LEGISLATIVE COUNCIL

Wednesday 9 December 1998

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

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1997-98—
Living Health
Outback Areas Community Development Trust
South Australian Thoroughbred Racing Authority

QUESTION TIME

ELECTRICITY, PRIVATISATION

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Treasurer a question on the subject of consultancies.

Leave granted.

The Hon. CAROLYN PICKLES: In an article published in the *Advertiser* on 16 March this year, there was a statement that the Government had interviewed international consortia who were vying for the contract as adviser to the Government on the sale of ETSA and Optima and which 'could be worth up to $30 million'. Again, on 17 June during Estimates the Treasurer said that $3.7 million had been spent on consultants in 1997-98 and that a further $8.5 million would be spent in 1998-99. My questions to the Treasurer are:

1. How much has been paid to the United States sale consultants Morgan Stanley to date for its work on the sale or lease of ETSA and Optima, and given the Government's decision to now withdraw the legislation what further fees will be paid?

2. How much has been spent to date on consultants working on the sale or a lease of ETSA and Optima, and will the Government now immediately terminate all consultants' contracts, including public relations consultants Alex Kennedy and Geoff Anderson?

The Hon. R.I. LUCAS: The answer is 'No.' The Government, however, will obviously need to reassess the workload of its advisory team, and it will be doing that over the next week or so. The Government has indicated through the Premier that the Government intends to proceed to try to ensure that this Parliament, this House, and the other House as well, supports in one form or another the sale or long-term lease of ETSA and Optima.

The Government indicated through the Premier yesterday in the press conference that people such as the Hon. Carolyn Pickles and the Hon. Sandra Kanck will have the opportunity, when next we meet, to put their hands up for some options or alternatives. It will be clear to the people of South Australia from their approach that members of the Labor Party, supported by their supporters on this issue, will need to put up their hands one way or another as to their alternative for the future of this State—

Members interjecting:

An honourable member: It's a policy free zone.

The Hon. R.I. LUCAS: Well, they will have to put up their hands. It can be a policy free zone, and with their Leader I am not surprised that they are a policy free zone. However, in the end they will have to put up their hands one way or another for a vision for the future of South Australia. I am very happy to—

Members interjecting:

The Hon. R.I. LUCAS: Well, there will be a package—

The Hon. L.H. Davis: Tell us about Mike Rann's policies, Carolyn.

Members interjecting:

The PRESIDENT: Order!

The Hon. Caroline Schaefer: It won't take her long.

The PRESIDENT: Order!

The Hon. L.H. Davis: We'll give you 10 seconds to respond.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I have called for order three times.

The Hon. R.I. LUCAS: So, the Leader and her supporters in this Chamber, both in the Labor Party and—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I stand corrected by my colleague the Hon. Mr Redford: other members of the Labor Party (rather than her supporters) and other members of this Chamber who support the Leader's position on the sale or long-term lease of ETSA and Optima will be presented with a stark choice. The Government will put that together over the next few weeks, and we will present that to the Parliament early next year. At that stage the Leader will have the opportunity not just to oppose, as the Labor Party and its supporters are happy to vote against a measure to try to create a stable financial future for the State, but it will give the opportunity for the honourable member to vote for the only other alternative.

Members interjecting:

The Hon. R.I. LUCAS: I gave her the answer. The answer is, 'No, we are not going to.'

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The answer to the honourable member's last question I gave in relation to the first ones; I have already answered those questions in this Chamber. At the end of each financial year the Government will report to this Parliament openly, honestly and frankly on all the expenditure—

The Hon. Carolyn Pickles: That would be a change!

The Hon. R.I. LUCAS: We did it last year.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Yes, we did it last year, and you quoted the figures. So, at the end of the financial year the Government openly, frankly and honestly reported on the amount of expenditure not just on the particular consultancy or two consultancies that the Leader of the Opposition gets herself het up about, but the Government's whole range of—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No, you only asked about two. You asked particularly about the Morgan Stanley consultancy and, because a particular person happens to be in the communications consultancy, the Leader of the Opposition gets excited about that consultancy.

The Hon. R.R. Roberts: Who was that?

The Hon. R.I. LUCAS: I can't imagine! So, the Government will not report only on the two consultants in which the Leader happens to be interested: it has had a whole range of

other consultants on its disaggregation and reform process and on the sale and lease process. Certainly, when we report at the end of this financial year we will report in some detail on the money that is expended on all the consultancies in each year. That is only appropriate and proper, and it is what the Government and I as the Minister in charge of the reform, sale or lease process undertook some time ago in terms of accountability to the Parliament for public expenditure. I am happy to do so, and will be true to the commitments I have given earlier.

The Hon. P. HOLLOWAY: As a supplementary question, I ask the Treasurer under what authority have the costs associated with the ETSA lease and sale, including those consultancy costs, been expended?

The Hon. R.I. LUCAS: The honourable member will have to try a little harder with his question if that is the best he can deliver by way of a supplementary or follow-up question.

The Hon. L.H. Davis: How did you hire consultants, Paul? Did your mouth ever open and shut—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: With respect to all the consultants, not just the two in which the Leader of the Opposition and now the Deputy Leader of the Opposition have been interested, I have been advised that all appropriate procedures and processes have been followed. If the honourable member—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I inform the Deputy Leader that he can ask only one question at a time. He gets an answer to his first question and says, 'Well, what about the next one?' He can stand up and ask the next question instead of sniping away from his chair so that he cannot be heard. If he asks questions, I will respond.

The honourable member asked a question about under what procedures they were appointed or what authority the Government had. It is the authority that the Government having been appointed has under the legislation that is provided to it in terms of its executive responsibility. I am not sure what further detail the Deputy Leader of the Opposition wants other than that.

MOTOROLA

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about legal professional privilege.

Leave granted.

The Hon. R.R. ROBERTS: Members would remember the last time we talked about legal professional privilege at any length was in respect of the Dale Baker inquiry conducted by Tim Anderson QC. There is now the prospect of another inquiry into what has been deemed the Motorola issue. I note that we are talking about the Government setting up another independent inquiry.

I remind members of the history of the Dale Baker inquiry, which was set up on the same premise that the Government would appoint an independent inquirer. At the end of his inquiries, before Mr Anderson had printed his report and had any chance to discuss it even with the Government, he arrived at work one morning to find that his office had been cleared out and the report locked in the Premier's safe. Mr Anderson was not able to access his office or his computer records or get a copy of his own report.

The Opposition and other members of opposition Parties asked questions of the Attorney-General, who as was widely known and had been admitted by the Premier at the time, was the only other person who had seen the Dale Baker report. The Attorney-General refused to answer Opposition questions or to table the documents, despite the fact that the people of South Australia had paid for the independent inquiry and both the Premier and the Attorney-General had assured the people of South Australia that the report would be laid on the table.

The Attorney-General then claimed legal professional privilege because, as he said, the Government had commissioned the report and in that case was able to keep it secret. The Council had no alternative at that stage other than to set up a select committee. It directed the Attorney-General to bring forward the papers and lay them on the table. That did not happen. In fact, the Attorney-General on that occasion said that the papers were locked in the Premier's office and that, therefore, he would not bring them forward. It was also claimed that because of legal privilege he did not have to do so.

The Egan case in the other place throws that assertion into great jeopardy. History shows that when the Council determined to have its own inquiry and thus have no doubt about who owned it, the Council, the ALP and the Democrats set up a select committee. The Attorney-General was made the Chair of the committee and so led the questioning of the Solicitor-General (his employee) on the question of legal professional privilege prior to evidence being given by Tim Anderson QC who at that time was scheduled to be the first witness.

I reported to him that I believed that it was wrong at that stage that the Attorney-General who had access to all the documents should have been even a member of the committee, but I was told on that occasion that I 'played dirty politics'. These are the people who would not give the people of South Australia the report. I note a recent media report of 4 December, which has not been denied, that all Motorola files held by other agencies were snatched up and secured in the Premier's office on 3 August. That sounds somewhat familiar. A source quoted in that report said:

> The integrity of these files must now be questioned. It is now not possible to ascertain whether or not key information on those files has been removed or tampered with.

Given that background information, my question to the Attorney-General is: will any independent inquiry not set up by a motion of the House be covered by legal professional privilege, or, alternatively, if the Government sets up an independent inquiry, despite guarantees of openness and privilege and the promise of 'laying on the table', could the Government claim legal professional privilege over the report or its findings?

The Hon. K.T. GRIFFIN: The questions are hypothetical, so I do not propose to answer them. They are strictly hypothetical. The honourable member has done a real ramble through the brambles, casting a wide range of aspersions on a whole range of people.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The honourable member has not even read the *Hansard* because he said, for example, that the Solicitor-General was questioned on a matter of privilege before a select committee. The Solicitor-General never appeared before this select committee that was set up before the last election.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: And then the honourable member asserted that the Solicitor-General was my employee. As I indicated earlier this week, the Solicitor-General is not an employee of mine—nor is the Crown Solicitor for that matter. The Crown Solicitor is an office under the Crown. I suggest that the honourable member read a few books on the role of the Attorney-General, the role of the Solicitor-General and the role of the Crown Solicitor.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Of course, the honourable member is imputing motives and behaviour to some of these officers because he sets that standard himself—and they are improper motives. That is not the way these officers operate: they are professional and they operate with proper ethical standards.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! I am close to warning the Hon. Mr Roberts.

The Hon. K.T. GRIFFIN: He can't stand a reasoned response to his question, Mr President; that is part of his problem—and, of course, he has misrepresented the facts in his statement. The honourable member sought to bluster his way through the Anderson inquiry, the report, freedom of information and a variety of other issues. I do not think I need go over that ground again, otherwise there will not be a Question Time—I will finish it off at 3.15 p.m. or in 43 minutes and 41 seconds.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts: He won't answer the question.

The PRESIDENT: Well, you've asked the question—with a five minute preamble.

The Hon. K.T. GRIFFIN: The honourable member does not yet seem to have come in touch with the High Court action involving the New South Wales Treasurer, Mr Egan, who was of course operating in a different environment with an Upper House of Parliament established under different rules. I suggest that the honourable member look at that case and at what Mr Egan was endeavouring to do. As I said the other day, when it all comes down to the line there always has to be some accommodation between the Parliament and the Executive to make the system work, just as off the floor of this Council there has to be at least some measure of confidence that, when someone tells you that they will do something, you can take them at their word—otherwise the system will break down. As I said right at the outset, the explanation by the honourable member rambled through the brambles without really dealing with the truth. He misrepresented the position and, in addition to that, the questions are hypothetical and there is no need to answer them.

Members interjecting:

The PRESIDENT: Order!

BICYCLE LANES

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

Leave granted.

The Hon. DIANA LAIDLAW: Last month a decision was handed down in the Magistrates Court by Ms R. McInnes SM, effectively ruling that bicycle lanes were illegal. This followed a challenge by Mr Gordon Howie after he was fined on 10 May 1997 for parking his vehicle in a bicycle lane. At the time the magistrate had taken the view that bicycle lanes were created in the same way as clearways and this particular lane not having been prescribed had not been lawfully created at all. The State Government appealed the judgment in the Supreme Court and on 20 November the Hon. Justice Millhouse heard the appeal. The Hon. Justice Millhouse today handed down his judgment in the Supreme Court. I am pleased to say that he has upheld the appeal by the Government, thereby confirming the legality of South Australia's bicycle lanes.

Clearly, I along with all South Australian cyclists welcome this ruling and I am sure honourable members in the Parliament do, too. Given today's decision, I would like to remind all motorists that bicycle lanes are for cyclists only. This has been the case since the Road Traffic Act was amended in 1993 to provide for bicycle lanes. Recent publicity over the case may have created doubt in the minds of many drivers about the legal status of bicycle lanes. Today's decision confirms that bicycle lanes are in effect 'no go zones' for all vehicles except bikes. Just as motorists expect other drivers to stay in their lanes, bicycle lanes are provided as a special lane for cyclists only. Motorists must remember that by law they cannot drive, stop or park in bicycle lanes unless signs advise that the lane is subject to specific operating times.

The State's Cycling Strategy advocates the gradual expansion of bicycle lanes as the best means of allowing bikes and cars to share the road safely. Feedback from around Australia shows that South Australia is leading the way in providing for cyclists. This is demonstrated by a 12 per cent increase in cycling use in South Australia over the past four years.

WASTE MANAGEMENT

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement given today by the Minister for Environment and Heritage, Hon. Dorothy Kotz, on the subject of the establishment of a new Waste Management Committee for South Australia.

Leave granted.

ECONOMIC DEVELOPMENT BOARDS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for State Development, a question about conflict of interest.

Leave granted.

The Hon. T.G. ROBERTS: When the economic development boards in the regional areas of South Australia were set up there were high expectations by the State Government, the greater regional councils, when they were set up, and the Commonwealth Government and certainly by local government about the bountiful impetus those boards would give to those regions, and that they would work cooperatively with local government and State Governments to try to maximise the interests of regions and the investment programs for those areas. However, there have been a few disappointments in the setting up of the economic development boards, particularly in the early days, when they were not sure what their role was and there was conflict between the boards and, in some cases, the wider regional councils.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The honourable member is a bit unfair in getting me to name those that did not perform. The performance measures and the criteria used are difficult to measure because there were some boards that were working hard but were duplicating much of the work done at either a State or local government level and in some cases the Commonwealth Government. It was very difficult to measure the effectiveness and efficiency of these bodies because in the early days there was no provision for reporting or assessment, although I think that that is now starting to change. The Hon. Mr Redford, myself and other members of Parliament who are starting to make recommendations recognise that reporting procedures and appropriate accountability must be built into the structure so that appropriate assessments can be made.

The Hon. A.J. Redford: You're absolutely correct.

The Hon. T.G. ROBERTS: I thank the honourable member for acknowledging the correctness of that assessment. Over the years the South-East Economic Development Board has done some good work in attracting investment and working with the greater Green Triangle, which I think has been relatively successful, but is now getting criticism in the local area because of some of the problems associated with the process in which it works—that is, no transparency. I am hearing criticisms about the inappropriateness of the behaviour of some members of the board. It is plain that the State Government—

The PRESIDENT: Order! There are four people on their feet at the moment. Only one person has the call, and it is the Hon. Terry Roberts.

The Hon. T.G. ROBERTS: Thank you, Mr President. It is apparent that my question has raised a lot of discussion amongst those members; I am sure they are all discussing the implications of the questions I am about to ask. The questions that have been raised with me concern the conflict of interest surrounding the sale of the Scrimber structures and plant in Mount Gambier. It has been reported to me that the CEO of the South-East Economic Development Board was a senior board member of the company that was successful in tendering (if that is the word) to buy the structures that housed the Scrimber plant.

The Hon. Mr Davis has described the Scrimber plant, particularly its building, as a Rolls Royce structure that could have been a Morris Minor structure. I tend to agree with that: it was a magnificent structure. My information is that the building went for less than $1 million and that the assessment of the professionals in the area—and a lot of them do not have the experience of making assessments on large buildings—was that the—

The Hon. R.I. Lucas: The same ones who are looking at the truck?

The Hon. T.G. ROBERTS: No, these are not the same ones looking at the truck. The assessment that they put on it was far greater than the less than $1 million that it was rumoured the building was sold for. My questions are:

1. Is it appropriate for Economic Development Boards' CEOs or staff not to have a register of interest similar to that of members of Parliament or local government?

2. Is it appropriate for the South-East Economic Development Board CEO, Mr Grant King, to have an economic interest in Van Schaik's Bio Gro Pty Ltd—shareholder, director and secretary under two different addresses—in the lead-up to and during the sale of the Scrimber site in Mount Gambier which was purchased by that company for just $1.65 million and in which he played a role regarding the sale of that building?

3. Is it appropriate for the Economic Development Board to not table annual reports?

4. Is it appropriate for Economic Development Board members or their staff to use resources, funds or information for their own personal financial gain?

5. Is it appropriate for the South-East Economic Development Board members and their staff to disclose their private business interests?

6. What tendering process was used for the sale of the Scrimber plant and building?

The PRESIDENT: I remind members, as I did yesterday, that Question Time is not for debating. That question preamble was in excess of six minutes.

The Hon. R.I. LUCAS: My answer will be much shorter than the lengthy explanation. I am delighted to refer the honourable member's question to the appropriate Minister and bring back a reply.

NATIVE VEGETATION

The Hon. M.J. ELLIOTT: 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 native vegetation clearance.

Leave granted.

The Hon. M.J. ELLIOTT: I have received correspondence from residents in the Mount Barker region expressing concern about apparent inaction by the Native Vegetation Council in relation to the Kanmantoo mine site. I understand that recently a property speculator purchased land, including that adjacent to the Kanmantoo mine site. Within that site is one of the few remaining stands of native vegetation in the Mount Barker area. It has been suggested to me that it may contain up to 50 per cent of the remaining native vegetation in the region immediately around Mount Barker.

This land has been grazed for a number of decades by just the occasional horse. I am informed that the new owner has been grazing cattle throughout this area. This action constitutes clearance under the Native Vegetation Act—if indeed it is occurring—by way of significant intensification of grazing pressure. My questions are:

1. Why has there not been any action taken to prosecute under the Act in relation to the situation?

2. What action will the Minister take on the issue?

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

ELECTRICITY, PRIVATISATION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer a question about the State budget.

Leave granted.

The Hon. L.H. DAVIS: In the 1998-99 State budget, the Treasurer, in bringing down his statement of the financial affairs of this State, made specific reference to the financial impact of the possible privatisation of ETSA and Optima. As members would know, there were obviously specific budget implications flowing from that possible privatisation. My question is: following the announcement yesterday—apparently at a press conference at 1.30 p.m. by the Hon. Nick Xenophon, where he indicated his opposition to the sale

or lease of ETSA—could the Treasurer advise the House as to what the budgetary implications of the failure to privatise ETSA and Optima might be?

The Hon. G. Weatherill interjecting:

The Hon. R.I. LUCAS: No, George, I will not at this stage: I might proffer some comment. The honourable member raises a most important issue and clearly one which will now apply the minds of Treasury officers and the Government over the coming Christmas period. As I indicated by way of partial response to the earlier question from the Leader of the Opposition, it is clear that the Parliament will now have to confront a series of unpalatable options—options that the Government certainly does not want to confront and options, we believe, that the people of South Australia will not want to confront, either, when the brutal reality of the alternative to the sale of ETSA and Optima is made apparent early next year.

There is no final and concluded view yet from the Government, but I can say, as the Premier indicated yesterday, that clearly if the decision (which, as the honourable member noted, was made by the Hon. Mr Nick Xenophon at a press conference to the media; I presume at some stage, when given the opportunity, he will make his position clear in this Chamber when we recommence debate on the Bill) is to vote down the sale or long-term lease of ETSA and Optima, the Government will clearly have to fill in a black hole in the out years of the budget, in particular in years three and four, but that will commence developing in next year's 1999-2000 budget. That black hole is of the size of approximately $100 million a year that the Government will have to find through taxation or expenditure measures.

The Hon. Diana Laidlaw: We will be cutting expenditure.

The Hon. R.I. LUCAS: Cutting expenditure: certainly not increasing expenditure or increasing services. The Government had hoped that potentially somewhere between $100 million and up to $150 million a year might have been achieved, subject to the sale price and subject to the interest rates that prevail at the time of the sale and the years immediately thereafter. At the very least, we are looking in the ballpark of $100 million plus of tax and revenue increases and/or expenditure and service reductions.

This Government will not resile from the difficult situation in which Mr Rann, Mr Foley, Mr Xenophon, Mr Elliott and the other Democrats are going to try to place the people of South Australia. It will be made apparent to all members that, if next year they vote, on the one hand, to reject the sale of ETSA and Optima, they will have to put up their hand and fill in the black hole in the budget by way of tax and revenue increases.

I give due credit to the Hon. Mr Elliott: in the past he has always supported a position of tax increases to fund expenditure such as teachers' wage increases, police wage increases, employment packages and railway construction—those sorts of public services. At least the Democrats have adopted a position of saying that they could not have their cake and eat it, too. On occasions they were prepared to support tax increases.

The Australian Labor Party and the Hon. Mr Xenophon will have to put up their hands to support tax and revenue increases and, if they do not, the only other alternative will be a very significant wind-back or reduction in the level of public services that can be delivered.

The Hon. A.J. Redford: What school does he want closed?

The Hon. R.I. LUCAS: Well, it will be a question for all members. It will not be a question of which one.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford!

The Hon. R.I. LUCAS: It will not be a question of which one; it will be a question of how many. We are talking about a whole range of Government services or we are talking about significant tax increases.

The Hon. Diana Laidlaw: Or both.

The Hon. R.I. LUCAS: Or both. As I have indicated previously, the State no longer has access to many tax bases. The only tax bases of any significance are areas such as payroll tax, land tax—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —stamp duty and the various taxes and charges on motorists. They are the key areas of potential taxation that the State Government has.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Deputy Leader cannot try to wriggle his way out of this dilemma. If he wants to stop the sale of ETSA and Optima, he will have to put up his hand and support an increase in land tax, an increase in payroll tax, an increase in stamp duty, an increase in motor vehicle registration fees, or an increase in a range of things.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: And it will have to be done more. It will have to be done again and again to fill in this $100 million black hole created by Mr Rann, Mr Xenophon and Mr Elliott. They are the ones who will have created this black hole.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Exactly—because you are the ones in this Parliament who have the power to support it if you want to. If you do not—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: They will not like the brutal reality of what they will have to do early next year, because they do not want to be confronted with two decisions at the same time. They would prefer to be able to vote against ETSA and then vote against tax increases. Early next year they will have the opportunity next year, arm in arm, to look at some alternatives. They, together with the people of South Australia, who will make their judgment, can choose whether they want their Rann tax to pay for the black hole that they have created or whether they want to move down the path of reducing our State's debt, the $2 million in interest that we pay each and every day and also creating up to $100 million a year extra that the Government will have available to help fund improved education, hospital, police, road and other services that everyone in this community continues to seek from the Government of the day.

An honourable member interjecting:

The Hon. R.I. LUCAS: It won't be too late. It will be quite apparent to the people of South Australia next year which way the Hons Mr Rann and Mr Holloway and others will move, because last year we put down the sale of ETSA and Optima—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: We put down the sale of ETSA and Optima in the last budget and said that we would sell it.

We will see whether the Leader of the Opposition has the guts to vote for a tax increase or whether she will crawl away and try to hide from a vote on a tax increase.

The Hon. Carolyn Pickles: I have never crawled away from a vote in my life.

The Hon. R.I. LUCAS: Let's just see.

The Hon. Carolyn Pickles: I'll never succumb to blackmail.

The Hon. R.I. LUCAS: You won't have to succumb to blackmail. It will be there on the table for you to choose: do you want to sell ETSA and Optima or do you want to increase taxes and reduce Government services?

The Hon. P. Holloway: You won't give us any of the documents.

The Hon. R.I. LUCAS: 'You won't give us any of the documents' is the plaintive cry from the Deputy Leader of the Opposition. As if that will change his attitude on the sale of ETSA and Optima! He has been told by Mike Rann to oppose it. We know the Hon. Paul Holloway's view on the sale of ETSA and Optima.

The Hon. L.H. Davis: Owns Telstra shares!

The PRESIDENT: Order! The Hon. Mr Davis can resume his seat.

The Hon. R.I. LUCAS: I hear an interjection from behind me that he owns shares in a privatised Commonwealth entity. He is quite happy to support privatisation, I understand. He will not support privatisation in the State arena but evidently he is quite happy to profit it from it, so I am told.

Members interjecting:

The Hon. R.I. LUCAS: No, no.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Paul Holloway, I am close to warning you, too. When the President calls for order, you come to order.

The Hon. R.I. LUCAS: In concluding, I state that the Government will bring back to the Parliament early next year a range of quite stark options for the people—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No? You don't like the title of the 'Rann tax'; then organise for someone to support the sale of ETSA and Optima. If you do not want that title for the next three years, then you can live with the albatross of a Rann tax for the next three years. They will buy it.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: They will buy it, because for the next three years all they will hear is a Rann tax every year. As Treasurer, I can assure you that there are plenty of opportunities as bills go out, and a range of other measures can be undertaken by the Government to ensure that people of South Australia know the reasons behind the increase in tax that they will be confronting. I can assure the honourable member that I will take every reasonable and appropriate opportunity to remind the people of South Australia that this tax was brought upon their shoulders and heads by people such as Mr Rann and the Leader of the Opposition and others in this Parliament who might have supported him.

PRODUCT TAKE-BACK

The Hon. T. CROTHERS: I seek to make a precied statement before asking the Minister for Transport and Urban Planning, representing the Minister for Environment and Heritage, a question about product take-back.

Leave granted.

The Hon. T. CROTHERS: The question of product take-back is as yet relatively unheard-of in South Australia, or indeed Australia, yet ever more increasingly, particularly in Europe, product take-back is becoming the legal responsibility of producers, and nowhere more so than in the electronics and durable goods sector. The basic principle of product take-back is that manufacturers should take at least some responsibility for the impact of the goods they produce for their entire life cycle, not just until the point of sale. Indeed, John Davis, the editor of *Cutter Information*, which is a product stewardship advisory magazine, opines:

> Concerns about the increasing number of goods unnecessarily ending up in precious landfill space and the threat of hazardous materials contained in these products leaching into the environment are driving such moves.

Recently a Mr Murray Griffin, who is the editor of the *Environmental Manager* newsletter, observed:

> There is not much sign of life in Australia on product take-back issues.

He also said:

> The only take-back initiative that is being discussed at the moment is more an aside to another associated initiative.

He then said:

> Australian Federal and State environmental Ministers are working with industry to develop a national voluntary covenant on reducing packaging waste.

Already, Taiwan, with respect to refrigerators, computers, televisions, washing machines and airconditioners; Italy with respect to refrigerators; and Germany with respect to cars have introduced product take-back laws, while Spain, Sweden, Norway and Switzerland are about to do the same. In the light of the foregoing, my questions to the Minister are as follows:

1. Why are the State and Federal Governments trying to develop a national voluntary covenant with industry on reducing packaging waste; and why does the Minister think this method will be successful?

2. Does the Minister agree that currently there is a shortage of sites here for use as dumps for society's rubbish?

3. If the answer to question No. 2 is in the affirmative, why are we not introducing mandatory product take-back in the same fashion as are an ever-increasing number of other nations?

The Hon. DIANA LAIDLAW: Earlier today I provided to this place a ministerial statement made by the Hon. Dorothy Kotz, as Minister for Environment and Heritage, on the subject of a new committee to look at these waste management issues. I am sure the committee will be most interested, as indeed is the Government as a whole, in the issues that the honourable member has raised. I can advise that early in the new year the Government will release the waste and landfill strategy guidelines, as well as a whole range of other related measures which I think will address some of the honourable member's concerns. The matters he has raised are particularly interesting.

RURAL ECONOMY

The Hon. CAROLINE SCHAEFER: I wish to ask the Treasurer some questions about budgetary measures. Given the Hon. Mr Nick Xenophon's announcement of yesterday:

1. How will capital works such as road building, health care, school maintenance, etc., be affected in country areas?

2. What guarantee can now be given that there will be a reliable supply of electricity in remote areas?

3. How will ETSA employees in regional areas now be affected by this decision?

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: Obviously, the Hon. Ron Roberts is not concerned about the regional impacts of what has been announced.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Obviously, he is not concerned about road servicing issues, the maintenance of country schools and health services in country areas. As much as I would like to—as I, myself, come from regional South Australia—there is no way that I am in a position on behalf of the Government and the Cabinet to guarantee that country and regional consumers can be insulated from the impact of the decision that has been or may well be taken by the Australian Labor Party, supported by the Hon. Mr Xenophon and the Australian Democrats.

As I said, I am sure that the honourable member in an ideal world would like to be able to see a situation where regional South Australia could be insulated or quarantined in some way from the impending financial disaster which may well impact on both rural and metropolitan areas as a result of this decision. The only point that I can make—and it will be small solace for country consumers—is that clearly the Government has yet to decide how to fill in the black hole, whether that be by further increases in taxes and charges, or expenditure reductions, or a mixture of both.

I am sure that the honourable member's constituents are not likely to be impressed by the alternative position: that is, if we are to be able to maintain their services one or a number of their State taxes will have to be significantly increased as a result of the decision that may well be taken by the Hon. Mr Xenophon, Mr Rann, Mr Elliott and others. So, there is no joy at all in this decision for country consumers.

In relation to the reliability of supply and the third question which related to country services and employment in country areas, clearly what the Government will have to wrestle with, in addition to budgetary problems, is how it can maintain a competitive electricity market in South Australia when it has three Government owned generators which will have to compete with each other in this cutthroat national market.

As a Government, if we are to continue with this most unsatisfactory model, which is supported by the Labor Party, the Democrats, and the Hon. Mr Xenophon, obviously we will have to look at the cost structure of our existing utilities, because they will have to compete. It is my understanding that we are less than four days from the national market start-up. If that commences on 13 December, I understand that some very significant decisions will be announced in terms of existing customers of ETSA in South Australia.

I am not in a position to say any more than that at this stage, but it will become apparent to some of the cynical disbelievers in this Parliament that we cannot blithely go on, come what may, in this cutthroat market earning millions of dollars more in dividends and profitability for our electricity businesses. That is the position of the Hon. Mr Rann and the Democrats and others who support them: that we do not have to worry about these sorts of risks; there is no problem; there is no concern.

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, let me predict that in the early weeks of the national market we will see some significant signs of the impact that the national market will have. If that happens—and I hope that it does not—I assure members that I will leave no stone unturned in reminding the Hon. Mr Xenophon, the Hon. Sandra Kanck and the Hon. Mike Rann that they were the ones who had the opportunity to prevent this happening, but for a variety of reasons, which they will have to justify for themselves because I am at a loss to understand some of them, they chose not to adopt the stance which would protect South Australian taxpayers from a risky future.

As I said, I hope I am wrong, but I suspect that, in the end, when we revisit this matter in February I will have the unfortunate opportunity of reminding some members of what they did. This will be only the starting point, because I assure members that, for the next three years as we lead up to the next election, each and every time the taxpayers of South Australia face a further taxpayer funded loss because of the decisions that some members of this Chamber take, they will be reminded on each and every day—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: On each and every day, you will be reminded of the decisions you took—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: The Hon. Sandra Kanck—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —the Deputy Leader—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —the Deputy Leader—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I have called the Hon. Legh Davis to order three times.

The Hon. R.I. LUCAS: —the Deputy Leader of the Australian Democrats who, after a thousand hours of research, managed to find herself going around in circles not knowing where she was.

The Hon. Sandra Kanck: I know where I was.

The Hon. R.I. LUCAS: The Deputy Leader shakes her head and says that she knows where she was. We will remind the Deputy Leader and the Australian Democrats of the views that they put to this Chamber, that there was not a risk—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: —'Don't worry, we can manage it, we can see profitability increasing.' That is the general approach of the Deputy Leader of the Australian Democrats. She espouses the view that we will continue to see the profitability of our electricity businesses increase under the national market. That is the sort of position the Deputy Leader of the Australian Democrats supports, but sadly it will be the taxpayers who will have to front up—

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Deputy Leader will not have to pay the bulk of the cost of the decisions that she will inflict on the people of South Australia.

RAA YOUTH EMPLOYMENT TRAINING SCHEME

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Treasurer a question about the RAA and its new youth employment program.

Leave granted.

The Hon. T.G. CAMERON: I do not anticipate after hearing the Treasurer's answer to the question asked by the Hon. Legh Davis that I will get much joy from this question, but I will see how I go.

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Recently, the RAA announced the launch of a new initiative to give long-term, young unemployed South Australians the chance of gaining employment. The RAA Jump Start Our Future youth employment program, which begins in January 1999, will provide an opportunity for young unemployed people to gain a 12 month employment contract with the RAA. I commend the RAA for this initiative. At least it has recognised what is probably the most serious problem in this State—unemployment, particularly youth unemployment.

The new employees will not replace any existing staff but will fill extra positions in areas such as customer service and the telephone assistance centre. Wages for these extra jobs will be funded by the RAA and voluntary donations from members. The RAA board has allocated $100 000 to get the program up and running, and the RAA has asked all RAA members to help the program by adding a donation to their next membership renewal. RAA Chief Executive Mr John Fotheringham has estimated that up to 20 young people could be employed over the next year, depending on the funds raised from members' contributions.

The program seeks to break the unemployment cycle by giving young unemployed people the chance to gain real work based experience, skills and confidence which can then be used as a stepping stone into other careers. Following the last State election the Premier went on record as saying that job creation and getting South Australia back on track were the principal issues facing his Government. The Premier even went so far as to say, 'We are on probation as a Government.' Well, probation time is up. Actions do speak louder than words. My questions to the Treasurer are:

1. Considering that South Australian youth unemployment currently stands in excess of 35 per cent, the highest on mainland Australia, will the State Government consider matching dollar for dollar the donations given by RAA members towards the Jump Start our Future initiative?

2. If the Government will not, will it consider making a donation to this program being conducted by the RAA?

The Hon. R.I. LUCAS: Should there be passage of the ETSA and Optima sale or long-term lease legislation, I am sure that the Government would be prepared to give consideration to a range of employment initiatives in terms of its response to the current series of job workshops being conducted by the Minister for Employment and also to the work being undertaken by the Regional Development Task Force which is again looking at this area. As the honourable member knows, this State needs the capacity to be able to support some of these important employment creation programs and initiatives. I make no specific comment about the RAA program, but at least on the surface it does appear to be a program potentially worthy of support. If I can speak generally, the Government will only have the capacity it wants to support these sorts of programs if the sale or long-term lease legislation of ETSA and Optima passes through Parliament.

EMPLOYEE OMBUDSMAN

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about prosecutorial policy and the Employee Ombudsman's Annual Report—bearing in mind that we did have a ministerial statement and 10 minutes of interjections.

Leave granted.

The Hon. A.J. REDFORD: Members would be well aware that through their contributions many pieces of legislation contain penal clauses and sanctions. On the whole, the responsibility for prosecution in this State resides with the Director of Public Prosecutions. Most of the prosecutorial work in this State is conducted through his office or by police prosecutors governed by his policies and directions. However, on occasions, others become involved in the prosecutorial process. For example, prosecutions are often initiated and conducted by Government agencies separate and apart from the Director of Public Prosecutions. They include the RSPCA, which uses private firms; local government, which uses a mixture of private firms; and the Crown Solicitor, WorkCover, internal solicitors and private firms, the Equal Opportunity Commission, the Office of Consumer Affairs, National Parks and Wildlife, the Passenger Transport Board and the Environmental Protection Authority.

Last week, the Chair of the Environmental Protection Authority, Stephen Walsh, answered criticisms on radio that the prosecutorial policy in relation to the Environment Protection Authority meant that there were few prosecutions; indeed, there had been none. He gave an explanation that they had adopted a conciliatory approach, that they gave advice which led to better management and that it enabled people to stop taking hard and fixed attitudes.

Mr President, yesterday you tabled the annual report of the Employee Ombudsman, and he spent a considerable period in his report referring to the prosecutorial process with regard to workplace issues, including occupational health and safety. In his report (and I am paraphrasing a significant part of it) he felt that the policy of 'non prosecution is being followed' and that that led to an increase in the type of offences complained of. The Employee Ombudsman said:

> I am suggesting that one explanation for the increase in award breaches, underpayment of wages and ill treatment of workers that appears to have occurred in recent years could be the growth that has taken place in a perception that only serious breaches of the legislation be prosecuted.

In the light of that, my questions to the Attorney-General are:

1. Does the Attorney-General recognise that this is becoming a topic of community concern, that is, prosecutorial policy and issues such as zero tolerance?

2. Is there a common policy amongst all these agencies in relation to prosecutorial policy?

3. Would the Attorney consider calling a conference of all stakeholders, including those I mentioned in my preamble, to discuss this important issue of prosecutorial policy and discretion?

The Hon. K.T. GRIFFIN: It is unfortunate that the description 'zero tolerance' should be applied by the Employee Ombudsman in the way in which he has done it. There is a lot of myth about zero tolerance and, of course, it means a lot of different things to different people. To begin to describe the application of occupational health and safety laws in a way which matches the rhetoric in relation to what happens in New York is quite an unfortunate way of dealing with this issue. I move:

That Standing Orders be so far suspended as to enable me to conclude the answer to this question.

Motion carried.

The PRESIDENT: Before calling on the Attorney to conclude his answer, I point out that the bells outside are not operating properly. Members might be able to hear them in the corridor but not in their rooms. Members need to be aware of quorums and divisions and need to make some arrangement in that respect.

The Hon. K.T. GRIFFIN: As I was saying, it was unfortunate to describe the application of zero tolerance to the occupational health and safety laws in the way in which the Employee Ombudsman did; but notwithstanding that I think the issue of prosecution policy is important. There is a significant measure of consistency across the public sector, because a lot of the prosecution work which is not criminal prosecution work is done by the Crown Solicitor for a number of agencies, including the Office of Consumer and Business Affairs. Whilst the enforcement or compliance officers are engaged within the Office of Consumer and Business Affairs, the prosecuting work is done by the Crown Solicitor—and I think that is the same across a wide range of Government agencies.

I will get some details about that, because if there is any gap we will certainly need to address it. The DPP, as the Chief Prosecutor, has published some prosecution guidelines which certainly apply to police. They reflect his approach to prosecutions, and I know that he does take an interest in other prosecutions across the public sector. I do not think it would be appropriate at this stage for me to convene a meeting of various agencies. I will obtain some information about the present consistency in prosecution approaches and bring back some responses whereupon the honourable member can decide how he wants to pursue it from there.

The Office of Consumer and Business Affairs has a well defined compliance policy which is not to prosecute at the drop of a hat but to follow what is described as a 'pyramid' of compliance where you take the educational role as the base of the pyramid, and the ultimate point of the pyramid is a prosecution. On the basis that it is a regulatory agency—it is not out there to get prosecutions for the sake of getting prosecutions—it is directed towards getting better business practices, towards ensuring that those in business understand as well as comply with the law and towards ensuring that a partnership approach is encouraged rather than an environment of confrontation. As I say, I will get more information to the honourable member and bring back a reply.

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That it be an instruction to the Committee of the Whole that it have power to consider an amendment to the Retail and Commercial Leases Act 1995.

Motion carried.

MATTERS OF INTEREST

ISLAMIC ARABIC CENTRE

The Hon. J.F. STEFANI: Today I wish to speak about the new Islamic Arabic Centre which has been established through the great generosity of Mr Fathi Shahin and his family who have donated almost $5 million towards the establishment and construction costs of this important and significant community complex. As a friend of the Shahin family and the South Australian Muslim community I was very privileged to attend the official opening of the Islamic Arabic Centre which was held on Monday 13 November 1998. The official opening ceremony was attended by more than 2 000 people and was performed by the Premier of South Australia, the Hon. John Olsen with his Eminence, Taj Al Deen Hilali, Mufti of Australia and New Zealand, and Mr Fred Shahin, Managing Director of the Shahin Group of Companies and Director of the Islamic Arabic Centre.

The many people who attended the official opening of these premises witnessed, with great admiration, the completion of an exciting project which will fulfil a dream and meet the spiritual, social and recreational needs of the Muslim community in South Australia. It will also become a focal point of recognition for the great values of our multicultural diversity. The planning and construction of this project was made possible through the generosity and vision of Mr Fred Shahin and his family, who provided very significant financial support to build such outstanding community facilities. In supporting this important community project the Shahin family has demonstrated its outstanding commitment to South Australia and the Muslim community.

At the same time the Islamic Arabic Centre and the Al-Khalil Mosque will be a focus for the tangible recognition and acknowledgment of the social, economic and cultural values of the South Australian Muslim community. The centre incorporates a school with three classrooms, where the Arabic language will be taught at no cost to students. It also houses a library area with books, audio and video tapes as well as other literature which will be available at no charge for use to all members of the community. The complex includes a mosque and burial praying area as well as other burial preparation facilities including a cemetery to allow burials in accordance with the Muslim faith and tradition. These facilities will provide spiritual and emotional support to Muslim families during times of grief and personal bereavement.

The Islamic Arabic Centre and the Al-Khalil Mosque are a symbol of the multicultural contributions made to South Australia by the Muslim community. The mosque is a magnificent architectural work of art which blends a contemporary solid architecture with an ancient Islamic Arabic design. The main hall of the Al-Khalil Mosque caters for more than 1 000 worshippers, while the space outside, for Eid prayer, holds 7 000 people. The mosque also incorporates a hall in the upper level which is designed for exclusive use of women.

Today, contemporary Australia is a nation that has accepted millions of people from all over the world and has built a socially integrated and cohesive community which takes pride in the richness of its diversity. South Australia is part of this multicultural diversity: we are and we will remain a multicultural society.

As a member of Parliament from a migrant background, I am proud to represent the many South Australians who have settled in this State and, on behalf of the South Australian Muslim community, I express sincere gratitude to the Shahin family for undertaking the construction and completion of the magnificent Islamic Arabic Centre. Finally, I would like to take this opportunity to pay a tribute to the South Australian Muslim community and, in particular, to Mr Fred Shahin and his family, for their great generosity and significant contributions which they have made for the benefit of all South Australians.

PLAYFORD, SIR THOMAS

The Hon. T. CROTHERS: In exercising my five minutes today I would like to speak about Sir Thomas Playford, who was certainly the longest reigning Premier of any Government in Australia. Doubtless the Hon. Mr Davis or one of the other old timers will correct me, but I think he served for 29 years as Leader of the Government.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: It was 27 years as Leader of the Government in South Australia. Like his grandfather before him, he was Premier of the State. He was a son of the State, from Norton Summit, an orchardist by profession and a fairly humble man. The other great icon of well remembered State Leaders is Don Dunstan but, even putting Dunstan alongside Playford, one would have to describe Sir Thomas Playford as the grand old man of South Australian politics. He certainly understood the opportunity that the Second World War gave to South Australia in respect of developing South Australia as an industrial State. Up to that time we had been a State whose sustenance was dependent upon agricultural produce.

So, because he had good relations with both John Curtin and Ben Chifley, who were Labor Prime Ministers of the nation, and later with Menzies, he was able to garner many economic gumnuts, if you like, into South Australia and thereby in his time bring South Australia on line as an industrial State to be recognised in Australia. For instance, he was responsible for the development of Woomera and the development of weapons research. He was responsible for the development of the electronics industry in this State, which included the attraction of Philips, the Dutch electronics firm at Hendon which manufactured television sets and which, unfortunately, is now gone. He brought electricity generation under the control of South Australia, in the process establishing Leigh Creek as a major supplier of coal for the generation of South Australian power within South Australia.

Certainly, in so doing he recognised that it was essential, if South Australia was to flourish and its young industries were to succeed, for them to have at all times access to power generated from within the State by South Australians for South Australians. This was mainly brought about by virtue of the successive number of coal strikes that occurred in the coalfields of New South Wales. While South Australia kept a stockpile of coal on hand, we certainly came close on a number of occasions to running out of fuel for our power station in respect of being able to deliver the energy requirements necessary for the State's industry. That same thing could happen again if we are not careful about who controls the capacity to deliver energy supplies into South Australia.

That is certainly a weakness of the Hilmer report, which Sir Thomas Playford recognised all those years ago and which is still inherent today, despite the fact it may deliver cheaper power—it may well deliver cheaper power at a cost and that cost may well be that this State could be held to ransom because of the three larger populated eastern seaboard States of Queensland, with about three million people, by New South Wales, with about 6½ million people and Victoria, with about 4½ million people. These are large industry based States. Sir Thomas also ensured that South Australia was a major automotive manufacturing State within Australia but, as we all know, the manufacturing of automotive engines and cars requires enormous payloads of energy to be delivered.

EXCHANGE PROGRAMS

The Hon. J.S.L. DAWKINS: In recent decades the community in general has become increasingly aware of the value and benefits of the wide range of exchange programs on offer. These programs include student exchange, of which I have spoken briefly before in this place and which are best exemplified by the work of exchange dedicated organisations such as the AFS and Southern Cross as well as service groups such as Rotary and Lions. In recent years the exchange of ideas and culture has been extended into many other areas of society allowing exchanges through the work place and tertiary study institutions.

I have previously mentioned in this Chamber the short exchange trip that I made to China through the Australian Political Exchange Council and the value that I gained from that experience, as well as my hosting a reciprocal group from that country. A number of my Federal and State colleagues of various persuasions have also benefited greatly from similar political exchanges. One of the earliest South Australian recipients of a Rotary group study exchange trip was my Federal member, the member for Wakefield and newly elected Speaker of the House of Representatives, the Hon. Neil Andrew, who visited Utah in 1970 and was accompanied by the Minister for Human Services, the Hon. Dean Brown. I understand that another recipient of a Rotary group study exchange trip some years later was my colleague the Hon. Legh Davis.

Recently I had the opportunity to present awards to many long-serving employees of the National Parks and Wildlife SA and the Botanic Gardens. Included in this ceremony was recognition of those officers who had participated in 12 month exchanges which ranged from the Lakes District in England, British Colombia in Canada and Western Australia. It was particularly obvious that these people had benefited enormously from their exchange programs. The fact that they continue to assist outgoing and incoming exchangees is testimony to their belief in the value of such exchanges.

My family and I recently had the opportunity to welcome into our home a member of the Rotary Club of Johannesburg East, which hosted my daughter during her 12 month Rotary exchange in South Africa in 1995. The interaction that we and our friends had with this lady provided us with a greater understanding of what life is like in the other SA. I am also well aware of many South Australians who have brought back a range of knowledge and skills to this country as a result of securing Churchill Fellowships. Although not part of the exchange group network, the Churchill Trust offers overseas study opportunities for those with a special contribution to make to Australian society.

More than 2 000 Churchill Fellowships have been awarded in Australia since 1965. The Churchill Trust is currently calling for applications from all walks of life for

fellowships to be awarded in 1999 and taken up in 2000. I understand that more information about those fellowships is available from the Winston Churchill Memorial Trust in Canberra.

STATE FINANCES

The Hon. P. HOLLOWAY: The 'save John Olsen' strategy has reached new levels of desperation following the comments of the Treasurer in this Council today. Clearly, the Government has decided that since its 'sell ETSA' strategy has become totally unravelled it will increase taxes and try to blame these on the Opposition. What the Opposition will be telling the people of this State—and I have no doubt that the people of this State will believe us—is that at the last election there were two key planks to the Olsen Government's re-election: the first was that it would not sell ETSA; and the second, which is relevant to this discussion, was that the economy of this State was in great shape.

In the budget delivered just before the 1997 election the then Treasurer talked of the remarkable and historic turnaround that his budget had achieved. During the election campaign he ruled out any increase in the tax burden on South Australians, at the same time as saying that he would not sell ETSA. He said:

> There is going to be taxation adjustment but we are not out to get an increase in the quantum of tax.

That was what the then Treasurer said back on 19 September 1997, just before the election. Just after the election in 1997 the new Treasurer, the Hon. Robert Lucas, made a statement on the state of the economy and said that, although there were some pressures on it, basically the budget was sound and that we were all okay. Of course, shortly after—a matter of days and weeks rather than months—the Government announced that it would sell ETSA, and it said that we needed to do this otherwise there would be a $150 million increase in tax. In the last budget the Treasurer said:

> Members must understand that if the sale of ETSA and Optima is stopped the Government would be forced reluctantly to return to the Parliament in October—

that was two months ago—

> with a mini-budget to provide up to $150 million of further tax increases or expenditure reductions [to take effect for the latter years of the four year financial plan].

That is what the Treasurer said back in his budget speech in May. Now it has dropped apparently to $100 million. Of course, the Auditor-General had something different to say in his annual report. When he looked at the impact of the sale of the Electricity Trust he put the figure, using the Government's figures, at something of the order of $35 million to $65 million, although he did heavily qualify that in terms of the doubts raising even that figure because of uncertainty about interest rates, sale proceeds and so on.

So that is the background in relation to which the Treasurer is now saying that, come next year, he will be talking about a Rann tax and trying to blame the Opposition for the situation in which we now find ourselves. The simple fact is that this Government went to the last election saying that the economy was in great shape, there were no budgetary problems and we would not be selling ETSA.

The Hon. Sandra Kanck: It must have been lying.

The Hon. P. HOLLOWAY: Well, something must have happened.

The Hon. Sandra Kanck: Circumstances changed.

The Hon. P. HOLLOWAY: Well, they certainly have. We no longer have an election before us. It is not as though this Government has not increased taxation already. Next July we are all going to get belted by the emergency services levy which will see huge increases in every household. That is yet to come. That is to pay for the Motorola contract, of course. That is the reason why the Government has introduced that levy, and I am sure the public of this State will be absolutely delighted when they have to pay for the Motorola contract next July. The Government has had huge increases in tax. In the last budget—

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: In the Minister's department there have been huge increases in registration fees, some of them well over 100 per cent.

The Hon. Diana Laidlaw: Yes.

The Hon. P. HOLLOWAY: The Minister acknowledges huge increases in tax. This is the Minister who 12 months ago at the election was telling us that the budget was great.

Members interjecting:

The Hon. P. HOLLOWAY: Well may this Olsen Government try to blame the Labor Party for any tax increases that come up in the future, but I can assure the Government well and truly that it will not be a Rann tax that the people of this State will be talking about; it will be an Olsen and Lucas tax. The people of this State will understand well and truly why we need to have a taxation increase. It is because this Government tried to deceive the people of this State before the last election. It did not tell the truth. The public of this State are not fools. They will know the real reason why we are having tax increases, if indeed this Government is stupid enough to put them in.

GAMBLERS' REHABILITATION FUND

The Hon. NICK XENOPHON: In relation to today's matter of interest I would like to reflect on the report commissioned by the Department for Human Services in relation to the evaluation of the Gamblers' Rehabilitation Fund. That report, which was handed down in October 1998, should be read in conjunction with the submissions made recently before the Federal Productivity Commission into Australia's gambling industries and, in particular, a submission made recently in Melbourne by the Compulsive Gambling Society of New Zealand.

The position in South Australia is that gambling rehabilitation services are provided by the Breakeven counselling network, which is funded through a so-called voluntary donation by hotels and clubs in this State. Other gambling codes do not contribute and it is clearly appropriate that they do, although the most significant cause of problem gambling in this State has been as a result of the introduction of poker machines in hotels and clubs from July 1994.

The position at the moment with respect to the Gamblers' Rehabilitation Fund is that it is administered by an advisory committee of five members, and the Chair of that committee is Mr Dale West from Catholic Community Services (CentreCare). It also has members from Treasury; one member each from the Hotels Association and the Licensed Clubs Association; and a member from the Department of Human Services. Clearly, that committee is weighted in favour of either industry interests or of those who have a vested interest with respect to the gathering of revenue from gaming machines.

There is a real question over the independence of that body and its ability to deal with a perceived conflict of interest. The Department of Human Services report speaks in terms of the potential difficulties with the current structure and points out that there is a potential conflict of interest that ought to be addressed.

In contrast, in New Zealand the Compulsive Gambling Society, which is funded through a Government grant of a similar size to the funds that the Gamblers Rehabilitation Fund in South Australia receives, is established by statute with a discrete structure that gives it a degree of independence in terms of its funding.

That organisation has done some very good and interesting work in terms of research and rehabilitation, and also ongoing research. It has been quite fearless in the context of problem gambling in New Zealand. It is an issue which we ought to look at here. The Breakeven gambling service in this State has an excellent reputation for the quality of its service and for the work that it does with problem gamblers. There does appear to be a dearth of research on problem gambling and there is a concern that the current system of funding, and the current structure of administration of that funding, does not allow for a full degree of independence on the part of the administration of problem gambling services and research in the State. Clearly, this is an issue that needs to be addressed.

The Department of Human Services report does look at a number of recommendations. There has been some suggestion that a discretionary trust should be established so that it can remove the source of funding from the administration of that fund. These are important issues. I think it is undesirable that those with vested interests, particularly members of the Hotels Association, ought to have this level of potential influence in relation to administration of the fund and the very good work that the Breakeven gambling service providers undertake.

These are matters that I hope the department and the Minister, in particular, will be able to address in the not too distant future because, unless we have a truly independent form of rehabilitation service for problem gamblers in this State, this will compromise those many thousands of South Australians who are affected directly or indirectly by problem gambling. Further, it will stymie any degree of fearless research on this growing social problem.

AUSTRALIAN

The Hon. L.H. DAVIS: Apart from the *Financial Review*, the *Australian* is Australia's only national newspaper. It is an excellent paper in many respects. However, 'excellence' is hardly the word to be used to describe the reporting of its South Australian bureau chief, Terry Plane, and its political reporter, Matthew Abraham. 'Gross bias' is perhaps too polite a description of the articles written by Matthew Abraham in the *Australian* and by Terry Plane in his weekly column in the Messenger newspapers. These two journalists have formed an alliance and have become an anti Olsen tag team.

I previously raised the matter of Plane's bias on 26 August 1998. Before dealing with the matter of bias, I wish to comment on a serious matter of journalist ethics drawn to my attention, in fact, by both a journalist and a restaurant owner.

Nediz Tu is a restaurant in Hutt Street which was operated in earlier days under the name of Neddy's. On 16 July 1997, Terry Plane and his wife, Marianne Harris-Plane, became directors of a company N3 Pty Ltd, which operates Nediz Tu, together with Genevieve Harris. Terry Plane is also the appointed Secretary of N3 Pty Ltd. However, following the appointment of Terry Plane as a director and the Secretary of N3 Pty Ltd, there have been four major and lengthy articles by Genevieve Harris in the *Weekend Australian* about Nediz Tu—on 27 September 1997, 22 November 1997, 12 September 1998 and 31 October 1998. However, significantly in the six years before Plane became a director, Neddy's or Nediz Tu did not score a feature story in the *Australian*—just a brief reference in December 1995 and another brief reference in an article, in fact, by Plane himself just a few weeks before he became a director.

I have conducted a Presscom search of publicity given in the *Australian* to other South Australian restaurants since July 1997. There were some fleeting references to two or three in the course of general articles and an article about the Peter Duncan backed Round the Square restaurant, but for the rest of the State's restaurants just zip. I guess Terry Plane—bureau chief for the *Australian* in Adelaide and director and Secretary of Nediz Tu—just got lucky.

What is the view of senior management of the *Australian*, a newspaper which is quick to highlight conflict of interest in politics or business? Is this good enough? Perhaps, more importantly, there is the serious and continuing matter of Plane's gross bias, and I seek leave to have inserted in *Hansard* a table of a statistical nature which shows Plane's bias as a journalist.

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	
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	
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		

City Messenger
Synopsis of Terry Plane Articles

Date	Pro Olsen/Lib	Anti Olsen/Lib	Neutral	Pro Rann/ALP	Anti Rann/ALP
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			
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			
2/9/98				1	
9/9/98			1		
16/9/98		1			
23/9/98		1			
30/9/98		1			
7/10/98		1			
14/10/98			1		
21/10/98		1			1 (Federal election)
28/10/98		1			
4/11/98		1			
11/11/98		1			
18/11/98		1			
25/11/98		1			
2/12/98		1			
9/12/98		1			
94 stories#	2	71	14	9	2

The Hon. L.H. DAVIS: This shows that in 94 stories since February 1997 there have been 71 anti Olsen and anti Liberal stories against only two anti Rann-anti ALP stories. There have been nine pro Rann-ALP stories and only two pro Olsen-Liberal stories, with 14 stories deemed to be neutral. Much of this material is pure fiction,, and much of it is undoubtedly gained by Plane from long lunches with some of his numerous Labor friends at fish cafes.

It was interesting that, when I talked in August, the Hon. Terry Cameron interjected to confirm that he had been rung by Terry Plane seeking 'dirt' about me prior to writing an article about a liberal backbencher in the Legislative Council. How bizarre—someone who likes handing it out but cannot take it!

Both Matt Abraham and Terry Plane have continued to write stories which simply are not true. Only last Saturday, the *Weekend Australian* was forced to publish a correction to an article written by Abraham which was published on 22 September and which, quite clearly, bordered on the defamatory.

A perusal of all articles written by Matt Abraham mirrors the views of his tag team partner, Terry Plane, who, from the beginning of the year, was claiming that Premier Olsen's demise was imminent and that he did not have the numbers. In early February, Abraham also was talking about a succession strategy for leadership. Matt Abraham is a well-known groupie at Rann's office. He is obsessive against Olsen. This is recognised and scorned by other members of the Adelaide media to whom I have spoken in recent weeks.

Both journalists have shown a distinct inclination to write about the massive and ongoing problems in the State Labor Party. There was no mention of Terry Cameron's defection: it was billed as 'Rann's triumph'—a clever strategy. They had not noticed Ron Williams' defection—

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

MENTAL HEALTH

The Hon. SANDRA KANCK: Approximately a fortnight ago a rally of mental health consumers was held on Friday evening. They were complaining about actual cuts that are presently occurring in their services. It was quite an outstanding rally with about 350 people attending, and it was outstanding precisely because it was organised by the consumers. Some—in fact, most—of those people had never done anything as daring as this in their lives. It was very scary for them. One man came to me and said, 'I will not get arrested for being here, will I?'

One of the people who played a central part in organising that is a woman called Coralie Haynes, who is a consumer of the service and the Chair of the Southern Region Consumers of Mental Health Advisory Group. She wrote a passionate letter to Anne Burgess at the regional office. Anne, by the way, is one of those people who have subsequently been 'reassigned'.

Probably one of the best things I can do is read parts of what Coralie has to say. Coralie married when she was 17, and in 1971 she gave birth to her first child, and had two other children after that, but within the next 10 years two of her children died. I do not know the cause of the death of one of her daughters, but her son Peter developed leukaemia at age two and died from it at age eight. Subsequent to having buried two of the children, her husband received a blood transfusion that was contaminated with HIV and he died in 1994 from haemophilia.

It is no surprise, then, to find that Coralie Haynes has been a consumer of the mental health services in this State since 1992. She is worried that the Southern Mental Health Services will cut the continuing care teams, one from

Noarlunga, two from Marion and two from Karama. In this letter to Anne Burgess, she states:

I left this budget meeting last Thursday deeply worried, concerned and very depressed. Suicide is for me forever on my mind as I feel I have more to die for than to live for. I almost convinced myself that if I was to die right now it would help the budget from being cut even more. I have stopped asking for petrol money as my contribution to show that I am committed to helping the current crisis.

I beg and plead with you, Anne, please do not let them cut SMH CCTs. My hold on life is tenuous as it is, and my main source of help and stability comes from my key worker on the CCT at Noarlunga.

I am sorry, Mr Acting President: this does make me very emotional. The letter continues:

Think of all the consumers out there who cannot speak for themselves and like me rely desperately on their key worker and have no idea what is about to happen to them.

She says she represents these people. She goes on to state:

Please, Anne, ask the Minister for a stay of execution. Tell him about me and all the others like me whose survival depends on the support they receive from the Mental Health Services.

She says to Anne:

I know that you are a great advocate for us consumers and work extremely hard to meet our needs, but I beg you to hear what I am trying to say.

Coralie Haynes further writes:

My dilemma at the moment is that the new Director of SMH could and probably will cull the services even more in the south. We the consumers barely survive with what we have, let alone with less. We are not asking for money, but we do ask that we have at least six months before cuts begin. There are many other options I am sure that could be workable without cuts to the consumer. Please, Anne, help us or, better still, show me the direction I need to take so I can help the consumers in the south maintain the services that they currently have and desperately need to keep.

I think it is appalling that a consumer of mental health thinks it might be better that she commit suicide so that she is not a drain on the system. As I told the rally a couple of weeks ago, Mr Brown should recognise that, although mental health services might go away, mental illness will not.

The PRESIDENT: Order! The time for allocated for Matters of Interest has expired.

LEGISLATIVE REVIEW COMMITTEE: ANNUAL REPORT

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

That the annual report of the Legislative Review Committee, 1997-98, be noted.

In presenting the annual report 1997-98 of the Legislative Review Committee, I would commend all members to its contents. Indeed, the period from 1 July 1997 to 30 June 1998 was a time during which my predecessor, the Hon. Robert Lawson, was Chair until the last State election and, following the election and his elevation to the ministry, I took over as Presiding Member.

During the period of the Forty-Eighth Parliament the membership of the committee comprised the Hon. Robert Lawson, Mr Steve Condous MP, Mr John Cummins MP, Mrs Robyn Geraghty MP, the Hon. Paul Holloway and the Hon. Paolo Nocella. Following the election, Mr Condous and Mrs Geraghty remained on the committee and we were joined by the Hon. Ian Gilfillan, the Hon. John Meier and the Hon. Ron Roberts.

The report stands for itself, but I will touch on a number of important aspects raised in it. First, following the last election the committee felt that we ought to adopt a set of principles by which the committee would scrutinise subordinate legislation to enable it to fulfil its responsibilities under the Parliamentary Committees Act 1991 and the Subordinate Legislation Act 1978. Since a proclamation of the Parliamentary Committees Act 1991, there have been no formal legislative provisions stipulating the terms of reference by which the legislative review would or should examine regulations. That Act repealed section 55(1)(g) of the Constitution Act 1936, which provided the statutory basis for Joint Standing Orders Nos 19 to 31, under which the previous Joint Committee on Subordinate Legislation was established.

Given the opportunity to consider the set of principles, the Legislative Review Committee expanded their number and content to provide greater clarity in respect of the committee's operations and to take into account developments which had taken place in other jurisdictions, that is, in other States and at the Commonwealth level. Indeed, it is important to note that every other legislative committee charged with the scrutiny of regulations has a set of principles by which it considers regulations. Those principles are for dealing not with policy but with the more fundamental issues that arise in relation to regulations.

The committee tabled those principles and a number of contributions were made. Ministers were invited to respond to those guidelines, and I note that to date we have not received any criticism in relation to the guidelines that this committee has adopted. The committee considers that these principles reflect the present issues which are deliberated on by it and which provide the Executive with a better understanding of the committee's role and function. While the committee has resolved to adopt the principles, it is aware that the Parliament may have a view as to the content of those principles.

However, at this stage I can only assume from the absence of any response that those principles have been well accepted by both the Ministry and all members of Parliament. It is on that basis that the committee has since scrutinised all regulations and made recommendations to this place following consultation with Ministers when concerns arise.

The annual report covers issues in relation to specific matters, and I will deal with them very briefly. One of the issues relates to the expiation of offences and forms. Indeed, a report has been tabled, and the committee reported that on one form the wording was misleading and confusing. In another, the form advised that if the notice was not paid a reminder notice would be sent. However, it did not state that a reminder fee of at least $30 would be applied. One of the forms, which did not clearly designate the expiation number, required the recipient to write in the number, and it was felt that that could be confusing. Finally, the most principal objection was that a number of forms contained a space for the due date of payment to be inserted in conjunction with the statement 'You must work this date out yourself.'

We have since had correspondence with the Attorney-General in relation to this matter. I understand that it is the view of the Commissioner of Police that the working out of the date for the payment of a fine might well be beyond the wit of some police officers. The committee indicates to the Attorney that it does not accept that. Whilst these forms are now in existence, the committee has since written to the

Attorney advising him that should these regulations revisit the Legislative Review Committee it will not accept that explanation from the Commissioner of Police.

The committee also tabled a report on smoke alarms. Whilst this matter was not of significant note in the media, the committee took this opportunity to praise the work of the Minister and her department in developing regulations which make it mandatory to install smoke alarms throughout South Australia. Reports were also tabled in relation to small passenger vehicles and water resources.

The committee is currently undertaking inquiries into various matters including the Freedom of Information Act. That inquiry is proceeding following a successful motion in this place moved by the Hon. Paul Holloway. Other matters that the committee is considering include some outsourcing issues and the role of the Ombudsman in relation thereto. At the moment, the committee is working closely with the Employee Ombudsman. I thank the Hon. Michael Elliott for drawing the relevant provision to my attention and that of the committee. In the short space that has elapsed since the Hon. Michael Elliott raised this issue we have had two meetings with the Employee Ombudsman, and I suspect there will be more.

In closing, I make this observation. On many occasions when problems are raised in our community that require legislative intervention, there are solutions and options that can be adopted. All too often, Governments of all persuasions make a decision, bring it into Parliament, and immediately the Parties take differing viewpoints, lines are drawn in the sand, and debate follows.

I would like to see the Government look at the use of legislative review and other committees in relation to the development of policies which might have tripartisan or bipartisan support. On many occasions, Parliaments revisit important principles, and I think the use of the parliamentary committee system could enhance that process. From discussions with my Victorian colleagues during visits to Melbourne I note that that approach seems to have been adopted by the Kennett Government. The Kennett Government appears to use parliamentary committees for the development of policy far more commonly than this Government.

There is one exception to which I should draw the attention of the Council, and that is the transport committee which was established by the Minister. I think we will see policies developed by this committee which have the support of both major Parties and which are developed more rationally and sanely and without rancour. Some people might be surprised by this comment, but I think politicians have the capacity to develop better policies than if they deal with policies that come from the bureaucracy or other quarters. Often in the parliamentary process in the spirit of battle we overlook our own talents and abilities to develop policies and wonder sometimes why the bureaucracy has too much power. I think this Parliament and the Government can take a leaf from Jeff Kennett's book in this regard.

The equivalent committee in Victoria is currently looking at the right to silence, which is an emotive and difficult issue. Whether it comes up with the result with which I agree, I suspect that the process of developing any change in policy dealing with the right to silence will contain less rancour and problems in Victoria than the approach that is sometimes adopted in this State where a Minister, having consulted with the bureaucracy or set up a Government inquiry, comes into Parliament and lays a piece of legislation on the table, the parties divide taking separate positions, and the eventual debate is either fought out based on the numbers or behind closed doors at a meeting or a deadlock conference. I am not sure whether that is the best way to deal with legislation. It is a pity that we do not use parliamentary committees more often.

Regarding the Statutory Authorities Review Committee I have yet to see a dissenting report. Bearing in mind that the committee lays on the table hundreds of reports each year, in my five years in Parliament I have seen only two reports with dissenting views. I hope that we can continue with this general tripartisan approach in respect of what we do.

I sincerely thank my colleagues: Steve Condous, Robyn Geraghty and John Meier from the Lower House and the Hon. Ian Gilfillan and the Hon. Ron Roberts from the Legislative Council. Generally speaking we have adopted a bipartisan constructive approach. We bring to the table many different experiences and points of view. I also thank the committee's Secretary, David Pegram, for his long, faithful and diligent service. David is an absolute pleasure to work with; he is very reliable and he provides sound support and advice to the committee.

I would also like to thank Peter Blencoe, who was the Research Officer until 9 April 1998. Again, he was diligent in his tasks and understood very well the principles of the Legislative Review Committee. I also want to thank Ben Calcraft for the role that he has played since 19 May 1998. He certainly does not lack enthusiasm or dedication to the task. Finally, I wish to thank our Administrative Officer, Julie Magnusson, who provides capable support.

This committee does a reasonable job when one considers that it is probably the least resourced committee in the country. I have said this in the past, but equivalent committees in other States, particularly Western Australia and Victoria, have resources that are tenfold what we have. Indeed, I was interested to read that the equivalent committee in Western Australia is spending on an overseas trip approximately 20 times the total annual budget of our committee.

The Hon. T.G. Roberts: That's a problem with all committees.

The Hon. A.J. REDFORD: It is a problem with all committees. The media bag us all the time about our salaries and what we spend, so it would be nice if they compared how little we spend in this area with what is spent in other States. Whether or not that hinders our work is something that should be discussed at another time and on another occasion.

The Hon. G. WEATHERILL secured the adjournment of the debate.

TECHNICAL AND FURTHER EDUCATION ACT REGULATIONS

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

That the principal regulations under the Technical and Further Education Act 1975, made on 10 September 1998 and laid on the table of this Council on 27 October 1998, be disallowed.

In moving this motion I seek to bring to the attention of members a number of matters that relate to the disallowance motion moved by me on behalf of the Legislative Review Committee in relation to the regulations under the Technical and Further Education Act 1975, regulation No. 183 of 1998. In explaining the position of the Legislative Review Committee I will seek leave to conclude on the basis that we propose to give further opportunity to the Minister and his department to sort out the issues raised by the committee with him.

The Legislative Review Committee considered the regulations on Wednesday 28 October 1998. At that meeting the members of the committee unanimously resolved to write to the Hon. Malcolm Buckby, Minister for Education, Children's Services and Training, and to express their concern in respect of regulation 43 of those regulations. As Presiding Member of the committee I wrote to the Minister on 4 November 1998, stated the views of the committee and asked for a response by the Minister. The specific regulation, regulation 43, refers to student conduct and states:

(1) The director of a college is responsible for ensuring orderly conduct on the part of students at the college so as to facilitate the effective implementation of the college's education programs.

(2) The director must for that purpose—

(a) establish a body of rules and directions governing student conduct; and

(b) from time to time review and revise the rules and directions; and

(c) ensure that the rules and directions are properly promulgated and enforced within the college.

(3) The director may delegate powers, functions or duties under this regulation to a member of the college staff.

(4) A delegation by the director is revokable at will and does not prevent the exercise or performance of the delegated power, function or duty by the director.

In the letter of 4 November 1988 I stated that the committee had some concern with these regulations. In its letter the committee suggested to the Minister that:

Given the wide range of powers, obligations and duties involved in this delegation, the committee is of the view that any delegation or revocation of powers should be required to be in writing and signed by the director.

Regulation 43 does not set out any of the penalties or sanctions that might be applied by a director or the director's delegate if a student should happen to breach the rules established pursuant to this regulation. Indeed, the delegation making power is so wide that the director might not even be aware of the establishment of a body of rules in that those rules may well be established by the director's delegate. At the very least it was felt that in this broad delegation given to the director there be some writing. After all, one would expect in the establishment of a body of rules and directions governing student conduct that those rules themselves would be in writing.

There is a basic requirement of accountability, transparency and the simple need for staff and TAFE students to know who is delegated to do what and whether that delegation remains existent. It is manifestly obvious that delegations and revocations should be in writing and in a format consistent across all TAFE campuses. It is a well accepted principle of scrutiny committees throughout Australia that delegations of this nature be made in writing. I draw members' attention to paragraph (b) of the principles adopted by this committee, without criticism or comment by anyone in the Parliament, as follows:

The committee has resolved to adopt the following principles in its examination of regulations. . .

(b) whether the regulations unduly trespassed on rights previously established by law or are inconsistent with principles of natural justice or made rights, liberties or obligations dependent on non-reviewable decisions.

It is clear to the mind of the committee that verbal or non-written delegations may well place people in a position where the review of such a delegation becomes illusory. Indeed, in the absence of writing, there is a question of whether rules might unduly trespass on rights established by law or may well be inconsistent with principles of natural justice. I think that what the committee requires in this case is minimal, namely, that at the least those rules and delegations be made in writing. It will avoid confusion, particularly in an area where the director might seek to revoke a delegation to a particular officer on a TAFE campus.

It is important to understand that TAFE is a big organisation employing many hundreds of people. One would think that any delegation should be clear, unambiguous and without question. Having delegations and revocations of delegations signed is not only sound administrative practice but also makes legal sense. Indeed, it makes good sense to have notification and revocations of discipline powers exercised by TAFE employees within a consistent format and readily accessible by staff and students.

In response to my letter, the committee received a response dated 23 November 1998 which said that a response to the letter had been prepared with the intent of reaching the committee for the meeting of 25 November 1988. The response did not reach the committee for that meeting. At its meeting today the committee considered a response from the Minister dated 26 November 1998. In his response the Minister stated that the regulation covers the enforcement of lesser student disciplinary sanctions, such as the referral to a student counsellor, resubmission of assignments, withdrawal of library privileges for a short time, etc. The Minister states that TAFE has 17 operational sites spread throughout the State, with a large proportion of the training provided by part-time instructors, and that 'it is essential that lecturers have sufficient capacity to deal with troublesome students'.

I take no issue with that assertion, but one would have thought that, with 17 operational sites and with delegations going out left, right and centre, in order to maintain a proper administrative standard they at least be in writing. The Minister also states that, given the number of TAFE institutes and the amount of intercampus travel by staff, it 'is not possible to have specific designated staff as a student conduct delegate' whilst providing the necessary response time to deal with student conduct issues. With due respect to the Minister and/or his department, I must say that it misses the point. The point is that the designation or the delegation should be in writing. It does not matter whether that delegation is to a specific officer or to a class of officer: the delegation should be in writing so it is transparent and clear for everyone to see.

I invite the Minister to provide me with a precedent that indicates whether oral delegations of this nature have been adopted in the past, whether they are common practice and whether they work. I would be probably the first—with great surprise—to admit that perhaps the committee is going down the wrong path.

It would seem to me, with all due respect to the Minister and/or his staff, that to have verbal, oral or implied delegations or whatever is fraught with risk and danger and is indeed a recipe for lawyers to have a field day. Further in the letter we see an example of Sir Humphrey in its vintage form. In the penultimate paragraph of the letter the Minister states:

The legislative imposition of a more formalised and rigid delegation process would establish a framework that could not operate due to the factors discussed earlier and would impose a process that would have a predisposition to fail. The current regulation is considered to provide the appropriate balance in this important area.

As I understand it, the author of that paragraph is saying, 'If I put something in writing, it has a predisposition to fail.' I invite the author of that paragraph to provide me with clear examples of why putting things in writing—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: 'Clear examples in writing', the honourable member interjects. Why would putting something in writing have 'a predisposition to fail'?

The Hon. Ian Gilfillan interjecting:

The Hon. A.J. REDFORD: The honourable member's interjection is well made. It has failed to convince me. The Minister, I have to say, is a very able and capable man who has done a pretty good job in a very difficult portfolio in very difficult circumstances. I must say I can only speculate. I know his workload and he must have been let down by his policy advisers who perhaps do not understand the importance of delegated legislation, the serious effect it can have on the rights of ordinary people and the important role that the Legislative Review Committee plays and, indeed, the sanctions that Parliament can ultimately impose in relation to regulations. I hope that those who deal with delegated legislation within the Minister's department take careful notice of what I just said.

The committee is not asking the Minister to appoint student conduct delegates, nor is it asking him to set up a formalised and rigid delegation process. All we are asking for is some written evidence of what is occurring within his department. We are simply asking the Minister to establish forms by which directors of colleges can delegate in writing powers, duties and functions to named staff members or classes of staff members pursuant to regulation 43. Indeed, where those delegations are revoked, that it be done so in writing. After all, it might make life easier for those people who have had those functions delegated to them if they know at least in writing that delegation has been revoked. This whole issue could be fixed simply by adding the words 'in writing' and deleting the words 'at will' from the appropriate places in regulation 43.

It is a concern in respect of a previous set of regulations under the TAFE Act that the committee had reason to comment to the Minister on the provisions of regulation 66 of those regulations which allowed a power of search, without any warrant or without any good cause, that contravened the basic principles of the committee. That set of regulations was disallowed, I might add, not by the action of the committee but in another place, although the committee did move a motion of disallowance on 18 February 1998. It is important to note that we in the committee do not move notices of disallowance until the last possible moment so that the Minister at least had a couple of months to deal with queries prior to February 1998.

My concern and that of the committee is that the regulations mentioned in a letter to the Minister on 25 February 1998 were not dealt with by the committee because of absences of detailed responses until 5 August 1998. Indeed, that was far too long a period and I hope that the practice adopted by this department is not going to become a pattern.

The Legislative Review Committee performs a very valuable function on behalf of the Parliament and citizens of South Australia and, in my view, the committee performs the function very well. It has also done so historically. The committee takes a positive and proactive approach in ensuring its principles are observed within the framework of the subordinate instruments that are tabled in this Parliament.

Ministers and agencies readily accept the suggestions made by the committee. In all of the cases where the suggestions of the committee are adopted by the relevant agency, the result is better subordinate legislation and greater protection of the rights of the people of South Australia. Indeed, Ministers can take a great deal of comfort that the Legislative Review Committee reviews regulations. However, it is a continuing problem that the committee is forced to move motions of disallowance on entire sets of regulations. In this case we have moved to disallow the whole of the regulations when it is only regulation 45 that offends the policies of the committee. On the previous occasion we moved to disallow the whole of the regulations on the basis that only regulation 66 offended the policies of the committee.

I give a positive example for those who might take the trouble to read this contribution. The committee had cause to write to the Supreme Court complaining about the lack of explanatory material given by the courts accompanying changes to their rules. It had been the practice of the courts to send their rules with a four line explanation. We sent a copy of our policy to the Chief Justice and we also pointed out to the Chief Justice what we expected in relation to reports to be provided by the Courts Administration Authority and the courts themselves. I have to congratulate the courts in that the quality of the reports we are now receiving in conjunction with changes to rules or promulgation of rules has been first class and has enabled the committee to deal with those rules expeditiously, promptly and without much administrative time or cost.

In closing, I wish to remind the Parliament that the Legislative Review Committee will continue routinely to disallow regulations where the principles of the committee are infringed and that the positive steps taken by the committee to remedy matters do not result in amendments acceptable to the committee. I hope in this case the Minister can remedy this situation prior to this motion being voted on early in the new year. I know the Minister will give this issue his personal attention and I hope he will draw this contribution to the attention of appropriate officers. Certainly, I look forward to receiving a positive response from the Minister in dealing with this regulation and I hope sincerely that we will not have to proceed with a vote to disallow the regulations. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: RURAL ROADS

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

That the Report of the Environment, Resources and Development Committee on South Australian Rural Road Safety Strategy be noted.

Following a motion from the Minister for Transport and Urban Planning earlier this year the Environment, Resources and Development Committee was instructed to investigate and report on the South Australian Rural Road Safety Strategy prepared by the South Australian Road Safety Consultative Committee. The ERD Committee undertook this inquiry to enable the South Australian community to have further input and additional comment on the recommendations.

The membership of that committee was well placed to work on that brief because, of the six members of the committee, five have experienced country life and have driven large distances on rural roads and the other member has a background in transport matters. The Hon. Angus Redford talked about the efforts of the committee that he chairs and it being, I think he said, tripartisan. The ERD Committee is multi-partisan (if there is such a word) because it contains representatives from the four Parties that sit in this Parliament.

The inquiry took place over a period of nine months during which time 24 submissions were received and 12 witnesses appeared before the committee. The strategy is a South Australian response to national strategies and actions. It provides a broad framework of short and long-term actions to be used in planning specific road safety projects. The strategy contains 54 recommendations and the committee is happy to support most of those. It believes that they will make a significant contribution to road safety.

Along with the report and on behalf of the committee I tabled yesterday an example of a road safety audit. The audit covers a section of the Main North Road from Leasingham to Tarlee. The reason for tabling the audit is due to the fact that one of the main concerns of the committee focuses on the need for more road safety audits to be completed as soon as possible, especially on the national rural and urban arterial highways.

However, the committee believes that a road safety audit should contain specific criteria to enable the audit process to determine an appropriate speed limit for a road, and the committee recommends that Transport SA develop these speed limit criteria. The committee also recommended that, if following an audit a road is deemed to be unsuitable for its current speed limit, there be a reduction of the speed limit until necessary road improvements have been made.

Other concerns surround road standards, speed limits, mobile random breath testing, seat belts and driver training. The road network of South Australia is an important asset. Nevertheless, the committee believes that more funding needs to be made available to maintain this asset. The committee believes that the road network needs significant ongoing funding, particularly for shoulder sealing and edge lining. The committee is concerned about the high rural road toll and believes that there needs to be greater emphasis on education as to the reason for this.

The committee wants to reiterate the fact that statistics show that the majority of those who are injured or killed on rural roads are resident in rural areas or in the townships that exist in the semi-rural regions surrounding Adelaide. Therefore, it is essential that measures are taken to target this group with educational programs and actions to reduce this toll. This education could take the form of public education at high risk travel periods such as Easter, Christmas and special events. The committee is also of the view that part of the road camera revenue should be used to finance these public education programs as well as the rural road improvements.

The committee recommends an investigation of the need for driving tests for drivers who endanger themselves or other road users. The committee also recommends that research be undertaken to develop driving impairment tests, with consideration given for these to be on-the-spot tests. The committee recognises that there are many complex issues involved in ongoing road safety improvements in South Australia. It is pleased, therefore, to note the establishment of a joint standing committee to address all issues relating to transport safety.

On behalf of the Presiding Member (the member for Schubert in another place) I would like to take this opportunity to thank all those people who have contributed to the inquiry; and I would like to thank the members of the committee and our staff. The committee has made 16 recommendations and looks forward to a positive response to them.

In addition, the committee is currently inquiring into the pilchard industry in South Australia. Although we had planned to table this report in the near future, due to recent events, which would be well known to the members of this Council, we need to gather further evidence and will report early next year.

The Hon. M.J. ELLIOTT: I rise to speak to the motion that the report be noted, and I am one of the members of the Environment, Resources and Development Committee. Regarding rural road safety, I think there is little doubt that the biggest single issue that came before the committee was the question of speed. Although some members of Parliament have been advocating that speed limits are not high enough, having been a member of the committee and having listened to the evidence I can say that I do not support that viewpoint at all.

One of the great myths that is perpetrated in rural South Australia is that all these road deaths are because city drivers are out in the country and they cannot handle the roads. It is probably true that on a per hour basis city drivers get into trouble more often and are killed more often on country roads than country drivers, but if one takes an analysis of the 1997 fatal crashes it is worth noting that of all fatal crashes 28 per cent happened in Adelaide and some 71.6 per cent happened in country townships or rural roads generally. So, over 70 per cent of people are dying on country roads of one sort or another.

If one takes a further analysis of that data one finds that of the 13 people who died in crashes in townships none came from interstate or overseas, one came from Adelaide, 10 came from townships and two came from outside townships. If one considers the rural roads themselves, of the 93 who died five came from interstate, and it is a reasonable guess that most of those would be on the major highway between Melbourne and Adelaide; three came from overseas, and it was most likely the same road; 20 came from Adelaide, and that made up 13½ per cent of the total fatalities in the whole of the State; 47 came from rural townships, which is 31.8 per cent of the total casualties in the State; and 18 came from outside the rural townships, which makes it up to 12.2 per cent.

What we find is that, although perhaps only 20 per cent of the State's population are rurally based, of the total deaths that happened in country towns and rural roads about 53 per cent of all the deaths in South Australia are country people dying on country roads. That myth about city drivers is based on a small amount of reality that city drivers do not handle country roads very well, but the majority of people dying in South Australia are country people dying on country roads. We have to face up to that truth and not continue to try to walk around it.

Some people seek to point to the speed limits in Germany and the United States and say that they have these great speed limits or have been lifting their speed limits, so why can we not do it here? I have not seen the roads in Germany, but I have seen the major highways in the United States, and there is absolutely no comparison between the major roads in the United States and the major country roads of South Australia. They are poles apart. Perhaps only parts of the freeway between Adelaide and Murray Bridge bear anything like a comparison.

The Hon. Diana Laidlaw: It goes to Tailem Bend these days.

The Hon. M.J. ELLIOTT: Yes. I should know because I have driven down that road many times. But, they are the

only roads that come anywhere near close to a comparison. However, you cannot even compare Tailem Bend, because people are driving straight onto it. Although the road itself is of a freeway standard, it is not a freeway in the strict sense of the word. Farmers can drive out the farm gate and drive straight onto it. As a result of that, if you start allowing higher speeds you are taking risks differently from those associated with a standard freeway.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I am not saying anyone is advocating it there: the point I am making is that people are advocating higher speeds throughout country South Australia, and I am saying that the only road which in any way near approximates the highways of United States is some parts of the Adelaide to Murray Bridge road—and that would be it. I do not think the road north to Port Wakefield really approximates it, because people are still driving onto the road off side roads and, in fact, crossing the road in a way that does not happen on the freeways in the United States, nor, although I have not seen them, do I imagine on the autobahns of Germany.

People who are advocating higher speeds because they believe country people are safe drivers and that the roads are capable of handling it are really kidding themselves. They are advocating more people dying on South Australia's roads. Very good evidence from people such as Jack McLean drew the clear relationship between speed and fatal accidents.

It is a truism that if you drive at 0 km/h you cannot have a fatal accident; as the speed limit picks up until a certain speed, you still will not have deaths; and progressively from that the number of deaths increases, I would argue, largely in an exponential fashion. The only way to compensate for that is by changing the standards of the roads. South Australian roads, even our best country roads, really are not up to handling the sorts of speeds that some people are advocating.

The committee in recommendation No. 4 stated that national highways, rural arterial highways and urban arterial highways currently zoned at 110 km/h should be audited as a matter of priority to assess whether they meet the specified criteria as determined by the Transport SA model. If I go back a step, we advocate that we need a system of road auditing. Road auditing is carried out now, but that system of auditing needs to be modified to enable us to assess the road condition, and among the things that would flow from that would be a set of criteria which would allow us to determine what speed a road is capable of sustaining safely.

It is a matter then of identifying these major roads to determine whether or not they are capable of allowing traffic to travel on them at 110 km/h. If they are not, then a lower speed limit would be adopted according to the criteria within the audit. Further, other rural roads and black spot roads which are currently zoned at 110 km/h should be rezoned immediately to 100 km/h and then be subjected to audits to determine the appropriate speed limit.

In relation to both these recommendations, the committee also stated that any sections of roads below the 110 km/h standard in relation to national highways should be identified as priority roadwork projects. In relation to the other rural roads, it also recommended that where the speed limit would be 100 km/h or less, if an audit so suggested, the speed limit would not be raised again until appropriate roadworks had been carried out.

It should therefore be stating the absolutely obvious to say that the speed limit must bear some relationship to the condition of the road. Frankly, in South Australia in many places the speed limit does not match the condition of the road. The process of road audit should be a way of telling us what we need to do to the roads and, in the meantime, what speed limits are appropriate.

It could be argued that a similar process can be applied even to the metropolitan roads, but that was not an issue before the committee, as it was asked specifically to address rural road safety. I think that was the biggest and hottest issue, and it is worth noting that the committee included a large number of rural members: it was Chaired by Ivan Venning, who comes from an electorate to the north of Adelaide; the Hon. John Dawkins, who lives just north of Adelaide; the member for Chaffey, Karlene Maywald, from the Riverland; the Hon. Terry Roberts, from the South-East; and, although I am based in Adelaide, I lived until the age of 18 in Mount Gambier and as a teacher over nine or 10 years I taught entirely in country schools. So, I spent a great deal of time in the country. In fact, only one member of the committee, Stephanie Key, was city born and raised.

The Hon. Carolyn Pickles: She's done lots of country driving.

The Hon. M.J. ELLIOTT: I am not saying that she has not done a lot of country driving. I know that as a union representative she has been involved with many people and done a lot of country driving. So, it would be fair to say that the committee had a lot of knowledge about country driving and that some committee members were a little nervous about recommendations. However, at the end of the day they had the courage of their convictions, and I think the evidence was too strong to be ignored.

Other matters are worth touching on quickly. We have seen the need for mobile random breath testing. Breath testing works in Adelaide reasonably well because people do not usually know that random breath testing is occurring until they arrive at the station, but in country areas the word gets around that they have arrived in town. After they have set up, one knows precisely where they have set up and, as a result, random breath testing works poorly in rural South Australia. It is no surprise because, when I lived in the country, I saw how it worked. The first person to leave a hotel or club and who got caught rang back to the hotel or club and tipped off everyone else about the location of the breath testing station. It really was much of a farce.

The way to get around it, of course, is to have a form of mobile random testing where a unit is not set up in one place. I must add one proviso, as did the committee in recommendation No. 6, namely, that having recommended mobile random breath testing the committee should take note of the public's concerns regarding the potential infringement of civil liberties.

From time to time, I have seen country police perhaps misusing their power. Normally, under the law one does not stop people unless there is reasonable suspicion. I think the necessity for reasonable suspicion is to try to stop the arbitrary use of power, but it could be possible to set up a mobile testing system where a policeman at any time that he or she feels like it can stop anybody, regardless of how well they are driving and without any knowledge of their having had a drink, and simply say, 'I want you to blow in the bag.'

This ability arbitrarily to stop anyone at any time is a power that is capable of being misused. There is a potential infringement of civil liberties, and that is why I would argue that we would need a system which has a few more inbuilt checks and balances. For instance, usually it might involve a single policeman in the town. Prior notice should be given

that, for instance, 'Between the hours of eight and nine I will be testing in a certain area.' That can be somewhat general, but at least there would have been advance warning that it was going to occur—not that at that particular moment there was a chance that a little misuse of power might occur. I am not reflecting upon all the good police—and I know many of them—but on one occasion I myself was subjected to the arbitrary and capricious behaviour of a policeman who happened to have too many drinks himself—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: No, I hadn't, but I did see the use of arbitrary and capricious—

The Hon. T.G. Cameron: You should tell us what happened.

The Hon. M.J. ELLIOTT: I might sometime. I did see the arbitrary and capricious abuse of power by a policeman, and for that reason I am doubly cautious about the availability of such powers. I repeat that I know that that is an exception, but that is no comfort at all for a person who has been subjected to those exceptions. Having said that, as long as there are proper civil liberties protections, mobile random breath testing is really a necessity if we are to tackle drink driving in country areas.

The Democrats do think there needs to be much more education about driver fatigue (I think much more of that happens in Victoria) and also the need for people to take rests when driving long distances. The committee would like to see what seems to be a fairly common occurrence in Victoria, that is, the use of traveller rest stops, which have been set up properly in terms of lighting and other facilities.

The committee believes very strongly that road camera revenue should be used to finance public education programs and rural road improvements. If the money is being raised ostensibly in relation to road safety, it should be spent also on road safety. A direct hypothecation of such moneys raised would first make people far more accepting of road camera usage. They would say, 'Okay, the money is being used for road safety. I have been caught speeding; it is a fair cop.' But at the moment to some extent people are saying, 'Look, you're just doing this to raise money, which you're using for whatever arbitrary purpose you decide to,' and do not react as positively to it. I might say that I have no sympathy for people caught speeding, as long as that is what they have been doing. If they have been speeding they deserve to be caught.

We had evidence that, as I recall (and I do not have it in front of me), 7 per cent of rural road deaths were occurring because people were not wearing seat belts. There is very strong evidence that seat belts are not worn sufficiently in country areas. When you look at the number of deaths that have occurred in rural South Australia—there were 111—and realise that perhaps 7 per cent of those were avoidable, you see that on average eight or nine of those people died just because they were not wearing a seat belt. That is a pretty easy reduction to achieve, and we must get total compliance with the requirement to wear seat belts, be it by way of enforcement, education programs, etc.

The committee made a recommendation to investigate the need for some form of regular, random driving tests, and I will explain that a little further. We had quite a long discussion about testing for abuse of alcohol. The committee then went on to a discussion about older drivers and whether or not they should be subjected to regular testing. But the more fundamental issue is whether there are people on the road who for whatever reason should not be on the road, whether it be due to age, alcohol, quite legal prescribed drugs or other illegal drugs for which we do not have a means of testing, poor eyesight or whatever. Frankly, at this stage we do not have a methodology for testing how competent our drivers are. When I say 'competent' I mean competent in a purely physical sense: that they have good vision, good reaction times and all those fundamental physical attributes necessary to be able to drive safely.

This committee is saying that we need to devise a system for regular (I think it should have been 'regular and/or') random driving tests—the sort of test you would give to a person, whether they had been drinking alcohol or using an illegal or a legal substance; and whether, frankly, due to advancing age or whatever else, they had lost reaction times or whatever else. If their reaction times are not up to it, then people should not be on the road, regardless of the cause. I would argue that these days it should be quite possible to come up with electronic devices which are capable of being put in front of a person—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: No, let me finish—which would test reaction times and a few things like that and which could be administered very quickly. At that stage, the cause of their infirmity would not matter; if they could not pass that test they should then be subject to some more comprehensive testing later on.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: No, just listen to him for half a minute, and that will fix you—but who would listen for half a minute? I think I have covered the more important issues that the committee considered. I note that a committee has now been formed to look at road safety more generally but, given that the Minister was very keen for our committee to take on this issue, we have treated it very seriously. I am sure she can see that in the report, and I look forward to her positive reaction to the suggestions that have been made by the committee.

The Hon. T.G. ROBERTS: I rise to support the report that is being adopted by this Council and commend the Minister for the initiative that she felt was necessary to refer a draft report to our committee for comment. The safety of drivers in rural areas is a major issue; it is costing the State and the Commonwealth a lot of money. Road trauma impacts on all of us, and certainly it causes a lot of heartache and distress not only to those people who are injured in road accidents but also for the relatives of those who are killed in road accidents. In most cases all of us have lay opinions on the causes.

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. ROBERTS: As the honourable member says, all those people who come in contact with road trauma, including ambulance support, hospital staff and doctors who treat road trauma victims, are horrified at the extent of the continual carnage that occurs on our roads, in some cases unnecessarily. The role of those who will read the report and perhaps act on its recommendations is to sort out those road crashes which may be determined as accidents but which are not accidents but are in fact due to driver error. Perhaps physical aspects of roads and their surroundings cause and contribute to higher accident, death and injury rates than would be deemed acceptable by Government.

The major matter that the Government is concerned about is the costing of some of the prevention programs that need to be implemented. Where does the funding come from and

just how do we spend that funding from the road transport budget in the best possible way to save the most lives and reduce the risk of accident? Unfortunately, we have inherited many road systems that were laid on cart tracks 100 years ago. The Coorong road, along which I bounce regularly, in major part was a bullock track that developed into—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: That's the point I was making about bouncing along it. It was laid many years ago, and it has not improved much at all in some parts.

The Hon. M.J. Elliott: They put some tar on it.

The Hon. T.G. ROBERTS: The honourable member says that they put some tar on the bullock track. Yet, we must deal with twenty-first century traffic movement. So, we have a twenty-first century road user system and, in some cases, an eighteenth or nineteenth century system of arterial roads. So, we have a major problem with, first, coming to terms with the state of our roads and, secondly, the funding that must be made available for them.

The first reaction of members who have travelled in Europe and North America when they land in Australia and compare road systems is that the inadequacies of our roads stand out enormously because, in the main, we are using vehicles of the same size and speed ability on roads that are not up to the same standard of roads in Europe and North America. We also have a road mix that is contributing to a high accident cocktail: that is, large vehicles mixed with small vehicles and, in many cases, little room to pass, dangerous shoulders and poor markings.

I will start from the back of the report and highlight the road safety audits that the committee has recommended for most roads before changes are made to any speed limits. I do not think that road audits are very well known. They were not very well known to the committee, let alone the South Australian public. The road audit process needs to be a priority for the Government to assess the state of our roads, the type of road user mix, and speed limits that may be applied to those roads.

As members have covered many other aspects of the report, I will highlight what road safety audits can do. The allocation of funding to the Road Transport Authority is worked out from road safety audits and speed limits are set according to an analysis of the detail contained therein. The appendix states:

> A road safety audit is a formal examination of an existing or future road or traffic project, or any project that interacts with road users, in which an independent, qualified examiner reports on the project's accident potential and safety performance. Road safety audit takes the principles developed through accident remedial programs that have been found to be effective, and applies them proactively.
>
> The aim of road safety audits is to identify what needs to be done to prevent the occurrence of accidents or reduce their severity should they occur. Auditing existing roads allows action to be taken before accident statistics highlight a problem. It is not necessary for accidents to occur before steps are taken to both reduce the likelihood of them occurring and lessen their consequences. Road safety audit should be viewed as part of an overall strategy to reduce accident risk.

Some decisions made by Government in relation to road use—for example, the introduction of B-doubles—would be better off being made after an audit is conducted of the roads on which B-doubles are to be introduced. There are some roads where a reasonable audit can be conducted which will allow a decision to be made within a short time frame, but there are some arterial roads and major highways where the outcome would not be so obvious: a quick decision from a road safety audit would not be able to be made because a lot of time would have to be spent on making a recommendation safely.

Political pressure is applied by road transport groups that want continuity and flow and integrated road systems so that they can hook up their B-doubles or use their larger vehicles without having to interrupt their journey to uncouple and go back to smaller haulage tonnages or lengths and widths of vehicles. So, pressure is put on the Government to make sure that there is an integrated road system that allows for continuity of traffic. That makes sense economically and for other reasons, but for safety reasons compromises may be made along the way in respect of some of those arterial roads to fit in with a comprehensive national or South Australian road transport system.

So, compromises are made along the way and, because of the road traffic mix, black spots appear where they did not previously exist. A road safety audit could pre-empt the existence of black spots, and perhaps then we would be able to put into place prevention programs. Finance would be made available through Commonwealth funding, I hope, to support State initiatives for highways to be repaired so that we can have a comprehensive national road linked system that will allow not only large vehicles but also smaller vehicles to travel safely on our highways without intimidation or the fear of a tragedy occurring.

The appendix points out exactly what an audit is. It states further:

> Road safety audits assess the operation of a road, focusing on road safety as it affects the users of the road. These users include pedestrians, cyclists, motorcyclists, truck and bus drivers and on-road public transport users, as well as motorists. The outcome of a road safety audit is a road safety audit report which identifies any road safety deficiencies and if appropriate makes recommendations aimed at removing or reducing the deficiencies.

The committee's recommendation of the introduction or the further use of road audits is appropriate, because there is no point in the committee making recommendations and prioritising changes in Government spending. However, it could highlight black spots that exist. I am sure that as individual members of Parliament we could recommend that money be spent in particular areas with which we are familiar and where pressure has been placed on us, in particular, for geographical reasons. We could make recommendations, but I think those recommendations should come out of a road safety audit report, the consultation process for which should include not only engineers and those who are trained in making audits but also community representatives and local government. Further, the appendix states:

> The benefits of conducting road safety audits are that:
> - the likelihood of accidents on the road network can be reduced;
> - the severity of accidents can be reduced;
> - road safety is given greater prominence in the minds of road designers and traffic engineers;
> - the need for costly remedial work is reduced; and
> - the total cost of a project to the community, including accidents, disruption and trauma, is reduced.
>
> In a road audit of an existing road, accident records will be an important part of the information to be assessed, but they must be supplemented by informed judgments about the potential for other types of accidents.

That is where local knowledge of those particular roads would be of some benefit. Weather conditions also play a part in how safe or unsafe a particular road is. For those who drive in the Adelaide Hills, I point out that on a nice sunny day, with 20/20 vision, the potential for accidents is reduced; but if you drive in the Adelaide Hills, as many of us have done,

in the South-East where there are overhanging trees across roads, or in the north where the wind blows the dust up, in some cases the hazards become unmanageable and you cannot equate the weather and the circumstances in which you are driving to the risk you are taking. If you could, you would pull to the side of the road and wait for those storms or heavy winds to ease before continuing with your journey. But in most cases you are travelling from A to B and need to be at some place within a certain time. So, rather than stop, turn around or take a safer route, generally you press on and take your chances. Of course, in a lot of cases that is when accidents happen.

The other issues that need to be covered are: where do we go from here? The Minister will possibly outline the value she will get from the committee's report and the recommendations to be made. Perhaps in the standing committee that has been formed there will be further discussion in relation to some of the recommendations of, first, the draft plan, and, secondly, our committee. Hopefully, that standing committee can continue to monitor the existing problems that we face in trying to reduce road trauma, at least highlight the recommendations we have made and prioritise some of the road spending moneys which, hopefully, the Commonwealth will make available through the State budget to provide us with a safer, more integrated system where motorists, cyclists, pedestrians and all users can mix on our roads together.

I shall make one further point, and that relates to road traffic problems in the South-East. There is an emerging problem which the statistics are now starting to show and which I highlighted some six months ago, namely, the number of heavy vehicles involved in light vehicle collisions, and the impact of those accidents. There needs to be a campaign in communities such as the Riverland, the South-East, the Mid-North and the Barossa Valley that highlights not only to local people but to visitors the dangerous cocktail of narrow roads, inappropriate speeds—they do not have to be high speeds—and the condition of a road at a particular time. In this Council I have used the example of harvest time in the Riverland and in the Barossa Valley—and in the South-East it can be any time because large log trucks and speeding passenger vehicles are on the roads there at all times.

When people first start their cars they need to be able, like a computer I guess, to identify the conditions in which they are driving. I take the example of a young mother who is driving children to school. First, they have to remember to put on their seat belts. They have to look at the weather conditions to see what are the appropriate speeds for driving that vehicle on that particular day; they have to feed in what time it is (I know in the mornings in the South-East that the log trucks are busy from very early in the morning until 5 or 6 p.m.); they have to take into account young children going to school; and they also need to consider people who do not know exactly where they are going but who are driving through and around the area. Under those conditions, together with children in the car who in a lot of cases distract the driver's concentration, we expect people to drive and escape unscathed for the whole of their driving lives.

I contend that, unless people automatically feed into their 'driving computers' all the potential problems they may encounter before they start their journey, they will not look at speed as a problem: they will drive to the speed limit set on the road by the signage. I contend that in a lot of cases an upper limit of 60 km/h is unsafe. In some cases where the upper speed limit is 80 km/h or 110 km/h, that can also be unsafe. We must give our driving community the message that, although roads have upper speed limits, under some circumstances it is not safe to drive at that speed and that you need to use commonsense. A lot of education needs to be conducted within the community in relation to our recommendations.

The other matter about which we were not expert enough to make a decision but which needs to be a discussion point from now is road rage. We did not hear a lot of evidence on this subject, although we did touch on it. I think that our individual attitude to each other in a community is sometimes reflected by the way people drive on the highway. You shut the door, turn on the radio and isolate yourself from all the rules you normally apply when mixing with other members of society. In a lot of cases you become an isolated unit, when you should be adopting an attitude of a more social mix and should respect others' position in relation to how we treat each other on the road. It is a problem that we have not discussed enough but, as individuals in society isolate themselves more, the trend will be to ignore the wishes and determinations of other road users. We will try to enforce our right of way, to enforce our rights on the road, when in fact to share a road with other users is a privilege we should protect by driving safely, respecting each other's right to be on the road and not in a competitive way trying to get from A to B before someone else takes your place in a line of traffic.

I assure all members that, if they drive down Magill Road and not take into account other road users, they will certainly come to grief. There will probably be a big cement truck that takes its right of way at your expense, even though you may not be at fault. So, there are a number of issues in relation to what causes road accidents, trauma or road crashes. We have tried to highlight some of those. Certainly, the national road safety body has highlighted its concerns and priorities. We hope that by highlighting these issues Governments can use them as a recommended formula to try to eliminate or, if not eliminate, minimise some of the conditions that cause road trauma. With those few words, I recommend the report.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I plan to speak briefly because in the time available I have not had time to give sufficient attention to all the recommendations of the report. However, I want to thank members of the committee for undertaking the responsibilities provided by this Chamber to look at the whole issue of rural road safety and the draft strategy document prepared for the Government's consideration. The committee found a need for improved consultation and understanding in the rural community in particular about many issues related to road safety. The committee's comments on the myths or fallacies that only city people are involved in rural accidents and that rural people can distance themselves from the whole issue of road safety is an important development in the whole issue of rural road safety in South Australia. I would like to thank the committee for making this observation which will certainly help me address many of the issues with even more confidence in the future because I have the committee's backing.

The issue of rural road safety and the road audits are featured throughout the recommendations and I will certainly bring back a detailed response to those recommendations in February. We have started using audio tactile marking on many of the roads. Certainly, as part of the national road safety strategy we have agreed about the need for rest areas

and the like. We certainly believe strongly in the need for the widening of road shoulders and passing lanes. We have to find money for all these things and more. The fact that the committee has reflected on the need for greater investment in this area I do not take as a criticism but as something that will arm me when I go into bat with Treasury and my colleagues in the future. I appreciate that reflection on what is happening in rural areas and road safety.

Notwithstanding the recommendations of this report there are a number of areas that reflect the continuing work undertaken by the department and I will remark further on them in February. I indicate that by that time I should have more information from the department arising from a review of speed as a factor in road accidents which has been undertaken by ARRB Transport Research Pty Ltd for Transport SA. That consultancy or review was associated with the current speed zoning policies and practices and identified what changes may be necessary to reduce the incidence and severity of road crashes resulting from inappropriate or excessive driver speed behaviour.

We received that review last month and by February I should have more up-to-date information. I thank all honourable members for their contributions to the committee and for their considered recommendations, which I now welcome the opportunity to consider in turn. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

GROUP 65 MEDICAL PRODUCTS

The Hon. SANDRA KANCK: I move:

That this Council notes, in relation to Group 65 medical products—

I. That Supply SA is not observing the eight point Procurement Reform Strategy released by the Department for Administrative and Information Services in May 1998;

II. That, at a time of cutbacks to the health budget, public hospitals and health services in South Australia are paying more as a consequence of Supply SA practices; and

III. That quality South Australian products are being ignored by Supply SA with resultant impact on employment in this State,

and this Council therefore calls on the Minister for Administrative Services and the Minister for Human Services to urgently intervene to ensure that the public health system is getting best value for money in the supply of Group 65 medical products.

Cutbacks to services for the elderly, ward closures, increased waiting times in hospitals, women living in certain postcode areas being told that they cannot have their babies in particular hospitals are the ever increasing newspaper headlines that we are seeing which indicate a worrying trend in cutbacks to South Australia's health services. An *Advertiser* article of 7 November highlighted the situation with clinic closures at the Queen Elizabeth Hospital which were expected to save $100 000 this year. One week would see respiratory, diabetes and urology clinics in darkness, the next week it would be the turn of cardiology, leg ulcers and skin clinics.

In March this year the Human Services Minister, Hon. Dean Brown, argued in Canberra for increased health funding. He described the health system as being near breaking point. Investigations by my office have revealed that up to $20 million is being wasted each year within our public health system in South Australia, and this money, if it was freed up, could stem the tide of waiting lists and ward closures. Supply SA, the Government's procurement agency, is the key to these savings with its procuring of medical supplies of a category known as Group 65. User products such as medical sutures, incontinence aids and anaesthetic filters are just a few examples.

The fact that these savings are not being made is nothing less than a scandal, given that some patients are having to wait months for surgery. They are being told that the Government is doing all that it can and there is just too much demand on our system. These people would be very angry if they were to learn the truth, that they are on waiting lists because Supply SA has chosen brand X over brand Y, even when brand Y is cheaper and just as efficient. They would have every right to be angry. This has ramifications beyond waiting lists, however. South Australia is being ridiculed as a laughing stock by companies involved in this tender process and jobs are at stake. If it is happening in the supply of Group 65 products, then there is every chance that it will be happening in other areas of supply.

A little history is needed to understand the system that our health services must use to obtain these products. In September 1994 the State Government embarked on an overhaul of our health system with a proposal which included contracting out to achieve substantial savings for our health services. This was no real surprise to the administrators of our hospitals and health services around the State as such reforms had been mooted for a year or two. In April 1995 Ray Blight, former Head of the South Australian Health Commission, addressed a conference in Sydney with a paper 'The Bigger Picture: How Does Contracting Out Fit Into the Greater Health Scheme of Things'. That paper revealed more detail on the direction the Government was taking. Ray Blight used the opportunity to expand on his department's plans to 'distinguish and delineate the functions of funder, owner, purchaser and provider'. In that speech he stated that this would encourage innovation and cost effectiveness through competition, both within the public sector and through the external market. This was argued as the best way to achieve value for taxpayer dollars. That was the theory but it has fallen far short in practice. An appendix to that paper states in part:

> The role of the purchaser is to promote innovation/service development amongst current providers in meeting community needs and encourage alternative providers to enter the field.

Again, good in theory but the reality has fallen far short of the market. The Hospitals and Health Services Association (HHSA) in its December 1994 newsletter gives a good description of what one should be able to expect from the purchase/provider model. It states:

> The purchaser's role is to assess the needs of a population, identify the most cost-effective option(s) available to meet these needs and to purchase the most appropriate services. The purchaser is not in the business of providing services, this function is the responsibility of providers, such as hospitals, GPs and community health services. . .
>
> Purchasing authorities have responsibility to choose the services that best meet the needs of the population they represent. They are free to purchase across the complete range of services available and substitute one service type for another if it can be shown to provide benefit.

By the way, the Government, in that model, becomes the funder. Given the adoption of the purchase/provider model by the Government, the Hospitals and Health Services Association of South Australia (HHSA) recognised the need to establish supply contracts for specialised medical and surgical supplies. By September 1995 the HHSA had set up its own Purchasing Agency. Its newsletter of that time states that the purpose of the agency is:

> . . . to negotiate and manage purchasing contracts for medical and surgical goods used in primarily the larger health units. The agency

will deal with contracts for the expensive, low volume items such as joint prostheses and cardiac catheters. It will complement the purchasing and supply of other less specialised goods that are managed by State Supply. . .

Savings made by the agency are to be passed to participating hospitals. . . the balance being retained and used to repay Health Commission start-up funding and to operate the Purchasing Agency.

So, HHSA was to do the leg work and the research and come up with the best deal at the best price for its members. State Supply would still have to rubber stamp the recommendation, but this would basically be a formality. Such an approach was totally in line with the Government's philosophy of outsourcing and using market competition.

In the July 1996 newsletter of the HHSA a letter from the General Manager of the HHSA's Purchasing Agency talks about its first contract as follows:

The Purchasing Agency has just concluded its first contract, the results of which have far exceeded all expectations. The substantial savings realised, the technological excellence of the equipment contracted and the enhancement of our health infrastructure are just a few benefits that I can mention. The agency's success has also been reported on by a national health magazine with distribution into South East Asia.

Following the completion of this first contract the Health Commission undertook a review of the process. The HHSA was happy to have that review conducted because even though it had made savings of slightly over $600 000 for the participating hospitals it knew that it was the first time and there had to be room for improvement in the process. The Munzberg report identified that savings of 17.5 per cent had been made on the contract and that:

. . . processes are worthwhile and fundamental to securing significant cost savings both to the units and the State. The processes that we have reviewed had significant success in providing cost benefits right across the board and although difficulties and weaknesses have been identified and form the basis for our recommendations for improvement we support the ongoing role of the HHSA Purchasing Agency in order to sustain the financial benefits attained.

That is not bad for a first time process when that review was prepared to gauge dissatisfaction rather than satisfaction with the process. There was a 17.5 per cent saving on the products; some $603 904—almost $604 000—was saved after the agency fee of $24 085 was taken out. The HHSA Purchasing Agency proved with that that it was able to deliver the goods.

Meanwhile, despite the success in this area, it was becoming apparent that there were serious problems in procurement processes amongst quite a number of other Government departments and agencies. A review in May 1997 confirmed that there was a 'critical lack of procurement expertise', amongst other shortcomings in these agencies. As a result, a Government purchasing task force was appointed by Cabinet and a procurement reform strategy began development in December 1997.

That task force was assigned the task of developing strategies to save $72 million per annum. Key elements to that strategy ultimately included a procurement reform learning program, the development of accredited purchasing units for each of the Government departments to oversee purchasing and tendering, the recruitment of 16 graduates (presumably for the accredited purchasing units), the establishment of a South Australian tenders and contracts web site, and the appointment of a new State Supply Board.

Guiding principles for reform have been outlined in eight points on page 9 of the document 'SA Government Procurement Reform Strategy', which was released in May of this year. Those eight points are: value for money in the expenditure of public funds; open and fair competition; professional integrity and probity; client service; management of risk; accountability; simplicity; and local industry outsourcing where local suppliers can demonstrate competitiveness and capability.

Despite the reviews, there is great disquiet amongst those in the know. In the past two months I have spoken to many business people who have been trying to make sense of what is happening in Supply SA. We have had a big reshuffle and development within the department, apparently to make it more efficient both from the point of view of work practices and costs. The question is: are we saving money, or are we more efficient? We have had nearly two years of reform with a lot of budget investment so let us evaluate the performance using those eight guiding principles.

Let us look at the Government's report card. Value for money in the expenditure of public funds: this has simply not been achieved. The medical supply industry in South Australia is estimated to be worth in excess of $80 million. Hospital expenditure figures compared to industry prices reveal that savings of up to 20 per cent could be made. South Australian public hospitals could save $900 000 this year alone if they were allowed to buy the best value sutures. This is a significant saving given that the budget for sutures is $3 million.

The supply of five-ply underpads for beds are currently worth $300 000 in our public hospitals. I have spoken to a local company which can supply these at 30 per cent less than the current price, but the tendering system is preventing that from happening. The existing contract for incontinence pads, which are used in nursing homes and in home care for the elderly, is currently worth $6 million in South Australia. Again, a local company could be providing these at a saving of 9 per cent, which is $553 000 in our health budget.

The supply of urinary bags to our hospitals is worth $200 000 per annum. The contract with Supply SA allows hospitals to use four different suppliers for this product. There is only one Australian-made product which is half the price of the imported ones, but it is not currently being used. A saving of $100 000 could be made per year on this product. So, on just six products—and there are many more—there is an estimated annual saving of $2 million. Therefore, the Government gets a big 'F' for failing to uphold the first guiding principle. The rating so far—nought out of one.

I now refer to open and fair competition. Again, the process is falling far short. The only Group 65 tender processed by Supply SA in 19 months has been that of sharps disposal containers and catheters. In 18 months only one contract has been finalised. Correspondence from the Department of Human Services reveals that the evaluation process was completed by Supply SA and the contract was finalised in August 1998 for a multinational company called Becton Dickinson Pty Ltd, but what evaluation process took place?

My investigations reveal that this contract was decided in-house without a thorough and complete evaluation process. The evaluating committee made up of clinicians and supply managers normally meets two or three times to discuss the tender and come to a decision. It seems that no-one on this committee was aware that an evaluation was complete, and they certainly did not know that the contract had been awarded. To this day—and I mean to this very day, because I have spoken to suppliers this morning—none of the companies has been officially notified of the result of its tender. That was in August, and it is now December.

Many hospitals are still using supplies from a contract which was awarded four years ago. The contracts expired last year and have been rolled over since April 1997. This means that other companies have been locked out of the competition. What was a three year contract effectively has become a five year contract. To add insult to injury, some of the suppliers who have been invited to roll over contracts have increased their prices without negotiation. This is not an open and competitive way to run these contracts. It is not even that it is non-competitive: it is anti-competitive, and it is anything but transparent and open.

Some suppliers have been locked out of the industry for five years, and I am sure that this would not stand up to an examination by the ACCC. So, on guiding principle No.2 there is another F on the report card, bringing the total mark to nought out of two.

I refer now to professional integrity and probity. From discussion with many suppliers and manufacturers, both interstate and in South Australia, it appears that a picture is emerging of distrust. Most interstate suppliers to whom I spoke said that South Australia was seen as a joke. Another supplier said quite simply, 'Something smells.' One interstate company said that Supply SA was out to feather its own nest. One company representative was directly asked by Supply SA, 'What is in it for us?' when he was discussing his tender with them. Rightly or wrongly, he came away with the distinct impression that he was being asked for a bribe.

A local South Australian company which has secured contracts previously with Supply SA said that they lost the contracts because they had refused to use the warehouse in Seaton which is owned by Supply SA. Every company with which we have spoken has told us that they were asked to resubmit their bid so as to include central warehousing distribution from the Seaton store. Supply SA wants the suppliers to remove their factored in cost for distribution and transfer it to them. This can result in a mark-up of between 10 per cent and 20 per cent for the consumers, which are our State's public hospitals. A copy of a letter I have obtained states to the prospective tenderer:

> You may wish to use this opportunity to submit amendments or options to your proposal to afford competitive advantage. One option you are invited to submit for this contract is the sole distribution of your product through the Supply SA distribution centre.

That particular company was very lucky to have received this in writing: most others did not get a letter at all. It was done by what was effectively a nudge-nudge wink-wink process. The view in the industry is that the successful tenderer will be the company that factors in the greatest amount for Supply SA, rather than what will be best for the consumer. One example that particularly appalled me in terms of integrity was a potential supplier who was talking to Supply SA on the telephone and, after a period of time, a third party identified himself as having been listening to the telephone conversation 'for the last 20 minutes'. I would hardly call that integrity.

Another complaint that I have heard time and time again is the lack of a paper trail. Supply SA appears loath to put things in writing, preferring to make suggestions verbally. Most of the companies did not get the Seaton warehouse suggestion in writing and most felt distinctly uncomfortable when it was put to them that this option should be factored in. Some have indicated to me that there was no sense that it was an option.

It is possibly a good idea for Supply SA not to put things in writing because an investigation by FOI would not be able to reveal that anything unusual had happened. One businessman who had not heard the result of his company's tender rang Supply SA and was advised that he had been unsuccessful. Supply SA claimed that it had faxed him a letter but did not offer to refax the letter, leading him to wonder about its existence. Again, another F—this time against the guiding principle of professional integrity and probity. The total so far: nought out of three.

I deal now with client service. If the clients and consumers are paying extra for their products due to a 10 per cent to 20 per cent levy on the Seaton warehouse, this is hardly good client service. It is not good, either, in terms of cost or time, given that most companies which secure a medical supply contract can deliver straight to the consumer. Warehousing at the Seaton store results in the product being taken off the supplier's shelf, put on a truck, driven to Seaton, unloaded, checked in, put on the warehouse's shelves and, when the product is needed for delivery to a hospital, checked out, taken off the shelves of the Seaton store, loaded into a truck and driven to the hospital.

There are about seven or eight steps too many in that process—hardly efficient, but maybe I am wrong in assuming that client service means of efficiency. Extra time delays and costs give another F to the Government on this particular guiding principle. The report card is not looking good. It now stands at nought out of four.

I now refer to management of risk. The risks to an efficient procurement system appear to be internal rather than external. The Queen Elizabeth Hospital recognised potential savings of $400 000 in its orthopaedic supplies, so in January 1998 TQEH began reviewing all its suppliers. The review was conducted internally with direction from Supply SA. After 10 months of review the suppliers were shortlisted. Tenderers received a letter which said that they were the preferred provider but, in fact, all of them received the same letter, meaning that the hospital was back at square one with nil savings. So, that is another F, and the report card rating to date is nought out of five.

I deal now with accountability. This is the biggest question of all. Who is accountable for the State's health budget being blown out in this way? Does the Minister for Administrative Services or the Minister for Human Services know what is happening? If they do, what are they doing about it? If they do not, why not? The Government is failing on the principle of accountability. Report card to date: nought out of six.

I now refer to the matter of simplicity. What used to be a simple process of a company's tendering through Supply SA, or more recently through HHSA, having its product evaluated and a decision made shortly thereafter, has been changed to a process with extra steps in it and enormous time delays. The accredited purchasing unit and the strategic purchasing unit were not originally part of the new framework for procurement. Tenders are now passed to and fro, and many manufacturers and suppliers have not received any communication about the progress of their tender. Indeed, even when a contract has been awarded suppliers have still not been informed.

Coloplast Pty Ltd, the wound care division for Bristol-Myers Squibb, has not had any correspondence from Supply SA since June last year. This is hardly a simple process. South Australia has earnt a bad reputation in this area of procurement. One supplier described it to me rather quaintly as 'a constipated system'. A metropolitan hospital which could have secured a contract for office supplies in six weeks had to wait six months for the contract to be decided. The result of the contract which was overseen by Supply SA was

that the hospital now must use two systems to order its supplies.

Early in 1997, tenders were called for the supply of bandages. One prospective tenderer told me that the documents from Supply SA looked like they had been thrown together at the last moment. Accurate product specifications were lacking and the very general nature of the request for tender resulted in extraordinarily large tender documents. In the end it all became too hard for Supply SA, which decided not to go on with the process. You would simply never design a system to be like this. So, again there is a failure on simplicity as a guiding principle. Total to date: nought out of seven.

I refer now to local industry sourcing, where local suppliers can demonstrate competitiveness. This is an area where Supply SA fails miserably, and it has implications for jobs in this State. When Supply SA called for tenders for sharps disposal containers and accessories, a local South Australian business, P and I Waste, put in a tender. Incidentally, most of the companies do not want their names revealed. This one company has been prepared to have its name used, which is a very brave thing to do, as obviously it wants to continue to be considered in this process. This company's products are used by hospitals in the Northern Territory, Western Australia, Victoria, New South Wales and Queensland, but Supply SA is keeping them out of the South Australian market.

Mr Cook, the owner of P and I Waste, met senior members of the State Supply team at the Government Suppliers Trade Show in 1997. In confirmation of their discussions, Mr Cook wrote a letter to Supply SA stating that he was 'pleased to confirm that if we are successful in our Group 65 tender bid for sharps containers, our factory will be installing additional machinery and increasing employees by 15 to 19 per cent.' In January 1998 he was told that he had been short-listed for the contract and asked to submit samples of his containers and accessories. Early in March he was told that they were in a position to commence final negotiations. In a fax from Supply SA dated 10 March 1998, he was asked to reaffirm the validity of his prices and, like others, it was suggested to him that a cost for delivery to and storage in the Seaton warehouse might be a suitable way for him to resubmit his tender.

Mr Cook did validate his prices. He was also asked to extend the tender for a further 12 months at the same price. He confirmed that he could do this but had to negotiate with the local manufacturer. He also confirmed that he would replace existing wall brackets at no cost. Mr Cook was called in for a meeting on Thursday 19 March and informed that he was unsuccessful. He was given no reason and was not given any official correspondence to confirm the outcome. He tried to arrange a meeting with the Director of Supply SA but was told he was too busy. He left messages, but to this day Mr Cook has had no further communication from Supply SA.

An honourable member interjecting:

The Hon. SANDRA KANCK: Certainly, but there is no reason why the new strategy cannot be used as a benchmark. The opportunity for increased employment in South Australia was lost and a multinational company has secured the contract for five years. This is an unusually long time for a contract to be given—not quite an open and competitive way to run a procurement, but in this particular contract all other competitors are locked out for five years. What is even more concerning is that the contract was given without a proper evaluation process. Mr Cook was told that the evaluation had taken place, but further investigations revealed that members of the evaluation committee appointed by Supply SA were completely unaware that the contract had been awarded.

One member of the committee said that the last meeting was in January 1998, when they discussed the sharps containers. The member faxed comments to Supply SA and had not heard anything since. The member is yet to receive minutes from that last meeting. That committee member asked whether my office could find out what was happening with the other Government supply contracts, as they had heard nothing. Many committee members said that the group had been disbanded and no longer gives advice on new products. It begs the question, then, of who made the recommendation and awarded the contract. So, the grand total is: nought out of eight. The Government report card does not look good.

After a lot of time and expenditure, the Government's procurement reform strategy has not achieved its goal. I recognise that reforms take time to come to fruition, but it seems that simple and straightforward processes are not being followed. These practices are costing our hospitals dearly. The publication *SA Government Procurement Reform Strategy* states:

> Reforms have been developed to support devolved agency purchasing and self regulation.

It also states:

> From a reform program that has value for money, risk management, probity and accountability as its primary drivers, all South Australians can expect those gains to continue to be delivered.

The theory presented by the Government may be sound and logical, but the practice is falling well short. The approved purchasing panel chief executive originally had a $400 000 limit with which contracts could be organised. That figure has now been halved, meaning that Supply SA authorises anything above this amount. In medical contracts $200 000 is a relatively low level contract. Supply SA, which can authorise up to $10 million worth of contracts, now has almost complete control over medical contracts. This is not an act of devolution; rather, it is an act of centralisation.

At the moment South Australians are paying for the reform program with little to gain. Not only are taxpayers paying for the Government's new strategy, but also they are paying for them in the form of long waiting lists and closures. But it does not stop there. The costs exist in jobs that might have been created but now will not. The costs exist in the risks created by pushing South Australian based companies, and therefore jobs, out of this State. If they know they cannot get back into the running for five years, why would they stay in South Australia? Business people, some with 25 years experience in the health supply industry, are saying to me they have never experienced anything like it.

Medical supplies of Group 65 is not the only area controlled by Supply SA. There are 31 other groups which are controlled by Government procurement practices. I have heard, for instance, of similar concerns in Group 71 which is furniture, but it is not my job to address those. If these concerns are grounded there is an awful lot of money which could be saved by this Government. So, despite the Government's push to sell our public assets to retire State debt, it may be time to look in-house at the savings which are staring the Government in the face. These problems began emerging in 1997, shortly after a Mr David Burrows was appointed to Supply SA, and I think that any investigation should check the dates and see when things started to go wrong.

In conclusion, I strongly recommend intervention by the appropriate Ministers into Supply SA's procurement practices, particularly in the supply of medical supplies, which have a direct effect on our health services. If this is not done, South Australia will continue to pour health budget money down the drain. Supply SA might be making money, but it is doing so at the expense of our hospital system, and I believe this is a scandalous situation.

The Hon. J.F. STEFANI secured the adjournment of the debate.

[Sitting suspended from 6.4 to 7.45 p.m.]

EDUCATION (GOVERNMENT SCHOOL CLOSURES AND AMALGAMATIONS) AMENDMENT BILL

Bill recommitted.
In Committee.
Progress reported; Committee to sit again.

GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 25 November. Page 323.)

The Hon. J.F. STEFANI: I rise to make a short contribution to this Bill and, in so doing, I wish to state clearly my strong opposition to the introduction of poker machines. I recall very clearly the arduous task that was given to the members of this Council—some of us were here and others were not, because they were not yet elected to this Chamber. But, indeed, it was a very strong and emotional moment for the State, on the basis of the elected members of the Council at that time, to make a decision which obviously has been a part of our community life now for some years.

I strongly opposed the introduction of poker machines at the time, and a number of my colleagues also felt the same way. Poker machines have had somewhat of a disastrous effect on our community in that, unfortunately, those who have become addicted to gambling have suffered a lot of financial hardship. However, from the community's point of view, gambling is not a new occupation or pastime. There are many forms of gambling—the races, the dogs, the trots, and so on—in which people engage as a hobby, a pastime or a habit. Indeed, there are a good number of ways in which people can lose their money.

However, I wish to focus more specifically on the intent of this Bill, and I have considered a number of issues carefully. I have taken some time to visit a number of hotels, to speak with the management thereof and to assess at first hand the capital expenditure on facilities developed not only for gambling but also for the provision of meals and other general amenities to service the patrons who frequent those hotels. I am not at all convinced that the measure before us represents the most appropriate way to deal with the gambling issue. I believe that people who in an honest way have made decisions to spend very large sums of money to expand their premises and create facilities and general amenities that are not associated with the gambling area of their premises would, indeed, find themselves in great difficulty should Parliament make decisions curtailing the income those premises generate.

I also think that a good number of jobs have been created. Whilst there may be a downside in terms of people who have become addicted to gambling losing not only their jobs but also their homes, I believe that the hotel operators who, on the enactment of legislation allowing poker machines, enhanced their premises and developed their facilities should not be disadvantaged by a decision of this Parliament; in fact, I believe that such a decision would be an incorrect decision.

Poker machines will remain with us for a good number of years, and the Government and the Parliament will need to deal with the various issues involved in a different way. I believe strongly that Parliament should not make decisions which would place many businesses in jeopardy and which, as I said earlier, would restrict the income hotel owners needed to service the debts they incurred through the provision of additional facilities at their hotels. Some operators obviously make more money than others; but, again, that is the nature of private business and has little to do with the Parliament or the Government of the day.

If they pay their taxes, that is all we can ask that they do. I make it quite clear that I will not support any of the measures in the Bill. I need to be convinced that there would be some merit in dealing with the legislation in a different manner and I await the introduction of a more comprehensive Bill, which I understand the Hon. Nick Xenophon intends to bring before Parliament at a later stage. If there are some sections of that measure which I feel that I can support, I will certainly consider them.

The Hon. CAROLINE SCHAEFER: I, too, would like to very briefly state my position since I am Chair of the Social Development Committee, which brought down a report on gambling in this State with a particular emphasis on gaming machines. I note from the Hon. Mr Xenophon's second reading speech that he was dissatisfied with the report of the Social Development Committee and disappointed in our findings. I cannot quote the honourable member exactly, but he said that they did not live up to his expectations. Unfortunately, those of us who have been in the committee system for quite some time know that committee reports rarely live up to the expectations of one or another interest group, because they endeavour to encompass the views of all the people who are involved with and affected by the decisions and recommendations of those committees. As such, we did our best to encompass the views of all the people who are affected by gaming machines and by gambling laws in this State.

It is easy to say this because I was not here at the time of the debate on poker machines but, had I been a member at the time, I would have voted against them on the premise that we have enough methods of gambling in this State and because, on a personal level, I find poker machines to be deathly boring and not much of a way to spend my money or my time socially. Having said that, I will also say that I thoroughly enjoy a day at the races, so who am I to decide which method of poison people should or should not use?

The Hon. R.R. Roberts interjecting:

The Hon. CAROLINE SCHAEFER: The Hon. Ron Roberts asks, 'What about a day at the trots and a day at the dogs?' I enjoy the gallopers most of all—unless the Hon. Ron Roberts has a tip for me and then I will go to the trots. What I am trying to say is that most of us enjoy some form of gambling to a greater or lesser degree. I do not think it behoves us as parliamentarians to decide which method of gambling is or is not socially okay.

The findings of our committee illustrated quite clearly that about 1.6 per cent of people who gamble are problem gamblers. In this State, the poker machine industry solely contributes to the Gamblers Rehabilitation Fund for the education and rehabilitation of problem gamblers. No other gambling industry contributes to the fund at this stage. We also have some of the most stringent regulations of gaming machines of any State. Indeed, I think that we have the most stringent regulations of any State for gaming machines. We have the lowest—

Members interjecting:

The Hon. CAROLINE SCHAEFER: I agree that Western Australia has no poker machines but, for those States that do have them, we have the most stringent regulations. We have a cap on the number of poker machines that any establishment might have and, by comparison with Western Australia which has no poker machines, the difference per capita in money spent on gambling is less than $1 per head. Linked jackpots are banned in this State, EFTPOS facilities are not available in the immediate vicinity and there are no note-taking devices. In a democratic establishment I think we have done as much as we can to regulate gambling. As I say, who am I to say which is or is not an acceptable method of gambling?

The Hon. T.G. Cameron interjecting:

The Hon. CAROLINE SCHAEFER: I reported in the majority report that the Hon. Terry Cameron was part of.

The Hon. T.G. Cameron interjecting:

The Hon. CAROLINE SCHAEFER: I supported a ceiling on poker machines that was to be brought in gradually over a series of years. It was not a retrospective piece of legislation, and I am coming to that. The current poker machine facility in this State directly employs 4 000 people and probably employs closer to about 15 000 people. All of that aside, the reason I will not support the Bill is because it is retrospective legislation and I passionately disagree with retrospective legislation. I do not think I have ever voted for retrospectivity on anything that is important to this State.

The Hon. T.G. Cameron: What about Trevor Griffin's Bill and Di Laidlaw's Bill?

The Hon. CAROLINE SCHAEFER: I voted only where it removes regulations, not where it imposes them. I do not believe that morally we can impose regulations on people who have already invested their money and committed themselves under what is a legal method at the time. If it is legal for people to invest, they should be able to do so. If at some future stage, as the Hon. Mr Xenophon has been telling us since he arrived here, he introduces a larger Bill that addresses the whole issue, and not just a retrospective part of the issue, I will look at the Bill at the time. At the moment I will not support his Bill.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I oppose the second reading of the Bill. As honourable members would be aware, members of my Party have a conscience vote on this issue. It is historic that we have had a conscience vote on this issue. Certainly, I was in Parliament when this legislation came before us and I remember sitting in this Chamber night and day dealing with this legislation and, at the time, I certainly struggled in thinking about whether or not I should support it. I suppose in the end I supported it from a civil libertarian point of view, which is similar to the view of the Hon. Caroline Schaefer, because there are other forms of gambling, so why should this one be any different?

With the benefit of hindsight I may have had a different view if it was a new issue. Interestingly, today I received a copy of a letter sent to another member of Parliament from Frank Blevins who, as honourable members would be aware, was the Treasurer who introduced the legislation. I would like to quote part of that correspondence, because he said:

> During my 22 years in Parliament I always approached legislation from the position that the right of people to do as they wished should be advanced wherever possible. I did this in two ways: by advancing the libertarian position in ALP forums on those issues on which the Party had or was developing a policy, and on 'conscience' issues I always promoted and voted to give or extend people's right to choose. As you know, these conscience issues include abortion, alcohol, gambling, sexuality, euthanasia, drugs and prostitution. In fact, I went so far as to 'cross the floor' to support the Tonkin Government in one of their gambling proposals when every other Caucus member exercised their consciences against that Government. As with gaming machines, I always find it extremely rewarding when the choices resulting from my efforts are taken up with enthusiasm.

The Hon. Mr Blevins is still maintaining an interest in this issue.

The Hon. Nick Xenophon interjecting:

The Hon. CAROLYN PICKLES: He is a private citizen, Mr Xenophon. I think your remarks are rather offensive.

Members interjecting:

The Hon. CAROLYN PICKLES: You're being paid. You are representing your group, and he is still taking the same position today as he took when he introduced the legislation. I am doing the same; I am taking the same position. I voted for that legislation. I have not changed my mind. I personally find gambling a rather curious occupation. I do not gamble. I have a flutter on the Melbourne Cup once a year, and that is about my limit. This evening during the dinner break I was interested to hear a couple of women members talking about campaigning during the State election and going into one of the bars in the electorate of one of the members. One of the members, who is no longer in this place, was rather interested in these poker machines—and she in fact had supported the legislation, too—so she thought that she ought to have a go for the first time. She went up to get some coins—or whatever you get to play the machines—but it took them a fair while to work out how to use them. That shows the level of their interest in the things. That is my interest: I have no interest in it.

However, I have talked to hotel owners, to the AHA and a number of people in the industry, and I believe that this would be most unfair legislation. People have committed an enormous amount of money to the issue in good faith. It would be wrong to try to turn back the clock. I also believe that probably this legislation would have the effect of making the licences very rare and expensive, and that would be a difficult situation in the long run.

I understand that the Hon. Mr Xenophon will introduce a more substantive Bill somewhere down the track, and I suppose we can expect that in the eight years that he will be in this place we will be dealing with lots of Bills on poker machines. I welcome the challenge of the introduction of that Bill, and I will exercise my conscience on it and look at its merits then. However, this is unfair legislation; it is retrospective legislation, and I believe it will have an effect upon the employment opportunities of a large number of people in this State, especially young people.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS (Treasurer): Having a good argument over there, fellows, are you?

The Hon. A.J. Redford: You ought to take a look at the Democrats; they're having a real blue out there.

The Hon. R.I. LUCAS: They're developing a united position on the Gaming Machines Bill! Someone's obviously expressing a conscience vote at the moment; it's being beaten out of them. Heaven forbid we might ever see the Democrats express a conscience vote on any issue in this Chamber.

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, they might—who knows!

Members interjecting:

The PRESIDENT: Order! We have a long night ahead of us; it would be nice to keep on with the debate.

The Hon. R.I. LUCAS: And we'll enjoy it, Mr President, I assure you. At the outset, the Hon. Mr Xenophon's reflection upon a former colleague in this Chamber, Frank Blevins, was unfortunate, by way of his interjection during the speech made by the Leader of the Opposition. The Hon. Frank Blevins was an opponent of mine for a number of years in this Chamber and then he moved to those less tasteful ventures.

Members interjecting:

The Hon. R.I. LUCAS: He went downstairs! He went downstairs to that Lower House that we do not talk about very often. Nevertheless, he was still an opponent.

The Hon. A.J. Redford: That would explain why in his final speech the Hon. Frank Blevins said he saw Michael Elliott coming and he had to go! That is why he left.

The Hon. R.I. LUCAS: That is an interjection worthy to go on the record from the Hon. Mr Redford, so I will respond to it. In all that time, I found Frank Blevins to be a pretty straight arrow. I can say that, in all the discussions I had confidentially with the Hon. Frank Blevins, he was true to his word. If he disagreed with you, he would tell you to your face; if he gave a commitment privately, he would keep it. I respected his integrity whilst I disagreed with his political credo from time to time.

I am comfortable dealing with people who are straight with me even if they disagree with me. If the Hon. Frank Blevins has been employed by the AHA, I think it is an astute appointment by the AHA. There would be no-one better than Frank Blevins in terms of knowing his way through the ins and outs of the labour movement both in this place and supporting this place than Frank Blevins, and the AHA has the right to employ whomsoever they choose. If it happens to employ Frank Blevins, good luck to him. It may mean that some of us after we leave this place have some sort of useful purpose to serve. I am not holding myself out as a lobbyist for the AHA, but certainly—

An honourable member interjecting:

The Hon. R.I. LUCAS: I might do that later—there might be a life after Parliament and politics, and someone might see some value in retired politicians.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I thank the Hon. Mr Cameron. My position on gambling issues has been well-known in this Chamber. I have taken a small 'c' catholic view to gambling, and I have expressed that view on a number of occasions. I think one of my comments made it into the lofty tome of the Social Development Committee's report. I am not one of those people who, having voted on gaming machines, now cringes in any way or endeavours to move away in any way—

The Hon. T.G. Cameron: You cannot afford to: you are the Treasurer.

The Hon. R.I. LUCAS: No, even if I was not Treasurer. The issue was put to me when I was Minister for Education, and I thought the novel way of solving the education problem would be to give every school council a gaming machine; I thought that we should give every farmer a gaming machine and a speed camera to operate outside their property—give them an incentive. I do not think there has been a Bill on gambling issues in this Chamber, ranging from my first vote on the Casino (which I supported), that I have not supported. There might be one, but I cannot recall it.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Well, I take a small 'c' catholic view to gambling. I am not saying that I take the same view as the Hon. Mr Crothers. I do not say that I take that view on all issues, but in relation to gambling that has been my view.

In relation to gaming machines, I do not for one moment shirk from the full onslaught of the No Pokies Party, the No Pokies candidate, the No Pokies member, the *Advertiser* and, indeed, the range of other groups that represent the various interest groups in this area. Whilst I respect their views and their right to hold their views, they can respect my view that I disagree with them and disagree with them absolutely. I think gaming machines have been blamed for almost every sin in the world that one can contemplate, and when we have the opportunity in the more substantive debate in February when the Bill is introduced by the Hon. Mr Xenophon I will be happy to trace in greater detail all the things for which gaming machines have been blamed. I think other members have referred to some of those issues in their contributions and I will not repeat them on this occasion, although I will explore them when next we discuss this issue.

This is a conscience issue—and there are a variety of views in the Government on it—but those who support gaming machines and those who support the continued availability of gaming machines ought to be prepared to stand up and indicate to the community the value of the $170 million plus which is going through taxation revenue and which is spent on a variety of essential services in our community.

The Hon. T.G. Cameron: What about the poor buggers who lost it?

The Hon. R.I. LUCAS: The Hon. Mr Cameron says, 'What about the poor people who lost it?'. In the end, one can say that about any gambling.

The Hon. A.J. Redford: You can say that about the share market.

The Hon. R.I. LUCAS: Exactly. The Hon. Mr Cameron can say that about the Futures Exchange and a variety of other areas as well. If grown people such as the Hon. Mr Cameron and others decide to take a punt on the Futures Exchange, the share market, the gaming machine industry, race horses or whatever, ultimately—

The Hon. T.G. Cameron: It is called investment. You do not invest when you put your money into poker machines.

The Hon. R.I. LUCAS: That may or may not be the case, but I am sure many people would regard some investments in the share market as a bit of a gamble as well. Those who support gaming machines ought to publicly and openly indicate the value that the Governments of the day—Labour and Liberal—undertake with the revenue that is gained through the gaming machine industry. As Treasurer, I indicate that very many—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —essential community services are funded through the revenue we gain from the gaming machine industry. As the previous Minister for Education I can say that we would not have been able to fund the DECS*tech* 2001 program (which was the innovative computer acquisition program within our school system in South Australia) without the money we received from gaming machine revenue for the first time. The total amount of money spent by the previous Labor Government on computers in schools was $365 000. Through the gaming machine revenue that we were able to gather, this Government put together the $70 million to $75 million DECS*tech* 2001 program, and a substantial part of that was funded through gaming machine revenue. Out of the $15 million, I think about $9 million or $10 million a year was funded directly through contributions from gaming machine revenue. The rest of the $150 million a year is used for essential services. The people wanting to wipe out the gaming machine industry have to indicate to the people and the businesses of South Australia where they would get the $170 million—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: It is the thin end of the wedge: it is the foot in the door. They have to indicate where they would find $170 million plus, which is raised through the gaming machine industry, to help fund the essential services within our community. That is why I do not support the essential premise of the Hon. Mr Xenophon's subsequent Bill, which is to wipe out completely the gaming machine industry, and therefore it will not surprise members that I am not supporting this legislation either. What needs to be demonstrated—and so far we have not seen it from the Hon. Mr Xenophon or those who support the Bill—is that, if the essential premise is that .5 per cent of people—I think the Hon. Mr Xenophon thinks it is greater than .5 per cent; it is 1 per cent, 2 per cent or whatever figure it might be—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Xenophon thinks it is more than that, but he can produce no evidence to that effect. Whatever the figure is—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Yes, but not the figure about which the Hon. Mr Xenophon is talking. Whatever that figure is, it is a very small minority. What the proponents of this legislation need to do is explain to me—and I am a relatively simple country lad—how putting a cap at 10 000 or 11 000 machines—and however many establishments there are in South Australia—will stop one gambling addict from going to a gambling establishment and continuing with their gambling addiction. I challenge the Hon. Mr Xenophon and the members supporting this Bill, if this legislation is to be seen as anything more than tokenism or fairy floss, to explain how they support the argument that this measure will stop one problem gambler's addiction to poker machines. There will still be virtually the same number of outlets and there will still be the same number of machines on whatever the date is in August, with this retrospective provision in the legislation.

Is the Hon. Mr Xenophon seriously trying to suggest that a person in Elizabeth, Kensington, Burnside or wherever with a gambling addiction, which we all acknowledge, and with which we all sympathise, will say they will not go 200 metres down the road to the nearest hotel or club establishment, and will not play on the gaming machines, because this Bill has gone through the Parliament, and the Hon. Mr Xenophon has stood up and said, 'I have limited the number of machines to whatever the number was in August.'? Does he seriously suggest that one gambling addict will respond in that way? I think it is a very naive view of the honourable member.

At least whilst I disagree with it absolutely, if he wipes out of South Australia the whole of the gaming machine industry, he can argue that that will in effect prevent access to gaming machines from that small percentage of people who have a gambling addiction. No-one who sensibly or rationally considers this particular issue will believe that, if this piece of tokenism were to be passed by the Parliament, gambling addicts—who, if we understand the portrayal that some of these addicts (and I can relate to it) would drag themselves across cut glass to get to a gaming machine and bet and gamble their last dollar—will not stroll 200 metres down the road to the nearest gaming establishment that will still exist with the same number of gaming machines as prior to this legislation and say, 'The Hon. Mr Xenophon has passed his legislation and I will now give up my gambling addiction; I will go off to counselling and resolve the issue that way.'

Not a skerrick of evidence has been presented by the mover of this Bill to support that notion. I challenge members who are about to speak to read the honourable member's speech and find one skerrick of evidence to argue a case that that very small percentage of gambling addicts, as a result of this measure, will be prevented from gambling. I challenge members who have not spoken, to look at his speech and point—

The Hon. T.G. Cameron: You have said it five times now.

The Hon. R.I. LUCAS: And I will say it again. I also challenge the Hon. Mr Xenophon, when he replies, to point out in his contribution where that evidence is in relation to preventing gambling addicts from access to gaming machines. It therefore will not surprise anybody to know that I do not support this piece of legislation. I remain true to my view when the legislation was voted on in the Parliament that gaming machines, as an entertainment option, should have been provided to the people of South Australia. If that legislation were to be introduced again today, without any concern at all, I would vote again for the provision of gaming machines. As the Hon. Mr Crothers has said privately and, I think, by way of interjection, and others have indicated, one has to look at the tremendous improvements in terms of hospitality and tourism in country and regional South Australia, and throughout the metropolitan area, and the wide variety of services now provided through many of our hotels.

I have had some research done on some of the claims that have been made about the loss of jobs in the retail industry and other areas. When time permits next February, I will be quite happy to debunk some of the outrageous claims that have been made by some of the opponents of the gaming machine industry. There has been a significant growth of employment in the retail industry while Mr Xenophon and others have been claiming that 4 000 jobs (or whatever the number is) have been lost in the retail industry as a result of gaming machines. I am happy to engage in rational debate on these issues with the mover of this motion both in this Chamber and elsewhere, as we have done. However, it ought to be a debate that is based on fact rather than tokenism, on which I believe this Bill has been based.

The Hon. A.J. REDFORD: I oppose the Bill, which basically says that you cannot get a licence for poker machines if you make your application after 28 August 1998. It goes on to provide that if any grants have been made since

28 August 1998 they are void and of no effect. I well remember the Hon. Nick Xenophon's contribution just over 12 months ago on a similar piece of legislation. It was called the Gaming Machines (Gaming Venues in Shopping Centres) Amendment Bill. Members might recall that that Bill proposed to freeze the introduction of poker machines into premises associated with a shopping centre. On that occasion the Hon. Nick Xenophon said:

> I agree with the Hon. Ron Roberts—

and he does a lot of that, I might add—

> that it really is a piece of *ad hoc* legislation, and I have a lot of sympathy for what the Hon. [Mr] Cameron said regarding the whole approach of this legislation.

Twelve months later the Hon. Nick Xenophon has come into this place and given us a piece of *ad hoc* legislation. One might say that there is a certain element of hypocrisy in the Hon. Nick Xenophon's approach in relation to this Bill.

When the Hon. Nick Xenophon entered this place he delivered a very eloquent and, one might say, very principled maiden speech and focused, quite properly, on the issue of poker machines. He pointed out that he was acutely aware that an Independent had not sat in this Chamber in a century. I might say that the public might regret that in the near future.

The honourable member went on to ask the Government to commission a comprehensive economic impact study so that it could rely less on anecdotal and more on well researched economic data. Given the challenge issued by my Leader, I would suggest that the Hon. Nick Xenophon should provide us with more than 'anecdotal evidence' and base it on well researched economic data, as he said was necessary on 4 December 1997.

Indeed, given the Hon. Nick Xenophon's love of citizen initiated referenda, one would think that he might well include a clause in this and any other Bill that he puts before this Parliament—because we know there will be a few—that would require some form of referendum before the legislation came into effect. The Hon. Nick Xenophon has spent considerable time telling this Parliament that he will bring in a comprehensive Bill dealing with poker machines. He has said it not just in this place but in the media. Indeed, I am reminded of a No Pokies publication issued by the Hon. Nick Xenophon back in July, when he indicated the following:

> The private member's Bill I will be introducing is currently in its final stages of drafting with Parliamentary Counsel. It should be released at the end of July and I will be inviting all supporters to meet with me and provide me with feedback on the draft Bill.

My criticism of the Hon. Nick Xenophon is that his approach to law reform in this area can be described in the kindest way as *ad hoc* or in the harsh way as opportunistic, seeking the maximum amount of publicity that he can possibly achieve. If the Hon. Nick Xenophon wants this Parliament to deal properly with the poker machine issue in a careful, clear and proper process, I urge him to bring into this place his main Bill, the big one, so that we can deal with this whole issue as a total package. We have been waiting for more than 12 months for such a Bill, and we are still waiting.

The Hon. T.G. Cameron: If he'd brought it in straight away, you would have criticised him for going off half cocked.

The Hon. A.J. REDFORD: The Hon. Terry Cameron interjects. Fair is fair: if he had brought it in in December last year, I might have made that criticism but, when he said in February this year, in answer to an interjection from me, 'I'm working on the Bill and I'm going to need a little bit of time,' I thought that I would give him a little bit of time. And when he said in May that it was about to be introduced, I thought, 'Good, I cannot wait for this Bill; we will have a good, positive, constructive debate about it.' Then in July he says in a newsletter that we are to get a comprehensive Bill. Back in October, I think it was, although it might have been September, I actually got a copy of a draft Bill. I thought, 'Beauty; this is going to be introduced and we as a Parliament can look at this whole issue as a package.'

But here we are in December still waiting for the Bill and dealing with what I would suggest in the kindest possibly way to the Hon. Nick Xenophon is a Mickey Mouse effort, given his so-called mandate. I would suggest to the Hon. Nick Xenophon that he ought to bring in here a serious piece of legislation so that we as a Parliament can seriously deal with it. We have had a number of economic impact reports going back to 1995. We have a significant and detailed report from the Social Development Committee—and I am yet to see the Hon. Nick Xenophon's detailed response to what the Social Development Committee suggests. I suggest to the honourable member that we stop playing politics with this issue. Let us not deal with this on the basis of political opportunism: let us bring in the main Bill and let this place debate it properly.

Let us not treat this place as a show for tomorrow's headline or tomorrow's media grab. The Hon. Ron Roberts laughs. I am saying this very seriously: let us treat this place with the seriousness and dignity that this issue demands. And it does not demand this sort of legislative nonsense, this sort of legislative claptrap, given that on his own admission the honourable member has only one significant issue to deal with. I urge the Hon. Nick Xenophon to treat us with some dignity and some respect and not to bring in this sort of Mickey Mouse stuff that is merely designed to get maximum publicity. At the end of the day, I would seriously consider any Bill which the Hon. Nick Xenophon introduced and which banned poker machines provided it was put to a referendum, because I know that it would not succeed.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Cameron, being the orchestrator of a couple of unsuccessful election campaigns, said, 'Nick, you and I could win an ETSA referendum.' I am not sure that the honourable member could win a poker machine referendum, with all due respect, because—

The Hon. T.G. Cameron: Would you be prepared to have a go?

The Hon. A.J. REDFORD: I would want to see the Bill first. At the moment, it keeps chopping and changing and it is the subject of, 'Can I get a headline next week?' With all due respect to the Hon. Nick Xenophon, I must say that that is treating the public of this State and this Parliament with contempt.

The Hon. R.R. Roberts: There is no wrath like a Liberal scorned.

The Hon. A.J. REDFORD: This has nothing to do with Liberal scorn.

The Hon. R.R. Roberts: You would have given him anything he wanted as long as he voted for ETSA. You would have given him anything bar a total ban.

The PRESIDENT: Order!

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: The Hon. Ron Roberts imposes upon me the sort of morals that he might have. If there is one thing for which I respect the Hon. Nick

Xenophon it is that he did not prostitute himself on the alter of poker machines. Rightly or wrongly, he made a decision on that other issue and did not confuse it.

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: The Hon. Ron Roberts might play those sorts of games but this side of the Chamber, and I include the Hon. Nick Xenophon, does not play that game. Do not think that we all think the way the Hon. Ron Roberts does.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: At the end of the day, he is a gutter operator. He will give away anything for anything. The big mistake he makes is that he believes the rest of us think exactly the same way. I challenge the Hon. Nick Xenophon to introduce the main Bill and let this place debate it. To drag this out clause by clause, issue by issue, bit by bit, without looking at the total package is unfortunate and unwise. I quote to the Hon. Nick Xenophon the last paragraph of today's *Advertiser* editorial:

> We shall continue to track his eccentric political career because his vote matters. But if he acts on an issue as vital to South Australia as this and as potentially advantageous to himself as he announced yesterday, we shall do so with the same sort of regard kept for a dotty relative with a bee in his bonnet.

I do not necessarily agree entirely with the sentiments expressed in that editorial but, if the Hon. Nick Xenophon wants to play that sort of game with this sort of issue, he will attract genuinely that sort of criticism. I challenge the Hon. Nick Xenophon to introduce his Bill; let us debate it and not fiddle around with the matter issue by issue and section by section. We know that the honourable member has another seven years in this place but let us try to deal with this issue as quickly as possible.

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

EDUCATION (GOVERNMENT SCHOOL CLOSURES AND AMALGAMATIONS) AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. NICK XENOPHON: Following discussions with my colleague the Hon. Terry Cameron, I withdraw my proposed amendment to delete paragraph (ca).

The Hon. R.I. LUCAS: I must admit it is a bit confusing for those of us who are trying to follow this. I was informed that the Hon. Mr Xenophon was moving this on behalf of Karlene Maywald, the member for Chaffey, and I understood that there had been an agreed position between the Hon. Mr Xenophon, the member for Chaffey and the Minister in relation to the package of amendments. So, it may well be that I am inadequately briefed, and I seek some guidance from the Hon. Mr Xenophon. Was he moving these amendments on behalf of Karlene Maywald as a result of a discussion and an agreement between the member for Chaffey, the Minister and himself, or is this position now where he is deleting it one that he has undertaken after discussion just with the Hon. Mr Cameron?

The Hon. NICK XENOPHON: The position is this: I have had consultations with the member for Chaffey, Ms Maywald. I undertook to move these amendments, and I was happy to do so. In relation, though, to the first indicated amendment—that is, the deletion of paragraph (ca)—following discussions with the Hon. Terry Cameron and Ms Maywald, it is the member for Chaffey's preferred position that that amendment be proceeded with. But during discussions with the member for Chaffey earlier this evening I explained what the position was, as I understood it, of the Opposition, the Democrats and Mr Cameron.

In this regard, if the Treasurer believes that this clause should be put to a vote, I invite him to put it to a vote. I should emphasise, though, that the member for Chaffey's position is that the clause be deleted, but there were some discussions in terms of the views of the Opposition, the Hon. Terry Cameron and the Democrats in this matter. So, I am in the Treasurer's hands on that procedurally as to whether he wishes to proceed with that.

The Hon. T.G. CAMERON: I confirm to the House what the Hon. Nick Xenophon has just related. I was involved in discussions with both him and Karlene Maywald today. I suspect that, in relation to this amendment, the Hon. Nick Xenophon is in exactly the same position as the Government with respect to the ETSA Bill—they can only find 10 votes for it. After those discussions, I put my amendment forward and, as I understand it, that will be the amendment that will be debated here and voted on.

An honourable member interjecting:

The Hon. T.G. CAMERON: He has not given me the call to move it yet.

The Hon. CAROLYN PICKLES: We do have an amendment that has been lodged by the Hon. Terry Cameron. For the purposes of debate, I indicate that the Opposition will support the amendment moved by the Hon. Mr Cameron, which is:

> Clause 3, page 3, line 4—after 'a person' insert:
> (not being a teacher at a school that is subject to the review)

The Hon. T.G. CAMERON: If I may, I will move the amendment standing in my name.

The CHAIRMAN: I will get an indication from the Treasurer if he wants to respond to the discussion so far, which related to clause 3. There are indicated amendments in front of everyone. No amendment has been moved. However, if I understood what the Treasurer said earlier, what is before the Committee is an agreement that included the Treasurer.

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: No, but I understand that the package was an agreement between all the Parties and, now that one Party has removed one amendment, I am giving the Treasurer the opportunity to speak, before we move on.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: It is very difficult. The member for Chaffey indicated to the Government that the Hon. Mr Xenophon had agreed to put her position to this Chamber. As I remember this debate, the reason why we could not proceed to the third reading stage (not today, but the last session) was that I had had a conversation with the member for Chaffey and that she had indicated—because she had to go home—her view. The Hon. Mr Xenophon told me that he had not discussed it with the member for Chaffey, that he would support her position on it and that, therefore, he was not prepared to put it to a vote until he knew what the member for Chaffey wanted. So, we did not put it to a vote at that stage, because the Hon. Mr Xenophon told me that he

could not get in touch with the member for Chaffey and that he supported her position on this issue.

I remember having a conversation with the honourable member in the dying hours of the night of the last session and, therefore, it was put aside so that the honourable member could discuss the matter with the member for Chaffey. The only advice I had had before I saw this (and I saw this late this afternoon) was that the Hon. Mr Xenophon had agreed to move this Bill on behalf of the member for Chaffey and that a position had been agreed between the member for Chaffey, the Government and the Hon. Mr Xenophon in relation to these provisions. I was merely asking—because I had not spoken to the member for Chaffey—whether, with the agreement of the member for Chaffey, the Hon. Mr Xenophon now wanted to remove this amendment or whether the member for Chaffey disagreed with the position that the Hon. Mr Xenophon was adopting. The honourable member has clarified that in his last contribution and said that he does not now support the member for Chaffey's position.

The Hon. T.G. Cameron: He's withdrawing that amendment.

The Hon. R.I. LUCAS: He is not supporting her position in relation to that. I was just seeking clarification, because I have not had a discussion with the member for Chaffey.

The Hon. T.G. Cameron: I have.

The Hon. R.I. LUCAS: Well, the Hon. Mr Cameron and the Hon. Mr Xenophon have; I have not had a discussion with the member for Chaffey. We were looking at conflicting amendments, and we were not sure what was going on in relation to this provision.

The Hon. T.G. Cameron: Have we clarified it for you?

The Hon. R.I. LUCAS: Well, we have now clarified it. I accept the Hon. Mr Xenophon's word that the member for Chaffey's position is as he has described it. Obviously, at this stage I have not had an opportunity—

The Hon. T.G. Cameron: You can take my word, too.

The Hon. R.I. LUCAS: I am happy to accept the Hon. Mr Cameron's word in relation to that, because I have not had the opportunity (as the Lower House has adjourned)this evening to talk with the honourable member. As I understand it—I am acting on instruction—the Government's preferred position is to support that of the member for Chaffey and that which the Hon. Mr Xenophon supports, namely, to delete subclause (ca), 'a person nominated by the AEU'. The explanation given to me, and the reason why I understood the Hon. Mr Xenophon agreed with it, was that the AEU opposed school closures outright. It has made that quite clear in relation to any school closure or rationalisation proposition.

The Hon. T.G. Cameron: I am pleased to advise you that it is possible to get the Hon. Nick Xenophon to change his view. Hold out some hope on that one.

The Hon. R.I. LUCAS: All I am saying is that that was the view put to me. Having had some experience in relation to this issue, with respect (and I do not wish to be provocative), the amendment to be moved by the Hon. Mr Cameron will not assist much because it provides for an AEU representative who is not actually a local person: it has to be someone from outside. In that situation it is likely that the union heavy will become involved. It will be Janet Giles, Jack Major, Jackie Bone-George, Jenny Devereaux or someone—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: No, it won't be: a union heavy will actually be involved. I can assure you that the union heavy's position will not be one that tries to encourage sensible or rational debate on any closure decision. Their avowed purpose is to stop each and every one of these school closure decisions. They are not known for their willingness to enter into reasonable debate on school closure decisions.

An honourable member interjecting:

The Hon. R.I. LUCAS: I suspect with anyone, potentially. At the moment they are demonstrating their unwillingness to accommodate even the new Minister for Education. Perhaps it is only with Liberals. We will find out, if and when there is another Labor Government, whether it is just Liberals or whether it is all Ministers for Education. If we want a sensible debate that has not been politicised from day 1, the last person we would want on the committee is Janet Giles or some other union or factional heavy who is incapable of rational thought in relation to a school closure decision.

The Hon. T.G. Cameron: Are you speaking to my amendment, because I haven't moved it yet?

The Hon. R.I. LUCAS: Yes, I am speaking about it. I thought that you had moved it.

Members interjecting:

The Hon. R.I. LUCAS: It is quite in order for me to canvass this clause.

Members interjecting:

The CHAIRMAN: Order!

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order! The Committee is on clause 3 and the amendments have been circulated to all members.

The Hon. R.I. LUCAS: It is an interesting test that the Hon. Mr Elliott has put that a member cannot speak to an amendment to a clause without its being moved. I will test him against that in future debates because it has never been the practice in this Chamber that members are not able to canvass a clause and the amendments that have been circulated to it. It is a new test that the Hon. Mr Elliott has constructed. I do not intend to speak to all the amendments which will be moved or which might be moved by the Hon. Mr Xenophon and the Hon. Mr Cameron. However, the Government's preferred position as I understand it, and as I am advised by the Hon. Mr Xenophon and the Hon. Mr Cameron it is the member for Chaffey's preferred position, is that there not be a person nominated by the AEU on this committee. That is the Government's preferred position.

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

Page 3, line 4—After 'a person' insert:
(not being a teacher at a school that is subject to the review)

The amendment seeks to provide for a situation where the relevant union, the AEU, is able to nominate somebody to sit on the committee. The proviso that I have included is that that person should not be a teacher at the school that is subject to the review. I do not know which crystal ball the Treasurer has been gazing into, but I have no idea who the AEU might send along to this committee. It might well be somebody from the union head office who has specialist expertise in the area of school closures, or it might be a principal from some other school or a teacher from another school outside the cluster of schools that is being examined by the committee at that time.

The union did not contact me over this amendment, and it has not lobbied me or sought my support in any way. It has been quite a while since I have heard from the teachers union but, despite the comments made by the Treasurer, I still think that we can make out a sound case for the teachers union, which represents over 20 000 teachers in South Australia, to be represented on that body. I am not quite sure why the Treasurer is so afeared of Janet Giles. I have never had the

pleasure of sitting down and having to negotiate with Janet Giles. In fact, I am not sure whether I have ever had a conversation with her. I am not sure whether the Treasurer is concerned that the union might send Janet Giles along to represent its 20 000 members. However, the Treasurer should not be too frightened of having Janet Giles sit on this committee. She may well have some very firm points of view to put to the committee, but I think from my reading of the Bill the Minister will appoint two people, including the Presiding Member who, depending on the way the councillor votes—

The Hon. M.J. Elliott: And the Director-General.

The Hon. T.G. CAMERON: And the Director-General—but the Presiding Member may well have a deliberative and a casting vote. I would not be too frightened of Janet Giles and the Teachers' Union, Treasurer. You have dealt with them before as Minister of Education and, from all the speeches you made in this place on a number of occasions, you did not seem to be exhibiting the same worry, concern and fear over having to deal with Janet Giles. On a number of occasions, I think, you actually complimented her and said you enjoyed the robust discussions you had with her. If you do have some concern about the individual, I would not worry too much about it because you will not be sitting on the committee.

The Hon. CAROLYN PICKLES: Interestingly, some honourable members have had the benefit of discussions with the member for Chaffey. When I was told that the Hon. Mr Xenophon wanted to vote on this—although my Notice Paper is not indicated in that manner—I contacted the shadow Minister for Education in another place and she advised me that she had had no discussions with the member for Chaffey about this. We are as much in the dark as the Government is. All that being said, I still maintain there should be a union representative on the committee. I imagine, if the threats of the Treasurer this afternoon are true, there are going to be many school closures and Janet Giles would be hard pressed to be on all these reviews that are going to occur. I do not have the same reservations about a union representative. On another Bill that we discussed last week a Government member had similar opposition to a union person being on a board. There seems to be some kind of anathema about the trade union movement in this case. However, if the member for Chaffey wishes to have this amendment inserted, the Opposition has no quarrel with it.

The Hon. M.J. ELLIOTT: The amendment is in fact consistent with my thoughts on the matter. The Treasurer and former Minister for Education does seem to have his own particular difficulties with some people from the AEU. He seems to be petrified to think that they could be on this committee. I suppose he is petrified that they may say something different from the official line. As one voice in what is more than likely to be a committee of eight to a dozen people, one voice of difference might not be such a bad thing. I am quite aware that the other people with any real experience in education, those being the head teachers of schools subject to review, will sometimes be a little loath to speak up against whatever the official line will be. There has even been the odd principal who has managed to be involved in several school closures and there are always parents who are a bit suspicious that they have been put in the school as part of the process.

Putting that aside, the fact is that many head teachers will not want to buck the official line and it is useful to have someone on the committee with a good understanding of the way education works, to be able to explore the likely ramifications of particular decisions. For example, someone from the AEU might point out that trying to predict where students will go after a school is closed is a fairly difficult circumstance. Certainly, it has been got wrong in the past. When the Labor Party merged two schools at Henley Beach the idea was that the two school populations would merge into one and that would be a school of what the Government considered to be a good size and it believed there would be a benefit. The reality was that most of the students from the closed school went elsewhere, and only about 15 per cent of them went to the school that remained open in that cluster of two.

More recently, there is the famous case of Croydon Park. When that school closed, about half the students went to Allenby Gardens Primary School—a school that is outside the cluster. Yet all the assumptions that were made were assuming that the students would redistribute largely between schools within the cluster. They got it very wrong. Who is going to make those sorts of points during this discussion of closures and say, 'We have to examine this issue very carefully?' The AEU rep is the most likely person to say, 'From our previous experience we need to be careful in terms of how we try to determine where people are likely to end up.' They are the people who can put the educational arguments about what is a reasonable size for a school to provide a good education. They are the people who can argue that the size of primary schools is not such a critical matter. However, in relation to high schools, it can be because of small schools struggling to provide ranges of subjects.

Those sorts of issues are ones that, without fear or favour, somebody from the AEU would be able to put. As I said, at the end of the day it is only one voice and the group most likely will be between eight and 12 people. The Government just seems to be paranoid about any mention of union involvement in anything, and that is a great pity.

The Hon. NICK XENOPHON: Perhaps I could clarify for the record that the member for Chaffey's view is that she does not believe a member nominated by the union should be involved in the process. I just want to state that for the record. There has been some confusion in terms of the process of this Bill, and I apologise to members on this issue. I want to make clear the preferred position of the member for Chaffey.

The Hon. CAROLINE SCHAEFER: I want to express my concern about the way the Bill is being handled. As members would know, I introduced the Bill on Ms Maywald's behalf the last time it was before the Council. As I recall, at the end of the session it lapsed because the Hon. Nick Xenophon and some others believed that they had not had the opportunity to consult with the member for Chaffey who introduced this Bill in another place. We now find that the Bill is reintroduced, that the member for Chaffey has gone home and neither the Labor Party nor as I understand it Liberal Party have had an opportunity to consult with her. I will not hold up the passage of legislation but I want to say that this is setting a precedent that has not actually been part of the machinations of this House. Normally we conduct ourselves with some degree of consideration for each of the Parties and each of the minority Parties represented in here. I am disappointed that this is the way the Bill has been handled.

The Hon. T.G. CAMERON: By way of further clarification, if we are concerned about the way the Bill is being dealt with I guess members would express some concern with the way the ETSA Bill is being dealt with. I had discussions with

Karlene Maywald on a number of occasions about her amendment, or about her four amendments. I advised Karlene Maywald that I was not prepared to support her amendment and that I would move a further amendment. I communicated that to her and advised her of that fact. I support what the Hon. Nick Xenophon is saying. However, I reject totally any suggestion or inference that something underhanded is going on here or that Karlene Maywald was not completely informed all day long of our respective views. She is fully *au fait* with my amendment and my reasons for it. I had a number of conversations with her today. Again, I reiterate what the Hon. Nick Xenophon said: her preferred position would have been the Hon. Nick Xenophon's amendment. However, 10 votes does not give you a majority in this House: you require 11 votes, as some people have had to be reminded of in the past few days. So, I have moved the amendment standing in my name. The amendment stands. I cannot see any reason why this Bill cannot be proceeded with tonight.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 3, after line 20—Insert:

(8) The person presiding at a meeting of the committee has, in addition to a deliberative vote, a casting vote in the event of an equality of votes.

The rationale behind this amendment is that, in the event that there is a tied vote, it is important that a school closure issue is resolved, and this amendment will facilitate that.

The Hon. T.G. CAMERON: I support the amendment.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

The Hon. R.I. LUCAS: The Government's position is to support the amendment as well.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 3, lines 27 to 31—Leave out paragraphs (a) and (ab) and insert:

(a) call for submissions relating to—

(i) the present and future use of Government schools within the area; and

(ii) the likely effect on Government schools outside the area in the event of the closure or amalgamation of schools within the area; and

I believe this amendment is fairly self-explanatory. I believe there has been discussion with the Minister for Education, Children's Services and Training and the Government on this issue. The amendment allows for submissions with respect to the impact of a school closure and the present and future use of Government schools within the area.

The Hon. T.G. CAMERON: I support the amendment and use as my evidence for it the statements made by the Hon. Mike Elliott about school closures in the metropolitan and where a number of students ended up, that is, outside the cluster.

The Hon. M.J. ELLIOTT: I have had discussions with the member for Chaffey, Karlene Maywald. In those discussions I suggested the sorts of things that are now coming forward, so I am relaxed and comfortable with it.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (INTOXICATION) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The current law on the effect of intoxication by drink or drugs in South Australia is the common law. The common law is determined by the courts. In this instance, the law is contained in the decision of the High Court in *O'Connor* (1979) 146 CLR 64. The general principles involved can be stated quite simply, but they have complex ramifications.

Serious crimes require the prosecution to prove criminal fault as well as the behaviour forbidden by the law. For example, the crime of murder requires proof beyond reasonable doubt, not only that the accused caused the death of another human being in fact, but also that he or she did so with 'malice aforethought': that is, an intention to kill or cause grievous bodily harm, or was reckless about it. If, for any reason, the prosecution cannot prove that intention or recklessness, the accused cannot be found guilty of murder. The operative question is always what did the accused—the individual before the court—know or intend. It is not what he or she ought to have known or intended. *O'Connor* decided that intoxication can be relevant evidence, like anything else personal to the accused, that the accused did not have the required intention or knowledge.

The position can be summarised as follows. Drunkenness is not a defence of itself. There is, I want to emphasise as clearly as possible, no such thing as the 'Drunk's Defence' It does not exist. Its true relevance by way of defence is that when a jury is deciding whether an accused has the intention or recklessness required by the charge, they must regard all the evidence, including evidence as to the accused's drunken or intoxicated state, drawing such inferences from the evidence as appears proper in the circumstances.

It should be made clear at this point that, in order to rebut the inference of intention or knowledge that you and I, and juries, normally draw from what an accused said or did, what is involved in these cases is not mere intoxication, but very severe intoxication indeed; usually very high degrees of alcohol consumption and quite often a combination of alcohol and other drugs. What is necessary is not a drink or two, but a degree of intoxication at which the defendant is barely conscious or has such a severe degree of intoxication that his or her ability to act intentionally is or may be compromised. This is a very uncommon situation.

Although this has been the common law in Australia for nearly 20 years, the recent and much publicised acquittal in *Nadruku* has provoked some outrage, principally because there is, understandably, a deal of misunderstanding of the principles at stake. The Opposition has seized upon this case as a political issue without any regard for its legal or ethical ramifications. The Shadow Attorney-General introduced a Private Members' Bill into the Parliament to reverse the general principles involved and overrule the *O'Connor* principles. In the meantime, I released a Discussion Paper for public comment. The Discussion Paper included the contents of and commentary on three possible models for changing the *O'Connor* principles, including that espoused by the Shadow Attorney-General. In the event, the Shadow Attorney-General successfully moved to amend his Bill so that it incorporated another option for change, one of those set out in the Discussion Paper. The irony of that sudden change of heart is that his Bill now leaves the *O'Connor* position in place, despite the fact that he deplores it, and distorts the trial process instead. The Bill has now been introduced into the Legislative Council. I will return to that Bill in a moment.

This issue, or rather set of issues, goes to the very heart of the criminal justice system and to the central basis on which society attributes criminal responsibility. It is not clear that any reform is needed at all. There are three main reasons for saying so.

First, the general criminal law requires proof by the Crown beyond a reasonable doubt that the accused not only did what was prohibited, but also did so voluntarily and had the fault required by the offence. It has done so for very sound reasons based on the personal responsibility of the individual for the crimes that he or she has committed, and has done so for the past 50 years at least. In

serious crimes, that fault will usually take the form of intention, recklessness or knowledge. Intoxication, self-induced or not, can in fact be evidence which is capable of denying that the act was voluntary or was done with the requisite fault.

I should stress that the logic and rectitude of the general principles is sufficiently compelling to have persuaded the highest courts in Australia, New Zealand and Canada that the common law rule is right. Any exception to that general rule must be carefully thought through. Any exception to that general rule will be an exception to the general rules that our society has developed to attribute criminal responsibility justly.

I would like to make a point to the House about something which is not commonly understood. The public debate in this State seems to have proceeded on the assumption, and, sometimes, the assertion, that the so-called "drunk's defence" is only a problem for South Australia and Victoria. Everywhere else, it is said, does not have this alleged problem. This is not true. In Australia, for example, intoxication can be used to lower criminal liability in all States and Territories. It is true that other States and territories have special legislation on the subject—but none of them say that intoxication is not relevant to criminal liability. The same is true, for example, for the United Kingdom. In Canada, the law is the same as it is in South Australia.

Second, there is no evidence that *Nadruku* is anything but an isolated instance. A study of South Australian records by the Director of Public Prosecutions has revealed that the only instance of an outright acquittal on the grounds of lack of intention caused by self-induced intoxication was one decision of a District Court Judge without a jury and that decision was very dubious indeed. (As an aside, this may be the one case which could persuade the Opposition to support the Government's Bill to give the DPP a right of appeal against an acquittal where the trial is by Judge alone in order to ensure that such a decision can be challenged in future).

If intoxication has any legal effect on criminal responsibility, it will be that the accused is acquitted of a more serious charge because of intoxication and convicted of a less serious charge. This is due to the differing fault structures of more serious and less serious offences. For example, while murder requires proof of intention or recklessness, manslaughter does not and the intoxicated killer is caught by the manslaughter offence. There are sound reasons why there are so few such acquittals. It is notorious that arguing intoxication as a defendant can be a two edged sword—for juries, like anyone else, are likely to see in the intoxication of the accused the reason why he or she did something out of the ordinary rather than as a reason for acquittal. Common experience says, rightly, that people under the influence of alcohol become less inhibited by social norms and more likely to commit anti-social behaviour. Juries apply common-sense.

Third, any 'solution' may well be as bad as or worse than the problem it seeks to cure. This problem in the law is not new—it has been the subject of constant discussion in courts and law reform bodies and among commentators for a century or more. There have been many reports devoted to it. The inescapable fact is that all that time and energy has not produced a 'solution' to the 'problem' which is satisfactory and works, let alone works simply. Previous options for change are complicated and require a great deal of explanation to juries and will lead to more appeals and more retrials. Previous options for change will lead to results which are, according to the general principles of the criminal law, unjust to some degree and which derogate from the purpose of the criminal offence concerned by including within its range of penalties people who have not committed the relevant offence at all. It is therefore with the greatest of reluctance and extreme caution that legislation on this subject should be introduced at all.

What is wrong with current South Australian law? The main objection appears to be that it leads to what are seen to be undeserved acquittals. Some would say that it does not matter if the general principles are right if they get to the wrong result—or that the judgment that the principles are right is in itself shown to be wrong by their results. Mr Nadruku, it is said, should be convicted. The principal reason for such an argument, aside from unreasoned and primitive reliance upon the fact that he did the act alone and that should suffice, appears to be that his fault lay in the fact that he voluntarily allowed himself to become so intoxicated in the first place. That is, his fault in becoming so drunk replaces and stands in for the fault that should lie at the heart of his conviction for assault.

There is a clear collision of principles at work in this debate. On the one hand, we have the general principles of criminal responsibility based on the exercise of personal autonomy in the choice to act badly in a way prohibited by the criminal law under criminal sanction. We do not punish people just for what they do, we punish them for what they choose to do. On the other hand, we have the perception that if people choose to become intoxicated, that is their choice—and they cannot be heard to say that the drink (or the drug or whatever it is) made me do it; they should not be able to avoid the criminal consequences of their actions in the much wider sense.

The Bill now introduced by the Opposition would not be a good development. The form of the Bill at the moment is that of the creation of a new offence of causing harm through criminally irresponsible drug use. The essence of the scheme is that, where a person is found not guilty of an offence because of the effects of self-induced intoxication, they would be found guilty of this offence instead, and be subject to major penalties amounting in most cases to two-thirds of the maximum prescribed for the offence of which he or she was acquitted.

The first official suggestion of this kind was made by the (English) Butler Committee in 1975. Most recently, it was initially favoured by the English Law Commission, before being rejected after consultation. The proposal has also been rejected by the Victorian Law Reform Commission, the Review of Commonwealth Criminal Law, and the New Zealand Criminal Law Reform Committee. It has not been adopted in any jurisdiction, although it was advocated by the Law Reform Commission of Canada. The reasons for its failure as a general model for reform may be summarised as follows:

1. it would encourage compromise jury verdicts;
2. it is impossible to properly align any appropriate penalty with any rational scale of offending;
3. it would engender more trials and more issues at trial;
4. it would lead to increase in the necessity for expert evidence on behalf of the prosecution and hence the defence;
5. it would be likely to require the prosecution to prove a causal link between the intoxication and the crime; and
6. it lacks any coherent penal rationale because self induced intoxication is simply not a reliable index of criminal blameworthiness.

The Bill produced by the Opposition has several specific flaws: first, the provision sets the penalty for the alternative offence by reference to the criminal offence which the accused did not commit. There is an obvious logical flaw in this form of reasoning. That aside, however, there is the practical problem of determining *which* offence it was that the accused did *not* commit. For example, a physical attack on the victim might be charged as attempted murder, malicious wounding or assault occasioning actual bodily harm, depending on the intent with which it was done. But with this alternative offence there is no intent. The facts could fit any of the three. Which is the right one? It could make a major difference in penalty.

Second, the intoxicated defendant is to be convicted of the alternative offence provided that the harm done was foreseeable. The possible maximum penalties range up to 20 years. Apart from cases involving vehicular accidents, which have always been regarded as an exception, liability for crimes against the person have always required at least proof of criminal negligence, which is a far more exacting standard than mere foreseeability. There is simply no justification for singling out states of intoxication—which can be mild, moderate or severe—the Bill does not specify—for the imposition of this draconian imposition of criminal punishment.

Third, the result of the width of the provision, both in terms of its definition of intoxication and the very low standard of fault required, will be that in any prosecution in which there is any evidence that the accused had even one drink, it will be in the interests of the prosecution to prove that the defendant was intoxicated and in the interests of the defendant to prove that he or she was not. This anomalous position will complicate many more trials than is now the case and will lead to long and confusing jury directions, more appeals and more retrials.

Fourth, where the defendant is charged with the alternative offence directly, the prosecution would have to prove beyond a reasonable doubt that (a) the defendant caused injury damage or loss to person or property; (b) the defendant is not guilty of some other criminal offence; (c) because the defendant suffered from a "suppression, impairment or distortion of consciousness" and (d) this was a consequence of self induced intoxication. Apart from the fact, noted above, that the Bill does not provide any guidance on how the more serious offence is to be identified, the bizarre consequence is that the prosecution is required to prove beyond reasonable doubt

that the defendant is *innocent* of that unspecified offence before the alternative applies.

Fifth, where the alternative offence arises because it may be that the defendant will be acquitted of the more serious charge because of the effects of intoxication, the situation is different. In such a case, acquittal means that there is a reasonable doubt that the prosecution has made out its case. Presumably, the jury will be invited to state whether they have come to that conclusion because they have a reasonable doubt that the defendant had the required intention or knowledge because of intoxication. At that point, however, no one has proved anything about intoxication. It is simply that the accused has raised a reasonable doubt. The proposed Bill appears to require conviction of the alternative offence in that situation. It is to say the least odd that the effect of raising a reasonable doubt as to the existence of the fault required by the offence is a ground for a conviction of a serious offence.

Sixth, the alternative offence applies to cases in which the defendant caused injury, damage or loss to another but not to any of the offences of endangerment contained in the *Criminal Law Consolidation Act*. It is also arguable that it cannot apply in relation to any attempted offence or conspiracy to commit an offence. The possible complexities involved in relating the alternative offence sensibly to the law of complicity—that is, the law of participation in crime—are so technical and so forbidding that I will simply remark that they exist.

This catalogue of complexities, difficulties and absurdities is submitted to be sufficient to show that the Bill introduced by the Opposition should be opposed by the Government. It might be possible to reconstruct the basic idea of an alternative offence along the lines formulated by the United Kingdom Law Commission so that these obstacles could be minimised, should the basic concept prove appealing. But the Law Commission did abandon it and no other jurisdiction which has considered the model has proceeded with it.

There is good reason for that. It is simply that the solution proposed by the Opposition will make the law dealing with the intoxicated offender worse rather than better. The Director of Public Prosecutions, in his letter to all Members of Parliament made this point when he said:

> It will also result in juries opting for an alternative when the reality of the situation is that had that option not been available they would have convicted of the principal offence.

He also referred to the 'real spectre of inappropriate alternative verdicts'. This has been a consistent reason for the failure of any State or country to implement this kind of solution.

In short, the Opposition's Bill means that intoxicated offenders may stand a good chance of being treated more leniently than they are at present.

I will not be party to any rendering of the general principles of the criminal law or the criminal justice process which have served us so well for so long and, in particular, I will not be party to the unprincipled perversion of the notion of personal criminal fault which underlies them. I cannot bring myself to propose or support any measure which is as damaging as that which is proposed by the Opposition.

I can recall the outcry when *O'Connor* was decided in 1979. It was the same then as now. This was going to be a 'Drunkard's Charter'. *O'Connor* was going to be the cause of lots of drunks being let off when they did not deserve it. The 'drunks defence' was going to be the cause of unchecked drunken violence in our community and the courts were going to let them get away with it. Of course, it did not happen. Offenders were punished as they deserved. Justice was done. As I have shown by research and by Ministerial statement in this place, the moral panic had no foundation. The predictions were false. Nothing of the kind happened. And it is not happening now, despite the pretences and misleading information peddled by the Opposition.

These are difficult issues to explain to the general public or to most people who do not have an understanding of the underlying principles of the criminal law and how it works—and aims at justice based on individual responsibility. That is not their fault. This is not simple or easy. The basis on which society labels people as criminals and sends them to jail justly (or imposes any lesser sanction) has never been an easy or simple question. It is the subject of perennial debate.

But I am aware that there is community concern about the perceived problem, in part because of the determined and irresponsible desire of the Opposition to keep fanning the flames. So I have decided to address two issues surrounding the issue of intoxication and criminal responsibility which would benefit from clarification by this Bill. The debate has identified these two issues which, if addressed as proposed in the Bill, particularly the issue relating to the address to a jury, should provide positive outcomes and reduce the 'games' that may be played.

To that end, the Bill has two purposes. First, it makes it clear that the common law principles do not apply if the person became intoxicated in order to strengthen his or her resolve to carry out the conduct constituting the offence. A similar rule was stated in *Gallagher* [1963] AC 349, as follows:

> If a man, while sane and sober, forms an intention to kill and makes preparation for it, knowing it is a wrong thing to do, and then gets himself drunk so as to give himself Dutch courage to do the killing, and whilst drunk carries out his intention, he cannot rely on this self-induced drunkenness as a defence to a charge of murder, nor even as reducing it to manslaughter. He cannot say that he got himself into such a stupid state that he was incapable of an intent to kill.

The second thing that the Bill does is procedural rather than substantive, but it is likely to have a powerful effect. It is well known amongst criminal legal practitioners that running an intoxication argument is very much a two-edged sword. Quite apart from the obvious risk that the jury is more likely to ascribe responsibility on the basis that the intoxication did not prevent the formation of the required fault, but rather inspired it, it is also the case that on questions of credibility as to the facts, the jury is likely to discount the evidence of a person who was self-admittedly intoxicated as opposed to the evidence of a sober witness. That being so, defence counsel tend to lead evidence of intoxication without making too much of it, or let the prosecution lead it, and rely on the established law that, if there is a reasonable possibility that intoxication could have affected the fault of the accused, the trial judge must give a full direction on it. If the result is an acquittal, well and good. If there is a conviction, then it can all be ventilated on appeal and a new trial may be had. This is not only a waste of resources, it is also the source of the decisions which cause public misunderstanding. Therefore the Bill contains a provision that says that the trial judge should only direct the jury on the effects of intoxication on fault where the defence specifically requests it to be done. This is designed to ensure that if the defence wants to deny guilt because of intoxication, the case has to be run on that basis the first time and not on appeal.

For these reasons, I urge the House to oppose the Bill brought forward by the Opposition and support the Bill introduced by the Government. I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 1 is formal.

Clause 2: Amendment of heading

Clause 2 renumbers Part 8 of the Act (a short Part dealing with accessaries) as Part 7A. This allows for the inclusion of the new Part dealing with intoxication in a logical sequence.

Clause 3: Enactment of new Part 8

Clause 3 enacts new Part 8 dealing with intoxication. New section 267A contains the definitions required for the purposes of the new Part. New section 268 provides that, if the objective elements of an alleged offence cannot be established against a defendant because the defendant's consciousness was, or may have been, impaired to the point of criminal irresponsibility at the time of the alleged offence, the defendant is nevertheless to be convicted of the offence if it is established that the defendant formed an intention to commit the offence before becoming intoxicated and consumed intoxicants in order to strengthen his or her resolve to commit the offence. New section 269 provides that the question whether a defendant's consciousness was, or may have been, impaired to the point of criminal irresponsibility is not to be put to the jury and, if raised by the jury itself, is to be withdrawn from the jury's consideration unless the defendant specifically asks the judge to address the jury on the question.

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

EVIDENCE (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) introduced a Bill for an Act to amend the Evidence Act 1929. Read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill amends the Evidence Act, 1929, to remove arbitrary distinctions between the evidence of children and that of adults, and to clarify the requirements of competency to give evidence in respect of both children and adults. It also makes other minor amendments.

The present law distinguishes between the evidence of adults and children on the basis of age alone. It defines a "young child" to mean a child of 12 or under, and it in effect prevents such a person from giving evidence on oath or affirmation, unless the child evinces upon examination an understanding of and a belief in divine retribution for the giving of false evidence (R v Schlaefer, (1992) 57 SASR 423). In particular, the present law does not permit young children to affirm, even though an adult who does not hold a religious belief in divine retribution can do so. This anomaly means that a child must, as a preliminary to giving evidence, be examined in court as to his or her state of religious knowledge and belief. Such an inquiry is not usually helpful in determining whether the child is able to give the court reliable evidence.

Such inquiries are also apt to give rise to appeals of a technical nature which can lead to retrials, and which require the appeal court to delve deeply into technicalities which in no way usefully advance the law. A great deal of time and money may be wasted, child witnesses may be asked to give their evidence over again, and accused persons may wait a long time for a final resolution of the charges against them. This Bill will bring this anomaly to an end.

The present law also deals anomalously with the evidence of children who do not have competency to give formal evidence because they do not understand the legal obligation of telling the truth which this entails. It places special limitations on how the evidence of such a child is to be treated. These limitations do not extend uniformly to adults, even where the adult has similar limitations of understanding. In particular, corroboration is required for the evidence of a child who is unable to give formal evidence but not for that of an adult in the same situation.

No distinction ought to be drawn between the evidence of adults and that of children on the ground of age alone. What really matters is the ability of a witness, regardless of age, to understand the legal obligation of strict and complete truthfulness implicit in the giving of formal evidence, and to appreciate the consequences for the witness and the parties if false evidence is given. Failing that, the witness does not have competency to give formal evidence. However, the witness may yet have the capacity to distinguish between truth and lies, in which case they may be permitted to give informal evidence. It is to these matters, rather than to age or religious knowledge, that the court's inquiries should be directed in assessing which witnesses are able to give formal, and informal, evidence. That is the basis of this Bill.

This Bill removes arbitrary distinctions between the evidence of children and that of adults, and creates instead a uniform test of competency to give formal evidence, based on understanding alone and not involving any religious test.

Consequentially, the Bill also abolishes some of the more confusing provisions of the existing Act, which have grown up to deal with these issues. The old provision for the assimilation of children's evidence to the evidence of adults (s.12(2)) is not required as there will no longer be any inherent distinction between the two. Likewise, there is no need for any provision for interpreters to interpret without formality (s.9(3)). An interpreter will need to be competent, in the sense of having sufficient understanding, in order to interpret satisfactorily. A competent interpreter may take the oath or affirm, as may be binding on his or her conscience, and can therefore still give formal evidence regardless of whether he or she understands the oath, with its religious underpinnings. The provision creating an offence of giving false unsworn evidence (s.9(4)) is abolished, because it is unlikely that a person who lacks the understanding necessary to give formal evidence will be able to commit the offence.

The protections which the law currently provides for children and other vulnerable witnesses will remain unchanged. The child's right to be accompanied in court by a support person and the opportunity to use vulnerable witness equipment such as screens and closed-circuit TV will remain unaffected.

Some unrelated matters are also attended to. The Bill adopts the proposal of the Model Criminal Code Officers' Committee as to the warning to be given by trial judges to juries in sexual offence prosecutions, where the suggestion is raised that an alleged victim failed to make an early complaint of the offence. That is, the judge is required to explain to the jury that the delay or absence of complaint does not mean that the allegations made by the alleged victim are false, and must inform them that there may be valid reasons why the victim of such an offence may report it late, or not at all. This simply prevents the jury from jumping to a conclusion adverse to the alleged victim, without considering other explanations for the delay or absence of complaint.

The present provisions for the suppression of publication of reports of proceedings for sexual offences, and for mandatory reporting of the outcome of certain proceedings, are unchanged, except that the existing references to television, radio and newspaper reporting are supplemented by reference to the Internet and like forms of publication. This simply reflects the development of technology since those sections were enacted. Obviously, where the court is persuaded to suppress material from publication, it would not intend that such an order could be evaded by publishing the matter via the Internet.

In addition, the court's power to suppress publication of reports can, under this Bill, also be exercised to prevent undue hardship to a child. At present, the court may only consider a suppression order where such hardship is caused to a witness or an alleged victim. There may be situations, however, where a child, although not a victim or a witness, has some connection with the proceedings such that his or her welfare may be harmed by publication of his or her identity. As an example, the child may be related to or live with the accused or the victim. If identifying material is published, the child may be victimised at school, ostracised in social situations or may otherwise suffer hardship. This Bill permits the court to make a suppression order to protect such a child. For the exercise of this power, it is not necessary that the child fall into any particular category or establish any particular connection with the parties or the case. Rather, the sole criterion is the welfare of the child. The court will need to consider each case individually.

The Supreme Court no longer exercises jurisdiction in matrimonial causes. This is now the province of the Family Court of Australia. Section 34B which provides that findings of the Supreme Court in exercising this jurisdiction as to adultery may be admitted as evidence in other proceedings therefore has no application and is to be repealed. I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 4—Interpretation

Clause 3 inserts a definition of 'sworn evidence' to make it clear that sworn evidence means evidence given under the obligation of an affirmation as well as evidence given under the obligation of an oath.

Clause 4: Amendment of s. 6—Oaths, affirmations, etc.

Clause 4 amends section 6 so as to include a requirement that a person should be offered the choice to make an affirmation rather than take an oath.

Clause 5: Substitution of s. 9

Clause 5 proposes a new section 9 to provide for the giving of unsworn evidence where a judge determines that a person does not sufficiently understand the legal obligation to be truthful when giving sworn evidence. In making such a determination, the judge may inform himself or herself as the judge thinks fit. Where the judge makes a determination that a person is not able to give sworn evidence, unsworn evidence may be given provided the judge is satisfied that the person understands the difference between the truth and a lie and tells the person that it is important to tell the truth and the person indicates that he or she will tell the truth.

If a person does give unsworn evidence under the proposed section, the judge must explain the reason for this to the jury and may give such warning as to the reliability of unsworn evidence compared with sworn evidence, or the person's cognitive ability, as the judge thinks fit.

The proposed section also provides that a person who has been accused of an offence and given evidence (whether sworn or unsworn) denying the offence, cannot be convicted of the offence on the basis of unsworn evidence unless it is corroborated in a material particular by other evidence implicating the accused.

Clause 6: Amendment of s. 12—Evidence of young children

Clause 6 amends the provisions dealing with the evidence of young children resulting in them falling under the provisions of the proposed section 9—whether or not young children are capable of

giving sworn evidence is to be determined using the same criteria as for an adult.

Clause 7: Substitution of s. 12a

Clause 7 is a consequential amendment as a result of the proposed new section 9.

Clause 8: Amendment of s. 13—Protection of witnesses

Clause 8 is a consequential amendment as a result of the proposed new section 9.

Clause 9: Amendment of s. 14—Entitlement of a witness to be assisted by an interpreter

Clause 9 inserts a new subsection to provide that a person may not act as an interpreter unless the judge is satisfied of the person's ability to interpret the evidence and the person's impartiality and the person takes an oath or makes an affirmation to interpret the evidence accurately.

Clause 10: Substitution of s. 18a

Clause 10 is a consequential amendment as a result of the proposed new section 9.

Clause 11: Repeal of s. 34b

Clause 11 repeals an obsolete provision of the Act.

Clause 12: Amendment of s. 34i—Evidence in sexual cases

Clause 12 inserts a new subsection to provide that where proceedings occur in which a person is charged with a sexual offence and information is presented to the jury, or a suggestion is made in the presence of the jury, that the alleged victim failed to make a complaint, or delayed in making a complaint, about the alleged offence, the judge must warn the jury that the alleged victim's failure to make a complaint, or delay in making a complaint, does not necessarily mean the allegation is false and inform the jury that the victim of a sexual offence could have valid reasons for failing to make a complaint or for delaying in making a complaint.

Clause 13: Amendment of s. 34j—Special provision for taking evidence where witness is seriously ill

Clause 13 is a consequential amendment as a result of the proposed new section 9.

Clause 14: Amendment of s. 55—After notice, sending a message may be proved by production of copy message and evidence of payment of fees for transmission

Clause 14 is a consequential amendment.

Clause 15: Amendment of s. 67—Extension of provisions relating to affidavits to attestation, etc., of other documents

Clause 15 is a consequential amendment.

Clause 16: Amendment of s. 67ab—Taking of evidence in this State by foreign authorities

Clause 16 is a consequential amendment.

Clause 17: Amendment of s. 68—Interpretation

Clause 17 alters the definition of 'news media' to take account of the new definition of 'publish' and inserts a definition of 'newspaper' to replace the definition which currently occurs in a number of sections of the Act.

It also inserts a definition of 'publish' in order to cover the publication of information on the internet.

Clause 18: Amendment of s. 69a—Suppression orders

The current section 69a provides that the court may make a suppression order where satisfied that it should be made to prevent undue hardship to a victim or a witness. Clause 18 amends this to include the situation where it would prevent undue hardship to a child.

Clause 19: Amendment of s. 71a—Restriction on reporting proceedings relating to sexual offences

Clause 13 is a consequential amendment as a result of the proposed clause 17.

Clause 20: Amendment of s. 71b—Publishers required to report result of certain proceedings

Clause 13 is a consequential amendment as a result of the proposed clause 17.

Clause 21: Amendment of s. 71c—Restriction on reporting of proceedings following acquittals

Clause 13 is a consequential amendment as a result of the proposed clause 17.

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

EVIDENCE (CONFIDENTIAL COMMUNICATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 October. Page 52.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of this Bill. It has been an interesting piece of legislation to address and on which to take into account the variety of opinions that have come to me as the representative of the Democrats. Members would know that the Bill is aimed at protecting the confidentiality of counselling notes for alleged victims of sexual assaults. It is a very sensitive, critical area of both the law and human services, demanding nothing less than the most sensitive approach that can be made for the victims, particularly those who are suffering the trauma of rape. This must be one of the most stressful times of their lives.

It is with that in mind that the Democrats are prepared to support the Bill. It may need some minor amendments, but its intention is worthy and will have our wholehearted support. However, as is often the case with legislative reform of such a sensitive and emotional nature, we must be careful that we do not move hastily into what is seen with the very best intentions to be appropriate law reform and, in fact, jeopardise an alleged offender's fair trial. Therefore, it was important that I received and considered the opinions of the Law Society and, in particular, the Criminal Law Committee's comments on the Bill. I will summarise some of the points they made in their notes to me.

Counsellors should be warning alleged victims that nothing is confidential now or under the proposed amendment. There have never been guarantees—and that is the crux of the legislation: whether handwritten notes taken at the time of the counselling (the subject of this legislation) should be available virtually free on demand or whether there should be legal restraints and a substantial degree of confidentiality surrounding those notes. It is fair to say that the Law Society believes that the current law is adequate and does not support the amending legislation.

They argue that no examples have been provided that the current situation has led to adverse consequences, that is, the lack of guaranteed confidentiality as distinct from problems with the offender generally. The concerns are speculative and illusory. I reiterate that these are opinions of the Law Society and not ones which have persuaded us to oppose or to seek substantially to amend the Bill.

Also, the concerns expressed are not backed up by psychiatrists, psychologists or general practitioners whose notes also may be subpoenaed. They are not complaining about any abuse of this right. They state also that there is no need for change; current rules are simple, clear, and are being properly administered by trial judges.

They also state that any statement by the alleged victim about her experience (and although they make reference to 'her', I believe the legislation would cover a male victim of sexual assault as well; but in this circumstance we are referring to the female) whether to counsellor, doctor or police, ought to be available to the defence to see whether there are any inconsistencies or exculpatory references.

The sixth point is that the judge who sees such notes in confidence to determine whether to grant access already can consider 'public interest immunity' to withhold part or all of the notes from defence counsel or put such restrictions upon the notes as the judge sees fit—for example, by allowing the defence lawyer, but not the accused, to see them.

The Law Society's committee states also that the Bill seeks to elevate communications to counsellors and make them of greater status than communications to doctors or other professionals. It is also stated that protecting alleged victims from harassment and further victimisation is not an

interest as 'equally compelling' as an accused's right to a fair trial, and that the latter should take precedence.

Finally, the committee submits that the Bill in clauses 67e and 67f repeatedly confuses 'access' with 'admissibility'. It is one thing to allow defence lawyers to see the notes and thereby think up questions for cross-examination. However, it is quite another thing to allow the notes to be admitted into evidence. The judge's weighing process required under clause 67f(6) contains four reasons to consider admission, and one reason to consider access. The Law Society concludes its quite extensive notes by indicating other specific and technical problems with the Bill.

The Victim Support Service also wrote to the Attorney-General and shared with me a copy of that letter. I think it is important that the points it made are also put into the record, as follows:

1. We [the Victim Support Service] welcome restrictions on defence access to counselling notes. Access should be 'very tightly controlled'.

2. We are disappointed the Bill deals only with sexual assault. The same reasons apply to victims of all violent crime against the person. These victims have equally traumatic reactions to life threatening situations.

I think this teases out a fascinating issue to be analysed, although it may not be in the debate on the Bill: whether there is a clear distinction between the way in which one deals with notes related to counselling on a sexual assault compared with any other assault or traumatic situation that involves criminal proceedings. I do not claim to have a complete answer to it, but Greg Charter, one of the staff advising the Hon. Sandra Kanck, indicated that sexual assault is unique in that it can be portrayed as being accepted. In fact, quite often it is portrayed in the court as being invited by the alleged victim, and that parameter cannot be applied to a person who has suffered some other form of assault. I certainly found that argument worthy of consideration and quite persuasive. The letter continues:

3. Judges may need training to appreciate the importance of privacy of case notes and therapy based issues. This is not a legal issue: it's a therapy issue.

4. The defence must be required to be specific in its reasons for the subpoena. At present a subpoena may be granted if the (alleged) victim has talked about the crime at all.

The Attorney-General is quoted in this note as saying that a subpoena application will be dismissed if it is a 'fishing expedition', but the Law Society is quoted as stating:

. . . under the current law there will be few instances where a judge should refuse an accused access to these documents.

The Bill does not address this issue at all. The Attorney may want to clarify this point so that we have it clear before going into Committee. The letter continues:

5. The definition of a counsellor in clause 67d focuses upon psychiatric and psychological—does this exclude social workers? Will their counselling be excluded? Volunteers are included, but what about students on placement?

6. The victim is precluded from waiving 'public interest immunity'—clause 67e(3)(c)—and offering the notes.

I note that under the Attorney-General's amendment the guardian of the victim is also precluded from waiving public interest immunity. The letter continues:

7. If a counsellor/therapist has left their agency, a member of the management team should be permitted to respond to a subpoena instead—clause 67f(3).

One of the observations that have been made to me is that this will be of no use to a court. This could be clarified when the Minister closes the second reading debate or in Committee.

The eighth point made in the letter is that the attitude of a victim to a disclosure—clause 67f(6)(c)—should also include the attitude of a guardian if the victim is intellectually disabled. As members can see, a very constructive contribution to the background to this Bill was put in hand by both the Victim Support Service and the Law Society. However, I asked for comments from the people at Yarrow Place and received what I found to be a distinctly persuasive argument to reject the Law Society's move for no change, and that is why I feel so convinced that this Bill should be supported. The representative from Yarrow Place, Ms Gill Westhorp, in her letter to me referring to the Law Society's submission, which I made available to her, stated:

. . . I note that they said they would be 'most surprised' if victims declined to attend counselling, or were less than fully frank with counsellors, just because their notes could be subpoenaed. I was disappointed that they didn't check with us, or do any of the other research that could have informed them about this issue. We have documented cases where people have told us they will not attend counselling here because notes can be subpoenaed; others where clients have declined to give their names; others where we have had to spend a lot of time working through with clients what we record and why. We suspect this is only the tip of the iceberg because most people who are declining to use our service—

and, of course, Yarrow Place, as members will know, is a rape and sexual assault counselling service—

(for whatever reason) simply don't contact us. There is also other research evidence about client concerns. In short, our concerns are not 'speculative and illusory'.

I am convinced that that is true. The letter continues:

- There should be protection for rape counsellors' notes, and that protection should be, in the main, on the grounds of public interest immunity.
- It is possible—although likely to be rare—that there can be relevant material in counsellors' notes.
- It should not be up to our service [Yarrow Place] to make the judgment about whether there is anything relevant in a particular set of notes—that would be much more damaging to the relationship between the service and our clients than having a judge do it.
- The least possible number of people should have access to the notes.
- There should be guidance for judges about the criteria to take into account.

The current common law situation, which the Law Society has backed on the argument that public interest immunity can, in fact, be invoked, is good sense. The letter states that it is loading a very inefficient and expensive procedure into each case, because the claim for public interest immunity has to be established. There has to be an affidavit from the Minister for Human Services in each case; lawyers have to research and mount the cases for and against; and significant delays in cases are created. If the Minister is not available for some reason, an individual victim's case could be disadvantaged. They appreciate that the Bill makes the procedure clear and predictable and spells out the range of factors that are to be taken into account in balancing the competing interests.

The people at Yarrow Place were not totally satisfied with the Bill. They believed that there were further amendments to the legislation that should have been taken into account. Ms Westhorp has listed two, as follows:

The two amendments that were not made, that we were particularly keen to see included, were the requirement for the defence to explain to the judge the element(s) of the defence for which they believe there will be relevant material in the records; and making it clear that only relevant portions of the records should be provided.

I am not sure whether that covers the two amendments: I can see only one that Ms Westhorp identified in this communica-

tion. The comments in the Yarrow Place submission about notes are relevant because they go to the heart of the matter: why would a counsellor be taking notes and what is the benefit of the notes in the future treatment and care of a victim? In respect of the forensic reliability of notes, the submission states:

> The notes aren't particularly reliable as evidence because:
> · we don't record much detail about the incident itself—counselling notes mainly record feelings and responses after the event, issues the victim is working through afterwards, and so on;
> · the notes are not a comprehensive record of everything said or done in a counselling session;
> · we don't record verbatim what the victim said—that's not necessary for the purposes for which notes are kept;
> · they're not checked by the victim for accuracy;
> · they're not always contemporaneous. If it makes the client really nervous if we write things down, or distracts them or whatever, we write up the notes later. Even in the best situations counsellors take brief notes in the session and write them up later.

One can see that notes taken at the time of a very tense and emotionally heavily charged interview can be a spontaneous writing down without any particular, deliberate thought or checking for accuracy. Yarrow Place is particularly concerned that the publicity surrounding the fact that counsellors' notes could be subpoenaed and revealed in a court does deter people from coming forward. As the submission points out, quite often the victims, in the immediate aftermath of an assault, have a sense of guilt: that is a predictable, natural human response which needs, in its own context, to be cleared away by proper and therapeutic counselling. The risk of open access to the notes would mean that quite often the natural openness of a victim in a warm and caring counselling session may reveal, in a written form, an expression of guilt, which is only a passing phase. A paragraph in the Yarrow Place submission states:

> A sense of guilt is a normal response to any trauma. To deal with that sense of guilt, most people have to talk about it. But would you talk about your sense of guilt to your counsellor knowing that it might turn up in court and be used against you?

That is a hypothetical question to which one would normally answer categorically, 'No, I would not.' The lead article in the Women's Legal Service (SA) Inc. newsletter, Vol. 5, September 1998, is headed 'Limited Protection for Victims' Counselling Records'. The service welcomes this legislation and makes the observation—which relates to one of the fears—that alleged practices actually occur in that defence lawyers are involved in fishing expeditions. The service puts it well, as follows:

> In many cases the lawyers who are issuing subpoenas for counselling notes are doing so without particular knowledge that the notes contain something really relevant to their client's case. Instead they are engaging in what are commonly known as 'fishing expeditions'.

I believe that to be true: vigorous and aggressive defence attorneys will be looking for any scrap that might support their client's case.

The Hon. A.J. Redford: Is that not the way it should be?

The Hon. IAN GILFILLAN: It may be, but it is not fair game if access to material is achieved under the circumstances which I have tried to portray and which have persuaded me.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: No, the Hon. Angus Redford may be misinterpreting my comments. I am not criticising vigorous, assertive or at times aggressive legal representation. There may come a time when I will need that and that is what I will pay for, but I would like them to play the game with a decent set of rules. The other point made by the Women's Legal Service—again, this reflects the concerns of the Yarrow Place people—is as follows:

> Our main concern is that the Bill does not effect sufficient change to the existing situation. Under the Bill, defence counsel could access counsellor's notes at the preliminary examination stage on similar grounds to those they currently use to subpoena the notes. Another concern is that this Bill relies heavily on judicial discretion for the effective control of [the old famous] 'fishing expeditions'.

That is almost all I wish to contribute to the second reading debate on behalf of the Democrats in support of the Bill, but I think it is fair to say that I came to assess the legislation with an open mind. I had an oral briefing from the Law Society. I felt that I needed to be persuaded before supporting a change in the law based on what could have been—I emphasise 'could have been'—emotional rather than justified pressure.

However, on looking at the Bill it seems to me that the Attorney and his advisers have struck a good balance. Under certain circumstances, there is still the ability for defence counsel to have access, but that access will be thoroughly vetted by the judge within a very tight set of parameters. In the fullness of time, that may prove still not to be adequate to achieve the aims spelt out by the Attorney and me and those who in a caring way give therapy and counselling to victims of sexual assault. Only time will tell.

Although the Bill is not all that counsellors would like, it is a good amendment of the current legislation. In fact, it breaks new ground, because until now I gather that these matters have been dealt with purely under a common law precedent. I indicate the support of the Democrats for the second reading.

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

NURSES BILL

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

ROAD TRAFFIC (ROAD EVENTS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

PASSENGER TRANSPORT (SERVICE CONTRACTS) AMENDMENT BILL

Returned from the House of Assembly with the following amendment:

Clause 2, page 2, lines 8 to 21—Leave out subsections (3b) and (3c).

Consideration in Committee.

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council disagree to the House of Assembly's amendment but make the following amendment to the Bill in respect of the reinstated words:

Clause 2, page 2, after line 19—Insert:

(3ba) The board is not required to disclose in a report under subsection (3b)—

(a) specific amounts payable under a contract; or

(b) other information of a commercial value the disclosure of which would diminish its value or unfairly advantage a person or persons in future dealings with the board.

When this Bill was before the Legislative Council a couple of weeks ago, amendments were moved by the Hon. Carolyn Pickles for the Labor Party and supported by the Australian Democrats but not by the Government, in terms of a number of matters that the board had to report to the Parliament arising from the board's consideration of tenders.

The Government took exception, particularly in relation to subsection (3b)(d), of that provision. I should highlight that a majority of members in the House of Assembly approved an amendment moved by the Government to knock out that amendment and, essentially, to reinstate the Bill as earlier introduced in this place. I have given further consideration to that matter and will now move that certain matters be referred to the Parliament as a result of the PTB's consideration and awarding of the contracts: that, essentially, that information should reflect what the Legislative Council had first supported by way of amendment but that that amendment and those requirements be varied.

The Hon. CAROLYN PICKLES: The Opposition opposes the further amendment moved by the Minister. The Opposition, as we indicated when the Bill left the Council, said that it would have further discussions to see whether there was a way through the process to take into account the Minister's comments on behalf of the PTB regarding its concern about this aspect. I am pleased that the Minister has agreed to put back in the other elements of this clause, but with this particular one the Opposition would have preferred to go to a conference where we could have explored these issues further. However, I understand that we do not have the numbers to do that and that this is a compromise, but it is a compromise we do not support.

The Hon. SANDRA KANCK: The Democrats will support the Minister for Transport's amendments. Originally, I supported the Opposition's amendment because I believed that the accountability had to be there and I was certainly very keen for that to be there. However, I believe that there could have been some disadvantage to TransAdelaide with the wording as it was moved. I now consider that we have both the accountability and also something that will allow TransAdelaide to be competitive with the private competitors.

Motion carried.

The following reason for disagreement was adopted:

Because the amendment does not provide adequate accountability to the Parliament.

TRANSADELAIDE (CORPORATE STRUCTURE) BILL

The House of Assembly agreed to the Bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1 Page 4, lines 5 to 8 (clause 10)—Leave out subclause (2) and insert:

(2) The board is to consist of not more than five members appointed by the Governor on the nomination of the Minister.

No. 2 Page 7, lines 28 to 35 and page 8, lines 1 to 14—Leave out the clause.

Consideration in Committee.

Amendment No. 1:

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council disagree with Amendment No. 1 made by the House of Assembly but make the following amendment in respect of the reinstated words:

Clause 10, page 4, line 5—Leave out 'five' and insert:

six

Page 4, line 7—Leave out paragraph (a) and insert:

(a) one will be a person nominated by the Minister after taking into account the recommendations of the United Trades and Labor Council.

This is a complex procedure. The Bill has returned from the House of Assembly in exactly the same form as it was first presented to this place. However, when in this place, amendments were moved in relation to the Minister's requirement concerning the five member board and the nomination of the United Trades and Labour Council. A number of provisions were moved by way of amendment that required both Houses of Parliament to consider matters involving any sale of property or business by TransAdelaide above 50 per cent of the current value of revenue generated by TransAdelaide.

I have given further consideration to this matter and I appreciate that the House of Assembly and the Legislative Council are at odds over these provisions. While the House of Assembly rejected the Legislative Council's amendments I appreciate that the Legislative Council does not want to support the Bill as originally introduced. Therefore, over the last 48 hours or a little longer, I have had discussions with the Hon. Carolyn Pickles, the Hon. Sandra Kanck, with the trade union movement and with TransAdelaide.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Yes, the trade union movement in terms of the Public Transport Union. I only wish that the Labor Party had spoken to the Public Transport Union before it introduced this amendment so that it would have appreciated that the amendment, while probably moved by the Labor Party in good faith or for political reasons, I am not sure, would not necessarily have been an easy one for the Public Transport Union to have accommodated if it was the nomination of the UTLC. That is simply because one could envisage times when the union movement may be at odds with management over a whole range of issues. If you have bound the Secretary of the Public Transport Union to board decisions, it would make the position of the Secretary particularly difficult in negotiations with the members that he or she represented.

Anyway, we are beyond those circumstances and, therefore, I have moved today an amendment that would see the board increase in size from five to six members. It would see the reference to the United Trades and Labor Council providing nomination of one person to the Minister. That nomination would be taken into account by the Minister in making an appointment to the board. I understand the reservations of the Labor Party in this because it does not guarantee the Minister will necessarily accept the recommendation of the UTLC but, in terms of extending the numbers on the board from five to six, I undertake that there would be someone with employee or union background appointed to the board. I understand those sentiments; it is just difficult in terms of union politics within TransAdelaide to know who the UTLC may appoint and for what reason.

Members interjecting:

The Hon. DIANA LAIDLAW: I have just indicated. The new Secretary may have different views but the former Secretary has outlined, as did the UTLC appointee, Mr John Lesses, to the former State Transport Authority Board, that it is particularly difficult if the majority union, now in TransAdelaide, is represented on the board because it compromises negotiations where the union may be at odds with the board and management on various occasions. This compromise respects the Labor Party's wish to have the

UTLC nomination considered and increases the size of the board to accommodate that consideration. In addition, I have given an undertaking that I will be recommending to Cabinet that there will be either that nomination of the UTLC or someone from the trade union movement or employee representation on the board.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: The Hon. Terry Cameron has mentioned Mr Rex Phillips. It is true that he has served his members and union well. He was not re-elected as Secretary last night but I think he would be one that the United Trades and Labor Council should certainly consider as a nomination. It is a nomination that I would certainly consider.

The Hon. CAROLYN PICKLES: The Opposition does not support the amendment. The Minister has made some concession here and has recognised the view of the Labor Party that we would want somebody from the United Trades and Labor Council. However, this does not guarantee that that person would be the preferred person of the United Trades and Labor Council. I do not want to get into the internal politicking of particular unions, or the pros and cons of various secretaries of various unions. I will leave that job to members to make their preference about who they wish to make their secretary, as is there right. Nearly all trade union secretaries I have known throughout my years with the Labor movement have served their members well. The United Trades and Labor Council is the peak body of the Labor movement, and it is quite competent to make that decision.

The Hon. SANDRA KANCK: I indicate that the Democrats will support the Minister for Transport's amendment. I believe that it is a reasonable compromise under the circumstances.

The Hon. DIANA LAIDLAW: I thank the Hon. Sandra Kanck for her support. I should have noted earlier that the form of the amendment reflects words that this Parliament has approved in the past for representation by the UTLC to various boards, including industrial boards such as WorkCover. It is not something that I have picked out of the hat simply for convenience. There is precedence for the particular wording.

Motion carried.

Amendment No. 2:

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council agree with the amendment made by the House of Assembly and make the following consequential amendments to the Bill:

Schedule, page 9, line 2—Leave out 'Consequential Amendment' and insert: Related Amendments.

Schedule, page 9, line 3—Leave out 'Consequential amendment' and insert: Repeal of schedule 2.

Schedule, page 9, after line 4—Insert:

Amendment of schedule 3 of Passenger Transport Act 1994

1a. Schedule 3 of the Passenger Transport Act 1994 is amended—

(a) by striking out the heading to the schedule and substituting the following heading:

Public transport assets;

(b) by striking out paragraph (c) of clause 1 and substituting the following paragraph:

(c) the Minister must, at least two months before the proposed sale—

(i) give notice of the proposal in the *Gazette*, and in a newspaper circulating generally throughout the State; and

(ii) provide a written report on the proposed sale to the Economic and Finance Committee of the Parliament; and;

(c) by inserting after clause 3 the following clauses:

3a. If it is proposed to transfer or assign to a private sector body or private sector bodies all or a major part of the rights of TransAdelaide under its service contracts with the Passenger Transport Board under this Act (when all of TransAdelaide's service contracts are considered together), then the Minister must, at least two months before the proposed transfer or assignment, provide a written report on the matter to the Economic and Finance Committee of the Parliament.

3b. For the purposes of clause 3a, TransAdelaide will be taken to transfer or assign a major part of its rights under its service contracts if the effect of the relevant transaction or transactions would be to divest TransAdelaide of 50 per cent or more of the total revenue payable to TransAdelaide b the Passenger Transport Board under all of TransAdelaide's service contracts.

3c. However, clause 3a does not apply to—

(a) a transfer or assignment proposed by TransAdelaide for the purpose of entering into a joint venture or partnership arrangement; or

(b) a transfer or assignment proposed for the purpose of a subcontracting arrangement; or

(c) a transfer or assignment proposed by the Passenger Transport Board under section 39.

Long title, page 1, line 7—Leave out 'a consequential amendment' and insert:

related amendments.

This amendment reflects discussions that I have had with various members of the Legislative Council over the past few days on accountability for public assets. I respect the fact that there is a wish by the majority of members in this place to have a report from TransAdelaide and from me or whoever is Minister in the future with respect to decisions that TransAdelaide may make about ownership of public assets. The first proposal put by the Labor Party and accepted by the majority of members in this place was that the disposal of assets and business up to over 50 per cent of the value of revenue would be a matter for both Houses of Parliament to consider.

The amendment would require that a written report be provided to the Economic and Finance Committee in relation to such matters. That would follow a notice being positioned in the *Gazette* and circulated throughout the State. I would highlight that these provisions would not apply to three circumstances: a transfer or assignment proposed by TransAdelaide for the purpose of entering into a joint venture or partnership arrangement; a transfer or assignment proposed for the purpose of a subcontracting arrangement; or a transfer or assignment proposed by the Passenger Transport Board under section 39.

I have thought long and hard about this matter because I certainly argued against the Labor Party amendment when it was in this place. I argued quite passionately because I felt so strongly that if we genuinely wanted TransAdelaide to prosper in the future and give the organisation every chance to operate as a public corporation, to have a competitive and real chance of winning business in the future, it should not be handicapped by provisions that no other competitor would be required to comply with in terms of distribution and decision making in its business operations.

After discussions with members in this place, I have come to accept that I should moderate that view and that I should see that the sentiment behind the original amendment moved by the Labor Party and supported by the Democrats is an extension of provisions that are already in the Passenger Transport Act in relation to the disposal of real assets. Therefore, I have moved an amendment that does reflect what I think is the sentiment in this place in terms of some reporting to the Parliament through the Economic and

Finance Committee of decisions made by a business owned by the public sector, by taxpayers.

So, I have moderated my first views quite considerably. At the same time, I have discussed this matter with the Hon. Sandra Kanck and she—and I even think the Hon. Carolyn Pickles—would appreciate that the amendment will provide accountability without unduly and unfairly hampering a business which we wish to compete and we wish to thrive in the future, that is, TransAdelaide as a public operator of public transport services.

The Hon. CAROLYN PICKLES: The Opposition was certainly at pains to avoid any inhibition on behalf of TransAdelaide to become a viable entity. To this end, we had lengthy discussions with Parliamentary Counsel, the Hon. Sandra Kanck and the Minister. I believe this amendment does go some way towards alleviating our fears, but not far enough. We do not have the numbers to get up our original amendment. Obviously, this amendment will be successful. One can only hope that the Economic and Finance Committee will be diligent in its questioning when the report comes before it. I oppose the amendment.

The Hon. SANDRA KANCK: I indicate that the Democrats will support the Transport Minister on this matter. I am pleased that the Minister has come around a little from the position she took when we debated this matter a couple of weeks. She took it terribly personally at that time, and I was feeling quite concerned that she was taking it so personally.

The Hon. Diana Laidlaw: Good.

The Hon. SANDRA KANCK: The Minister should get an Oscar for acting. I am certainly aware that we need to have something that will not disadvantage TransAdelaide, and again I think this amendment has been able to encompass what the Opposition was trying to achieve and also to give the protection to TransAdelaide that it needs.

The Hon. T.G. CAMERON: I thought I would give my Christmas present to the Minister for Transport early this year and indicate my support for her amendments. I know she has been waiting a long while for me to support something that she has introduced into this Chamber, but it is quite a significant concession. I am not quite sure who twisted her arm to get her to go this far—it was probably the reality of the numbers. Never let it be said that the Minister for Transport does not get my support on rare occasions. I support the amendment.

The Hon. DIANA LAIDLAW: I say for the record that it had nothing to do with the Hon. Terry Cameron, in terms of my being reasonable or offering a concession.

Motion carried.

The following reason for disagreement was adopted:

Because the amendment is not in the best interests of TransAdelaide.

SUMMARY OFFENCES (OFFENSIVE AND OTHER WEAPONS) AMENDMENT BILL

The House of Assembly agreed to the Bill without any amendment.

ADELAIDE FESTIVAL CORPORATION BILL

The House of Assembly agreed to the Bill without any amendment.

PETROLEUM (PRODUCTION LICENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 357.)

The Hon. P. HOLLOWAY: On 27 February 1999 petroleum exploration licences 5 and 6, which cover thousands of square kilometres in the north-east corner of South Australia, expire. These licences have been held by Santos since the 1950s. During that period, billions of dollars have been spent on exploration for oil and gas within petroleum exploration licences 5 and 6, and the success of those ventures has transformed this State. The discoveries of gas and oil in the Cooper Basin have made this region the most significant on-shore gas and petroleum field in the continent.

Billions more dollars have been spent on the Moomba gas processing plant and associated gas distribution infrastructure within and from the Cooper Basin. I was fortunate enough to have the opportunity to examine some of those facilities last month. While the 40 years during which Santos has held petroleum exploration licences 5 and 6 have been good for this State, we now enter a new era. Even if petroleum exploration licences 5 and 6 were not to expire next February, the application of national competition policy to the gas industry would bring profound changes to the industry.

Already the Cooper Basin indenture agreement, which was ratified by this Parliament in 1975, has been subject to national competition policy review, and changes are inevitable. In the new phase of gas exploration in the Cooper Basin post-February 1999, those areas which are not tied to Santos under petroleum production licences will be available for other companies to explore. A huge area of this State will be released for exploration under these changes, and the potential exists for companies with specialist expertise in finding and developing more difficult and less conventional gas fields to contribute to the future development of the resources of the region.

Changes to access regimes—that is, access to the pipelines and processing plants—under national competition policy are important ingredients if this strategy is to succeed, and I am aware of the arguments on both sides of the debate which need to be resolved before that can happen.

The Bill before us today is of much more limited consequences for the future of the Cooper Basin. The current Petroleum Act requires that a petroleum production licence can only be issued to a licensee who holds a petroleum exploration licence. Further, the quantity or quality of petroleum must be sufficient to warrant production. Accordingly, some applications for petroleum production licences already lodged by Santos may not be determined by the department for this latter requirement, that is, whether they are of sufficient quantity or quality, before the petroleum exploration licences expire next February. This would mean that Santos could not be granted petroleum production licences under the current Act because, once those PELs expire, under current provisions they would not be able to hold the new production licences.

We are also informed that Santos may lodge applications right up to the expiry date of the petroleum exploration licences 5 and 6, and during my visit to Moomba last month I was aware that considerable exploration effort was still taking place.

This Bill amends the relevant clause of the Petroleum Act to provide that, if a licensee who holds a petroleum explor-

ation licence applies for a production licence in an area comprised at the time of the application in the PEL, the licensee's entitlement, if any, to the grant of production licence is not affected by the expiry of the PEL before the determination of the application. In other words, in the case of Santos, if it had its application in and, through no fault of its own, it could not be processed by the department in time, that application would still stand under the amendment in this Bill until it could be assessed on its merits. The Opposition believes that this measure is only fair and reasonable, and we will support it.

Before I conclude my remarks on the Bill, I wish to take this opportunity to comment on several other matters related to petroleum exploration in the Cooper Basin. One of the areas incorporated in petroleum exploration licences 5 and 6 is the Coongie Lakes exclusion zone. This is a remarkable area of world significance. My colleague in the House of Assembly, John Hill, the shadow Minister for Environment, has given notice of moving a motion that the House call on the Minister for Environment and Heritage to ensure that applications to grant wilderness status to the Coongie Lakes wetlands be processed forthwith and call on the Minister to ensure that the Coongie Lakes wetlands be given the highest possible level of environmental protection once the exploration licences for the area expire in February 1999.

The Coongie Lakes have been subject to exploration in the past, and some of the earlier seismic zones which were established in an era when those exploration techniques were far more intrusive than they are now have made some impact on the region, but fortunately the country has recovered remarkably well. The more recent exploration using modern techniques is far less intrusive.

I do not know whether Santos has applied for a petroleum production licence over that region, but to my knowledge there are no commercial resources within the zone. The expiration of petroleum exploration licences 5 and 6 does give the opportunity to protect forever this important wetland, although I might add that possibly a greater threat to the survival of this region may be diversions on Cooper Creek. We have only to look at what is happening to the Coorong at the moment to see the impact of upstream diversions.

While we have the opportunity of protecting the Coongie Lakes, at the same time we can permit the exploitation of the gas resources in the adjacent regions, and of course these resources are very important for this State. I trust that the motion of my colleague John Hill will be carried in the House of Assembly and acted on by the Minister.

Another issue which I wish to raise in relation to this question of petroleum exploration licences in the Cooper Basin arises from a recent article that appeared in *Business Review Weekly* alleging that a sweetheart deal had been arranged between Santos and the Olsen Government just prior to the previous election. The article alleged that petroleum production licences were handed to Santos over the Nappamerri Trough region. Annette Hurley, one of my colleagues in another place, raised this matter during debate on the Bill in the House of Assembly, and I note that the Minister for Primary Industries, Natural Resources and Regional Development also released a statement in relation to that matter.

My comment on the article is that a large company such as Santos which has held such control over a large region of the State will inevitably be viewed with suspicion by others within the industry. Those competitors want a slice of the action while paying as little as possible for it, while Santos will wish to protect its investment to the maximum possible extent. In assessing these petroleum production licences we must adopt a balanced view. There are billions of dollars of infrastructure and investment, and Santos is entitled to a return on that investment but, at the same time, where new players can contribute to the more rapid development of the gas resources of this State, there should be some encouragement for them to do so.

Those issues go beyond the scope of this Bill, which the Opposition supports, but the Opposition will certainly scrutinise the petroleum production licence process to ensure that this process is appropriate and just. It is important that the new phase of petroleum exploration in the Cooper Basin which will begin at the end of February next year operates in the best interests of the State while ensuring that those such as Santos who have made huge investments are treated fairly. The challenge for the Government is to get the balance right, and our task as an Opposition will be to ensure also that it does indeed do so. I support the Bill.

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

RING CYCLE

Adjourned debate on motion of Hon. Diana Laidlaw:

That all members of the Legislative Council applaud both the State Opera Company of South Australia on the sensational staging of Wagner's the *Ring* and the Adelaide Symphony Orchestra, conducted by Maestro Jeffrey Tate, for its world class performance of the opera, regarded as one of the most influential works in the history of western culture.

(Continued from 8 December. Page 399.)

The Hon. T.G. CAMERON: I support this motion. Last week in this place the Hon. Diana Laidlaw made me painfully aware of my ignorance in the area of the arts, so I thought it time to further educate myself on all aspects of the arts. I put the Minister on notice that my office will be placing a number of questions on the Notice Paper in relation to the arts. I will be very interested in the answers, and I am sure that the Minister will ensure a prompt response to my questions.

As a working class lad who grew up in Port Adelaide, I did not have the privileged background that some other members in this place have had. I have not been fortunate to experience luxuries such as attending the ballet or the opera. Like many South Australians, the only arts I grew up with were the football on Saturdays, ranch night at the Port Adelaide Ozone Theatre on Wednesdays, and Saturday afternoons at the Alberton Picture Theatre. When I was older, however, I was lucky enough to see the odd rock'n roll band such as the Beatles and the Rolling Stones when they came to Adelaide.

The Hon. Sandra Kanck interjecting:

The Hon. T.G. CAMERON: I had three jobs, so I could afford to go to the pictures. Whilst I have not attended the production of the *Ring*, I have heard that it was a spectacular event. I commend those who worked so hard to stage such an epic production as the *Ring*. I understand that 70 per cent of the tickets were sold to people from interstate or overseas, most of whom are regular followers of the *Ring* around the world. I am sure that they are well-heeled visitors, bringing in many benefits for South Australia. Heavens above, you would have to be well-heeled to be able to afford to pay $1 000 for the performances plus air fares and accommodation! It is a pity that most working people, the unemployed

or pensioners are unable to afford to attend such a rare event. The general public was excluded simply by virtue of price.

As members would be aware, the cost of B reserve seats for the four performances was $500, and $1 000 for A reserve seats—not exactly affordable for the average South Australian. I would encourage the Minister to investigate ways of making such a production more accessible to the average South Australian. I read recently that the Sydney Symphony Orchestra, the Sydney Dance Theatre, the Melbourne Theatre Company and the Adelaide State Theatre Company have substantially reduced prices to encourage the attendance of a wider cross-section of the public. In 1999 the Sydney Theatre Company, for example, will be offering $15 tickets to students between Monday and Thursday nights. In 1999 the Melbourne Theatre Company, in addition to the student half price tickets, will be offering about 20 tickets each day for $12.

I understand that some students were fortunate in being able to see a full cycle of the *Ring* for $100, and I am pleased to say that about 130 students to date have taken advantage of this offer. I have also been informed by the Minister's office that up to Monday night 87 single performance tickets were sold at $50 each, and it pleases me that the opera company allowed students the opportunity of attending this historic event. However, I would like to know whether anything similar was available for those on lower incomes, the unemployed or pensioners.

I noted with interest the Premier's recent announcement that the general public have had the opportunity of seeing a free live broadcast on a first come, first served basis at the Playhouse or Space Theatre. I am told that about 4 600 people have been lucky enough to see this live broadcast. How delightful: the crumbs are being handed out once again to keep the public happy. It reminds me a little bit of a scene from a Charles Dickens novel, when the working people had their noses up to the window, watching the gentry have a good time.

In my preliminary research I noted that the State Theatre Company has a number of company goals and strategies, which are to be commended. They include: maximising the use of local artists; aiding in the development of youth audiences who could see their lives and concerns reflected on stage; attracting private sector investment in a local product; enhancing the company's national profile; and developing new audiences for the performing arts.

However, I understand that, according to its 1997-98 annual report, the State Opera Company currently has no similar goal or strategies. Is this because the opera is something for only the well to do? I would like to know how many visits, for example, the State Opera Company has made to rural South Australia in 1997-98, if any. Is the State Opera Company doing anything to attract a younger audience to the opera? Does the State Opera Company have any goals or strategies to encourage people from different socioeconomic backgrounds to attend the opera? The 1995-96 State Opera Company's annual report provides me with the most recent figures as similar figures were unavailable for 1996-97. There were no educational programs in 1995-96.

The annual report shows that only 1 per cent of the population attended the opera for the year 1995-96: that is, 21 000 people of the State's population of 1.5 million attended the State Opera Company's mainstream performances. Yet funding for the State Opera Company for the year 1997-98 alone was estimated at $2 million, spent on only one production servicing a very small number of South Australians. Taxpayers are subsidising .1 per cent of the South Australian population to attend the opera every year.

I must say that, after doing a little research into the arts over the past few weeks, I have grave concerns about the priorities of the Government. I understand from the Minister's comments made in this place earlier in the year that Australia has the highest per capita spending on the arts in mainland Australia—$75 million in 1997-98. In fact, as the Minister pointed out on 23 July this year, South Australia spends four times the sum per capita on the arts as New South Wales and two to three times the sum per capita as Victoria—quite amazing considering that South Australia has the second lowest per capita spending on roads. It would be no surprise that South Australia is marginally in front of Jeff Kennett's Victoria. If only South Australia could reach the average level of spending on roads by other States.

I accept and encourage spending on the arts. It is good for the economy and is something about which we as a State can be proud. I also acknowledge the benefits for South Australia, in particular for job creation and tourism. However, I draw a question mark over the level of spending on the arts compared with that on education, health and transport when one considers the current economic climate, particularly if one takes on board the news from the Treasurer today that we could be facing a mini budget early next year in which taxes might have to rise by at least $100 million.

Why are we increasing spending and subsidies on the arts so that the hoi polloi can enjoy the opera when public hospital beds and schools are being closed and the State's roads are deteriorating? Country councils contacting my office inform me that people are being killed because the roads are deteriorating. Again, we have high spending on the arts in a State that has the highest unemployment level in mainland Australia. In a statement made in relation to the 1997-98 budget on 23 July 1998, Minister Laidlaw said that funding for the arts is being retained this year at the higher level—and this is whilst the unemployment rate in this State remains stagnant and we have chronic youth unemployment.

Arts funding has increased or has been maintained by this Government at the higher levels while at the same time funding for health, education, transport and just about any other area of activity outlined in the State budget is subjected to cut after cut, budget after budget. This again begs the question whether we have our priorities correct. I believe the issue of accessibility to the opera for the general public needs to be addressed. We need a shift in emphasis to enable all South Australians to enjoy that from which they have traditionally been excluded. We need to see more outreach arts projects from the State Opera Company which service rural communities.

I acknowledge the significance of the *Ring* for South Australia and the economy. I look forward to the results of any research which specifies the spin-offs for the South Australian economy generated by the *Ring* production. I conclude by stating again that I question this Government's budget priorities when we are spending so much on a per capita basis on the arts whilst in almost every other area of Government activity spending cuts are being made.

Again I congratulate all of those involved in the production of the *Ring*. From all accounts it was a splendid performance. We can only hope that if the *Ring* ever comes back to Adelaide action will be taken by this Government to ensure that it is more accessible to the ordinary members of the public so that they can see the live production rather than a video recording.

The Hon. DIANA LAIDLAW (Minister for the Arts): I thank all members for their support. Between the lines, I read some enthusiasm from the Hon. Terry Cameron for this initiative.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: In response to that challenge from the Hon. Mr Cameron, we have generated new money and jobs in this State through this initiative. Just as important is the fact that through the *Ring* we have achieved in this State something which other States did not dare to do and most thought was impossible. It is impossible to put a dollar value on something such as this, yet it reinforces our reputation of being enterprising individuals. Sometimes South Australians need to be reminded of the importance of enterprise and excellence and the fact that we can achieve rather than dwelling on the negatives and questioning our capacity to hold our head high or take on a challenge of any degree.

I have heard praise for the Adelaide Symphony Orchestra from people who are far more experienced than I in matters of music (this orchestra which just six weeks ago would have been viewed as provincial even within Australia), praise from around the world by the highest and most critical of commentators as a world class orchestra—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Well, with taxpayer support, the number of positions in the symphony orchestra—this is young South Australians—has been increased from 68 to 80, but it was further increased for this exercise of the *Ring* to 130. They have just played their hearts out, and I am very pleased (and I will give the benefit of the doubt to Mr Cameron) that there is almost unanimous support and recognition for one of the mightiest efforts in music and the arts that has ever been seen in this country. I say that with confidence owing to not only the statements of members in this place and media reports, but after also having attended last night the Adelaide Critics Award, where the 20 critics of Adelaide presented a special award of eminence in the arts to Mr Don Dunstan for his contribution to the arts in South Australia and the nation.

It was particularly thrilling for me to hear Mr Dunstan say that, even with all his enthusiasm and support for arts over many years, he did not believe that Adelaide would ever have the confidence to stage a *Ring*; how excited he was when he first learnt that we would undertake this challenge: how, from the outset, he knew that we would give it our best shot; and that we had done that and we had achieved more. I was very thrilled that a man who has given so much (and who is now quite ill), no matter which Government funded and supported this initiative—like members in this place across politics—has supported the initiative by State Opera, supported by the Adelaide Symphony Orchestra and a *Ring* cycle that comprises about 90 per cent of Australasian performers in terms of singers—and that itself was a mighty effort.

I note that the Hon. Carolyn Pickles gave credit to Mrs Diana Ramsay and her late husband James in terms of the subtitles. I would like to support that endorsement. It was a generous sponsorship, which certainly contributed greatly to the enjoyment of everyone present, and I believe that, because we did not struggle with some of the themes, we focused on the music, the set and lighting and singing to a much greater extent and enjoyed all those elements of the production the more so because of that sponsorship.

Finally, I thank Mr Jeffrey Tate and Mr Pierre Strosser, as conductor and director, who were instrumental in bringing to Adelaide the credit that we will have forever because of the extraordinary staging of the *Ring*. I say to this place that it is my earnest wish that we will have an opportunity to present a further *Ring* in the future, because the unanimous view from Australian critics and world wide is that Adelaide is the perfect place of all Australian cities, and in the southern hemisphere, to be a *Ring* city in the future. Again, I thank members for their support and for their attendance at the *Ring*.

Motion carried.

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) BILL

In Committee.

Clause 2.

The Hon. P. HOLLOWAY: When we last considered this Bill a fortnight ago the Treasurer accused the Opposition of delaying debate by filibustering and then proceeded to do exactly the same thing himself—as the *Hansard* record for Tuesday 24 November establishes beyond doubt. Of course, those tactics were pursued because the Treasurer had not secured the vote of the Hon. Nick Xenophon for the lease of ETSA and did not wish to proceed to a vote on clause 2 until that vote was secured. We now know, of course, that the Treasurer was unsuccessful on that, and that led to the display of displeasure by the Treasurer this afternoon when—

The Hon. R.R. Roberts: Petulance.

The Hon. P. HOLLOWAY: Well, it was; it was complete petulance. Of course, the Treasurer has now come up with plan No. 2 where, apparently, he will link passage of this Bill to various tax measures and try to blame the Opposition for it. As I pointed out in my Matters of Interest contribution earlier today, the Treasurer and this Government will not get away with that tactic. This Government went to the people in October 1997 promising that it would not sell the Electricity Trust and also saying that the budget was in great shape. Earlier today I quoted some of the then Treasurer's comments, and, indeed, after the election this Treasurer repeated those comments.

This Government has not been honest, and it certainly was not honest with the people of this State before the election about its intentions to sell ETSA. Now it looks as though the Government was not honest about the state of the economy, because if it had been correct and if this economy were in such great shape there would be no need at all for any tax increases or cuts to services.

Anyway, we have now moved on. Given these developments, debate on the first clause of this Bill was unusually lengthy, and the Treasurer referred to that two weeks ago. But this was hardly surprising given that the vote on the second reading of this Bill was taken on 20 August—over three months ago. Subsequently, the Government has introduced two sets of amendments, a total of 54 pages, to the original 18 page Bill which we debated in August. In addition, since then the Government had also announced details of its lease plan for ETSA utilities. So, it was scarcely surprising that, given that there had been such huge changes, there would be a longer than usual debate on clause 1.

Further, the Premier has described the sale and lease of ETSA as one of the most important issues ever to face Parliament. The Opposition would not disagree with that assessment: it is a very important issue. If and when we do finally proceed next year with consideration of the Committee stages of this Bill—and, of course, it is my understanding that

this evening we will just give our views and not proceed too much further with debate on clause 2—there will be extensive debate on the Bill, and we make no apology for that. That is not that we wish unnecessarily to prolong the debate, but as an Opposition we do have an obligation to the vast majority of South Australians who are opposed to the disposal of ETSA to scrutinise the Government's plans.

I indicate to the Treasurer that the Opposition will seek full details of the Government's proposals for the lease of ETSA and that we will question the Government on its future plans for the electricity industry in this State, including the proposals for a new Pelican Point power station and Riverlink. At this stage I would like to congratulate the Hon. Mr Xenophon for putting these issues right at the forefront of the agenda, because they are important for this State.

There have been claims that the wrong decision here could cost the consumers of this State anything over a billion dollars over the next 10 years, so it is absolutely essential that we should get the right decisions. It is important for me to put on record that the Opposition believes that the Government has been very tardy in responding to the shortage of power which undoubtedly will be facing this State in a year or two. When I was the shadow Minister for Mines and Energy, I raised these issues some 18 months ago and there was a lot of comment in the press between 12 months and two years ago about the possibility of this State becoming short of power. If the Government has left it right until the last moment to get things right, that is the Government's problem and it will have to explain that to the people of this State.

During the debate, if and when we have it, we will also raise a number of issues that are consequential to the sale or lease of ETSA and Optima. For example, many concerns have been raised by local government in relation to the undergrounding of existing powerlines, the ownership of streetlighting facilities and so on. I suggest that, when we come to this debate in detail, how comprehensively the Treasurer responds to those questions will determine how long the debate lasts. Notwithstanding those comments, I am happy to accept that the debate on clause 2, which relates to the commencement of this Bill, should it pass Parliament, is a convenient test clause on whether the sale or lease of ETSA should proceed. The amendment to clause 2 which is on file in the name of the Hon. Sandra Kanck requires that a referendum be held before ETSA can be leased or sold. As has already been announced, the Opposition will support the amendment and therefore oppose the amendment moved by the Treasurer.

The Opposition is opposed to the privatisation of ETSA as is consistent with the position that we took to the people of South Australia before the last election. As I have indicated on a previous occasion, we regard a long-term lease of ETSA as equivalent to a sale and we regard a 25 year hybrid lease with its three lots of 24 year extensions as a long-term lease. The 25 year hybrid lease is arguably worse than a straight 97 year lease, for reasons that I will be happy to outline in more detail later, if and when we progress to that stage of the debate. I repeat that the Opposition has already made it clear that it will not attempt to unscramble the ETSA egg once that happens. Given the statement by the Hon. Nick Xenophon, the Government is not likely to have its way on that matter, but it is important for the record that it should be made clear.

In his statements last week, the Treasurer insulted our intelligence when he tried to compare the 25 year lease that he was offering with the cross-border leases or leverage leases that were entered into by the Bannon Government and by his Government several years ago. To compare those leverage leases with the handing over of the control of our power systems to private companies was a bogus argument. Under the cross-border lease deals, control of our electricity assets effectively remains with ETSA. The assets were leased and then leased back to take advantage of overseas taxation laws for the benefit of South Australian taxpayers. Why overseas taxpayers tolerate these loopholes in their tax laws which allow South Australians to benefit at their expense through these artificial tax avoidance schemes—and essentially that is what they are—mystifies me.

The Hon. L.H. Davis: Tell us about John Bannon's role—

The Hon. P. HOLLOWAY: I just referred to it. However, there has never been any question that ETSA—

The Hon. L.H. Davis: You spoke out forcefully in Caucus at the time, did you?

The Hon. P. HOLLOWAY: I was not in Caucus at the time that was done, because that decision was made before 1989 when I came into Parliament. However, there has never been any question that ETSA has effectively controlled our power system and taxpayers have benefited from these schemes. When the Olsen Government negotiated the cross-border lease with Edison Capital in 1997 the Opposition certainly criticised the Government for its hypocrisy, as the Hon. Legh Davis reminded us, in terms of the attack on the Bannon Government, but that was the extent of our criticism at the time. Why other countries offer these tax loopholes to the detriment of their taxpayers is something that they will have to judge.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I have not been paying attention to the Hon. Legh Davis.

The Hon. L.H. Davis interjecting:

The CHAIRMAN: Order! The honourable member will have a chance to contribute.

The Hon. P. HOLLOWAY: I am certainly coming to the issue of why the Opposition opposes the sale or lease of ETSA, consistent with our stance at the last election. We believe that basic services such as water, electricity, hospitals and telecommunications should be in public hands.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I believe they should be.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Apparently the Hon. Legh Davis would much rather these facilities be owned by overseas foreign owned corporations. The Federal Liberal Government decided that it would sell Telstra.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The Hon. Legh Davis wants to sell the Electricity Trust off to American bidders. He wants Americans to help him do it, but that is another matter. The fact is that we have to deal with the situation as it is. It is my view that these basic facilities should remain in public hands, if not in Australian hands. The last thing we want is for them to be put in foreign hands. Electricity is an essential ingredient for modern living.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Absolutely. Why should we support a referendum on the sale or lease of ETSA? Before the October 1997 election the Olsen Government denied specifically that ETSA would be sold or even managed privately. Of course, during that election campaign the Opposition accused the Premier of having a secret agenda to

sell ETSA. However, it was the Opposition that was accused by the Liberal Party of telling lies. We were accused of raising scare campaigns during an election, with the Government claiming that it had no intention to sell ETSA. Is it any wonder that politicians are held in such low esteem in this State when such cynical tactics were employed by the Olsen Government?

After the election, having been accused of scaremongering and telling lies, we were apparently supposed to accept the Olsen Government somersault as, 'Fair cop. They won the election, so it is a fair cop and we should just forget what happened.' It is like the French revolution. It is year zero and whatever happened before did not really happen. The Olsen Government got its friends at the Chamber of Commerce and Industry and the *Advertiser* to drum up a plan of support for the ETSA sale. Anyone who read the disgraceful editorial today attacking the Hon. Nick Xenophon could not help but be staggered by just how unfair and unreasonable that article was: it was right over the top. That is rather consistent with the *Advertiser's* views. I can well remember many times in the past when the *Advertiser* has taken over the top positions on many issues only to have to do complete somersaults later.

The point I was trying to make is that, having been accused of telling lies before the election—for correctly predicting what this amoral Government intended to do—we were then accused of acting against the State's interests for not abetting that Government in breaking its promises. The Opposition will not be browbeaten by the vested interests in this State to support a course of action that goes against our policy commitments to the electors of South Australia. If this Government wishes to deceive the people of South Australia before an election, it must expect to pay a price for that deception.

The integrity of our political system is at stake. If the Olsen Government wishes to come clean with the people of South Australia, then this referendum proposal is one way it can do so. If it wishes to get the support of the people and convince them it has changed its mind, then it can do so. It can go to the people and call a referendum. Of course, if this Government wishes to call a referendum on any matter and it is supported by the people, it has the right to have that adopted. However—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The Hon. Legh Davis keeps raising red herrings. The fact is—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I'm quite happy to address those issues.

The CHAIRMAN: Order! The Committee will come to order.

The Hon. P. HOLLOWAY: The fact is that—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The Hon. Legh Davis is the one who is empty of ideas, because he seems to fail to understand that that Government did not go to the people saying that it would not take a particular course of action. But the Olsen Government did. The Olsen Government accused us of lying when we said it would sell ETSA. It accused us of scaremongering and telling lies. That is what it did during the 1997 election campaign. If the Government wants to come clean with the people of South Australia, the referendum is one way it can do so. Of course, it was those principles which the Hon. Nick Xenophon enunciated when he supported the second reading of this Bill in August.

The Hon. L.H. Davis: You said there is one way. What's the other way?

The Hon. P. HOLLOWAY: You'll have to find that out. But you don't have too many options, do you?

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Legh Davis does not like the fact that he has got himself into a hole and his Government has got itself into a hole. But the simple fact is that you cannot go to the people of State and tell them you will not do something. You cannot accuse the Opposition of lying when it suggests the Government is going to do something, and then do a backflip within weeks. Days or weeks afterwards it does a complete backflip and expects to get away with it. The fact is that this Government must and will pay a price for that.

The Opposition does not fear such a process. If the Government wishes by way of referendum to get out of the moral dilemma it has put itself into we will respect the verdict of the public. This Government cannot say the same. This Government has put itself into a difficult position by its own action. It is all of its own a making. No matter how much it might try to blame Nick Xenophon, the Opposition, the Democrats or anybody else, it was this Government that 12 months ago went to the people saying that they would not sell ETSA. It said the economy was fine, the budget position was fine, it was comfortable, there was no need for any new taxes. I read out the quotes today that the previous Treasurer made. If they were not on the level with the people of this State, if they were not telling the truth, it is they who deserve and who will cop the blame from the people of this State if they intend to break those promises.

There are many more questions in relation to the sale of ETSA that one could raise during debate on this Bill; and, indeed, if we ever get to the stage of proceeding further in this Bill, certainly the Opposition will be raising a number of questions. We have a duty to the people of this State to do that. However, at this stage I will not take further time because I am sure other members will wish to put their views on notice. I conclude by saying that the Opposition, unlike the Government, is consistent in its position, and it will remain consistent in that position.

Members interjecting:

The CHAIRMAN: Order!

The Hon. CARMEL ZOLLO: I would like the opportunity to raise with the Treasurer an issue about which I spoke in my second reading contribution and to which he responded in his summing up. I have had a little difficulty finding an appropriate place in the Bill and the amendments, so I will take the opportunity of raising it now. I would like to ask a general question in relation to the information provided to consumers in what was the preparation stage concerning the delivery of competitive prices for householders. Several pamphlets have been prepared for the general consumer, for example, 'ETSALE', and recently householders received from ETSA Corporation subsidiary ETSA Power a quarterly newsletter for Spring 1998. A section of the newsletter explains how competition will be introduced into the electricity industry when NEM begins in South Australia—I understand on 13 December.

I addressed the issue of competitive prices and consumer choice during the second reading debate on the Bill. The Treasurer responded in his summing up stage that such competitiveness and choice was available in much the same way in the telecommunications industry and the competitive market between Telstra, Optus and other carriers. The

Treasurer is right to say that it is possible for individuals to choose different telecommunications carriers for long distance or local telephone calls because, in effect, the one network of telephone lines is rented by different carriers at different times to carry electronic data. Computers then keep track of all these transactions and the customer is billed accordingly.

I am happy to quote from the ETSA quarterly newsletter which I have just mentioned. While we all recognise that we are still talking in relation to the NEM market—with which the Opposition agrees—the newsletter correctly points out what competition really means to the ordinary household consumer if we were to lease or sell our utility as follows:

> Electricity is different from other products because it cannot be stored; it must be traded the instant it is produced; and it cannot be identified as coming from a particular generator.

For those reasons the concept of an electricity pool was developed. The newsletter continues:

> Electricity generators from South Australia, New South Wales and Victoria will sell their electricity into this pool where it is dispatched to meet customers' constantly changing demands. Prices paid to generators are set every half hour depending on supply and demand. Higher demand will generally mean a higher price.

Many will deduce that it is one thing for State owned ETSA Power to compete for delivery of services but an entirely different issue for a company needing to show a profit, let alone individual choice of generation.

When you read that 'most consumers will choose not to buy from the pool but to sign with a retailer such as ETSA Power, who will compete with other retailers to supply electricity to consumers', you would take this to mean that ordinary household consumers will simply have a State owned retailer being replaced with a private one, that is, the one who wins the tender for their area. Unlike telecommunications, unless we have more than one set of cables a householder can tap into only one source of supply coming from one retailer. In short, the individual householder has no choice concerning the generator, and most certainly no choice as to which retailer ends up servicing their area.

In the environment section of the ETSALE pamphlet it states:

> And for the first time South Australians will be able to choose to have part or all of their needs supplied by 'green power'.

Is the Government suggesting that any single household can refuse the retailer for their area if they are not accessing green power? Who else will supply a single household or even a small group? Will one householder be able to say, 'I want my power from, say, Pelican Point (if it were to be built) because it is gas fired', when one will probably have no idea where the power comes from once it goes into the pool. I am interested to hear the Treasurer's comments concerning consumer choice and whether he can also categorically state whether it will mean lower prices for ordinary householders.

The Hon. R.I. LUCAS: It is absolutely unbelievable. Earlier this evening the Hon. Mr Xenophon told me that he would speak briefly to outline his position. It is reasonable for a person who has spent a considerable amount of his time and everyone else's time making up his mind on this issue to indicate to the Parliament—not to the media assembled in the courtyard or wherever else it might be—his particular point of view on this most critical piece of legislation. Members would have thought that he might at least have the courtesy and the courage of his convictions to stand up in this Chamber in front of his peers and his colleagues and indicate his position on this matter. The honourable member does not have the courage to stand up in this Chamber and put his point of view. He has just indicated he is not prepared to speak today—

The Hon. R.R. Roberts: He did not say that.

The Hon. R.I. LUCAS: He did.

The Hon. R.R. Roberts: He didn't.

The Hon. R.I. LUCAS: He just said that he is not speaking today.

The Hon. T.G. Cameron: We will read the transcript tomorrow and see what he said.

The Hon. R.I. LUCAS: We will read the transcript.

The Hon. Caroline Schaefer: No, you won't; he did not get to his feet.

The Hon. R.I. LUCAS: We will read the transcript. He made it quite clear—and I am sure the Hon. Mr Xenophon would not deny that that is what he said—that he was not prepared to speak today in relation to this issue.

The Hon. T.G. Cameron: It will not be on the transcript.

The Hon. R.I. LUCAS: I suggest to the Hon. Mr Cameron that he ask the Hon. Mr Xenophon whether he said that.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The honourable member does not have to do it now; he can do it afterwards. The Hon. Mr Xenophon said he was not prepared to speak. That is what he said a moment ago. Earlier in the evening he indicated that he would speak briefly to put his particular point of view. The honourable member does his fellow members of Parliament a gross discourtesy when he lacks the political and personal courage to stand up in this Chamber to put his point of view and to at least defend it in terms of parliamentary and political debate.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says, 'All you have to do is go and read his press release.' Is that what counts for political and parliamentary debate now? We have to read someone's press release, a press release that they hide behind.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: I want to put the Government's position in relation to this, because it is important that we place on the record, at least in general detail, what has transpired over the last few weeks and months in relation to this particular process. I must say up front, as I said about the Hon. Frank Blevins earlier this evening, that I have great respect for people who may well have very strongly differing views to my own but who have the courage to look you in the eye, to call you a so and so or whatever else it is, and at least argue their point of view and tell you what they think of you and where they disagree with you.

I also have great respect for people who, when they speak with you in relation to a particular issue and a particular approach, are prepared to follow that approach right through to the very end. If after a period of time a particular person changes his or her mind—and I have lived with the Democrats for 15 years, so I am used to people changing their minds—I at least can respect to a degree such a person who has the courage to look you in the eye and to tell you that he or she has done so. I think that is a reasonable way to operate. It has been the way I have operated for nearly 20 years in this Chamber. That is why, as I said earlier this evening, whatever you thought of people like Frank Blevins, they were straight shooters. What they said to you, they would follow it through, one way or another.

I must say that, in relation to this issue, for a man who came into this Chamber preaching a new version of politics and a new higher standard of moral and political integrity and who lectured the Government about broken promises and commitments in relation to integrity, I have personally lost a significant degree of respect for the Hon. Mr Xenophon in the way he conducted himself during the latter stages of this debate.

The Hon. G. Weatherill interjecting:

The Hon. R.I. LUCAS: We could have the debate. As I said, I have no problems with someone disagreeing. The Hon. Mr Weatherill has been up front and does not agree with the Government's position, and that is fair enough. You can look me in the eye, tell me what your view is, and then have the debate and the argument.

Until the middle of this year, I understood the Hon. Mr Xenophon's position. In all his discussions with me in relation to the sale—and I will not go into the detail of those—he looked me in the eye and was honest and open enough to say, on most of those occasions, that he still had not made up his mind. That was fair enough. It was frustrating as we argued the case with him and provided him with information but, right through until he made his speech in Parliament, whenever it was in the middle of the year, I did not know until he stood up in the Chamber what his position would be.

The honourable member did not indicate to me one way or the other in those discussions what his ultimate decision was, although there were a number of hints on various occasions that he was favouring one way, then the other. He wavered in his consideration of it but, to his credit, the honourable member could look me in the eye and have the debate and discussion with me, and after that particular debate, whilst I disagreed with the position he took, he could still look me in the eye and say that he had not deliberately, advertently or inadvertently, led me down a garden path.

I cannot say in relation to his handling of the debate concerning the long-term lease that the Hon. Mr Xenophon handled it in the same way. It is important to place this on the record, because it has been the Hon. Mr Xenophon who has come into this Chamber and preached to and lectured the Government, myself and others, about political integrity and courage, about being prepared to stand up for what you believe in, about being prepared to debate the issues, and about being prepared to argue your case. It is he who has established that threshold for political debate and political standards in this Chamber.

What I say to the Hon. Mr Xenophon I say looking him in the eye, as I always have in this debate: he has failed his own standards in relation to this debate, not because of his final decision, with which I obviously disagree, but because of the way in which he went through this decision making process, or whatever you might like to call it, in the past few months.

An honourable member: A charade?

The Hon. R.I. LUCAS: I do not know whether or not it was a charade. It is up to the Hon. Mr Xenophon to indicate his point of view in this Chamber, and he is refusing to do that this evening. I could have accepted the Hon. Mr Xenophon's position as he articulated it in the middle of the year, because he had been open and honest about it. However, he entered into what turned out to be months of discussion and debate willingly and openly on a certain basis—and I reiterated this to the Hon. Mr Xenophon. I said, 'You are talking about discussions on a lease without the restrictions of a referendum?' The Hon. Mr Xenophon said 'Yes.' I said, 'On that basis, we will open the discussions again in relation to your considerations of this issue.' There were discussions about what is long term and what is not; that is detail. However, they were the guidelines that he established together with his ever-growing team of advisers and supporters over the weeks and months that we worked together.

The Hon. L.H. Davis: It wasn't a team: it was an army.

The Hon. R.I. LUCAS: I have no criticism of people who voluntarily made a contribution over the long term. Some key people supported the honourable member and, unlike others who have made criticism of the Government advisers on this matter, I make no criticism of the Hon. Mr Xenophon's supporters and advisers. But that was the condition and that was the basis of the matter. I do not intend to trace the gory detail of all those discussions with the honourable member: they will stay as discussions that we had.

However, I do want to say something about this proposal, which I outlined in some detail at the last debate. I think it is drawing a long bow to describe as a filibuster the Government's detailed explanation of the results of weeks of discussion and debate which we are now outlining in pages of amendments.

Members interjecting:

The Hon. R.I. LUCAS: The Hon. Ron Roberts was saying a lot about nothing. On behalf of the Government, I put down the whole package and tried to explain to members who were obviously not part of the discussion what was involved and what was entailed.

But this proposition was actually suggested by Mr Xenophon and his team at a particular meeting. There was a group of three or four of them, and it came from that side of the table in one of the many discussions that we had. I concede that it was not a locked in, detailed proposal with the 'i's dotted and the 't's crossed: it was an idea that was being explored, but that was the start of this proposition: the basis of the 25 year up-front deal, the length of which the Hon. Mr Xenophon said he could live with. He said he could not live with an up-front 97 or 100 year lease, but then there was to be a vote after the next election. The people could express a view at the next election. If they did not like the Labor Party's or the Liberal Party's position, they could flock in their droves to the Democrats. We could see thousands of Democrats.

An honourable member: Or the Independents!

The Hon. R.I. LUCAS: Or the Independents, but on this issue I thought the Independents were supporting the position of the lease. The Democrats were opposing everything; they could have flocked in their droves to the Democrats at the next election. We could have seen seat after seat in the Lower House fall to the Democrats because they were the only Party—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: We could have seen Liberal and Labor seats fall to the Democrats, because at the next election they would be the only Party to oppose a renewal of these leases—if that was still to be the position of the Labor Party at the next election. That, of course, depends on an interesting debate, which I will not go into, within the Labor Party.

That was the proposition and, of course, a lot of work was done on it. The Government worked on it and the Hon. Mr Xenophon and his team worked on it, and a package and proposition was put together. We last met for that week, and again I will not go into the detail: all I intend to do is

highlight the key general points. I have respected the confidences of the many discussions we have had with the Hon. Mr Cameron and the Hon. Mr Xenophon, and I will continue to do so.

There was a key meeting in that week in terms of whether or not the Government would continue that week, with a vote to be wrapped up by the end of that week, on this proposition. I will not indicate the detail but, as a result of that discussion, which was held in private without advisers and others, I together with some other members of Parliament made a decision about proceeding with the legislation that week on the clear understanding that there would be a conclusion to the debate by the end of that week. From that time until yesterday, when the honourable member made his statement to the media about his position on this matter, I would have had half a dozen conversations with the Hon. Mr Xenophon either in the Parliament in that week or by telephone during that two week period.

On no occasion at all in any of those conversations did the Hon. Mr Xenophon raise any question at all about the package that related to the staged long-term lease—not once. On a number of occasions I asked the honourable member, 'Do you or particularly your legal team have any legal questions that you want to raise with me about the substance and the structure of the staged long-term lease proposal?' On no occasion did the honourable member indicate that there was a particular issue that he wanted to take up. What he said all through that week and the following week (last week) was that he had concerns about the Government's position on Riverlink, which I will refer to in a minute, and it has been only that issue of Riverlink and Pelican Point on which the honourable member raised any questions.

We had organised a meeting for last Saturday at 5 o'clock. One of our team of advisers had to fly back from Singapore for that meeting, and other advisers made themselves available to meet with the Hon. Mr Xenophon. When I discussed that with him on Friday, he set the time, because he had other meetings on the Saturday afternoon and wanted to meet subsequent to those, at 5 o'clock. At about lunch time on the Saturday I got a message on my pager from the Hon. Mr Xenophon cancelling the appointment, saying that he needed more time to read the material. Again, I will refer to this in some detail: we had given him some 30 pages of detailed rebuttal of the position being put to him on the Friday by the Riverlink proponents.

All through that weekend, on Monday and then on Tuesday morning—on the Monday and Tuesday in particular—I made a series of telephone calls to the Hon. Mr Xenophon's staff and office, to his personal voice mail, seeking either a meeting or a telephone discussion with him prior to the commencement of the debate on the Tuesday to find out how we were going to process this matter. The honourable member refused to return telephone calls and refused to meet in that period of Monday afternoon, in particular, Monday evening and Tuesday morning. The honourable member refused to speak to me on the telephone. He said that he would not be taking telephone calls from anyone and that he would not be meeting with anyone during that particular period.

I received a pager message that the Hon. Mr Xenophon would try to telephone me at 1.15 p.m., which was 15 minutes prior to his 1.30 p.m. press conference. I am told that about 1.27 p.m. the honourable member poked his head into my office when I was not there. He was unable to make contact with me in the three minutes prior to his 1.30 p.m. press conference. The first I knew of the Hon. Mr Xenophon's changed position was when I heard about it in the media sometime between 1.45 p.m. and 2 o'clock.

For the honourable member to come into this Chamber and preach to me and to the Government about political integrity, openness and honesty, and fair dealings with people and not to have the courage to look me in the eye or, at the very least, to telephone me and say, 'Rob, I have changed my mind; I will not tell you why, but I have changed my mind', I think is a disgrace. At the very least, the Hon. Mr Xenophon should have had the courage to telephone me, or the courage to sit down and have a face-to-face discussion, look me in the eye and say, 'I have changed my mind.' A lot more could be said about the detailed discussions but I respect the privacy of those discussions. I wanted to signpost for members in this Chamber the reasons why matters have been delayed as we have sought to reach a compromise position with the honourable member. The honourable member opened this debate and he and his team have continued it.

I turn now to two or three matters of substance in this debate and the reasons why the Hon. Mr Xenophon has indicated that he is now opposed to the proposition which, as I said, was originally raised by him and his team in a meeting with me and the advisers to the Government. The honourable member makes his first point on page 2 of his press statement of yesterday. Again, I obtained a copy of that statement through the media: I did not get even a copy of that from the honourable member. The honourable member said that there was to be no net economic benefit, and I will use his exact words so that I am not misquoting him:

> On any reasonable analysis the net economic benefit of a stand alone 25 year lease is questionable and on some scenarios would leave us worse off.

In one of our last discussions before we decided that we would continue with this as a Government, we provided in some detail to the Hon. Mr Xenophon a quite comprehensive analysis of the risk of the earnings of the various electricity businesses. We looked at an interest rates scenario of just 6 per cent, which is approximately the current rate, and the risk scenarios, with potentially interest rates going as high as 7 per cent and 8 per cent. They were not scary scenarios in terms of double figure interest rates. We looked at three scenarios: 6 per cent, 7 per cent and 8 per cent over the next four years.

We utilised the analysis used by the Auditor-General. As we indicated to the Hon. Mr Xenophon and the Auditor-General, we do not agree with the type of analysis undertaken by the Auditor-General but, nevertheless, for the benefit of the discussion with the Hon. Mr Xenophon, who had had a discussion with the Auditor-General, we used exactly the same form of analysis, that is, a public sector net benefit as opposed to a budget benefit.

Again, our key criticism of the Auditor-General's analysis is that he accepts the projected earnings of our electricity businesses as they operate in the electricity market. Everyone can have their view on this, but the Government believes that that is an optimistic view, that we cannot expect an ever increasing profitability of ETSA and Optima in the national market, and that there will have to be some decline in their profitability. We hope that in respect of the generators that will not be as significant as in New South Wales, but we believe there will be a reasonably significant decline in the profitability and earnings of the businesses.

We also think that, in terms of looking at these sorts of net public sector benefit issues, one must look at the reasonable

prospect that interest rates might increase from the 20 or 30 year lows that they are at the moment of 6 per cent. It would be terrific to do an analysis based on interest rates staying at 6 per cent for the remainder of the decade, the next 10 years or the next 20 years—

The Hon. T.G. Cameron: It doesn't matter whether it is real or not; you still have to pay the interest.

The Hon. R.I. LUCAS: The Hon. Mr Cameron might like to explain the realities to the shadow Minister for Finance. If the Hon. Mr Holloway wants to argue that interest rates will stay forever at 6 per cent, let him do so, but that view will not be accepted by virtually anyone else in the economic community.

All we are saying is let us look at these public sector net benefits at 6, 7 and 8 per cent—not double digit figures but 6, 7 and 8 per cent. We did a range of analyses, and a lot of that information was commercially in confidence. It was provided to the Hon. Mr Xenophon in that way, and I do not intend to place it on the public record. However, it was quite clear from those analyses that, using the Auditor-General's own mode of analysis (that is, net public sector benefit), under the scenarios of the reduced profitability of our electricity businesses and slight increases in interest rates, there were significant benefits in this staged long-term lease proposition.

Given that in another part of the honourable member's press release he criticises the fact that there was not going to be a choice about whether or not it would be a long-term lease, the notion of trying to look at what the 25 year lease was is contradictory. Even with the 25 year lease, we demonstrated that there would at least be some element of benefit to the public sector from that proposition.

We put the view to the Hon. Mr Xenophon for some weeks that there was no way in the world that the Labor Party and Mike Rann would hand back a billion dollars after the next election. So, the honourable member cannot say that this was a surprise, as he seeks to suggest on page two of his press statement in respect of the Labor Party position. We told him for weeks, 'Nick, you can't believe that under this proposition the Labor Party or any government will hand back a billion dollars or leave with the new owners a billion dollars plus of assets.'

The Hon. Mr Xenophon twisted himself into mental contortions worrying about whether this would indeed happen. He had to be convinced of the benefits of a 25 year lease. We went into days and days of analysis to convince him of that whilst all the time telling him, 'You don't understand the Labor Party; you don't understand Mike Rann; you don't understand the fact that no-one will hand back a billion dollars to the owners straight after a State election no matter what was said prior to the election.'

So, that was the issue in relation to the benefit. There is a lot more that I could say but I will not, given the hour, because I want to turn to what appears to be the more significant issue as indicated by the honourable member, and that was the issue in relation to Riverlink and Pelican Point—and the honourable member makes that quite clear on page 3 of his press statement.

In relation to Riverlink, the Government's position has been made abundantly clear during these past few days with regard to our discussions with the honourable member over the most recent weeks, I suppose. It is fair to say that the Government does not accept the view of the proponents of Riverlink—and I acknowledge the advantage that Mr Mark Duffy has as an old friend of the honourable member's; an old university colleague from law days. Therefore, I suppose he started with a bit of an advantage over the rest of us who have only worked with the honourable member for the past year. However, I suppose it is nothing new for people who know, that the Government disagreed strongly with the view of Mr Duffy and the other proponents of Riverlink in the sort of fairy floss routine that they put to the honourable member in relation to the purported benefits of Riverlink. On Friday last week, we provided to the honourable member an extensive and detailed rebuttal of many of the claims being made by the proponents of Riverlink in an endeavour to, I suppose, shake the honourable member free from the clutches of Mr Duffy and the others who were advising him and the honourable member.

The first point that is being made by Mr Duffy, and now the Hon. Mr Xenophon in his press statement, is shown in the following example:

> . . . then this Government will be effectively imposing a punitive burden of up to $100 million a year on consumers of electricity in this State.

That was the result of the Government's decision, according to the Hon. Mr Xenophon, not to support Riverlink.

We tried for weeks to get out of Mr Duffy and his advisers, London Economics, this $1.4 billion figure. Indeed, at great expense to management and at great boredom to the Hon. Mr Cameron, we spent two hours on one Monday evening, when London Economics and Mr Duffy and the Transgrid people flew across from Sydney to meet with the Hons. Mr Cameron and Mr Xenophon, the Government's advisers and me to once and for all lay on the table, indeed, this secret report that Matt Abraham and the *Australian* had been writing about for some time—and others—which showed $1.4 billion in benefits to South Australians. After the Hon. Mr Cameron was nearly bored witless by an economics lecture for half an hour from one of the proponents—

The Hon. T.G. Cameron: 50 minutes.

The Hon. R.I. LUCAS: 50 minutes—one key slide was placed on the wall in our conference room, and that slide was over 12 to 18 months old—it was a report done back in 1997—and it showed claimed benefits of $108 million over a 10 year period. And when challenged, 'Where is this $1.4 billion reported figure?' the gentleman from Transgrid and the gentleman from London Economics could not, and would not, produce this supposed secret report.

The Hon. L.H. Davis: It is a difference of $1.3 billion.

The Hon. R.I. LUCAS: It is not much of a difference. They factored it up and said that there would be other benefits, because if Riverlink comes in it will force down the whole price for every hour of the year in the South Australian market by $10 or $15 a megawatt hour permanently.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: As the Hon. Mr Cameron said, rubbish. The only thing that would do this would be this magical thing called Riverlink. That is the only way you could get anywhere near this figure of $1.4 billion, the figure that the Hon. Mr Xenophon quotes in his three page press statement as the justification for his position on this issue. When challenged again on Friday—and I sent all the material to the Hon. Mr Xenophon on Friday—on Saturday afternoon Mr Duffy and the London Economics people had copies of all the material that I had sent to the Hon. Mr Xenophon—which is fair enough. That is okay; it was information that we had sent to him.

But there was also a handwritten note that I had sent to the Hon. Mr Xenophon, and even the private note that I sent him

was sent to the London Economics and Mark Duffy people by Saturday afternoon. By Saturday afternoon they had the whole lot, including the handwritten note from me to Nick. In the last commentary to the Hon. Mr Xenophon they said that they could not understand what the Treasurer was on about in relation to this report and the $1.4 billion, that they had not really asked for it and that, anyway, it had been on the Internet for 12 or so months.

I faxed to the Hon. Mr Xenophon in September the short letter which requested a copy of this report from Transgrid and London Economics. I said to the Hon. Mr Xenophon, 'We still haven't had a response either to telephone calls or to that original letter.' In the letter to the Hon. Mr Xenophon I indicated that we had now tracked down this supposed report that had been on the Internet for some 12 months and that there was no reference to the $1.4 billion figure in terms of savings.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I promised them to Mr Cameron and he never got them; we were promised them and we never got them. I can recall one of the conversations in which the Hon. Mr Xenophon said, 'I will get these; I will demand them; they will be here the following day.' We still do not have this supposed secret report. It is my view that this report does not exist. They have been challenged—

The Hon. L.H. Davis: Nick's shaking his head and saying that he's seen it.

The Hon. R.I. LUCAS: Well, if he has seen it let him put it on the record. I would be delighted to see it, because for three months we have requested it and for three months it has been refused. The Hon. Mr Cameron has been pursuing it for a month or so and it has been refused, and we have not seen it.

The Hon. L.H. Davis: If it is so good, why hasn't it been produced?

The Hon. R.I. LUCAS: Well, let's have a look at it and let's do the analysis on it. I will tell you why it has not been released until now—that is, after the Hon. Mr Xenophon made his announcement—because they know that now the Hon. Mr Xenophon is locked into a view they can afford to put it out and expose it to rigorous analysis. That is why it has come out now; that is why they kept it hidden, because exposed to the full rigour of scrutiny it will not stand up. The reason why it will not stand up is that until June or July this year the average pool prices in the New South Wales market were about $10 a megawatt hours. After July this year the pool price in New South Wales on average has increased to about $23 a megawatt hour. It has more than doubled. Even the London Economics people have been forced—

The Hon. P. Holloway: It had to.

The Hon. R.I. LUCAS: So, the honourable member concedes that this supposed economic argument for Riverlink is absolute nonsense. London Economics' own advisers told the Hon. Mr Xenophon that their predictions of the long-term pool price in New South Wales were $30 to $32 a megawatt hour—three times the price from early this year. When we compare the long-term pool price of $30 to $32 with this calculation, which is supposed to generate $1.4 billion in benefits over the next 20 years, the only way that we can get to that figure is if the pool price plummets into the teens again, probably of the order of $15 or so.

The Hon. T.G. Cameron: Highly unlikely.

The Hon. R.I. LUCAS: Even the New South Wales advisers agree that is not going to happen. If this report has now been released, it is after Mr Xenophon has declared his public position, because the New South Wales people refused access to that report, if it existed at all. They knew that when people looked at it they could rip apart the assumptions upon which it was made and destroy the credibility of that whole argument, which has been used very cleverly, I concede, to win over the Hon. Mr Xenophon and also to win over some key business people in the community—and I will turn to that in a moment—in relation to the supposed benefits of Riverlink for South Australia.

The Government's position in relation to Riverlink was that we did not believe these claims of $1.4 billion in benefits. However, we said that, if they exist and we are wrong, we would not stand in the way of the New South Wales people building it as an unregulated interconnector. In that way we, the taxpayers of South Australia, would not have to put up our money to build it; and, secondly—

The Hon. T.G. Cameron: How can you make savings of $1.4 billion and not make a profit out of it?

The Hon. R.I. LUCAS: If you are going to make $1.4 billion in savings to the community, who is not going to spend and invest a little bit of that money to build an interconnector? There would be more than enough money to be shared among the South Australian consumers and the owners and operators of Riverlink if those figures were correct. They wanted a regulated interconnector, and that is what the Hon. Mr Xenophon is supporting. Irrespective of whether or not we use the interconnector, if we are right and they are wrong and there is no great price differential between New South Wales and South Australia, the interconnector would be used for only 5 per cent of the year. Even in those circumstances the regulated asset, which is what they want, would guarantee them that South Australian consumers would pay $15 million to $20 million a year in higher transmission charges in South Australia for the next 40 years—even if there is no benefit to South Australia and even if the interconnector was used only 5 or 10 per cent of the time. It is a nice little earner for 40 years, a guaranteed profitability, a guaranteed income, at the expense of higher prices in the South Australian market.

The Hon. T.G. Cameron: Did London Economics tell us how much that would push up the value of the New South Wales generators?

The Hon. R.I. LUCAS: The Hon. Mr Cameron asked whether London Economics talked about the increased value of those assets because, if they are re-elected at the next election, the New South Wales Labor Government will undoubtedly go down the path of a sale or a long-term lease of their assets in New South Wales. The Hon. Mr Roberts shakes his head, but mark my words. The deal has already been done. That is why they wanted a regulated asset and that is the proposition supported by the Hon. Mr Xenophon; even if there are no benefits to South Australia at all, even if it is only used for 5 or 10 per cent of the year, for the next 40 years we, the South Australian consumers, will pay an extra $15 million to $20 million in transmission charges. That is the deal that the Hon. Mr Xenophon wants South Australia to support. We said that, if it is a great deal, you take the risk: you build it, you take the risk. If there is a price differential of $1.4 billion over 20 years, that is plenty of money for you to write contracts with. We will help you, we will set up a whole of Government—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We had not locked in the growth. We need 500 megawatts over the next few years and, if we do not have Riverlink, we will put 500 megawatts in at

Pelican Point or somewhere else. We said that if we get Riverlink, Riverlink is about 250 megawatts, the first stage of Pelican Point will be 250 and we will meet our 500 megawatts in that way. We told the people from Transfield and we told the Hon. Mr Xenophon that that was the way we could meet this demand.

If Riverlink was such a great deal, for those who know how the market will work in stacking order in the lowest cost generation upwards, Riverlink according to their deal will be much lower than Pelican Point and will be dispatched much earlier than Pelican Point. If Pelican Point is not cost competitive, the people who put up their $200 million will be the ones losing their money. It will not be the taxpayers of South Australia. If Riverlink is such a great deal, it will be dispatched before Pelican Point because it is so cheap.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We are talking about 40 years: we are building a transmission line here for 40 or 50 years. We are not talking about the next three, five or seven years but about 40 to 50 years. If only the Hon. Mr Holloway could look long term in relation to the national market, rather than the knee-jerk short-term response of what is going to happen over the next few years as his only analysis of these major changes. It is these sorts of fairyfloss figures that the Hon. Mr Xenophon has supported, this $100 million in benefit we are told we will get from this deal if we were to go down that particular path.

I want to make the point and make it again (I have said it so many times that I am almost hoarse) that it is not in the South Australian Government's power to make a decision as to whether or not Riverlink goes ahead. It is a decision taken by an independent national body. We cannot, even if we wanted to, stop Riverlink from going ahead. So, when the honourable member says that the Government pulled the plug in June this year on the Riverlink interconnector, it is just dishonest. We wrote some two days prior to the announcement of the NEMMCO decision and we asked for NEMMCO to adjourn its decision so that we could reconsider some new information on the new prices in New South Wales which had gone up from $10 to $23 or $25 or whatever it was in that period, and other new information. NEMMCO ignored our letter.

It issued its decision on the following Monday. It had already taken the decision, so we were subsequently told, and it issued its decision the following Monday. It had already made the decision that it would not allow the Riverlink interconnector to go ahead. So, it is dishonest to claim that the Government pulled the plug in June this year on the Riverlink interconnector with New South Wales. It was not the State Government: it was a decision taken by an independent national body and authority in NEMMCO.

Some of the other claims made by Mr Duffy and others who supported Riverlink have obviously taken root in the thinking of the honourable member. I refer to a statement he made in the *Australian* of 9 December in the article by Mr Matt Abraham:

> He said it was a very serious issue if the Government had gone down the path of jacking up the price of its power assets by withdrawing support for Riverlink.

This was the proposition being put around, that the Government was trying to generate up to another $200 million or something in value for its generators by its opposition to the Riverlink proposal. The first point is that we have no power to stop the Riverlink proposal anyway. The second point is that any purchaser of our generation assets would have to make a commercial decision as to whether or not they believed Riverlink would go ahead. They would know that the State Government, whatever it said, could not stop Riverlink. Any purchaser or lessee of our generation assets would have to factor into their decision making a commercial judgment about the possibility of Riverlink going ahead.

If they agreed with the position of the New South Wales proponents, that is, that this was going to be a definite in terms of going ahead with benefits to South Australia, then they would have significantly discounted their bidding price for our assets in South Australia. However, if they took the view of our team and the Government that these benefits did not exist to the degree being claimed, then they would have factored that commercial judgment into their calculations for price.

This notion that Mr Duffy and others are putting around—and the Hon. Mr Xenophon has picked this up in his statement on 9 December—that the Government was using its position on Riverlink to jack up the sales value of its electricity assets is dishonest. The only people who are worried about the asset values are the New South Wales generators and the transmission company because if they can get a guaranteed 40 year market in South Australia, even if the transmission line is not used or it is only used for 5 per cent of the time, and if they can get a guaranteed 40 year income at $15 million or $20 million a year, it is not a bad little earner. It is not being used, there is no price differential, with no benefit to the South Australian market, and you get $15 million to $20 million, thank you very much. I am sure the Hon. Mr Duffy did not explain that to the Hon. Mr Xenophon in all the briefings that were given to him. That is the position. That is the reality of this claim in relation to Riverlink.

As to the position we adopted with the Hon. Mr Xenophon, which he said was disingenuous, we said, 'You believe the claims, you take the risk. You can make the profit, but take the risk. Build the line—it's only $100 million or so—there's $1.4 billion in benefits. You take some, the South Australian consumers take some and everyone is happy.' That is the sort of proposition we are talking about: 'You take the risk, and if it does not get used, you're the ones who have lost the money.' It is the same as it will be at Pelican Point over this 40 year period. In the end, if they cannot compete they lose the money—not the taxpayers. They do not have guaranteed contracts for 40 years, they do not have guaranteed deals for 40 years, as Mr Duffy has sought to accomplish in relation to this issue.

I want to place on the record the position of the Employers Chamber in South Australia, because it was not made clear by the honourable member. However, before I do that, some interjections have been made in relation to the Pelican Point contracts. I am somewhat restricted in what I can say publicly on this, so this part of my statement has been vetted by lawyers, probity auditors and the like, and I am advised I am able to say this, given the stage of the bidding process. We had this discussion with the Hon. Mr Xenophon in relation to these claims that were being made about the seven year contracts. The Government has stated in the request for proposals for the new power station project—and I quote from the actual documents:

> Proposals in respect of the retail agreement, a contract to underwrite the sale of a certain amount of electricity from the new power plant on guaranteed terms and conditions, which are for a shorter term, lower strike price or lower capacity payment, will be

looked on favourably by the State. The State will consider proposals which do not include the need for a retail contract.

Consistent with achieving the Government's stated objective of ensuring reliable and stable electricity supply in South Australia, in particular to have new capacity of at least 150 megawatts in place by November 2000, the Government will seek to achieve the position with the successful respondent—all other things being equal—where there is either no retail contract or a contract for a relatively short term.

The Government has now received a number of responses to its request for proposals and has a reasonable expectation of achieving its objective in relation to the retail contract.

Because of the bidding process, I am not able to say more than that, but I will say that the detail and the nature of what I have just said to the Council—that is, that the Government would be seeking to achieve a position, all other things being equal, where there was either no retail contract or a contract for a relatively short term—was indicated in the discussions that we had. It was certainly indicated in discussions I had subsequently with other people such as Mr Webber (to which I will turn in a minute) in relation to the Government's position.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Cameron raises another point. The Government was locked into absolutely having to guarantee a commitment of at least an extra 150 megawatts by November 2000. Whatever members want to say about the background to that, the Government's advice is that we need that power by that time.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The Transgrid people agreed with that: everyone agreed with the analysis. We were not able to get any guarantee. The Transgrid people and the proponents said that they believed they could do it, that they should be able to do it, and all those sorts of things, but there was no guarantee that they could, in essence, build and construct. Before they could do that, they had to decide on one (we are told) of 14 routes between South Australia and New South Wales for the Riverlink interconnector. Some would still go through the Bookmark biosphere; some we are now told go through Victoria. It was the first time we had found that out. To get around the Bookmark, they would have to re-route Riverlink through Victoria.

When we asked whether there had been any discussions with the Victorian Government about its attitude to the interconnector—which would be in competition with the Victorian interconnector—being built through the State of Victoria, they said, 'No, we have not yet had any discussions.' They had not yet had any discussions with the Victorian Government, but Mr Duffy and the proponents said to Mr Xenophon and others, 'Don't worry about that; we can still do all that and all the EISs.' We cannot do anything in this State on one site without a question of native title being raised. What will it be like for some hundreds of kilometres of transmission line, to build Riverlink, going through New South Wales, Victoria and South Australia in relation to native title issues?

The view, accepted by Mr Xenophon and the proponents of Riverlink, was that they could do all that—decide on one of the 14 routes, route it through the Bookmark biosphere or through the north-west of Victoria, build it and it should be all right by the end of the year 2000.

The Hon. T.G. Cameron: Pigs will fly, too!

The Hon. R.I. LUCAS: Pigs will fly, as the Hon. Mr Cameron says, and that is a judgment I make. No-one from New South Wales was able to guarantee that they could get that power ready by the end of the year 2000. I acknowledge that the Hon. Mr Xenophon disagreed with the view of one of his advisers, but this was the sort of information coming from the proponents of Riverlink. One of them said, 'What's the problem? What's the problem with a few blackouts in February 2001? What you should do is the cost benefit analysis. What is the cost of blackouts for a few days in February 2001 as against not going ahead with Riverlink?'

The Hon. L.H. Davis: It will stop the poker machines.

The Hon. R.I. LUCAS: Perhaps that is why. It is all falling into place: for seven days or 14 days, the Hon. Mr Xenophon will be able to say, 'I have stopped the pokies. Two years ago I set this plan in action and I have stopped the pokies.'

I will give credit to the Hon. Mr Xenophon. He disagreed with that position, but that was the sort of thinking coming from some of the people pushing for Riverlink: 'This is a political problem for you. It is an issue in terms of the costs for the South Australian community.' I can imagine what it would be like in this Chamber in the middle of a 40 degree heatwave in February 2001 if the lights went out and the airconditioners went off. I am sure it would be the Opposition's position in this Chamber to say, 'That's all right; we were quite prepared to take the punt on native title issues, environmental impact statements and getting it through Victoria, and, sure, Riverlink is only 18 months behind schedule, but we might have it by next summer.'

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: They would not use it in the election campaign. They would not use it amongst the business community because of the tremendous multi-million dollar cost to business and to many of our manufacturing businesses if the lights and the power went off for five or seven days. That is the sort of dilemma that this State confronted in trying to wrestle with the demons that were pushing the Riverlink proposal. They were the sorts of arguments that were constantly being put to us. I want to turn—

The Hon. T.G. Cameron: You have covered only half the arguments.

The Hon. R.I. LUCAS: I know; I will not cover them all. The last issue I want to cover relates to the business community, again because of the statements that have been made by the Hon. Mr Xenophon. In his letter the Hon. Mr Xenophon quoted at length the views of Mr Ian Webber. I want to place on the public record a series of events in relation to Mr Webber. Mr Webber issued a press statement some two or three days after we had a briefing on this issue with Mr Xenophon and some of his advisers. That press statement raised concerns about the Government's approach to Riverlink.

Mr Webber made no attempt to contact me as the Minister responsible in any of the days or weeks prior to the issuing of that statement—that is his prerogative. However, I want to make it clear that, if he had any concerns, he certainly did not raise them with me prior to issuing his public statement. Two days after that statement I met with Mr Webber and three other Government advisers. After 1½ hours of discussion with Mr Webber, he indicated to me, having listened to the proposition in relation to Riverlink (which I have outlined to the Chamber), that he could see no reason why the Hon. Mr Xenophon could not support the Government's position in relation to Riverlink.

That is how he left that meeting with me. I indicated to him that, if that was his view, it would be worthwhile having

a further discussion with Mr Xenophon. He said that he had no problem with that. He did not indicate whether he would initiate it or whether it would be vice versa, but he said that he would be away until the following Wednesday. He asked me to send him some material, which I did. I sent that material to back up the argument we had put to him.

I had another conversation with Mr Webber, I think it was yesterday and subsequent to his meeting with me and the Government advisers—and by the way he did concede that that was the view that he expressed to me and to the Government at that time—when he confirmed that he had gone away and had changed his mind on this issue and had reverted to his original position. He apologised to me for being discourteous in not having indicated that he had changed his mind on this issue subsequent to indicating what he had to me and to the three others at that meeting.

I also want to place on the record the position of the Employers' Chamber, because a question was raised earlier about the correspondence that it had with me in relation to this issue. It did raise some questions in a letter of 26 November in relation to Riverlink. We then had an extended discussion with the Employers' Chamber and others, explaining the Government's position and indicating that we believed that some of the information it had been given was incorrect. In its subsequent letter of 4 December the Employers' Chamber says:

> In particular I welcome your assurance that Riverlink as an unregulated asset would be able to proceed in addition to the Government's commitment to having a new power plant at Pelican Point. The chamber accepts that in these circumstances the market and commercial judgments will determine whether or not Riverlink will proceed. The chamber also acknowledges that commercial advice provided to the Government strongly disputes the claimed $1.4 billion in benefits to South Australia from the building of Riverlink.

Further on, the letter states:

> However, I would stress that it is the very strong view of the Employers' Chamber that the resolution of the issues raised in my letter of 26 November should not in any way delay or prevent the sale or lease of South Australia's power assets.

That is the point on which I conclude. That view from the Employers' Chamber was exactly the view of the Government. Whatever your views on Riverlink were, there is not one clause in this restructuring and disposal Bill that refers to Riverlink or to Pelican Point. The only people who sought to create a connection between Riverlink and Pelican Point, and who owns or leases our assets, were the New South Wales proponents of Riverlink and, ultimately, the Hon. Mr Xenophon. Nobody else could see this mystical, mythical, imaginary—however else you would describe it—connection between Riverlink and who owns or leases our electricity assets in South Australia.

I am at a loss to understand. I challenged the honourable member. He said he would not speak. I hope he will speak tomorrow, perhaps. Let him have the courage to justify these extraordinary, outlandish and outrageous claims of $1.4 billion in benefits to South Australians. I challenge him. He has all the information from Mr Duffy and the London economics people. I challenge him today, tomorrow, or whenever: if the only way he will do this is by press release in front of the media, I will even ask what remaining friends I have in the media to stand in the foyer outside, if that is a more comfortable forum for him.

An honourable member: You said it in the plural; it should be singular.

The Hon. R.I. LUCAS: Or singular. If he does not like to stand up in this Chamber and debate, and he feels more comfortable in front of the television cameras, we will organise that and ask him to let us know when it is on so that we can go and listen, or he can issue a press release which I will try to get from one of the members of the media and which explains how this $1.4 billion in benefits will be seen by the people of South Australia.

The Hon. L.H. Davis: Table the report in the House.

The Hon. R.I. LUCAS: Table the report, but let him explain in the House how we will see these particular benefits and how he can justify that, when even the New South Wales advisers are saying that the pool price in New South Wales will go to $30 to $32—three times the price that existed up until June this year in that State. Much more could and should have been said in relation to this issue, but it is the early hours of the morning and I do not intend to say any more at this stage. I leave that challenge with the honourable member.

Progress reported; Committee to sit again.

ADJOURNMENT

At 12.31 a.m. the Council adjourned until Thursday 10 December at 11 a.m.