it will mean that the provision will come into operation immediately upon assent but there will be no form in which the victim impact statement may be submitted. So, it will be a difficult situation for victims and for the courts.

I can indicate that, if the Bill is passed by the Parliament, the Government will not stand in the way of its coming into operation. When the rules of court have been completed and appropriate procedural matters addressed, such as a reprint of the victim impact statement guidelines—which are funded by the Attorney-General's office and circulated through police stations and others across South Australia—it will be brought into effect. We had another 10 000 pamphlets printed only in the past month or so, so I would expect there would be some element of wastage. It will be important for those pamphlets to be recast, and that will take a little time. I can indicate that the Government will bring the legislation into effect at a time when those issues have been properly addressed and put in place.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment and thanks the Attorney for his assurance.

New clause inserted.

Clause 2.

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

> Page 1, lines 16 to 25—Leave out subsections (1), (2) and (3) and insert subsections as follows:
> (1) A person who has suffered injury, loss or damage resulting from an indictable offence committed by another may furnish the trial court with a written personal statement (a 'victim impact statement') about the impact of that injury, loss or damage on the person and his or her family.
> (2) A victim impact statement must comply with and be furnished in accordance with rules of court.
> (3) The court, on convicting the defendant of the offence—
> (a) will, if the person so requested when furnishing the statement, allow the person an opportunity to read the statement out to the court; and
> (b) in any other case, will cause the statement to be read out to the court.
> (3a) A person who has furnished a court with a victim impact statement is not liable to be examined or cross-examined on the statement and the statement has no evidentiary weight.

I have already explained at length the substantial deficiencies in new section 7A, subsections (1), (2) and (3). They are just totally unworkable. Whilst it is tempting to allow the majority of the Committee to pass the Bill in an unamended form and let the Opposition, the Democrats and the Independents wear

it when it all goes wrong, in this case I am not prepared to allow that to occur because of the difficulties it will undoubtedly create for victims as well as for the prosecution, the defence and the courts.

The proposal in my amendment is that it be more coherently and consistently related to sections 7 and 10, and that it relate to indictable offences so that we do not have victim impact statements, according to this section, in the Magistrates Court. We set out the object, that is, to furnish the trial court with a written personal statement—so the emphasis is on 'personal statement'—about the impact of the injury, loss or damage on the person and his or her family. That means that it is focused upon the real consequence of the offence and will not allow scathing attacks on the accused or material to be used which is irrelevant to the issue of the impact.

If we were not to provide in proposed new subsection (2) for rules of court to determine the matters with which the victim impact statement must comply and how it may be furnished, there would not be any power in the court to intervene, even at the point of the victim getting up to make the statement in court and departing from the written statement.

It is important to have processes in place which seek to ensure that this is done in an orderly and proper fashion so that everybody—victim, defendant, prosecutor and defence counsel and the court—know the way in which the victim impact statement may be dealt with. If the person so requested when furnishing the statement (although they can still change their mind later; if they requested the right to read the statement they can always back out of that), on convicting the defendant, the court will then allow the person making the statement an opportunity to read the statement out to the court. That means read the statement out to the court and not add in bits and pieces which are not in the statement. In any other case the court will cause the statement to be read out to the court.

Proposed new subsection (3a) provides that a person who has furnished a court with a victim impact statement is not liable to be examined or cross-examined on the statement, and the statement has no evidentiary weight. I have regarded this as an important provision, because it seeks to put clearly, fair and square in the section that this is all about giving the victim an opportunity to make the personal statement and not necessarily to make statements which will expose the victim to the potential for examination or cross-examination. If the victim is not to be the subject of examination or cross-examination the statement has no evidentiary weight. The two go together; if you cannot test it, it cannot have any evidentiary weight in terms of a court making a decision about penalty. On the other hand, if the victim is to be exposed to examination or cross-examination, it seems to me that it brings undue pressure upon the victim and the statement will then have evidentiary weight and in my view will to that extent create some difficulties.

The DPP has informed me that in relation to victim impact statements, as they are called at the present time, the practice of the DPP is to provide the victim impact statement to be read by the prisoner or his counsel at the stage of sentencing. A copy is not provided as there have been occasions in the past where these statements have become trophies for the prisoner, and this is especially true when the prisoner is in a Correctional Services institution. The DPP is able to guide and have an influence over what is said in the statements at the present time. If the majority of the Council does not support my proposed new subsection (3a) I would be disappointed in that. I thought it was consistent at least with what the Opposition was proposing, with the added constraint that it will have no evidentiary weight, but it does have the objective of allowing the victim to make an oral statement if the victim wishes to do so in relation to the impact of the crime on that victim.

The Hon. CAROLYN PICKLES: When we are actually dealing with these amendments we will request that we deal with proposed new subsection (3a) separately, because we seek to move an amendment on that. The Opposition is therefore supporting all other aspects of the Attorney's amendments, for the reasons he has outlined. I believe they tighten up the whole thing and, if this will persuade the Attorney to support the Bill, we will be only too pleased to accept them. However, we will move an amendment on proposed new subsection (3a).

The Hon. IAN GILFILLAN: I refer to various aspects at this stage of the Committee process. First, the Democrats continue our determined support for the legislation and it is fair to help everyone along this track by indicating to anyone listening to me that we are persuaded that proposed new subsection (3a) of the batch of amendments moved by the Attorney is better deleted, so we will be looking to support the process that the Hon. Caroline Pickles has identified. I congratulate the Attorney on his very erudite and detailed report given in the second reading debate. I hope he did not lose too much early morning sleep to get it ready for us today. It was much appreciated. I am sure we all benefit from the very appropriate application of the excellent resources the Attorney has at his disposal—a good term of reference for the whole matter.

I have some sympathy for the Attorney bemoaning the fact that he has had to draft a series of amendments to legislation that he regards as faulty. He now knows how the Democrats feel on regular occasions. Although he is adjuring us to oppose the legislation, in the fall out I do not think he will be too dramatically upset because in essence we have in practice now the procedure where a victim is able to make a statement—albeit that it is not read out but at least it is presented—so we have a principle in place.

The original Bill as introduced was sensational and unacceptable and we would not have supported it. It is clear, as far as the Democrats are concerned, that it has got closer to an acceptable, sensible compromise to enable the victim to have the opportunity to have an expression and be heard publicly, yet minimise the possible damage that could occur from it. It is somewhat anomalous that the original intention as moved in the Assembly was for a victim to have virtually *carte blanche* and to take over the centre stage of the court and work on all the emotional heart strings that could be plucked. That may sound good on Bob Francis but is ratshit as far as legislation goes and would be quite ineffective in a court, so it has very properly been cut back to appropriate size.

It is interesting that the Attorney has moved an amendment that the presenter of this statement would be protected from cross-examination. Sure, the two things go together, accepted as evidentiary material or not. So in this anomalous situation we have the Attorney, who was originally a critic of the Bill, protecting the victim from being cross-examined and the Party that introduced the legislation, with the carte blanche intention, supporting the cross-examination now and opposing the Attorney. There has been an interesting bit of cross pollination, which has been fruitful as far as the work in this Chamber is concerned, as is frequently the case. At the

end of the day the victim will have a full opportunity to present a statement, it will be properly vetted and the Attorney has in his own explanation—and I am indebted to him—outlined what he thought would be the safeguards in this. Subsection (2) provides:

> A victim impact statement must comply with and be furnished in accordance with rules of court.

That means that it will be in an acceptable form; will not be extravagant or reckless in its terminology. I am comfortable with what I expect to be the outcome of this Committee process and, in spite of being somewhat critical of some of the players, it is a good initiative. Although the Attorney indicates he has a review in place—I appreciate that and so it should go on—I do not believe that the introduction of this measure with the amendments that he has outlined will do anything to seriously disrupt the proper process of the review. So, as we progress through Committee we will be supporting the Attorney's amendment up to proposed new subsection (3a), but if that is dealt with separately we will oppose it.

The Hon. CAROLYN PICKLES: The Opposition supports new subsections (1), (2), and (3)(a) and (b) and opposes subsection (3a). The Hon. Ian Gilfillan has outlined my concern. It seems curious, when at present we have a written impact statement, which is really what this will be, although it can be given orally and can be cross-examined, that the Attorney opposes that with this amendment. I am interested to see the result of the review of victim impact statements, but it is my understanding that some judges do not like them or the idea of victims being able to have a say about what they think in the court.

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: Perhaps we will see the outcome of that in the review. Currently, although the victim impact statement may be written, there can be cross-examination, as I have said. I cannot understand why the Attorney objects to having some consistency with what we have at present by way of a written victim impact statement and the ability now of the victim to read it. I understand that they are rarely cross-examined in court. I would imagine that few victims would choose to stand up in a court and read their statement.

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: They will still be in a controlled situation under the Attorney's amendment—that is why I support his amendment—but there is an inconsistency in what he proposes. I believe that an oral victim impact statement should be treated no differently from a written one.

The Hon. K.T. GRIFFIN: There is no inconsistency in what I am promoting. As the Hon. Mr Gilfillan says, what I seek to do is pick up part of what the Opposition originally proposed and also ensure that if a victim is not subject to examination or cross-examination on the oral statement it should have no evidentiary weight. That is the proper balance. It is either all or nothing: either the statement is available for cross-examination—in which case there may be some evidentiary weight given to what is said; it will depend on the court as to how much weight is given to it—or, alternatively, if a written personal statement is made it will give the victim an opportunity to tell the offender and the court what the impact is.

My recollection of the argument put by those who promote this, several of whom are relatives of homicide victims, is that it is important for the recovery process that families of victims have an opportunity to inform the court and the accused of the impact on that person and their family of the crime which has been committed. That is the emphasis. It is not, as I recollect the submissions that have been put, a matter of the victim seeking to influence the penalty which is imposed. If one gets to the point of accepting that it is about giving the victims, as part of the recovery and healing process, an opportunity to personally tell the court from a written statement, but to then read it, about what the impact is, then you do not need to examine or cross-examine the victims. In fact, to open them to examination or cross-examination may do the very reverse of what is sought to be achieved, that is, undo the healing process rather than accelerating or enhancing it.

If you are going to focus upon the recovery and healing process then there is no need either, as I say, to examine or cross-examine on the statement and, in that event, it has no evidentiary weight. On the other hand, if the object is to ensure that the victim can influence, by making this statement, what the sentence will be then, quite obviously, it has to be the subject of examination or cross-examination. It cannot be allowed to be made if it is intended that it should have evidentiary weight.

My understanding of what was being sought was that which requires the proposed new subsection (3a) to be included in the Bill. I think that is an appropriate provision to include and enables us to achieve the objective being sought to be achieved. I do not believe that deleting proposed new subsection (3a) will enhance the role of victims in the criminal justice process.

The Hon. NICK XENOPHON: I am seeking some guidance from the Attorney. I profess that I have been sheltered from the criminal law: I have been busy doing plaintiff work in tort law all these years. My understanding is that if an existing victim impact statement is contested it cannot be used against the accused in the sentencing process unless evidence is led. Can the Attorney clarify that point and, further, if that is the case, then does not the Attorney's proposed new subsection (3a) lead to a situation where a statement, whether or not it is contested, is placed in a category different from that of existing victim impact statements?

The Hon. K.T. GRIFFIN: It is in a different category; and it is in a different category because of what I understand to be the objective, and that is to assist the victim in the healing, recovery or grieving process. That is how it has been put to me. If the objective, on the other hand, is to have influence over the sentencing process then, quite obviously, whatever statements the victim makes, if they seek to influence the sentencing process, must be the subject of examination and cross-examination, which means a disputed facts hearing, where it is subject to examination and cross-examination.

The practice at the moment is that the DPP, or initially the police, will collect information from the victim about what the impact may be, and that is consistent with section 7(1) of the Criminal Law (Sentencing) Act which provides:

> Subject to subsection (2), the prosecutor must, for the purpose of assisting a court to determine sentence for an offence, furnish the court with particulars (that are reasonably ascertainable and not already before the court in evidence or a pre-sentence report) of—
>
> (a) injury, loss or damage resulting from the offence; and
>
> (b) injury, loss or damage resulting from—
>
> (i) any other offence that is to be taken into account specifically in the determination of sentence; or
>
> (ii) a course of conduct consisting of a series of criminal acts of the same or a similar character of which the

offence for which sentence is to be imposed forms part.

Subsection (2) provides:

The prosecutor may refrain from furnishing the court with particulars of injury, loss or damage suffered by a person if the person has expressed a wish to that effect to the prosecutor.

Subsection (3) provides:

The validity of a sentence is not affected by non-compliance or insufficient compliance with this section.

Section 10 provides:

A court, in determining sentence for an offence, should have regard to such of the following matters as are relevant and known to the court:

(d) the personal circumstances of any victim of the offence;

(e) any injury, loss or damage resulting from the offence;

and other matters.

The practice of the DPP at the moment is to gather this material, either directly or through the police, and to determine what is relevant and what information should be made available to the court. By that vetting process, the DPP is able to protect most victims from cross-examination on information which appears in the statement. However, as I said earlier, the practice is to allow the victim impact statement to be read by the prisoner and/or his counsel at the stage of sentencing. The defendant is not provided with a copy to be taken away, because they can become trophies, and that would be a very serious adverse consequence of the process.

At the moment, if the accused, upon being convicted, is making a submission about sentence and is asserting facts with which the Director of Public Prosecutions disagrees, the DPP can call evidence or at least present other material which will refute or at least counter what the accused is asserting, either by submission or, in the most unlikely event, by evidence. And it may be that, if the victim is making an assertion against the accused with which the accused does not agree, that too will be the subject ultimately of evidence being required from the victim.

The Hon. NICK XENOPHON: I thank the Attorney for the explanation. I am still not quite sure of the status of existing victim impact statements. If these victim impact statements are to be subject to the rules of court, I imagine that there would have been similar rigours and that the DPP's office would prepare them, as with existing victim impact statements. If that is not the case, it seems to me that we are looking at a two-tiered victim impact statement, on the basis of the explanation given by the Attorney. I thought that these victim impact statements would be subject to the same rigours as the DPP. Can the Attorney explain that?

The Hon. K.T. GRIFFIN: With respect, that is not the position. If the honourable member wants to vote against the Bill, that is fine. We can maintain the present position and await the review; that does not fuss me at all. What I was trying to do was address some of the very serious defects in the Bill as it came from the House of Assembly.For example, it provides:

A court must, for the purpose of assisting in determining sentence for an offence, allow any person who has suffered injury. . . resulting from the offence an opportunity to give a written statement. . .

In the court processes, normally this does not happen, because the court supervises it. The court may, of course, ask for a pre-sentence report, and that is then provided probably through Correctional Services or some other facility. But with a victim impact statement, in the Bill that came to us, it is all the responsibility of the court. The court must allow the statement to be given. The court must give a copy of each victim impact statement to the prosecutor and to the defendant—it does not say what happens to it then. The person who has given the court a victim impact statement must then be given an opportunity by the court to present the statement. That is not what happens with the current victim impact statements. Under section 7 of the Criminal Law (Sentencing) Act, it is the prosecutor, representing the interests of the State, who collects the information, puts it into a presentable form and then draws this to the attention of the court in a submission.

It is correct that, in a sense, there will be two different regimes, but my amendment seeks to take it away from the court, although it allows the court to make some rules. Because the oral presentation of the written personal statement will occur in court, we should give the court an opportunity to set out the rules. First, what format should it be in, and what is the structure of it? Secondly, in what circumstances, how and at what time will the written personal statement be given orally by the victim? In a sense, there are two different things and, in respect of my amendments and the Bill that came to us from another place, it is important to determine what we are trying to achieve. What is the objective?

My objective, particularly in the context of the debate as I understood it and the representations that have been made to me over a period, as well as the representations made to other members in another place, was to make this part of the healing process. It was not about influencing sentence; it was about the healing process.

So, on the one hand, the prosecutor has the responsibility to put to the court information about injury, loss or damage arising from the offence, and then, on the other hand, there is an opportunity for the victim to write the personal statement and to have that presented to the court, and to be able to read that to the court as part of that healing or recovery process. If we want a different objective, someone had better define it.

The Hon. R.D. LAWSON: I apologise that I was not present when the Attorney-General delivered his second reading reply. However, a couple of points arise out of the questions on proposed subsection (3a). Does the Attorney envisage that the prohibition against examination or cross-examination would preclude, for example, the judge from asking questions of the victim to clarify the nature of the statement or to enlarge upon issues? I know that questions by judges are not usually categorised either as examination or cross-examination, but there might be some possibility that the provision would preclude the judge from asking questions.

Secondly, the purpose of the impact statement is to advance the healing process, in other words, it is to have a therapeutic role rather than a probative role. I quite understand that in the case of what we normally think of as a traditional victim situation, but let us take the case of a pub brawl where the victim of the brawl was a participant in some wider brawl and the victim might himself be charged in respect of the brawl. If the accused are tried separately in that situation, which might well happen, where defendant No. 1 is convicted and victim No. 1 wishes to give a victim impact statement, and then that victim is himself subsequently tried, would subsection (3a) prevent the victim impact statement that was made by the victim in the previous case—the accused in the present case—being cross-examined on what he had said in his victim impact statement or a victim impact statement being used in some other criminal proceedings?

It does seem to me that saying the statement has no evidentiary weight might preclude its being used in subsequent proceedings—and there may be good reason why the victim impact statement ought be used in subsequent proceedings. That is not intended, of course, to be in any way critical of proposed new subsection (3a) but of the concept embodied in the original Bill itself.

The third point is that, having regard to the fact that this statement is to have only this therapeutic effect or healing process and that proposed new subsection (3a) specifically provides that it has no evidentiary weight, might it not be more appropriate to state in the provision itself that the statement is not to affect sentence—make a specific provision?

Members interjecting:

The Hon. R.D. LAWSON: I happen to agree with the Attorney-General that this original measure, which is sought to be improved, is flawed, but, as the Attorney-General has said, this measure is seen as therapeutic: it is not intended to affect the severity of the sentence. If it is not intended to affect the severity of the sentence, if the victim does not have that role—with which I agree—might it not be appropriate for that fact to be specifically stated in the Bill? If it does, it might be suggested that it exposes the flaw in the original Bill. The fourth point is that, bearing in mind the statement is to have no evidentiary weight at all, would it not be appropriate to specify what effect it is to have?

The Hon. K.T. GRIFFIN: Can the judge ask questions of the victim? Well, I would not envisage anyone asking questions of the victim when the victim is presenting the statement. I would like to think that subsection (2), which provides for rules of court, will actually deal with the process by which the statement is presented to the court before it is read by the victim and who may have access to it. Does it go to the prosecutor for checking, and so on? It seems to me that all that has to be done by rules of court rather than by any other means.

Although I have not had an opportunity to think it through—mainly because we are having all these issues reviewed comprehensively—it seems to me it would be most undesirable to have the judge suddenly asking questions from the bench of a victim about his or her written statement. In fact, I think that undermines the whole object of this, which is to have a written personal statement and then give the victim an opportunity to read it out in court—and reading it out in court means that, and not seeking to vary it in the presentation.

The second question is: if there are co-accused or accused who might be jointly accused but tried separately, can the statement be used in a case against another? It certainly was not the intention that it should be, but this is one of the difficulties of trying to come up with a solution to a problem that has not been properly defined or an objective which is not clearly determined. I seek to provide that, where this personal statement of the impact of the crime on the victim is prepared and made, it is just that, a personal statement, having presumably no evidentiary weight in any other matter. Of course, you do not need to provide for a personal statement to have evidentiary weight (or whatever), because in cross-examination you can quite easily use that statement without specifically referring to it as a basis for eliciting information from a co-accused. In practice, I do not see that as a problem.

The third question is: if it is intended to have only a therapeutic effect and not to affect the sentence, why not say so? The way in which it has been described—that is, it has no evidentiary weight—is the most appropriate way in which to describe it. I would be concerned to begin to more specifically identify what it does and does not do. It is important to have some clear information in the section about the role of the statement and what the value of it may be in determining sentence, and this seemed to me to be the best way of presenting it

Then the fourth question is really a sub-question of the third; that is, if it has no evidentiary weight, why do we not specify what the effect is intended to be? I presume from that that we state it has the effect to assist the victim only in a therapeutic process. It seems to me that it would be unwise to include that because we would then have arguments about what we mean by that whereas, if we talk about no evidentiary weight, that is a very clear concept in the courts and we do not have to go back and redefine what various words and phrases mean.

The Hon. A.J. REDFORD: I have listened to the second reading debate with some interest and indeed to the Committee debate. I must say, it is the first opportunity I have had to make any comment on this Bill. I say with the greatest of kindness to the Attorney-General that he is perhaps being a little hard on the shadow Attorney-General. The shadow Attorney will soon enter his tenth year in this place, and I can understand his desperation to get something through Parliament to put down as his epitaph. I suppose this is as good a way to start getting something through as any. I also congratulate the Attorney for looking at this in as constructive a fashion as possible, having regard to the circumstances.

I have spent a lot of time in this place being berated by the Opposition and berated particularly by the Australian Democrats about consultation. I note that there has not been any comment, apart from some reference to the former Chief Justice, about the level and extent of consultation engaged in by the shadow Attorney-General, but I will not say anything—

The Hon. K.T. Griffin interjecting:

The Hon. A.J. REDFORD: I am just concerned about the shadow Attorney-General. Of course, the Hon. Ian Gilfillan gave us an absolute belting last night because we failed to consult on local government legislation. I will be most interested to hear with whom he has consulted. In the interests of getting this debate going, I will try to get back to a relevant issue—it is just that when I see hypocrisy I like to draw attention to it.

There is a great difficulty with this, because it is very difficult when you weigh evidence and try to impose some sort of different or artificial aspect to it. Where evidence being given is not the subject of cross-examination in the case of a victim, and then the accused gives evidence and must do so if required, being subject to cross-examination, it is always a great difficulty for a judge to weigh up those two things. I need only draw members' attention to what happens where there is a presumption in favour of a certain fact and a person gives evidence. How do you weigh the presumption against that evidence? As the only person in this Chamber who still practises in this area, I know that the practical reality is that the evidence will prevail. In my experience, judges are always sympathetic to victims and always bend over backwards to ensure that their concerns and the impact upon them are taken into account. I do not know of any occasion in my near 20 years of practising the law where that in fact has not occurred.

I want to raise a couple of issues in two areas: first, the clause concerning the rules of court. I would be most interested if the Attorney could specify what sorts of issues will be covered in the rules of court. For argument's sake, if the amendment in relation to examination and cross-examination is successful, can that be the subject of the rules of court, or perhaps we will leave it open to the judges to consider it more seriously and more carefully with the benefit of their experience? The other—

The Hon. Carolyn Pickles: Are you saying that the judges should be better at writing legislation than we are?

The Hon. A.J. REDFORD: At the end of the day in something such as this they have a very important role to play. I think that is a very fair question. If you think about it, it is not a process dissimilar to the way the common law develops. In some respects, this is new territory. To give the judges—and, quite frankly, I might even be arguing your point of view—that sort of discretion might be of some assistance.

The second issue is: what other areas can be covered by the rules of court? In particular, will they require the statements to comply with the rules of evidence? Will they have clauses to the effect that they must be signed by the director or by a nominee of the director? Will there be limits on what they can say? Indeed, will they deal with issues as to how the court will weigh up the material contained in the victim impact statement? I am attracted to giving the courts as wide a power as possible in determining the rules and having a look at those rules. After all, they are scrutinised by the Legislative Review Committee and, ultimately, the Parliament. We may be able to get good dialogue going between the judiciary and the Parliament in that fashion.

The other area upon which I wish to make a comment is that of pre-trial negotiation. No-one owns up to it, but the reality is that a substantial amount of plea bargaining takes place. Indeed, I have one matter with which I am dealing at the moment where we are right in the middle of that process. Plea bargaining can take all sorts of different shapes and forms, depending on the nature of the prosecutor, the nature of defence counsel, the sort of offence being charged and, indeed, the prospect of a particular judge sentencing or dealing with your client. At the moment, generally most defence counsel in dealing with a plea bargaining process approach the prosecution and say, 'My client may be prepared to plead guilty or is prepared to plead guilty to a lesser offence and these are the facts upon which my client is prepared to be sentenced.'

Then the negotiations go backwards and forwards between the Director of Public Prosecutions and defence counsel until finally the matter is resolved, a set of agreed facts is presented to the judge and the judge proceeds to sentence. The advantage of that process is that many cases that would otherwise go to trial are sorted out at a much earlier stage with substantial savings to the community. With that process in mind, I would be interested to hear whether there is any comment from any honourable member about what this clause might do in relation to that process, and I will illustrate by giving a specific example.

What would happen if that process continued as it does now with a set of agreed facts by the prosecutor, the accused person pleads guilty, the prosecutor reads out this set of agreed facts and then, following that, the victim impact statement is provided or, under either version of the Bill, the victim provides a statement that is totally inconsistent with the subject of agreement between the Director of Public Prosecutions and the accused person? It is a very practical problem. I would be most interested to know how the proponents of this legislation, both the Opposition and the Attorney, would deal with that specific issue, because it is a practical one.

The Hon. K.T. GRIFFIN: I will let someone else answer that last question. I am not a proponent of the Bill; I am a proponent of dealing with it on a considered basis in the course of a more comprehensive review. But I am a proponent of the amendments, because I think the amendments are necessary if the Bill is to get through, as I am sure it will. The honourable member asked what sorts of things are covered by the rules and whether issues such as examination and cross-examination will be covered. I do not think that issue will be if (3a) stays in. If (3a) is left out, I am not sure how subsection (2) will be limited, because the issues are that a victim impact statement must comply with rules of court (and I have taken that to be structural) and be furnished in accordance with rules of court; that is, what are the procedures by which it may be developed and ultimately presented to the court, who may have access to it, and so on. I personally would be surprised if issues of examination or cross-examination are encompassed within that provision relating to rules of court.

The Hon. A.J. Redford: Issues of admissibility?

The Hon. K.T. GRIFFIN: Issues of admissibility I would have thought are clearly covered by the rules of court, because the victim impact statement must comply with—

The Hon. A.J. Redford: They can make rules about admissibility?

The Hon. K.T. GRIFFIN: I would have thought so, but I have not consulted with the judges on this. I sent the Opposition Bill out to a variety of people, including the Chief Justice, and had some feedback, but I have not consulted about this. That is why I have tried to make it reasonably—

The Hon. A.J. Redford: So, a rule to the effect that the victim impact statement should not contain hearsay material would be okay? That could be contemplated?

The Hon. K.T. GRIFFIN: I expect that that would be the case. But I think that there will be a lot of litigation, at least in the early stages, to clarify how all this will occur and what weight is to be given to the written personal statement then presented orally by the victim. I think it leaves it open. What I was seeking to do was to close the loop and make it clear beyond reasonable doubt.

The Hon. R.D. LAWSON: I wish to make a couple of points. Apropos the last point, I would not have thought that the rules of court could talk about the admissibility of the evidence contained in a victim impact statement, because the statement has no evidentiary weight: it is not evidence at all.

The Hon. K.T. Griffin: He is talking as if proposed new subsection (3a) was not in.

The Hon. R.D. LAWSON: If it was not in, of course it would be up to the judges. They ordinarily do not have provisions in rules about admissibility. There are usually rules about procedure. Section 9A of the Criminal Law (Sentencing) Act provides:

> . . . court must, upon sentencing a defendant who is present in court—
>
> . . . state its reasons for imposing the sentence. . .

Is it envisaged that, if a judge says, 'I have taken into account in making my sentence the statements of the victim,' that in itself would be an appealable error because the judge has taken into account material which has no evidentiary weight? The pre-sentence statement under existing section 7 is

actually material for the purpose of assisting the court to determine the sentence and therefore requires the judge to take account of the material contained in the pre-sentence report.

The Hon. K.T. GRIFFIN: Already there is provision in section 7 as well as in section 10 for the prosecutor to provide information about the impact on the victim. I would be surprised if judges made reference to the written personal statement, followed by its oral presentation but, if it is provided that it has no evidentiary weight, I guess it depends on the context in which the court refers to it. It may refer to it on the basis that, 'This is what you have heard. However, while all that is important, I have not given any weight to it because the section precludes that, but I have had regard to what the prosecutor presented in respect of injury, loss and damage suffered by the victim.' So, there are ways of getting around it and, in those circumstances, I would not have thought that, if that sort of approach was used, it would be appealable.

Proposed new subsections (1), (2) and (3) inserted.

The Committee divided on proposed new subsection (3a):

AYES (6)

Dawkins, J. S. L.	Griffin, K. T. (teller)
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Stefani, J. F.

NOES (9)

Crothers, T.	Elliott, M. J.
Gilfillan, I.	Holloway, P.
Pickles, C. A. (teller)	Roberts, R. R.
Weatherill, G.	Xenophon, N.
Zollo, C.	

PAIR(S)

Davis, L. H.	Cameron, T. G.
Redford, A. J.	Kanck, S. M.
Schaefer, C. V.	Roberts, T. G.

Majority of 3 for the Noes.

Proposed new subsection (3a) thus negatived.

Clause as amended passed.

Title passed.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I move:

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN (Attorney-General): The Bill is certainly a vast improvement on what came into the Council. I suppose one could almost say that this is now a Government Bill, on the basis of the work that we have done to significantly improve it. However, I reiterate what I said at an earlier stage: there is a comprehensive review not just of victim impact statements, but declaration of victims' rights, victim support services and the Criminal Injuries Compensation Act currently under way. It should be completed within a month or so. My personal preference is to wait for that to occur, but I will not oppose the third reading of this Bill. But, on the other hand, I want to point out that the loss of proposed new section (3a), which I moved, will, I suggest, be a source of great concern to victims. It will be a source of considerable confusion for the courts, and I suggest also it will be a source of considerable confusion for prosecutors and defence counsel.

I would suggest that it will open the way—at least in the early stages—to some litigation to determine what the parameters of this new provision might be, what may be allowed and what may not be allowed. Rather than the position being as clearly put, as I believe it was in proposed new section (3a), we now have a vacuum in which the courts will have to make some law, and I have always regarded it as undesirable to leave those sorts of decisions to the courts. The Parliament ought to have a policy decision and ought to enact legislation so that the courts have a clear direction in respect of these sorts of matters. I am disappointed about that, but I am prepared to take some credit for improving the Bill.

The Hon. CAROLYN PICKLES: Certainly, the Opposition will thank the Council for supporting the amendments. I believe that the initiative came from the Opposition, and the Government must accept that. We have to thank the shadow Attorney-General in another place for the initiative, for the amendments moved by Independents in another place.

Members interjecting:

The Hon. CAROLYN PICKLES: Very often the Legislative Council does finetune legislation coming from the House of Assembly. We even have to pick up mistakes that are made in transmission of the Bill from one House to another. This Council does have a role, and I am very pleased that tonight, after a very lengthy debate on a very short Bill but an important Bill, the Council has finally agreed to support the third reading.

Bill read a third time and passed.

SUBORDINATE LEGISLATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 August. Page 1348.)

The Hon. K.T. GRIFFIN (Attorney-General): The Government opposes this Bill. The Bill seeks to do several things, the first of which is to amend section 10A. Section 10A of the principal Act currently requires a Minister to provide a report setting out reasons for issuing a certificate which cause regulations to come into effect earlier than four months from the date upon which they are made. The Bill seeks to require detailed reasons. Apparently there has been some complaint that Ministers are not giving detailed reasons when they seek to have regulations brought into effect on the date of promulgation or in a period less than four months after that promulgation.

Until 1992 a regulation could automatically come into effect on the date it was made, subject to Parliament's ability to disallow the regulations through a disallowance motion in either House. In 1992, the then member for Elizabeth was successful in having the Act amended to include section 10AA, which introduces the four month rule. The rationale of that amendment was twofold: first, to give the public and business the opportunity of examining in detail the regulations that will bind them and determine the problems which might exist with them; and secondly to give Parliament the opportunity to examine, unfettered by the fact that the regulation has already come into operation, whether or not it wishes to veto the provisions as part of the normal disallowance process.

The amendment then created an exception to the general four month rule. It was provided that regulations can come into operation on an earlier date specified in the regulations if the Minister responsible for the administration of the Act under which the regulation is made certifies that, in his or her opinion, it is necessary that regulations come into operation on an earlier date. If such a certificate is issued, the Minister

must provide a report setting out the reasons for the issue of the certificate of the Legislative Review Committee. In its report for the year ended 30 June 1996 the Legislative Review Committee noted:

> This year once again it is necessary for the committee to note that a large preponderance of regulations are accompanied by ministerial certificates for early commencement. Rarely is anything but a perfunctory reason given for early commencement. Wide-spread use of these certificates leads the committee to conclude that they are in danger of becoming, if they have not already become, a mere pro forma which serves no useful purpose. If this provision is not applied more rigorously it ought to be repealed.

We took the Legislative Review Committee at its word and in 1996 introduced a Bill into the Legislative Council to repeal the four month rule. The Bill was introduced on the grounds that the number of Ministers' certificates being issued suggested that the rationale for the introduction of the 1992 amendments had not been realised and that in practice, as opposed to any theoretical reasons that may be advanced for the provisions, the rationale cannot be realised. On this basis no point was served in retaining sections 10A and 10A(1a).

Notwithstanding the view of the Legislative Review Committee, the 1996 Bill was amended in this Council by the Australian Democrats with Opposition support to remove those provisions and instead the Council inserted an amendment to section 10A(1a), which mirrors the amendment contained in clause 3 of the Bill before us, namely, that the Minister must provide the Legislative Review Committee with detailed reasons rather than just reasons when he or she issues a ministerial certificate under section 10A(1a). The amended Bill passed the Legislative Council in February 1997, but it did not complete the parliamentary process. The Bill lapsed at the end of the session because of the election last year.

The requirement of the certificate adds a step to the bureaucratic process that is arguably not serving anyone's interest. A requirement for detailed reasons provides yet another step to the process, if the Act is amended to require detailed reasons, if necessary to ask, 'What is a detailed reason?', and, 'Who decides that sufficient information is given? Would extensive consultation in the development of the regulations be a sufficient reason to warrant a Minister's certificate or could a Minister's certificate be justifiably issued where the regulations are of a minor nature and are necessary for the proclamation of the enabling legislation?' There could be a difference of opinion between the Minister and the Legislative Review Committee as to whether reasons are sufficiently detailed. However, there appears to be no clear indication of what effect this will have on the regulations and the certificate. The legislation does not envisage practical implications for the certificate and the operation of the regulations where the Legislative Review Committee or the Parliament disagreed with the reasons for issuing the certificate.

I have had a lot of experience with regulations. I remember that in Opposition we raised no objection to the use of the certificate by Ministers to bring regulations into effect almost immediately, if not immediately. We did not complain that they were using it extensively because, right from the start, we thought that the proposition moved in 1992 had little prospect of being successful because it was impractical.

I know from my own experience that regulations are generally developed after extensive consultation, frequently with the private sector stakeholders who are likely to be affected by them. Sometimes, there is a whole set of regulations, such as those under the pawnbrokers legislation which we passed last year and which we brought into effect, I think, earlier this year. There had to be a comprehensive set of regulations. We put them out for public comment and we set ourselves a deadline by which we would bring the Act into operation. However, that deadline was not four months hence; it was a shorter period of time from when we had some drafting completed and put the regulations out for consultation.

That has occurred in many of the areas for which I have responsibility, in occupational licensing or other areas of the law. The difficulty with the certificate provisions is that when legislation has been passed by the Parliament it must be brought into operation as soon as practicable, and that must be done in a controlled fashion, frequently in consultation with those who will be affected by it, and a number of persons and issues that might be relevant must be taken into account. In many instances, that is not possible.

I refer, for instance, to revenue measures where you bring into operation regulations to come into effect on 1 July of any year. So, that is the start of the financial year, and frequently the consultation process within Government alone does not start until about February or March. By the time the decisions have been taken in principle and the regulations finally drafted it is close to 1 July or within a month or two of that date, and it is imperative to bring the regulations into operation on that date. So, the four month delay is totally inappropriate and impractical.

I can cite many examples of that. It may be that the reasons given by Ministers are in the view of the Legislative Review Committee inadequate, but it may also be that there is not much you can say in the presentation of the report because you have been through the processes and it is just commonsense to bring the regulations into effect. You have been through the consultation process or Parliament has passed the legislation and for good reason you want to bring it into operation straight away.

It may be that one of the ways in which we can deal with this, if the two sections are to remain in the principal Act, is administratively. I say 'administratively' in the sense of the Chief Executive Officer of the Department of the Premier and Cabinet ensuring that through the Senior Management Council all agencies responsible for legislation and for drafting subordinate legislation are required in their report to the Legislative Review Committee to give a more extensive explanation. In my view, that is the best course to follow. I would give a commitment to ensure that that was done through the Senior Management Council. If it did not improve and we could not get the sections repealed, there would be an opportunity for the Legislative Review Committee to report on that, and then we could do something legislatively. I can tell members that, from my practical experience, this is unworkable and totally unwarranted.

I also make the point that the concern I have about detailed reasons is, 'What is the definition of a detailed reason?' One of my concerns (which is really addressed by an amendment I have on file; even though we intend to oppose the Bill we will nevertheless seek to improve it on the way through) is the question, 'Does this give citizens a greater opportunity to test the validity of legislation on the basis that procedurally an insufficient reason has been given for bringing it into operation less than four months after the date of enactment?'

What I will be trying to do in the amendment to improve this Bill, before we try to reject it at the third reading stage,

is to seek to provide that the failure to give what some might regard as 'detailed reasons' will not be justiciable in the courts. That does not affect the powers of the Legislative Review Committee. However, it does mean that the courts cannot get involved in using that as a basis for undermining regulations. Incidentally, courts can do that already by a challenge to a regulation on the basis that the principal Act is *ultra vires*. That has happened from time to time and it is important that we address those sorts of issues through the Legislative Review Committee when that becomes pertinent.

Clause 4 of the Bill seeks to introduce a provision to the Act to mirror section 49 of the Federal Acts Interpretation Act. The effect would be that any regulation that is the same in substance as any regulation disallowed by either House of Parliament is not to be remade within six months after the date of disallowance unless the motion for disallowance has been rescinded by the House in which it was made. The proposed amendment aims to prevent a perceived abuse of the parliamentary process where it is asserted by those who hold that view where regulations are made with immediate effect by virtue of a Minister's certificate only days after substantially the same regulations were disallowed by a House of Parliament.

The Hon. Ron Roberts argues that the power simply to reintroduce regulations is against the spirit of the law and ignores the parliamentary process. That is vigorously denied. The Commonwealth Government, I am told, has not experienced any legal difficulties with such a provision. In fact, it has reaffirmed its support of the provision by including it in the Legislative Instruments Bill 1996 which is currently in the Senate and which deals with, amongst other things, subordinate legislation. However, I am told that the practical difficulties experienced by the Commonwealth Government have been of concern, particularly where the political composition of the Senate does not match that of the House of Representatives.

Honourable members must realise that you cannot merely transpose Commonwealth legislation and practice to a State environment, particularly a State such as South Australia. You may be able to do it in the Victorian Parliament, which serves a greater number of electors and where there is perhaps a larger number of legislative instruments that must be addressed, or even in the New South Wales Parliament, but you cannot compare that with the processes in South Australia. In the Commonwealth Government, everything legislative is generally slow: unless you have a Minister pushing particularly a piece of legislation, it will take at least a year to get legislation into the legislative process. The same happens with statutory instruments.

In this jurisdiction, we move much more quickly, in many instances, in respect of our principal legislation and also with subordinate legislation, and I would suggest that there is a much closer consultation process and a more efficient consultation process in this State than at the Commonwealth Government level. So, merely to seek to translate the six months rule from the Commonwealth to the State is, in my view, flawed.

If the provision is enacted, it is necessary to question when a regulation is similar in substance to a regulation disallowed by either House of Parliament. There may be situations where a regulation is disallowed because of one offending provision, yet the substance of the remainder of the regulations is appropriate. In such circumstances, if the Minister attempts to remake the remainder of the regulation, omitting the offending part, would these be precluded by the new provision because they are similar in substance to a regulation disallowed by either House of Parliament?

Often regulations flow from amendments to an Act. As a consequence, the amending Act and regulations are a package that must be implemented together to enable effective operation of the legislation. In such circumstances, the effective operation of the legislation is in jeopardy if regulations cannot be made and remade where they are essentially the same in substance but an improvement on previously disallowed regulations, when only a short period of time intervenes.

I suppose the consequences of the problem are likely to be more dramatic where Parliament is not in session. In these circumstances, the House is unable to rescind its resolution disallowance or the Parliament cannot consider an amendment to the enabling Act which may be causing the concern about the regulations.

I know that the honourable member has an amendment that deals with giving a House of Parliament power to disallow a part of a regulation, and I will vigorously oppose that when we come to consider that in the Committee consideration of the Bill, because that has some very serious unsatisfactory consequences for the Government of the day, and also in terms of the policy which might be imposed.

However, let us take, for example, a new Bill which is designed to impose a regulatory framework, and certain of the administrative provisions must be dealt with by regulation. The usual practice is that you bring the Act into operation by proclamation on a day that is fixed by that proclamation and, at the same time, you promulgate the regulations also to come into effect on that same day. If there is something which a House of Parliament finds objectionable in the regulations—it may even say that it finds the whole regulations objectionable—what we may have, in the event of a disallowance, is the principal Act standing alone, partially effective, perhaps even having an unjust consequence as a result of regulations being disallowed and unable to be promulgated, even if modifications are made within that period of six months. And what then happens at the end of the six months if they are remade: do we go through exactly the same process?

I can envisage also an Opposition which is perverse—and I am not making any assertions that any Opposition is perverse. However, if an Act has been passed by the Parliament as a result of a deadlock conference and there has been strong opposition to it, but nevertheless it has gone through, it would be quite conceivable for an Opposition wishing to act perversely to deny the ultimate will of the Parliament by gaining a majority in one House to oppose or to disallow regulations. Disallowing the regulations might then emasculate the principal Act.

The issue of disallowance of regulations and remaking the regulations has been around for a long time. I do not accept the view that the spirit of the law is that Governments cannot remake the same or similar regulations within a short time after disallowance. Let us not get all hung up on so-called matters of principle because it does not happen more than once or twice during the life of a Parliament, although it might irk when that happens. I know that, when we were in Opposition, it happened on several occasions and we jumped up and down about it, but we accepted that ultimately the Government of the day had the power to do that. Although we made noises about it, we finally accepted that that could be done, and that is the way it occurs.

Why do you want to turn everything on its head for the sake of one or two occasions where a Government might re-

enact regulations which it believes are important but which one House determines ought to be disallowed? I know there are arguments about the will of the Parliament, that the Executive has to submit to the will of the Parliament but, after all, I suggest that that is not necessarily the will of the Parliament. It might be that the other House totally disagrees. I am not denying it, but the law allows one House to disallow a regulation but it also allows a Government to re-enact the regulation and, in re-enacting that regulation, it might have a perfectly legitimate right to do it, just as a majority in one House can disallow it.

My experience is that commonsense prevails as a result of that stand-off which occasionally occurs between a House of Parliament and the Executive. There are many instances of that, and I would suggest that it is wrong in principle for us to seek to overturn the practice of many years used by Governments of different persuasions as well as by Houses of different composition, just because someone gets their shirt in a knot over one particular set of regulations which might have been re-made on one of the few occasions when that might have been the case.

The Hon. R.I. Lucas: Fishing.

The Hon. K.T. GRIFFIN: Yes, net fishing. I make a plea for commonsense because overturning the law or substantially amending it so that the practice is radically altered can only be detrimental to good government. The other issue which the honourable member has raised by way of amendment (I will touch upon it now) concerns giving a House of Parliament power to disallow regulations or a part of regulations.

The Hon. R.R. Roberts: In whole or in part.

The Hon. K.T. GRIFFIN: In whole or in part. The Government fundamentally opposes that proposition. There is a dilemma, I know. It might be that there are only one or two issues in a comprehensive set of regulations which an honourable member seeks to have disallowed or which might be offensive or cause concern. But, if they are part of a comprehensive scheme—they may be the penalty provisions, for example—and they are disallowed, it may be that the regulations disallowed in part will then have a totally different complexion or, in fact, may be emasculated. How do you deal with that in the implementation of a legislative scheme? It may be that one regulation which, if taken out, will have the effect of making ineffective the principal Act and its application. One has to ask: why should that be permitted?

I know the argument that governments may tend to put one regulation in a bundle of regulations to get it through because it is controversial to disallow the lot. I must say that I cannot recollect when that last happened in this Parliament. If it has not happened, or if it does not happen on a regular basis, why do we want to make radical changes to the law?

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: You might have been talking about one, but what part of it would you disallow?

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: You are not complaining about one part of the education regulations, about materials and services charges: you are complaining about the whole lot. Let us take that as an example. In the materials and services charge regulations—and I am not totally familiar with the detail of those—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: No; you said the education regulations, and they are a good example. One may want to disallow a part, so a majority in one of the Houses might take out three or four words so that it no longer makes sense, or they might take out words so that the whole sense is changed to something which was never intended by Executive Government. Executive Government might then bring in a regulation to repeal the regulations and they might be disallowed. So, one is in a cleft stick.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: It cannot happen right now. You can disallow the whole, but you cannot pick and choose to give a different effect to the regulations which are before the Houses. That is the problem. I do not think that that issue has been thought through, and it may be that we should excuse some members for not having thought it through because they have not had experience of Government. But, if members talk to former Labor Ministers, former Liberal Ministers and current members of the Labor Party who are former Ministers, they will get a perspective of this which you do not have if you have not worked through a lot of contentious and difficult issues of executive administration.

I am not saying a House of Parliament should not have a right to disallow. I have acknowledged all through that that right is there, but you will get the need for balance and the detentions from time to time, and we must try to work through them, rather than the radical changes to the law which this Bill and the amendments by the Hon. Mr Roberts propose.

Section 10A, coupled with proposed section 10B, will require Ministers to consider more factors when proposing the commencement of new legislation. In practical terms, Ministers may need to delay the commencement of new and possibly vital legislation by four months to allow the necessary regulations to be tabled and to undergo scrutiny by the Legislative Review Committee. If they are not disallowed, the Act could come into operation. However, this practical solution may also encounter problems because an Act will come into operation two years after receiving assent by virtue of the operation of the provisions of the Acts Interpretation Act. An Act's commencement may be delayed because the necessary regulations undergo extensive consultation. If the commencement of the legislation is then complicated by the disallowance of the regulations, an Act may come into operation by virtue of the two year rule without the necessary regulations having been made, which is the point I made earlier.

So, I have very grave concerns about the practical implications and consequences of this Bill and the amendments proposed by the Hon. Mr Roberts. Although, I will be moving amendments in the Committee stage to ensure that some of these issues are not subject to judicial review or action, nevertheless they will only improve the Bill slightly; they will not address the fundamental issues in respect of which we have a view very strongly opposed to that of the Opposition. I indicate the Government does not support the second reading of this Bill.

The Hon. R.R. ROBERTS: I thank members for their contributions and I compliment the Attorney-General on his contribution on behalf of the Government. I note that he has gone over many of the arguments and he quoted from the 1996 report of the Legislative Review Committee. Those matters were well canvassed at the time that he introduced a Bill to do away with section 10AA(2). In his response tonight to my colleagues in the Democrats and the Hon. Nick Xenophon and to the contribution I made, he has now said

that, if he does not have section 10AA(2), it will make it very difficult to start the legislative program.

Let us look at section 10AA(2) and the effect that this Bill will have on that section. It will not stop the Government from introducing urgent or necessary regulations immediately under section 10AA(2). The only way it can be stopped is, if the Houses of Parliament in their due considerations (which the Attorney-General acknowledges they have a perfect and legal right to do) decide for some reason or another that, in whole or in part, there are problems. Under the propositions outlined in this Bill, the committee must now be provided with proper reasons for the introduction of a section 10AA(2) proposition. What we now have is an absolute requirement for all the information to be put not to the Legislative Review Committee to disallow, but to the whole of the Houses of Parliament to disallow.

If there are good and cogent reasons for that, the Attorney-General has agreed with me that the Parliament has a right and a legislative function to do that. So section 10AA(2) will not be inhibited from being operative at any time for good and proper reasons. In many instances, the problem we have had in the past with this section 10AA(2) proposition is very basic. The problem we have had in the Legislative Review Committee—and I say this as a member of the Legislative Review Committee—is that we have had to contact a number of agencies. I note in his contribution that he wants to do this by administrative direction. As a Legislative Review Committee we have been writing back to various agencies. In relation to the rules of court that is one of the worst agencies for providing the proper rules. We have had to write back on a number of occasions saying, 'Look, we really need a proper report on this matter and a report of your consultations.'

We will not have that problem any more because, if this Bill is passed in the form which I propose, agencies will have a duty to do that. The Attorney has also commented that he feels that this will open up a situation whereby someone may take legal action if the Minister has not acted properly. They can do that in many other areas. They can challenge that in the courts today. They have to prove their case. It would be no different in this particular case.

The reason why we have proposed this proposition to which the Attorney also said he is violently opposed is to disallow in whole or in part. This proposal caused a great deal of concern when we tried to draft this Bill because, in the past, there have been packages. The Attorney rightly points out that this occurs on reasonably rare occasions. The Leader of the Government interjected during the contribution and mentioned the fishing regulations. I am happy to talk about the fishing regulations, because that was a classic case when the scale fish regulations came into play with regulations in respect of the size of whiting, closures in different areas and net fishing. We had to go through and knock them all out. The argument was put to us and to the Council at that stage that you had to knock them all out. So, we did knock them all out. They were then introduced the next day with the net fishing regulation taken out and all the others put back in. If my proposition had been in place, we could have taken out that regulation which did not affect all the other regulations but which was considered to be improper and unjust under the circumstances and it could not have been brought back in.

In relation to the Attorney-General's other point that a regulation cannot be reintroduced in whole or in part within six months, he said that that would inhibit the Government. I reiterate that none of these regulations will be disallowed unless the full and proper reports are put before the committee. I am confident that the Parliament will from time to time make it decisions based on all that information. The Attorney also acknowledged in his contribution that this has occurred very rarely—probably once or twice a Parliament—and that we would be unable to reintroduce them in whole or in part again. Well, that is not right. If you read the provision you will see that if the House of Parliament is convinced that the proper procedures have been adhered to, that the regulations are appropriate and that the offending regulation has been removed, you can rescind the motion. In the life of every Parliament it is very seldom that we do not sit within six months. If the Attorney has a problem such that he needs another technique in place, that is something he can propose himself.

I have not just rushed into this matter lightly: I have learnt this through hard and bitter experience—and the Democrats have had the same hard and bitter experience. We are not doing this to be mischievous or just to have a shot at this Government, because it is quite clear that in a very short space of time we will be in that position. I am certain that the Hon. Mr Lucas and the Hon. Mr Griffin will utilise the principle they have just agreed that they adhere to, the 'maximum mayhem' principle. I am sure that they will do that. But this puts the heat right on the Government to be open and honest and it allows the Parliament to do its functions with full information. It makes the Government responsible to get it right the first time.

We will not be subjected to the process to which we have been subjected on a number of occasions in this Parliament where legislation is introduced in this fashion. This is a classic piece of legislation to illustrate what I am talking about. It was introduced very early in the Parliament. Here we are in the dying hours of the Parliament again with a private member's Bill introduced early in the session and on the last night it is being debated at 12 a.m. as occurred with a range of other regulations. We will not have the same proposition where the Government can prevaricate and wait until the dying stages as it did with the net fishing regulations. If you want to raise that matter I am happy to debate it, because that is exactly what you did. On the last night of the Parliament after that piece of legislation had been—

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: The honourable member is now trying to justify himself for another dastardly deed that he is about perpetrate next week. The honourable member is trying to find an argument that will not wash, because the regulation that we were talking about had been on the table of this Parliament for four months. Then the Government tried the smart routine—and this new Bill will stop this, too—where in the late hours of the night the Hon. Angus Redford spoke for 1½ hours and then sought leave to conclude his remarks. And they wonder why this Parliament was not fooled by that devious little exploit, because when the honourable member was asked to conclude his remarks he said two more words and sat down. If we are to talk about openness and honesty, there is a classic example of where the Government is guilty.

This legislation will ensure that the functions of this Parliament in respect of subordinate legislation will be respected. The Government should have no problem: all it has to do is exercise its responsibility and ensure that the proper reports are put to the Legislative Review Committee so that it can make recommendations to this Parliament, and this Parliament will perform its function and judge those regula-

tions. If the Government has been devious, it will be exposed and the will of the Parliament will prevail.

The Hon. Mr Lucas has decided to rejoin the party, and he now wants to introduce another subject, which I will not allow him the opportunity to bring in, because it is just another devious ploy of this Government to do something else which is dishonest and which distracts the attention of the Parliament from the subject matter. The subject matter is that a number of things be done to improve the subordinate legislation processes of this Parliament. I invite all members of this Parliament to support the Bill as introduced, with the amendments that have been proposed.

The Council divided on the second reading:

AYES (9)

Crothers, T.	Elliott, M. J.
Gilfillan, I.	Holloway, P.
Pickles, C. A.	Roberts, R. R. (teller)
Weatherill, G.	Xenophon, N.
Zollo, C.	

NOES (6)

Dawkins, J. S. L.	Griffin, K. T. (teller)
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Stefani, J. F.

PAIR(S)

Cameron, T. G.	Davis, L. H.
Kanck, S. M.	Redford, A. J.
Roberts, T. G.	Schaefer, C. V.

Majority of 3 for the Ayes.

Second reading thus carried.

EDUCATION (GOVERNMENT SCHOOL CLOSURES AND AMALGAMATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 1480.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of the Bill. Due to the lateness of the hour, I refer honourable members to the comments on this legislation made in another place by the member for Taylor. The member for Taylor previously introduced her own Bill on this issue. Prior and subsequent to the election, I canvassed the problems the Opposition has had due to school closures. I do not intend to comment further because we would like to get this Bill into another place. The Opposition will be supporting the Hon. Mr Elliott's amendments.

The Hon. M.J. ELLIOTT: I support the second reading. I must say that I am disappointed with the Bill in that it is a very pale imitation of a Bill that I introduced into this place in the previous session of Parliament. I believe it fails to address seriously some of the fundamental issues which led to the introduction of my Bill, for example, the accountability of Government to a school community. It fails to address the need for a public, transparent process in any review for school closures and amalgamations. It fails to ensure a wide representation or, indeed, sufficient time for review. It appears to me to be something of a face-saving exercise which fails to solve the key problems which I set out when I spoke to this place on a previous occasion.

I will seek to address these deficiencies through amendments in the Committee stage by introducing into the legislation a greater focus on community involvement and community information. Ultimately, any changes to a school community must be based on the community's long-term educational needs, and my amendments will seek to ensure this.

There are several concerns about the Bill in its present form. It ignores the impact of Federal policy, and places total accountability in the Chamber. Concerns raised with me have suggested changes to enhance the Bill and make processes more inclusive for educational communities. The sorts of changes that I will be looking for include publishing in local newspapers details of proposals for school closures, as well as publishing the Minister's reasons for closure or amalgamation of schools, or reasons for rejecting a committee's recommendations on such an issue.

Also, I will be looking to place within the review committee a person nominated by the AEU, because I believe that a coalface practitioner of education can make a vital contribution in debates as to whether or not a school should close. When one has debates about sizes of schools and the ability then to provide a curriculum for students, it is useful to have a practitioner on that committee. The Government might try to argue that a principal is such a practitioner. Unfortunately, I have seen too many cases where principals who are often on the promotion bandwagon perhaps do not always speak out as freely as they might in these sorts of forums.

As I said, I do think that a coalface practitioner can make a useful contribution, and I suppose it is because the Democrats for so long have been advocates of something which is perhaps not so fashionable today, and that is industrial democracy, where one does seek to involve people who are working in the real world and who know what is going on.

The review committee should have available to it expert demographical and educational advice relating to the school's present and future use. Finally, the Minister must announce a decision in relation to a closure or amalgamation within a specific time. I retain my belief that the Minister should report directly to the Parliament on whether the Minister will take the advice of the committee on a school closure or amalgamation issues.

Ultimately this Bill does not stop the Minister from closing a school. The Bill I introduced into this place on a previous occasion did not seek to do so, either. I do not think it is unreasonable to require widespread publication of outcomes. The opportunity for an appeal process safeguards the long-term interests of the community.

At the time when my Bill was drafted last year, specific schools were seeking better laws to ensure proper public accountability of Government on these issues. Certainly in relation to particular schools, the battle may have been lost but the more important battle is not about individual schools but about the process itself and about the educational outcomes that are sought by the community itself. I restate that I do not seek to take away the power of the Minister to close the school but to put in place a clearly defined process should a decision be made to close and should the majority of parents in a community feel that a wrong decision has been made. I indicate that I will move some amendments in Committee along the lines that I referred to earlier.

The Hon. R.I. LUCAS (Treasurer): On behalf of my colleague the Hon. Carolyn Schaefer, I thank members for their contributions to the debate. I will just respond to the comments made most recently by the Hon. Mr Elliott. As I have said on occasions before, I am afraid that the Hon. Mr Elliott lives under the delusion that there is not an

established process for the closure or amalgamation of schools in South Australia. He repeats the statement and has done so again this evening. A long, well established policy and procedure exists for the closure of schools in South Australia. It may well result in decisions that the Hon. Mr Elliott does not support, and I acknowledge that. There has been opposition to a small number of closures that the Liberal Government instituted, as there was, to my recollection, to a small number of closures that the Labor Government instituted.

The interesting thing is that the Hon. Mr Elliott—and I have checked the records—was notably silent when the Labor Government was closing down schools. Some 70 schools were closed down in the last few years of the Labor Government, and a search of the *Hansard* record shows very little comment from the Hon. Mr Elliott on closures of schools by Labor Governments in South Australia. No private members' Bills were moved by the Hon. Mr Elliott, and I can find no record of motions moved by the Hon. Mr Elliott. There may well have been the odd question, but they are hard to find—if they exist. Yet 70 schools were closed down or amalgamated by the Labor Government in its last few years, most of which occurred at a time when the Hon. Mr Elliott was a part of this Chamber. It seems to be—

The Hon. P. Holloway: They weren't forced to amalgamate or close.

The Hon. R.I. LUCAS: That is not true. I would invite the honourable member to speak with people involved in some of the schools in the western suburbs and in the south-western suburbs who were forced and who did protest. I invite him to speak with those involved with some of the schools in the northern suburbs—Playford High School is one that springs to mind, and there were both the Ingle Farm Primary School and Ingle Farm High School, where there were protests at closures by the Labor Government.

The intriguing thing is why the Hon. Mr Elliott, in his attitude towards education issues, adopts one standard for a Liberal Government when it engages in closures or amalgamations and adopts a completely hands-off and different standard when a Labor Government engages in exactly the same policy. The Liberal Government's policy on school closure was exactly the same as the Labor Government's policy on school closures. Not one word of the departmental policy was changed by the incoming Liberal Administration. The Government used exactly the same policy and procedures that were adopted—

Members interjecting:

The Hon. R.I. LUCAS: No, we made no change at all.

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: Well, you are wrong; we made no change. Not one word of the Labor Government's policy on school closures was changed. In the end, it may well be that the Hon. Mr Elliott and others disagreed—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: —and they would all have been Liberal ones.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Well, I am struggling to find anything; the Hon. Mr Elliott mentioned no Bill under the Labor Government and moved no motions in relation to closures. If he did indeed ask a question about Henley Beach I will be delighted to find that in the record and acknowledge it in due course. There has certainly been no rallying into action to institute legislation to protect people in the community from Governments closing down schools after seven years of a Labor Administration.

Members interjecting:

The Hon. R.I. LUCAS: As the Hon. Mr Holloway would know, it does not placate those in the inner suburbs where a school may be closed if a new school happens to be opened in the north or the south. That has occurred under all Governments, although admittedly in fewer numbers in recent years, because of the slower population growth that we have seen in the past five to 10 years compared with that of the previous decade. The Hon. Mr Elliott again confirmed this whole notion tonight when he said that the reason for this Bill is that we need to establish a process. The argument that there has not been a process is wrong. A process does exist, and it has been followed.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: There has been a consultative process. Again, the Hon. Mr Elliott has not been able to demonstrate one example where under a Liberal Government communities were not given the opportunity to be consulted and to put a point of view in consultative review processes, some of which dragged on for 12 months to two years. I have made the point on a number of occasions that, in the western suburbs review conducted under the previous Labor Government and even in some of the reviews we have conducted, the extent of the consultation and the length of the time delay produced a debilitating process in itself for the school communities. While schools are being reviewed the rumours are rife and the numbers decline, so for those schools the review process can be almost terminal in itself.

My opposition to the views of the Hon. Mr Elliott and the Hon. Ms Pickles on this issue—as evidenced by half a dozen motions they have moved against me on the Croydon Primary School closure and other matters such as that—is clear, but I want to disabuse any reader of *Hansard* of the view that there is no process at the moment. There is a review process, and it is consultative. It is exactly the same process as the Labor Government used, and the Liberal Government used it on every occasion in relation to—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Karlene Maywald introduced it in another place, and an arrangement has been entered into. I understand that you are opposing this on the basis that it is not strong enough; you want to toughen it up.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: The inference was that it would not do much. I cannot remember your exact words so I will not misquote you, but you were critical of the Bill. You were trying to institute a system by way of your amendments which would frankly make unworkable much of what occurs in a school closure process. I can understand that from Mr Elliott's point of view he has been on one side of the debate with mounting community opposition to closures and has not been on the other side of the debate in trying to manage the difficult issue of allowing a review process to go through and then eventually being in a position where somebody—that is, the Minister—has to make a decision on a particular issue.

Whilst we are in the early hours of the morning, and clearly the Hon. Mr Elliott and other members who constitute a majority in this Chamber are intent on working us through this, I will have to address a number of amendments as the Hon. Mr Elliott moves us through Committee. The Government, I am advised, opposes strongly most of the amendments from the Hon. Mr Elliott. There is one on which our

views are not quite as strong, but we will explore those issues as we go through Committee.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. M.J. ELLIOTT: Before moving my amendment I will respond quickly to the Treasurer. It is true that I have been more critical of the Liberal Government than I have of the Labor Government in relation to education, but—

The CHAIRMAN: I point out to the honourable member that that is not relevant to this clause. I ask him to move his amendment and speak to the clause.

The Hon. M.J. ELLIOTT: I have been misrepresented, but I am not allowed to—

The CHAIRMAN: You had the chance on clause 1 and will have a further chance on the third reading.

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

Page 3, after line 3—Insert new paragraph as follows:

(ca) a person nominated by the Australian Education Union (S.A. Branch); and

During the second reading stage I indicated that there was value in having a practising teacher on this committee and not a nominee of the Minister. I am sure the Government will take a different view and that no amount of persuasion will work differently with it, so I will not bother to take the argument further than I did during the second reading debate.

The Hon. NICK XENOPHON: I understand that the Government does not propose to divide on this amendment, which disappoints me, given that this Government tends to divide whenever I vote against it. I oppose the amendment and support the Government in this instance. I have been convinced by the member for Chaffey that it is not necessary to have a person nominated by the AEU in the circumstances. I can see the arguments but oppose the amendment.

The Hon. R.I. LUCAS: The Government opposes the amendment, which corresponds with my personal view. With the Labor Party and the Democrats in this Chamber the numbers are against us. Whilst the Hon. Mr Xenophon at this early hour of the morning would like a series of divisions on each of those provisions, I am not sure whether all the other members in the Chamber would approve of that strategy. However, I am delighted with his verbal indication of support.

The Government does not support this amendment. It does not believe that any good purpose at all in terms of a sensible and rational discussion about an amalgamation or closure will be served by having a person nominated by the AEU, which has made it quite clear in recent times that it will campaign against every school closure by the Liberal Government, particularly if any member of the school community indicates any opposition to it.

So, on any review committee there would be a group—and a powerful group at that—with significant resources available to them, in many cases, with a predetermined position opposed to the Liberal Government. That group would want to cause as much distress or mayhem as possible in respect of any amalgamation or rationalisation proposal, even if there happened to be only a small core of opposition to it from within a certain school or group of schools. For those reasons, the Government opposes this amendment.

The Hon. CAROLYN PICKLES: The Opposition supports this amendment. To save time, I indicate again that the Opposition will support all the amendments to be moved by the Hon. Mr Elliott. It is a pity that the former Minister for Education should carry over into his other role his personal hatred of the union.

Amendment carried.

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

Page 3, lines 20 and 21—Leave out subsection (8).

If there is an equality of votes, a vote should be lost. I certainly do not believe that any member of a committee should carry two votes.

The Hon. R.I. LUCAS: The Government opposes this amendment. Obviously, this power is provided to a number of committees such as the parliamentary standing committees. I am not a member of a standing committee, but my recollection is that if there is an equal vote on such a committee the Chair or Presiding Officer has a tie-breaking vote. My colleagues who are members of standing committees advise me that that is the case.

This is a provision which the Hon. Mr Elliott and others have supported in respect of the proceedings of this Parliament regarding the equality of votes. I am not sure why, if it is good enough for standing committees of the Parliament, it is felt that it cannot be supported in respect of this review committee proposal. As I said, there are many other community bodies where this provision is made available. It is a way of breaking a tied vote so that the committee can proceed. If we were to have tied votes all the time, we would not be able to proceed one way or another. The Government therefore opposes the amendment.

Amendment carried.

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

Page 3, line 28—Leave out 'call' and insert 'publish a notice of the proposed review in a newspaper circulating generally throughout the State, calling'

This amendment is self-explanatory. It simply requires that a notice of the proposed review be published in a newspaper generally circulating throughout the State. It ensures that the school community is aware of proposals for change involving a local school or schools.

The Hon. R.I. LUCAS: I am sure that the *Advertiser* would be delighted with this amendment, but the Government opposes it. The general procedure is that the local media, be it in a regional section of South Australia or the Messenger in the metropolitan area, together with the school newsletter and a variety of other local communication mechanisms, are used to ensure that everyone is aware of the proposal.

I must admit that, in my time, we had some experience of a number of different types of closures or amalgamations where everybody who was anybody who might have an interest in the school, both past and present, and, in some cases, possibly the future, could put a point of view if they so wished. Frankly, if there is to be any criticism, from my point of view the processes are too long and debilitating for some school communities, rather than being an appropriate length of time where everyone has an opportunity to put a point of view with a decision ultimately being taken. The Government does not support this amendment.

Amendment carried.

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

Page 3, after line 29—Insert new paragraph as follows:

(ab) obtain advice from experts in demographics and education as to the present and future use of those schools; and

This committee is required to do a number of things, but I am saying that this committee must obtain advice from experts in demographics and education as to the present and future

use of those schools. I hope that would be self-evident, but it should be spelt out in the Bill.

The Hon. R.I. LUCAS: What does the honourable member mean by 'the present use of those schools'? I should have thought that was probably quite self-evident. The present use of the school, I presume, is to educate children. Does the honourable member mean anything other than that? Also, the amendment mentions the future use of those schools. Is the honourable member talking about what the property in schools might be sold for? Is that the sort of thing to which the honourable member is referring?

The Hon. M.J. ELLIOTT: You will not talk to demographics and education experts about other uses. It is just the way the amendment has been drafted. These are not my words.

The Hon. R.I. Lucas: I thought you were moving the amendment.

The Hon. M.J. ELLIOTT: I am moving it but, as I say, one gives instructions and one gets words.

The Hon. R.I. Lucas: Well, change them.

The Hon. M.J. ELLIOTT: If the Minister does not mind: the intention of the amendment is to ensure not only that we look at the current population of the area but also that one also examines trends. So, whilst there may be an area that is experiencing a significant decline in the school population, it is anticipated in the medium to longer term that there will be a reversal. We are seeing that in some parts of Adelaide where gentrification and urban consolidation is happening. That is important to the demographics, and one also should be talking to education experts.

Clearly, one will have a discussion about the sizes of schools and the implications thereof. I suppose that future use might also take into account a school's continuing but perhaps being involved in a different structure. The Minister is aware that I have been a proponent for a long time of middle schooling, and it might be possible, for instance, to alter the way in which the various schools and regions are used to produce middle schools, or for other purposes.

The Hon. R.I. LUCAS: I think the honourable member has given poor drafting instructions to Parliamentary Counsel because, if that is what he intended, that is not what has been drafted. I do not think anyone would oppose the provision of advice from demographic experts in terms of population projections. 'Education experts' could mean anything, depending on what aspect of education one wants to talk about. That is so broad that it would not matter whether or not it was included. Certainly, no-one opposes the view in relation to demographic information and, in the vast majority of cases, demographic information is obviously taken into account.

I want to seek advice (not having looked at this Bill closely, I must admit) as to whether this is a mandatory requirement or whether it is optional. It could be a 'must' provision. This is one of the problems with the legislation, and now with this amendment, if it were to be successful. As I understand it, the member for Chaffey has indicated that this is one amendment that she is ambivalent about at this stage, but I would want to put another view to her, I suppose. As I understand the way in which this Bill will operate, no Government school can be closed or amalgamated with another Government school except in accordance with this part. I will give the example of a couple of schools—

An honourable member interjecting:

The Hon. R.I. LUCAS: No, not Croydon; I have had enough of Croydon. There are a number of very small schools in rural communities, the most recent example of which is probably Cook, where the major employer and most of the families in the town and their children decided to leave. All of a sudden, at very short notice, there was no-one left in the community. I believe that the Hon. Mr Elliott is saying that, before the Government can agree to closing Cook school, we must commission a demographic expert and an education expert to provide advice as to the present and future use of the Cook Rural School. The Hon. Ron Roberts probably has some marginal knowledge of the Cook community and such examples.

It is nonsense for that sort of provision to make this a mandatory requirement. Cook is not the only example. Another example is the Corny Point Rural School where the school council voted three to two to keep the school open even though only five students remained at the school. Two of the three said privately that they supported the closure but would not vote for it just in case they were criticised by the community, and they fobbed off the decision to the Minister.

In the case of Cook, Red Hill (which is something the Hon. Mr Roberts would know something about), Corny Point and another half a dozen that I could list, the Hon. Mr Elliott is saying is that we must commission a demographic expert. I assure members that they do not come cheaply—Pak-Poy, Kinhill, or whatever consultants. He is also saying that we must commission an education expert to give us advice on the present and future use of those schools. It make no sense to me.

As I said, I believe that there is a huge drafting problem in terms of the overall issue. The Hon. Mr Elliott said, 'These are not my words. I gave the instructions to Parliamentary Counsel and this is what they came up with.' I do not believe that you can just fob it off to Parliamentary Counsel like that. The honourable member issued the drafting instruction and had the amendments drafted, and if the honourable member is unhappy with them he should say to Parliamentary Counsel that they do not reflect the drafting instructions that he issued. I believe that there is a huge problem generally because it does not make any sense to say 'the present and future use of those schools'. The honourable member's explanation would require a different form of words.

As I said, I believe that the first part of his explanation makes some sense, because it would make sense in most cases, and that does happen in most cases. In particular, I can remember examples in the Hills where various things were looked at, or in the western suburbs, where various demographic experts were consulted. It certainly happens also with new school openings, in particular.

To make it a mandatory requirement for the Government and the Minister to waste money on consulting demographic experts about school closures in rural and other areas where it is so self-evident that something has to happen—and I have given a few examples tonight—is an enormous waste of taxpayers' money. I would rather spend that money on delivering better services to students in schools than waste it on consultants in demographics and education to tell the Minister why we ought to close down the Cook school because there is only one child left in the Cook community. We do not need a demographic consultant and an education consultant to tell us that we ought to close down a school because there is only one student left.

The Hon. M.J. ELLIOTT: I will persist with the amendment. If Karlene Maywald or the Government in another place feel that they can word it better—and the Minister seems to concede that there is some value in seeking

demographic advice—by all means they can amend this further. The Government was aware that this Bill was to be debated and the amendments were circulated. It is unfortunate that the person who is handling the Bill on behalf of the Government is not here tonight but I must say—

The Hon. R.I. Lucas: Tonight? It is a quarter to one in the morning.

The Hon. M.J. ELLIOTT: It would not be so late if you had not been prolix. I will proceed with the amendment.

Amendment carried.

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

Page 4, lines 18 to 21—Leave out subsection (2) and insert subsections as follows:

(2) Any decision to close a school or amalgamate schools must be made, and notice of the decision given and published under subsection (2a), within 6 weeks of the Minister's receipt of the review committee's report.

(2a) The Minister must cause notice of a decision to close a school or amalgamate schools and of the reasons for the decision—

(a) to be given in writing to the head teacher and school council of each of the schools affected by the decision; and

(b) to be published in a newspaper circulating generally throughout the State.

There are two parts to this amendment. I am seeking to ensure that the Minister has a specific time frame in which to respond to the recommendations of the review committee. The second part ensures that the reasons for the Minister's decision to close or amalgamate schools are made public through publication in a newspaper circulating generally throughout the State. Since filing these amendments—and it is something that might be considered in another place—I feel that there is some merit in ensuring that the publication occurs in a paper or papers which are circulated in the area of the school rather than in a paper that is circulated across the State. If such an amendment is further sought by the Government, I would have no problems with it.

The Hon. R.I. LUCAS: The Government opposes this amendment. As a previous Minister with some experience in this area, I oppose this provision almost as strongly as I would the notion of having Janet Giles and the AEU on every review committee. The honourable member has acknowledged, given our previous debate, the fact that to have to put an advertisement in the *Advertiser* or the *Australian* saying that we have just closed down Corny Point Rural School at the bottom of Yorke Peninsula and spend our hard-earned taxpayers' dollars doing so is just an incredible waste of taxpayers' money.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: The Hon. Ron Roberts could almost get air-conditioning in a bus for the cost of advertising in the *Advertiser*. Frankly, every constituent of the Corny Point community and some will know if the Government has decided to close down the school. We do not have to put an advertisement in the *Advertiser* to tell them that their local school has just been closed down. The notion that Governments can sneak in during the night and close down a school and no-one will know about it unless the Government is told by the Australian Democrats that it must put an advertisement in the *Yorke Peninsula Country Times* is just a silly proposition.

I just cannot understand how the Australian Labor Party, which argues continually that we should spend more money in various areas, would be supporting a package of amendments such as this and would be asking the Government to waste money by spending good money after bad on advertisements in the *Advertiser* and the hiring demographic experts to explain why Cooke Rural School was closed down and a variety of other silly proposals such as those we are being asked at 12.45 in the morning to support. That is a silly proposition and I think the Hon. Mr Elliott, having again looked at his amendment, has acknowledged that by saying that if the Government wants to amend it, it can do it. I think that is sloppy drafting. The Hon. Mr Gilfillan talked earlier about sloppy drafting and having to improve things, and his statements earlier are very apt in relation to these amendments.

I want to speak strongly against the notion that in some way a proposition of six weeks should be put on the Minister's receipt of the review committee's report. The perfect example is the cluster that involved the Croydon schools. When the review committee's report came into the Minister it suggested—and I am going on memory here—that three schools should close and/or amalgamate or close two pairs of schools—one pair north of Torrens Road and another pair south of Torrens Road. It left the decisions in relation to which school to the Minister. When I got that report, literally months and months of work had to be conducted by the department and by the Government in trying to resolve exactly what should be done in relation to that report. It would be impossible to have made a sensible and rational decision in relation to that cluster of schools in the space of six weeks. We tied up notions of whether or not we were going to redevelop Croydon High School; whether Croydon High School should be made an R to 12 school; whether it should be a separate primary school and separate high school on one site; whether the secondary school of English should be co-located on that site; whether another educational facility should be co-located on that site. These decisions were in addition to the decisions that had to be taken in relation to the closures.

It would have been impossible to have taken those decisions within the space of six weeks. Further studies were ordered. We looked at a whole range of issues. We gathered further information on student numbers over and above the work that the review committee had done. We looked at costings of various redevelopment proposals. What would it cost to redevelop a new school on the Croydon High School site? We had to commission cost experts to look at the cost of redevelopment of buildings on the Croydon High School site. We had to take advice from a number of other groups in relation to the various options.

This notion that in some way a hard and fast rule can be put down which states 'must be made and notice to be given and published within six weeks of the Minister's receipt' is just absolute nonsense. It is something which has been drafted by someone with no knowledge at all of running a department and with no knowledge at all of actually managing a closure or amalgamation process. I have no idea at all, other than the notion of creating maximum mayhem and why the Australian Labor Party—which the Hon. Ron Roberts says will be in government in the near future—would be supporting this proposition.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: It was more than a drafting error. There are a number of drafting errors. There is a drafting error in the previous amendment which the honourable member has acknowledged but he said it can be sorted out in another place.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Yes, you did; you said that they were not your words.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Present and future use of schools.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: You could not explain it.

The Hon. M.J. Elliott: I did.

The Hon. R.I. LUCAS: No, you didn't. You explained it quite differently from the words that are here. You said, and *Hansard* will record, that if there is a problem with it, it can be sorted out in the other House. As I said, there are significant problems both in the drafting and in the intent of this clause and the Government opposes it.

The Hon. M.J. ELLIOTT: I seek leave to withdraw my amendment. The problem I have is that this amendment does not say precisely what I intended it to say and I recognise that, if this Bill does not get through tonight, the House of Assembly will not be able to handle it tomorrow. Unfortunately, this one is beyond my ability to be able to rectify simply without Parliamentary Counsel. In those circumstances, the simplest thing I can do at this stage is not proceed with this amendment at all.

Leave granted; amendment withdrawn.

Clause as amended passed.

Title passed.

Bill read a third time and passed.

TOBACCO PRODUCTS REGULATION (DISSOLUTION OF SPORTS, PROMOTION, CULTURAL AND HEALTH ADVANCEMENT TRUST) AMENDMENT BILL

The House of Assembly agreed to the Bill without any amendment.

ADJOURNMENT

At 12.57 a.m. the Council adjourned until Thursday 27 August at 11 a.m.